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MONTHLY INDIRECT TAX NEWSLETTER

JUNE 2025

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

Our newsletter will cover updates from Trade & Indirect Taxes and Customs.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport

ABOUT US

Lexport is a full-service Indian law firm offering consulting, litigation and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website www.lexport.in.

OUR LEGAL TEAM

Srinivas Kotni
Akshay Kumar
Tanmay Singh

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1. COURT RULINGS

1. PwC FEMA Case: PMLA Tribunal Confirms Breach, Slashes Penalty By Over Rs 150 Crore

In a major development in the long-running case against global accounting giant PricewaterhouseCoopers Pvt. Ltd. (PwC), the Appellate Tribunal under the Prevention of Money Laundering Act (PMLA) has upheld FEMA contraventions but reduced the penalty imposed by the Enforcement Directorate (ED) to Rs 80.5 crore from Rs 230 crore. The case stems from a 2019 show-cause notice issued by the ED's Special Director (Eastern Region), following a Supreme Court directive in response to a PIL filed by an NGO. The apex court had ordered the ED to examine PwC's affairs under the Foreign Exchange Management Act (FEMA), 1999. After completing its probe, the ED slapped a hefty Rs 230.4-crore penalty on PwC and six individuals, accusing them of illegally routing foreign

direct investment into a non-permmitted sector by disguising capital inflows as 'grants'. The funds were reportedly received from PricewaterhouseCoopers Services BV, a foreign entity within PwC's global network.

The ED held that PwC and the other noticees had received these foreign remittances without RBI approval, in clear violation of FEMA Sections 10(6), 6(2), 6(3), and 9(b). PwC operates in audit, taxation, and financial consultancy sectors where FDI is not permitted without prior RBI clearance. Officials alleged that the company deliberately labeled inward remittances as "grants" to circumvent FEMA restrictions and regulatory scrutiny. The ED found a direct connection between the remittances and so-called dividends, described as Network Service Charges (NSCs), indicating the transactions were in fact capital account transactions (CATs) — which attract strict regulatory control.

2. Stem Cell Banking Services Qualify As "Healthcare Services" In Service Tax Exemption Notification: Supreme Court

Case: M/S. STEMCYTE INDIA THERAPEUTICS PVT. LTD vs COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX, AHMEDABAD – III

Case no.: CIVIL APPEAL NOS. 3816-3817 OF 2025

The Supreme Court held that stem cell banking services, including enrolment, collection, processing, and storage of umbilical cord blood stem cells, constitute "Healthcare Services" which were exempted from service tax as per the notifications issued by the Ministry of Finance in 2012 and 2014 under the Finance Act, 1994.

3. Mp Entry Tax Act | Manufacturers Liable For Entry Tax As They "Cause Entry" Of Liquor Into Local Areas: Supreme Court

Case Title: M/S UNITED SPIRITS LTD. VERSUS THE STATE OF MADHYA PRADESH & ORS.

The Supreme Court upheld the MP High Court's decision to levy the 'entry tax' on the beer and Indian Made Foreign Liquor ("IMFL") manufacturers for transporting goods into local areas for sale.

The Court reasoned that the liquor manufacturers "cause entry" of goods into local areas, making them liable for tax under Section 2(3) of the Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam, 1976 ("M.P. Entry Tax Act, 1976"), even if sales occur through state-controlled warehouses.

4. Income Tax | Filing Of Form 10-Ic Prior To Filing Of Return Not Mandatory, Delay May Be Condoned In "Genuine Hardship": Allahabad High Court

Case Title: CELL COM TELESERVICES PRIVATE LIMITED v. UNION OF INDIA AND OTHERS

Case no.: WRIT TAX NO. 278 OF 2024

The Allahabad High Court has held that filing of Form 10-IC prior to filing of income tax return is not mandatory and the delay in filing the Form may be condoned in cases where "genuine hardship" is shown to exist.

5. Customs Act | Adjudicating Authority Can't Decline Refund Of Excess Duty In Presence Of Ca's Certificate: Delhi High Court

Case title: Principal Commissioner Of Customs (ACC Imports) Nokia India Sales Pvt. Ltd.

Case no.: CUSAA 66/2025
The Delhi High Court has made it clear that the Customs authority cannot, in absence of some evidence, decline

refund of excess duty paid by a trader when the latter furnishes certificates from a qualified chartered accountant in support of its case.

A division bench of Justices Prathiba M. Singh and Rajneesh Kumar Gupta thus dismissed the Department's appeal against Nokia. Nokia sought refund of excess duty paid on import of mobile handsets. While the goods were exempted by the Central government vide a notification issued in March 2015, Nokia said it had paid additional duty of customs at the rate of 6%.

6. S.107 GST Act | Impugned Order "Automatically Stayed" Once Appeal Is Filed & Pre-Deposit Is Made; No Attachment Of Bank Account: Delhi HC

Case title: M/S MJ Bizcrafts LLP Through Partner Rajender Kumar v. Central Goods And Services Tax Delhi South Commissionerate Through Its Commissioner & Ors.

Case no.: W.P.(C) 9061/2025

The Delhi High Court has observed that once an appeal is filed by the assessee under Section 107 of the Central Goods and Services Tax Act 2017 and pre-deposit is made, there is "automatic stay" of the impugned order raising demand.

A division bench of Justices Prathiba M. Singh and Rajneesh Kumar Gupta thus interdicted the bank from attaching the account of an assessee, who had preferred an appeal against demand. It observed, "A perusal of Section 107(7) of the Central Goods and Services Tax Act, 2017 and the judgments relied on, would show that once an appeal is filed and pre-deposit is made, there is automatic stay of the impugned order. In view thereof, the attachment of the bank account is not sustainable."

7. No reassessment under Section 153C without incriminating material related to the relevant year: Delhi HC

Case title: Panch Tatva Promotors Pvt. Ltd. v. ACIT Circle 25, Delhi (W.P.(C) 17394/2024)

In this case, the Delhi High Court held that reassessment proceedings under Section 153C of the Income Tax Act, 1961 ("Act"), were unsustainable as the seized material relied upon did not pertain to the relevant assessment years in question. The Court emphasized that only documents or material having a bearing on the income assessable for the relevant year can justify invoking Section 153C. The petitioner challenged a notice dated 28.08.2024 under Section 153C of the Act for Assessment Year (AY) 2021–22. The basis of the notice was a satisfaction note referring to a pen drive seized during a search on third parties, containing tally data from Financial Year (FY) 2014–15 to Financial Year (FY) 2020–21. The only transaction attributed to the petitioner related to FY 2014–15. Despite this, proceedings were initiated for AY 2021–22. The petitioner contended that there was no material linking it to any undisclosed income in that year. The Court agreed with the petitioner, observing that there was no indication in the satisfaction note that any document pertained to AY 2021–22. Citing the Supreme Court's decision in Commissioner of Income Tax-III, Pune v. Sinhgad Technical Education Society ([2017] 84 taxmann.com 290) and its own ruling in Saksham Commodities Ltd. v. Income Tax Officer Ward 22 (1) (Delhi & Anr.: 2024:DHC:2836-DB), the Court held that reassessment can be triggered only if the material has a nexus with the year in question. Consequently, the impugned notice under Section 153C of the Act was quashed.

8. Entrance fees paid for club membership are capital receipts, not taxable income: Madras HC.

Case title: Chennai Corporate Club (P) Ltd. v. ACIT (TCA Nos. 498–502 of 2011)

In this case, the Madras High Court held that entrance fees collected by the Assessee, a private club company, for

admission as members constituted capital receipts and not revenue receipts liable to tax. The Court reiterated that such payments confer an enduring right of membership and do not constitute income arising from the club's regular operations. 7 The Assessee collected one-time, non-refundable entrance fees from individuals seeking life membership during AYs 2001–02 to 2005–06. While the Assessee treated the fees as capital receipts, the Assessing Officer treated them as revenue receipts and taxed the same. Both the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal("ITAT") upheld the assessment. On appeal, the Assessee relied on the Bombay High Court's ruling in Principal Commissioner of Income-Tax v. Royal Western India Turf Club Limited (RWITC) [[2023] 450 ITR 707 (Bom)], affirmed by the Supreme Court, where such entrance fees were held to be capital in nature. The Madras High Court accepted the Assessee's contention, noting that the nature of the payment—non-refundable and non-transferable—was for acquiring membership rights, not in the course of business. Following the RWITC precedent, the Court overruled the ITAT's decision and allowed the appeals, holding the receipts to be capital in nature and not taxable.

9. Adverse tax orders passed without personal hearing violate Section 75(4) of the CGST Act and principles of natural justice: Madras HC

Case title: Gillette India Ltd. v. State Tax Officer, Intelligence-II (W.P. Nos. 15997 of 2025) and Connected Matters

In this case, the Madras High Court held that where a taxpayer specifically requests a personal hearing in response to a show cause notice, failure to provide such an opportunity renders the resultant order invalid. The Madras High Court emphasized the mandatory nature of Section 75(4) of the Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017 (CGST/TNGST Act), which requires a personal hearing before passing an adverse order. The petitioner, Gillette India Ltd., engaged in the manufacturing and trading of grooming products, received multiple show cause notices under Section 74 of the TNGST Act following an inspection. The company sought additional time to respond and specifically requested a personal hearing, citing ongoing GST litigation across various states. Despite this, the department issued final orders dated 12.03.2025 confirming the proposals without granting a hearing. The petitioner challenged these orders on the grounds of procedural irregularity and violation of natural justice. The Madras High Court accepted the petitioner's contention, noting that Section 75(4) mandates a personal hearing where an adverse decision is contemplated. Since the department admitted no hearing was granted after receipt of the reply, the Court quashed the impugned orders. It remanded the matter back, treating the prior orders as show cause notices and directed the department to allow additional replies and ensure a proper hearing before passing fresh orders.

10. Denial of Input Tax Credit solely based on retrospective cancellation of the supplier's GST registration is unsustainable without inquiry into transaction genuineness: Himachal Pradesh HC.

Case title: M/s Himalaya Communication Pvt. Ltd. v. Union of India & Ors. (CWP No. 8809 of 2025)

In this case, the Himachal Pradesh High Court held that input tax credit (ITC) cannot be denied merely on the ground of retrospective cancellation of the supplier's Goods and Services Tax ("GST") registration. It noted that before denying credit under Section 16(2) of the Central Goods and Services Tax Act, 2017 ("CGST Act"), the authorities must examine whether the underlying transaction was genuine and supported by relevant documents. The petitioner challenged the orders dated 10.01.2025 and 31.03.2024, which denied ITC solely because the supplier's registration was retrospectively cancelled. The petitioner had paid tax to the supplier, held valid tax invoices, and contended that the supplier had filed GSTR3B returns disclosing the transaction. The petitioner argued that neither the Assessing Officer (AO) nor the Appellate Authority conducted a factual inquiry into the genuineness of the transaction or considered the documents submitted. The Himachal Pradesh High Court agreed with the petitioner, observing that no material had been placed on record by the department to show a proper inquiry into the genuineness of the transaction. It ruled that such an inquiry was necessary before issuing any adverse order under Section 16(2) of the CGST Act. Consequently, the impugned orders were set aside, and the matter was remanded to the Adjudicating Authority for a fresh decision after proper examination of all relevant documents.

11. Calcutta HC upholds GST levy on PDS kerosene, says negligible price impact not a ground for judicial review

Case title: Kishor Kumar Mondol v. Union of India & Ors. (WPA (P) 86 of 2021)

In this case, the Calcutta High Court dismissed a challenge to the imposition of 5% Goods and Services Tax ("GST") on superior kerosene oil (SKO) supplied through the Public Distribution System (PDS), holding that decisions of the GST Council are based on expert committee evaluations and judicial intervention is unwarranted unless the decision is arbitrary or irrational. The petitioner, Kishor Kumar Mondol, sought exemption or further reduction of GST on SKO supplied under the PDS, contending that even a minimal GST component burdens the economically weaker sections. The Court noted that the GST Council had deliberated this issue in its meeting dated 20th September 2019 and consciously applied a concessional rate of 5% (reduced from the general rate of 18%) following expert committee recommendations.

Observing that the price impact on kerosene was "very negligible" and that the GST Council had duly considered the economic implications, the Court refused to interfere. The writ petition and connected application were dismissed, with no order as to costs.

END OF THE NEWSLETTER

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