



A Monthly E-Newsletter

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May 2023

The Bottom Line

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KEY METRICS

Indices

BSE SENSEX	61,112	3.60% ▲
NSE NIFTY50	18,065	4.06% ▲
NASDAQ Composite	12,227	0.04% ▲
NIKKEI 225	28,856	2.91% ▲

Currency

USD/INR	81.72	0.54% ▲
EURO/INR	90.06	-1.13% ▼
GBP/INR	102.65	-1.30% ▼
JPY/INR	0.62	3.07% ▲

Note: The month-on-month movement as on April 28, 2023 is represented in percentages
Source: Yahoo Finance, Investing.com



DIRECT TAX

Notifications/Circulars

Employer to treat new tax regime as default option unless specified otherwise by employee

To avoid difficulty in calculating TDS on salaries, CBDT has clarified that the employer shall seek information from each of its employees regarding their intended tax regime and shall deduct tax accordingly. In the absence of an intimation from the employee, the employer shall presume the new tax regime as the default option and deduct tax under the same.

Circular No. 4 dated April 5, 2023

Cost Inflation Index for FY 2023-24, notified

The Central Government has notified the Cost Inflation Index for FY 2023-24 as 348 on a provisional basis for indexation purposes while computing capital gains.

Notification No. 21 dated April 10, 2023

Judicial Rulings

ITAT not the final authority in determining ALP

The Supreme Court, in a landmark judgement, held that ITAT shall not be the final authority for determining ALP. Perversity in determining the ALP can raise a substantial question of law and accordingly the order of ITAT determining the ALP can be subject to scrutiny by the High Court. The High Court can examine whether the relevant guidelines under the Income Tax Act and the Rules have been taken into consideration, whether the comparability of two companies or selection of filters has been done judiciously, and whether the

comparable transactions have been considered properly.

SAP Labs India Pvt Ltd (Supreme Court)

Arbitrary award cannot be regarded as 'cost of improvement'

The Apex Court held that arbitration award paid by the assessee cannot be deducted as cost of improvement during the computation of capital gains, as such a payment did not lead to acquisition of any interest, the assessee already being the owner

Paville Projects Pvt Ltd (Supreme Court)

DDT to be paid at the rate specified in the Income Tax Act and not as per rate of the tax treaty

Where dividend, attracting DDT, is declared, distributed or paid by a domestic company to a non-resident shareholder, the rate for such tax

Employer to treat new tax regime as default option unless specified otherwise by employee

Cost Inflation Index for FY 2023-24, notified

ITAT not the final authority in determining ALP

shall be as mentioned in Section 115-O of the Income Tax Act and not at the beneficial rate under the Article related to dividends of the applicable tax treaty, since DDT is a tax on profits of the domestic company and not on the shareholder.

Total Oil India Pvt Ltd (Mumbai Tribunal)



INDIRECT TAX

Circulars / Notifications / Press Releases

Time limit for reporting e-invoice

Registered persons with turnover equal to or more than INR 1 billion shall not be allowed to report invoices older than 7 days on the e-invoice portal. This will be effective from May 1, 2023.

GST advisory dated April 12, 2023

Judicial Rulings

Determination of taxable value for construction services

The methodology set out in Notification No.11/2017-Central Tax (Rate) dated June 28, 2017, in relation to construction services, and bifurcation between cost of land & construction services would be adopted where the assessee is unable to provide the bifurcation. So, it's an option of the assessee and not a compulsion for him.

*Avigna Properties Pvt Ltd
(Madras High Court)*

Supply between related parties through common employees is taxable

Services provided by a branch office to its head office or vice versa through common employees of the Company, each having separate GST registration, shall be regarded as a taxable supply under GST even without consideration.

*Profisolutions Pvt Ltd
(AAR Tamil Nadu)*

Lack of certified copy of Impugned Order

Appeals filed by the petitioner could not be dismissed on the ground that the petitioner had not submitted

certified copies of the impugned orders.

KPMG India Pvt Ltd (Punjab & Haryana High Court)

Mere issue of deficiency memo does not make refund application non-est

Merely because certain other documents or clarifications are sought by way of issuing a deficiency memo, the same will not render the refund application filed by a taxpayer as non-est. If refund application is accompanied by the "documentary evidences" as mentioned in Rule 89(2) of the CGST Rules, 2017, it cannot be ignored for the purposes of limitation.

*Bharat Sanchar Nigam Ltd
(New Delhi High Court)*

Recoveries from employees is not supply

Merely collecting partial amount towards canteen expenses from the employees and paying to third party canteen supplier does not tantamount to supply under GST. Similarly, as the applicant is not involved in the business of transportation to passengers, the recovery from the employee for transportation facility shall not be regarded as supply.

*Brandix Apparel India Pvt Ltd
(AAR Andhra Pradesh)*

Taxability of liquidated damages

Liquidated damages paid by defaulting party to the other party for tolerating the act of non-performance or breach of contract have to be treated as consideration for tolerating an act or a situation

Time limit for reporting e-invoice reduced for specified taxpayers

Supply between related parties through common employees is taxable

Mere issue of deficiency memo does not make refund application non-est

under an agreement and hence such an activity constitutes supply of service. Further, Circular No. 178/10/2022 dated August 03, 2022 is "not universal and absolute" but "is only meant to clarify the position of law and shall be applied reasonably having regard to the facts of the case".

*AP Power Development Co. Ltd
(AAR Andhra Pradesh)*



CORPORATE & ALLIED LAWS

Circulars / Notifications

MCA notifies the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2023

As per the notification, following amendments have been made in the rules relating to the strike off the name of the company from the register maintained by the Registrar of Companies:

- Establishment of Centre for Processing Accelerated Corporate Exit (C-PACE) for dealing with matters related to strike off of the companies
- The application for removal of name will be made in form STK-2 to the Registrar, Centre for Processing Accelerated Corporate Exit (C-PACE)
- Requirement of filing the copy of special resolution or consent of members with the application has been done away with
- Form STK-2 (Application for removal of name), Form STK-6 (Public Notice) and Form STK-7 (Notice of Striking off and Dissolution) have been revised.

The amendments and revision of forms has been made effective from May 1, 2023.

Ministry of Corporate Affairs - G.S.R. 298(E) dated 17.04.2023

Issue of Master Circular by Stock Exchanges, Clearing Corporations and Depositories

Stock exchanges, Clearing corporations and Depositories, collectively known as Market Infrastructure Institutions, communicate with market participants regularly though issuance of guidelines for necessary

compliance. Since such guidelines are of varied nature and based on feedback from market participants, they will have to ensure that relevant guidelines issued from time to time are segregated subject-wise and form part of the Master Circulars. Rescinded guidelines have to be archived.

SEBI/HO/MRD/POD 3/ CIR/P/2023/58 dated April 20, 2023

Remittances to IFSCs under LRS

Amendment has been made to align LRS to IFSCs. Accordingly, the legal requirement to repatriate any funds lying idle in the foreign currency account for a period of upto 15 days from date of receipt has been withdrawn.

RBI/2023-24/21 A.P. (DIR Series) Circular No.03 dated April 26, 2023

Amendment to Master Direction on KYC norms

KYC norms by which regulated entities have to undertake Customer

MCA notifies key amendments to procedure of Strike off of the name of companies

Issue of Master Circular by Stock Exchanges, Clearing Corporations and Depositories

Amendment to Master Direction on KYC norms

Due Diligence have undergone a change following the amendment of the Direction on KYC. The key areas covered include identification of beneficial owner, record management, periodic updation of KYC, customer acceptance policy, enhanced due diligence, amongst others.

RBI/2023-24/24 DOR.AML. REC.111/14.01.001/2023-24 dated April 28,2023



CFO WATCH

RBI encourages green deposits for sustainable development and funding green projects

MCA notifies certain amendments to Ind AS 1, 8 and 12

New COSO guidance tackles sustainability reporting

RBI issues norms for acceptance of green deposits by banks

Banking regulator RBI has introduced a framework effective June 1, 2023, to encourage Regulated Entities to offer green deposits to customers, while also boosting

credit flow towards green activities/projects. The framework includes policies on denomination, interest rates, and tenor, as well as issuance, financing, allocation and use of proceeds, independent verification/assurance, and reporting/disclosure requirements.

MCA notifies certain amendments to Ind AS

Ind AS	Amendment notified
Ind AS 1, Presentation of Financial Statements	Disclosure of material accounting policies instead of significant accounting policies. Accounting information to be considered material when it can reasonably be expected to influence decisions of primary users.
Ind AS 8, Accounting policies, Change in Accounting Estimates and Errors	The definition of 'change in account estimate' has been replaced by the definition of an 'accounting estimate' which states that accounting estimates are monetary amounts in the financial statements that are subject to measurement uncertainty.
Ind AS 12, Income Taxes	The amendment has narrowed the scope of the Initial Recognition Exemption for deferred tax liability and asset. The amendment states that a deferred tax liability or asset doesn't need to be recognized if a transaction doesn't create equal taxable and deductible temporary differences at the time of the transaction.

New sustainability reporting guidance for achieving ICSR issued by COSO

The COSO has recently released new guidance on sustainability reporting. The newly released ICSR applies ICIF-2013 principles to sustainability, allowing the delivery of more reliable and decision-useful data for use by multiple stakeholders. The new guidance is founded on COSO's 2013 framework for evaluating and improving internal control systems over all types of business information used for external reporting and enterprise decision-making.

Guidance on compliance of provisions of Ind AS on recognition of revenue and trade receivables by NFRA

In its circular, NFRA has stressed on the non-compliances in the areas of recognition and measurement of revenue and initial measurement of corresponding trade receivables. Following are the key highlights:

- i. Transaction price should be recognized as revenue, and it should exclude estimates of variable consideration that is allocated to the performance obligation.
- ii. Trade receivables are financial assets which are initially measured at their transaction price (as defined in Ind AS 115) unless they contain a significant financing component determined in accordance with Ind AS 115.

MERGERS & ACQUISITIONS

India's IPO fundraising halved in FY23

FY23 witnessed a lacklustre year for IPO, raising INR 52,116 crore by 37 companies through primary markets as compared to the all-time high of INR 1,11,547 crore by 53 IPOs in FY22. This was due to market uncertainty and other domestic & global factors. Nevertheless, fundraising in FY23 is still the third highest ever for IPO market. Some highlights from FY23 IPO activity includes:

- LIC's accounting for around 39% of the total fundraising.
- 25 issues came in just three months of the year (May, November and December).
- Only 2 (Delhivery & Tracxn) new-age technology companies went for IPO, down from 5 in FY22.
- Overall public response was moderate with 11 IPOs receiving mega response of more than 10 times (of which 2 IPOs more than 50 times), while 7 were oversubscribed by more than 3 times. The balance were oversubscribed 1-3 times.
- Retail investors response also moderated, with average retail applications dropping from INR 13.3 lakh in FY22 to just INR 5.6 lakh in FY23. LIC got the highest retail applications (32.8 lakh) followed by Harsha Engineers (23.9 lakh) and Campus Activewear (17.3 lakh).

FY24 Outlook India's

The IPO pipeline for FY24 remains strong with 54 companies seeking to raise INR 76,189 crore holding SEBI approval and 19 more seeking to raise about INR 32,940 crore, are awaiting approval. While the market is expected to remain subdued in the Q1 of FY24, it may revive from Q2 as market headwinds like inflation and interest rate uncertainty are expected to cool down.





Events/Webinars

3rd India Japan Intellectual Conclave during Agartala Dialogue

-April 11, 2023

Deepa Wadhwa, Chairperson, ASA and former Ambassador to Japan & Ajay Sethi, Managing Partner, ASA, members of the Governing Council of Asian Confluence, chaired sessions at the 3rd India Japan Intellectual Conclave in Agartala, Tripura. The Strategic Discussion was to encourage India-Japan-Bangladesh Collaboration towards the development of the North-Eastern region of India, Bangladesh and Bay of Bengal, and integration into the bigger Indo-Pacific economic partnership.

M&A Worldwide Convention

-April 12, 2023

Nitin Arora, Partner, Transaction Advisory was re-elected to the Board of M&A WORLDWIDE and represented India at the 39th M&A WORLDWIDE Convention in Budapest.

Award of Excellence

-April 24, 2023

Sunil Arora, National Head, Taxation, was honored with the Award of Excellence by IEM-UEM Group for his exemplary contributions to building the HR structure in the organization.

AASB Webinar on Audit of Accounts Receivable and its Impairment Assessment

-April 13, 2023

Rahis Saifi, Associate Director, Assurance was a guest speaker at this

webinar organized by the Institute of Chartered Accountants of India. He shared insightful knowledge on pre-requisite of SQC -1 requirements, audit approach, audit observations and impairment assessment.

Blood Donation Camp

-April 14, 2023

ASA took a small step to contribute back to our society by hosting a Blood Donation Camp at our Delhi and Gurgaon offices.

The opportunity of Aeronautical Maintenance in India - MRO

-April 13, 2023

Author: Kim Collaco, Executive Director, International Affairs and Lea Parmentier, Assistant Manager, French desk.

This article takes stock of the current context, highlights the Indian opportunity in terms of Aeronautical maintenance, and outlines the regulations, policies, and measures in favor of India.

How to measure the ROI of automation projects?

-April 24, 2023

Author: Manuj Dua, Associate Director, Digital Automation and Transformation Services.

This article takes a dive into the Project automation, Automation projects objectives, and tips for calculating returns on investment in automation projects.

Foreign Trade Policy 2023 – Summary-April 26, 2023

Author: Jayashree S K, Associate Director, Indirect Tax and Lea Parmentier, Assistant Manager, French desk.

This note summarizes the main features and new amendments of India's external trade policy for the fiscal year 2023-24. Also, it gives an overview of the economic and commercial relations between France and India, as well as the success stories of French SMEs that have been set up in India in recent years.



GLOSSARY



ALP

Arm's Length Price

CBDT

Central Board of Direct Taxes

COSO

Committee of Sponsoring Organizations

DDT

Dividend Distribution Tax

FY

Financial Year

GST

Goods & Services Tax

ICAI

Institute of Chartered Accountants of India

ICSR

Internal Control over Sustainability Reporting

IFSC

International Financial Services Centre

ICAI

Institute of Chartered Accountants of India

Ind AS

Indian Accounting Standards

IPO

Initial Public Offer

ITAT

Income Tax Appellate Tribunal

ITC

Input Tax Credit

KYC

Know Your Customer

LODR

Listing Obligations and Disclosure Requirements

LRS

Liberalised Remittance Scheme

M&A

Mergers & Acquisitions

MCA

Ministry of Corporate Affairs

MRO

Maintenance, Repair & Operations

NFRA

National Financial Reporting Authority

PAN

Permanent Account Number

RBI

Reserve Bank of India

ROI

Return on Investment

SEBI

Securities and Exchange Board of India

SME

Small & Medium Enterprises

TCS

Tax Collected at Source

TDS

Tax Deducted at Source

TIS

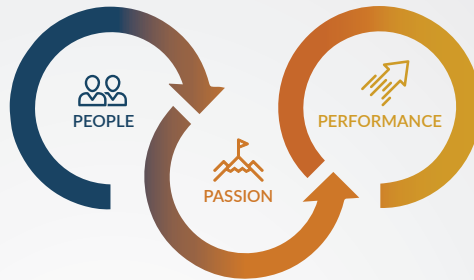
Taxpayer Information Summary



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