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# BASCO BULLETIN

## FINANCE

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Helping with Compliance, Securing with Advice



**BAS & Co LLP**

Kolkata- Ahmedabad-Delhi-Purnea

# 1. DIRECT TAX

## CIRCULARS/NOTIFICATIONS

### India–Qatar Double Tax Avoidance Agreement Notified

CBDT notified the Agreement and Protocol between the Republic of India and the State of Qatar for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. The agreement, originally signed in New Delhi on 18 February 2025, entered into force on 10 September 2025. Its provisions will take effect in India and Qatar for income arising on or after the first day of the fiscal year immediately following its entry into force. This marks an important development for India's treaty network, benefiting Indian businesses and investors transacting with Qatar.

*(Notification No. 154/2025 | Dated: 24 October 2025)*

### Transfer Pricing: Tolerance Range for ALP Variation Clarified

CBDT clarified regarding the approved tolerance range for variation between the calculated Arm's Length Price (ALP) and the actual transaction price for international or specified domestic transactions for AY 2025-26. As per the notification, if the variation does not exceed one percent of the actual price for wholesale trading, or three percent in all other cases, the actual transaction price shall be deemed to be the ALP. This provides certainty to taxpayers engaged in cross-border related-party transactions.

*(Notification No. 157/2025 | Dated: 6 November 2025)*

### India–Belgium Double Taxation Protocol Amended

Through Notification No. 160/2025 dated 10 November 2025, CBDT notified the Protocol amending the Agreement between the Government of India and the Government of the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. This amendment updates the existing bilateral treaty provisions in line with BEPS Action Plans and the Multilateral Instrument (MLI), strengthening anti-avoidance measures and improving cooperation between the two countries.

*(Notification No. 160/2025 | Dated: 10 November 2025)*

### India Qatar DTAA

### Tolerance Range for ALP Variation

### India Belgium DTAA Amended

### OECD Consultation on Global Mobility

### OECD consultation on Global Mobility and related tax challenges

The OECD has initiated a public consultation titled “Global Mobility of Individuals” to examine tax challenges arising from remote work and the growing trend of digital nomadism. The consultation paper, released as part of an evidence-gathering exercise, highlights potential issues such as dual or lack of tax residency, risks of double taxation, and corporate implications related to permanent establishments and transfer pricing. At this stage, the document does not propose any formal recommendations. The OECD has invited stakeholders to submit their feedback by December 22, 2025, and a public discussion meeting is planned for January 2026.

*(OECD Public Consultation Document on Global Mobility of Individuals, dated November 26, 2025)*



# 1.1 DIRECT TAX

## RECENT CASE LAWS:

### Section 153C Reassessment Barred by Limitation

The Delhi Bench of the Income Tax Appellate Tribunal (ITAT) quashed reassessment proceedings initiated under Section 153C of the Income Tax Act for multiple assessment years, holding them as time-barred and based on an invalid satisfaction note. The Tribunal reiterated that the jurisdictional requirements for initiating search-based assessments must be strictly complied with, and that a defective satisfaction note cannot form the basis for valid proceedings under Section 153C.

*3D Tradex Pvt. Ltd. vs. ADIT (Delhi ITAT, 2025)*

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### Section 292C Presumption is Rebuttable — Cannot Establish Undisclosed Income on its Own

The Delhi Bench of the ITAT held that the presumption provided under Section 292C of the Income Tax Act, regarding the ownership and correctness of documents found during the course of a search or survey, is not absolute in nature. It clarified that such a presumption is rebuttable, meaning that it can be challenged and disproved by the assessee through appropriate explanations and supporting evidence. Therefore, the mere existence of documents or papers discovered during a search cannot automatically lead to the conclusion that they represent undisclosed income of the assessee. It further emphasized that the Assessing Officer has a duty to independently examine and verify the explanations and documentary evidence furnished by the assessee in response to the documents found during the search.

*Krishna Gopal Saraf vs. ACIT (Delhi ITAT, 2025)*

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### Royalty and FTS Taxable on Receipt Basis for Non-Residents Under DTAA

The Mumbai Bench of the ITAT reaffirmed that a German tax resident is liable to tax in India on royalty and fees for technical services (FTS) only on a receipt basis and not on accrual, as per the provisions of the India-Germany Double Tax Avoidance Agreement (DTAA). The Bench also emphasized the principle of judicial consistency, observing that the Revenue is bound to follow its own accepted position from earlier assessment years unless the same has been overturned by a higher court or there is a material change in facts or law.

*Siemens AG vs. DCIT (Mumbai ITAT, 2025)*

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### Intra-group Service Payments at Arm's Length — TPO Cannot Disregard Chosen Method

In a significant transfer pricing ruling, the ITAT held that a Transfer Pricing Officer (TPO) cannot reject a taxpayer's chosen method or substitute his commercial judgment for that of the assessee while determining the arm's length nature of international transactions. Where the taxpayer provided extensive documentation, including cost-benefit analyses, inter-company billing agreements, invoices, and supporting records proving the actual receipt of intra-group services and the commercial benefits derived from them, the TPO's rejection of the transactional net margin method (TNMM) and fixation of the arm's length price (ALP) at nil was held to be unjustified and contrary to law.

*Corteva Agriscience India Pvt. Ltd. vs. ADIT (ITAT, 2025)*

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## 2. INDIRECT TAX

### CIRCULAR/NOTIFICATIONS

#### Simplified GST Registration Scheme for Small Taxpayers — Rule 14A

CBIC notified the CGST (Fourth Amendment) Rules, 2025 introducing a Simplified GST Registration Scheme under Rule 14A for small taxpayers. Under this scheme, taxpayers whose total monthly output tax liability (including all GST components and cess) does not exceed Rs. 2.5 lakh may opt for registration under this rule. Only one registration per State/UT is permitted under the same PAN. Aadhaar authentication is compulsory for the primary authorised signatory and at least one promoter/partner, with approvals processed within 3 working days. This initiative significantly eases compliance for small suppliers.

*(Notification No. 18/2025-Central Tax | Dated:31 October 2025)*

#### Withdrawal of Circular on Warranty Replacement

CBIC issued circular withdrawing the earlier Circular No. 212/6/2024-GST dated 26 June 2024 regarding GST treatment on warranty and extended warranty. This withdrawal was necessitated by subsequent amendments to the CGST Act through the Finance Act, 2025, which introduced specific provisions governing the treatment of warranty replacements. Taxpayers should note that transactions involving warranty services will henceforth be governed by the amended statutory provisions rather than the administrative circular.

*(Circular No. 253/10/2025-GST | Dated: 1 October 2025)*

#### Proper Officers Designated under Sections 74A, 75(2) and 122 of CGST Act

CBIC issued circular formally assigning proper officer powers and specifying monetary limits for initiating action under Sections 74A (tax demand for FY 2024-25 onwards), 75(2) (cases where Section 74 notice is not sustainable), and 122 (penalties) of the CGST Act. The circular prescribes officer ranks (Superintendent, Deputy/Assistant Commissioner, Additional/Joint Commissioner) authorized to issue show cause notices based on the quantum of tax demand.

*(Circular No. 254/11/2025-GST | Dated: 27 October 2025)*

### RECENT CASE LAWS:

#### ITC on General Insurance of Business Assets is Eligible — Not Blocked Under Section 17(5)

The Gujarat High Court set aside a demand order and recovery proceedings, holding that Input Tax Credit on general insurance premiums paid for business assets (other than motor vehicles) is eligible under the GST law and does not fall within the blocked credit provisions under Section 17(5) of the CGST Act. The court clarified that the restrictions under Section 17(5) must be interpreted strictly, and general insurance of business assets is a legitimate input service directly connected to the business activities of the taxpayer

*Arraycom (India) Ltd. vs. State of Gujarat (Gujarat HC, 2025)*

#### Section 74 Cannot Be Invoked Without Specific Allegation of Fraud or Suppression

In an important ruling upholding taxpayer rights, the Gujarat High Court held that Section 74 of the CGST Act can be invoked only where non-payment, short payment, or wrongful availment of ITC involves fraud, wilful misstatement, or suppression of facts with intent to evade tax. These conditions are a sine qua non for the extended limitation period under Section 74. Show cause notices that do not specifically allege fraud or suppression, or fail to present supporting evidence, are invalid and cannot sustain the extended limitation.

*Arraycom (India) Ltd. vs. State of Gujarat (Gujarat HC, 2025)*

#### Supreme Court Restores Appeals Dismissed for Pre-Deposit Through Electronic Credit Ledger

The Supreme Court restored statutory appeals that had been dismissed because assessee paid the mandatory 10% pre-deposit under Section 107 through the Electronic Credit Ledger (ECL) instead of the cash ledger. The Court also allowed taxpayers to seek a refund of any excess recovery beyond the required pre-deposit. The ruling clarifies that payment through the ECL cannot be treated as non-payment for the purpose of maintaining statutory appeals.

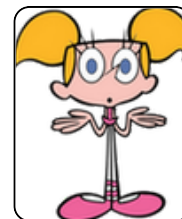
*Flipkart Internet Pvt. Ltd. vs. State of Bihar (SC, 2025)*



## 3. FEMA

### FEMA's 7th Amendment: What the New Foreign Currency Account Rules Mean for Exporters & SMEs

Mr. FEMA Scientist! I heard RBI made a big change to FEMA in October 2025 about foreign currency accounts. What exactly happened, and why should my business care?



Great timing to ask! On 6th October 2025, RBI notified the FEMA (Foreign Currency Accounts) Seventh Amendment Regulations, 2025. Two big things changed:

- First, GIFT City's IFSC (International Financial Services Centre) is now formally recognized under FEMA as equivalent to "outside India" — ending years of legal ambiguity. Second, exporters can now hold their foreign currency earnings for up to 3 months in an IFSC-based account, up from just 1 month. This is a game-changer for cash flow management!

What are the key compliance points my startup or SME needs to know if we export goods or services internationally?

#### Key Compliance Points Include:

- Exporters can now open, hold, and maintain a **Foreign Currency Account** with a bank outside India or within an IFSC (like GIFT City, Gujarat) for receiving full export value or advance remittances.
- Funds in an **IFSC-based account** must be repatriated within **3 months** of receipt (after adjusting forward commitments); funds in other overseas accounts must be repatriated within 1 month.
- All transactions must still comply with the **FEMA (Export of Goods and Services) Regulations, 2015** — no bypassing of realisation and repatriation norms.
- A formal definition of "IFSC" has been inserted into FEMA regulations, aligned with the IFSCA Act, 2019 — removing previous interpretive confusion about whether IFSC banks counted as "overseas".
- Funds in the foreign currency account **can be used for import payments** into India or must be repatriated within the applicable timeline.

💡 How does this amendment actually help startups and SMEs expand their global footprint?

#### This Amendment Benefits Your Business By:

- **Better cash flow:** Holding export proceeds for 3 months (in IFSC accounts) gives exporters more time to plan payments, reducing pressure to convert funds immediately.
- **GIFT City advantage:** Indian exporters can now use IFSC banks within India just like offshore banks — no need to set up complex overseas structures.
- **Regulatory certainty:** The formal recognition of IFSCs removes ambiguity — businesses no longer face compliance risk from unclear definitions.
- **Global competitiveness:** Aligning India's rules with international trade practices helps Indian SMEs compete with global exporters on equal footing.
- **Simpler documentation:** Streamlined treatment of IFSC accounts means fewer interpretive disputes during audits and FEMA filings.

👉 And remember—BAS & Co can take care of all your FEMA compliance requirements including advisory on the new 7th Amendment, IFSC account structuring, and export-related filings. Don't forget to reach out to them!

# 4. INTERNATIONAL TAXATION

## SUBSTANCE OVER FORM: A NEW ERA IN INDIA'S TAX TREATY LANDSCAPE

In January 2026, two landmark rulings — the Supreme Court's verdict in Tiger Global and the Delhi ITAT's decision in Hareon Solar Singapore — fundamentally redrew India's international tax landscape. Together, they establish an unambiguous principle: treaty benefits are conditional on genuine commercial substance, not just formal documentation.

### CASE 1 | SUPREME COURT OF INDIA

Tiger Global International Holdings vs. Union of India  
Decided: 15 January 2026

#### Background

Tiger Global, a US-based fund, routed its Flipkart investment via Mauritius SPVs holding shares in Flipkart Singapore. In 2018 these entities sold shares to Walmart for approx. USD 1.6 billion in capital gains and claimed exemption under the India-Mauritius DTAA.

#### Key findings

- TRC is not conclusive — authorities can pierce the structure for economic substance
- GAAR overrides DTAA grandfathering where the exit yields a post-April 2017 tax benefit
- Real control resided with a single US individual, not in Mauritius; grandfathering denied
- JAAR operates alongside GAAR — treaty abuse can be denied even without formal GAAR invocation

#### Verdict

Supreme Court upheld the Revenue's position; capital gains held taxable in India. Delhi HC ruling set aside; AAR's rejection of advance ruling restored.

### CASE 2 | DELHI ITAT

Hareon Solar Singapore Pvt. Ltd. vs. DCIT  
Decided: 30 January 2026

#### Background

Hareon Solar Singapore, a wholly-owned subsidiary of a Hong Kong entity (itself owned by a Chinese parent), claimed capital gains exemption under the India-Singapore DTAA for sale of grandfathered equity shares and CCDs in an Indian company.

#### Key findings

- Singapore entity's PPE of only USD 1,021 vs. investments of USD 1.13 crore — shell with no real operations
- No Board meetings in Singapore — no travel records, hotel bills, or local staff evidence
- Only nominee directors; all decision-making resided in China — classic conduit structure
- LOB clause (Article 24A) of India-Singapore DTAA triggered; treaty benefits denied

#### Verdict

Capital gains held taxable in India. Singapore entity classified as a shell/conduit. Treaty benefits and grandfathering protection under India-Singapore DTAA both denied.

## KEY TAKEAWAYS FOR TAXPAYERS & INVESTORS

- **TRC alone is not enough.** Authorities can probe beyond formal documents.
- **Board meetings & local presence** must be real and evidenced — no nominees.
- **GAAR applies to pre-2017** exits where the benefit accrues post-April 2017.
- **Indirect transfers** don't qualify for grandfathering or LOB protection.
- **Review all offshore structures** via Mauritius, Singapore, Cyprus and Netherlands urgently.

# 5. COMPLIANCE CALENDAR

## DUE DATES FOR INCOME TAX:

**FILING TDS RETURN FOR THE F.Y. 2025-26:**  
Q3 (Oct'25 - Dec'25) - 31st Jan 2026

**FILING TCS RETURN FOR THE F.Y. 2025-26**  
Q3 (Oct'25 - Dec'25) - 15th Jan 2026

**Deposit of Advance Tax:**  
4th Installment: 15th March 2026  
(100% of tax liability)



## DUE DATES FOR GST Returns

S. No	Form	The Object of e-form	For the month/year	Last Date	Remarks
1	GSTR-1	Monthly/ Quarterly Return	Dec, 2025	11th/13th Jan, 2026	Normal/ QRMP
2	GSTR-3B	Monthly Return	Dec, 2025	20th/22nd Jan, 2026	Normal/ QRMP
3	GSTR-6	Monthly Return	Dec, 2025	13th Jan, 2026	Filed by ISD
4	GSTR-7	Monthly Return	Dec, 2025	10th Jan, 2026	Deductor of TDS under GST
5	GSTR-8	Monthly Return	Dec, 2025	10th Jan, 2026	E-commerce operators required to collect TCS
6	GSTR-9	Annual Return	2024-25	31st December, 2025	Turnover>2 crore
7	GSTR-9C	Annual Return	2024-25	31st December, 2025	Turnover>5 crore

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## ABOUT THE FIRM

With 27 years of experience in the industry, BAS & Co LLP continues to deliver high-quality performance to its clients. The growing team of young professionals with dynamic approaches will surely carve more paths for the firm in the coming future.

## SERVICES

- **Audit**
- **Direct Tax**
- **Indirect TAX**
- **Secretarial**
- **FEMA**
- **International tax**
- **IPO Advisory**

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