



A Monthly E-Newsletter

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# The Bottom Line

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## KEY METRICS

### Indices

BSE SENSEX	62,622	3.60% ▲
NSE NIFTY50	18,534	4.06% ▲
NASDAQ Composite	12,935	0.04% ▲
NIKKEI 225	30,888	2.91% ▲

### Currency

USD/INR	82.68	0.54% ▲
EURO/INR	88.37	-1.13% ▼
GBP/INR	102.83	-1.30% ▼
JPY/INR	0.59	3.07% ▲

Note: The month-on-month movement as on May 31, 2023 is represented in percentages  
Source: Yahoo Finance, Investing.com



# DIRECT TAX

## Notifications/Circulars

### Changes proposed in valuation rules for Angel Taxation

Consideration received in excess of Fair Market Value on issue of shares to a resident is taxable under section 56(2)(viib) of the Income Tax Act, 1961. This provision was extended to shares issued to non-residents as well, by the Finance Act, 2023. Subsequently, on the basis of inputs from various stakeholders, amendments have been proposed to the corresponding valuation rules including introduction of five new valuation methods in addition to the existing Discounted Cash Flow and Net Asset Value methods. Further, notifications have been issued to exclude certain entities for this purpose, which includes government and related agencies, specified banks, resident of specified countries, recognized start-ups etc. Final rules in this regard shall be notified post considering the public comments in this regard.

*Press release dated May 19, 2023 and Notification No. 29/30 dated May 24, 2023*

### Leave Encashment exemption limit enhanced

The limit of exemption on leave encashment of non-government salaried employees has been increased from INR 3 to 25 lakhs with effect from April 1, 2023. It is further clarified that the aforesaid exemption limit shall be reduced by exemption already claimed in any previous years.

*Notification No. 31 dated May 24, 2023*

### Guidelines released for compulsory selection of returns for scrutiny

Parameters and procedures for compulsory selection of certain cases for complete scrutiny during FY 2023-24 have been notified. These include cases pertaining to search, seizure and survey, cases where no return is furnished in response to a notice or where re-assessment notice is issued, cases involving addition in earlier years or on a recurring issue of law or fact, cases related to specific information regarding tax-evasion etc.

*Circular F. No. 225/66 dated May 24, 2023*

### Rules notified for computation of net winnings from online gaming

To avoid difficulty in calculating tax to be deducted on winnings from online games, Rule 133 has been notified which provides the mechanism of calculation of 'Net Winnings' in different cases. Further, guidelines have also been issued to provide specific clarifications on cases where a user has multiple wallets, treatment of bonus, incentives and winnings in kind, point of withdrawal etc.

*Circular No.5 & Notification No 28 dated May 22, 2023*

### Clarification regarding applicability of TCS to small transactions under LRS

The Finance Act, 2023 increased the rate of TCS for LRS payments to 20%, without any threshold limit. Concerns were raised in this regard

## Changes proposed in valuation rules for Angel Taxation

### Rules notified for computation of net winnings from online gaming

### Salary reimbursements of seconded employees not to be taxed as FTS

with respect to the applicability of TCS to small transactions. To avoid any procedural ambiguity, it has now been clarified that any payments by an individual using their international Debit or Credit cards upto INR 7 lakhs per FY will not attract any TCS.

*Press release dated May 19, 2023*

## Judicial Rulings

### Salary reimbursements of seconded employees not to be taxed as FTS

The Tribunal held that since the salary paid to seconded employees was already subject to TDS, taxing the reimbursement of the same as FTS shall lead to double taxation, as no profit element is involved. Further, the said payment cannot be regarded as FTS under the India-USA DTAA where the make-available clause is not satisfied and thus addition made ought to be deleted.

*M/s Juniper Networks Inc. (Bangalore ITAT)*

# INDIRECT TAX

## Circulars / Notifications / Press Releases

### Threshold for e-invoicing reduced

The threshold limit for coverage under e-invoicing provisions has been reduced from INR 100 to 50 million with effect from August 01, 2023.

*Notification No. 10/2023 – Central Tax dated May 10, 2023*

### SOPs for scrutiny of returns

SOPs have been issued for scrutiny of returns for FY 2019-20 onwards. The key highlights are:

- Selection of returns for scrutiny shall be done by the Directorate General of Analytics and Risk Management based on various risk parameters.
- Minimum interface between the officer and the registered person and notice to be communicated through the GST portal only.
- Single compiled notice to be issued for each financial year and issuance of Order within 30 days from the receipt of reply from the registered person.

*Instruction No. 02/2023-GST dated May 26, 2023*

### Time limit for reporting e-invoice

The time limit of 7 days of reporting of e-invoice on the e-invoice portal for taxpayers with aggregate turnover equal to or exceeding INR 1 billion, has been deferred by three months and will now be applicable from August 01, 2023.

*GSTN advisory dated May 07, 2023*

### Action against fake registrations

Guidelines has been issued to the officers for special All-India drive against fake registrations. It includes

identification of fraudulent GSTINs, building an information sharing mechanism between different departments, formation of a National Coordination Committee etc.

*Instruction No. 01/2023-GST dated May 04, 2023*

## Judicial Rulings

### Taxability of games of skill

Actionable claims, other than lottery, betting and gambling, are excluded from taxability under GST since they are considered to be neither supply of goods nor services under Schedule III of Central GST Act. Hence, games of skill, online or offline, are not taxable.

*M/s Gameskraft Technologies Pvt Ltd (Karnataka High Court)*

### Scope of services mentioned in agreement v. actual services

For determination of the true nature of transaction or activity undertaken by a registered person, it is pertinent to understand the actual activity performed. Merely referring to the scope of services provided in a portion of agreement shall not be sufficient.

*M/s Netgear Technologies India Pvt Ltd (New Delhi High Court)*

### Refund of unutilized ITC

Where due to voluminous transaction of export of services, if it is not feasible to co-relate invoices with corresponding FIRCs, then a consolidated FIRC will be sufficient to file the refund of unutilized ITC.

*M/s Alex Tour and Travel Pvt Ltd (New Delhi High Court)*

### Threshold for e-invoicing reduced

SOPs issued for scrutiny of returns for FY 2019-20 onwards

Games of skill not taxable under GST

### Administrative instructions cannot bar claim of refund

Under the GST Rules, there is no specific requirement that the declarations to file refund claim should be physically signed before being scanned and uploaded through electronic submission. The said requirement of physical signing the documents has been introduced only by the Circular No, 125/44/2019-GST dated November 18, 2019. Such administrative instructions cannot bar claim of refund if legal requirements as contained in law are fulfilled.

*M/s Medicamen Biotech Ltd (Rajasthan High Court)*



# CORPORATE & ALLIED LAWS

## Circulars / Notifications

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

The notification, which is effective from May 10, 2023, brings in further conditions to be complied with in the process for removal of name of the company from the Register of Companies:

- The company cannot apply for removal of name unless overdue financial statements and annual returns upto the end of the financial year in which the company ceased to carry its business, are filed.
- After notice have been issued by the Registrar of Companies and before filing the application for removal of name, the company has to file all pending financial statements and annual returns.
- Once the name of the company is struck off from the register and a Notice to that effect is published in the Official Gazette, the company cannot file the application for removal of name.

The Companies Second Amendment Rules have been made effective from May 10, 2023

*Notification dated May 10, 2023*

### RBI amends Master Direction on KYC norms regarding instructions on wire transfer

Regulated entities have to now undertake measures with regard to wire transfer as per the amended Master Direction instructions on wire transfer. Detailed guidelines have been issued to that effect which include complete information about the originator and beneficiary for all cross-border wire transfers and domestic wire transfers above Rs 50,000 involving non-account holders. RBI emphasizes the importance of sharing this information with law enforcement and financial intelligence units as needed. These amendments were necessitated to align the same with the relevant Financial Administration Task Force recommendations for enhancing transparency and combat financial crimes.

*RBI/2023-24/25 DOR.AML.REC. 13/14.01.001/2023-24*

MCA notifies further conditions for removal of name of companies

Master Directions on KYC norms on wire transfer, amended



## CFO WATCH

### Extended disclosure requirements for Transition Bond Issuers

### Proposed ASU for Accounting of Profit Interest Awards

### ISSB Exposure Draft: Making SASB Standards globally relevant

#### Extended disclosure requirements for transition bond issuers

SEBI amended Non-Convertible Securities Regulations, 2021, expanding green debt securities to include transition bonds for sustainable operations. Additional disclosure requirements were introduced to prevent fund misallocation and improve transparency. Issuers are mandated to disclose GB-T denotation in offer documents, along with transition plan details. Revised plans and explanations should be shared with stock exchanges, and annual reports should summarize implementation progress.

#### Proposed ASU for accounting of profit interest awards

Financial Accounting Standards Board proposed an ASU to provide guidance on accounting for profit interest awards, addressing the complexity of determining their treatment as share-based payments or cash bonuses. The proposed update aims to enhance GAAP by including illustrative examples to determine proper accounting under Topic 718- Stock Compensation.

#### ISSB issues exposure draft for making SASB standards globally applicable

ISSB issues an exposure draft which aims to make SASB standards globally relevant by removing jurisdiction-specific references and incorporating stakeholder feedback before the implementation of IFRS S1 in January 2024. The period to respond to this consultation paper ends on August 09, 2023, accordance with Ind AS 115.

## MERGERS & ACQUISITIONS

### MCA proposes time-bound approvals for startup and MSME mergers

The Government of India has revamped the rules governing approval for corporate mergers and amalgamations process in the MSME and startup sector to make the process faster and simpler.

As per the notification, if the MCA doesn't receive any objection or suggestions from the RoC and official liquidators within 30 days of the receipt of a copy of the scheme, then the ministry can issue a confirmation order within 15 days provided that the scheme is in the public interest or in the interest of creditors.

If any objections or suggestions are received from the RoC and official liquidator and the Centre has found these objections to be unsustainable and the scheme is determined to be in the public interest, it may issue a confirmation order within 60 days. However, where the government finds the case to be not in public interest, it has to convey it to the NCLT, stating its objections or suggestions in this regard.

Additionally, as of now, there is no defined timeline for the approval process by the RoC or official liquidators. Further, where the MCA fails to act within this timeframe, it will be considered an automatic approval.

The ministry of corporate affairs has notified changes to the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023 and the norms will be effective from June 15, 2023.

The move is seen as a big boost for the startup sector and is expected to foster innovation, boost entrepreneurship, and ease the expansion of these sectors. Additionally, the move is intended to attract more local and international investment into these sectors.





## Events/Webinars

### ASA hosted the Governing Council meeting of Asian Confluence (ASCON) - May 10, 2023

(ASCON) - May 10, 2023

ASA was delighted to host the Governing Council meeting of ASCON at our Delhi office, which included Sabyasachi Dutta, Executive Director, Asian Confluence, Madan Bezbaruah, Permanent Representative (Hon.) at UN-WTO, Deepa Wadhwa, Former Indian Ambassador to Japan, Ajay Sethi, Managing Partner, ASA, Riva Ganguly Das, Former Secretary (E), Ministry of External Affairs, GoI, Retd. Lt. Gen. Lamba, Vice Chief of Army Staff, Indian Army, Rajat M. Nag, Distinguished Fellow, India's National Council of Applied Economic Research, Delhi, Rajiv Bhatia, Former Indian Ambassador to Kenya; Shankuntala Gamlin, Former Chief Secretary of Arunachal Pradesh, GoI.

### Webinar – CFOs: Leading the Charge in ESG Strategies - May 17, 2023

*Moderator:* Santhosh Jayaram, Global Head, Sustainability, HCL Technologies Ltd. *Panelists:* Raj Mullick, Sr. EVP & CAO, Reliance Industries Ltd., TK Sridhar, CFO, ABB India Ltd., Gaurav Bhatia, Executive Partner, Risk Advisory, ASA and Namita Vikas, Founder, and Managing Director, auctusESG.

ASA organized this webinar with an eminent panel to share their analysis on the evolving role of CFOs driving ESG objectives and help the industry gain a better understanding of how the finance team can assist in achieving ESG targets.

### Webinar – ‘Global Trends in Internal Audit - A Way Ahead’ - May 24, 2023

*Speakers:* Dr. S.C. Pandey IAAS (Retd.), President, Institute of Public Auditors of India, D. Ramprasad, Partner –

Assurance, ASA and Madhusudhan A.K., Executive Partner, Risk Advisory, ASA.

ASA, in collaboration with WTC, organized an online session on the global trends in Auditing. Ramprasad highlighted the importance of ethics, independence, and objectivity in internal audit activities, and Madhusudhan talked about leveraging technology for internal audits. Additionally, he explained the importance of expanding and sharpening the skill of the internal auditor in today's environment.

### Seminar – ‘Ease of Doing Business - Economic Landscape, Finance and Legal’ - May 27, 2023

*Moderator:* D. Ramprasad- Partner, Assurance, Bangalore, ASA. *Panelists:* Richard Rekhy, Entrepreneur and Former CEO, KPMG India, Simi Thapar, Chief Country Officer, CSI Leasing Inc., T K Sridhar, CFO, ABB India Ltd, Jagannathan Chakravarthi, CFO, Sonata Software, Vijay Visvanathan, Principal Consultant, Chandran & Raman Chartered Accountants

The seminar was organized by BCIC Karnataka, ICAI, and The Institute of Company Secretaries of India, Bengaluru, to understand the government's initiatives towards improving the global rankings in Ease of Doing Business, the industry's standpoint on what needs to be done, and working closely with GoI to improve the business environment in the country.

### OIDAR Services – Perplexities Continue - May 12, 2023

*Author:* Sundeep Gupta, Partner, Accounting and Business Support, ASA and Lakshay Chhabra, Deputy Manager, Accounting and Business Support, ASA.

The article discusses the changes made in the definition of OIDAR services and their potential impact on the taxability of

such services including challenges and ambiguities facing the taxpayers.

### How to measure the RoI of automation projects? - May 19, 2023

*Authors:* Manuj Dua, Associate Director, Digital Automation and Transformation Services, ASA and Lea Parmentier, Assistant Manager, French Desk, ASA.

Automation is now an integral part of businesses, simplifying operations and reducing reliance on human labor. This article explains how to evaluate the RoI of automation initiatives, offering practical advice to evaluate the performance of your projects, maximize your RoI, and thus ensure that your digital investments in India are sound and profitable.

### A Guide on Harnessing the Concept of Identical Fact Matrix - May 23, 2023

*Author:* Karthik S S, Associate Director, Taxation, ASA and Rakesh KS, Deputy Manager, Taxation, ASA

The article discusses a recent Mumbai Income-tax Appellate Tribunal ruling regarding transfer pricing adjustments. It highlights that taxpayers can use precedents from their group company's cases to support their own transfer pricing claims, as long as the facts are identical and supported by evidence.

### Revamping of angel tax and valuation norms - May 26, 2023

*Author:* Pankaj Aneja, Executive Partner, Taxation, ASA

The article discusses CBDT's proposed changes to valuation rules for startups, including expanding methods aimed at fostering equity and growth, the changes simplify compliance and enhance transparency.

# GLOSSARY



## ASU

Accounting Standard Update

## CBDT

Central Board of Direct Taxes

## DTAA

Double Taxation Avoidance Agreement

## ESG

Environmental, Social & Governance

## FIRC

Foreign Inward Remittance Certificate

## FTS

Fee for Technical Services

## FY

Financial Year

## GAAP

Generally Accepted Accounting Principles

## GoI

Government of India

## GST

Goods & Services Tax

## ICAI

Institute of Chartered Accountants of India

## ISSB

International Sustainability Standards Board

## ITAT

Income Tax Appellate Tribunal

## ITC

Input Tax Credit

## KYC

Know Your Customer

## LRS

Liberalised Remittance Scheme

## MCA

Ministry of Corporate Affairs

## MSME

Micro, Small & Medium Enterprises

## NCLT

National Company Law Tribunal

## OIDAR

Online Information and Database Access or Retrieval

## RBI

Reserve Bank of India

## RoC

Registrar of Companies

## RoI

Return on Investment

## SASB

Sustainability Accounting Standards Board

## SEBI

Securities and Exchange Board of India

## SOP

Standard Operating Procedure

## TCS

Tax Collected at Source

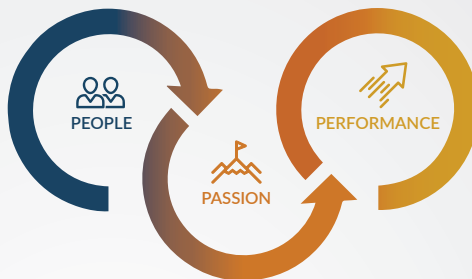
## TDS

Tax Deducted at Source

“ We value your feedback. Please send us your comments and suggestions at [editorial@asa.in](mailto:editorial@asa.in) ”

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