



A Monthly E-Newsletter

Vol 04 Issue 2
February 2023

The Bottom Line

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KEY METRICS

Indices

BSE SENSEX	59,550	-2.12%	▼
NSE NIFTY50	17,662	-2.45%	▼
NASDAQ Composite	11,585	10.68%	▲
NIKKEI 225	27,327	4.72%	▲

Currency

USD/INR	81.74	1.18%	▲
EURO/INR	88.79	-0.29%	▼
GBP/INR	100.70	-0.64%	▼
JPY/INR	0.63	0.40%	▲

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



DIRECT TAX

Notifications/Circulars

Limit on interest income for submission in SFT abolished

Limit of INR 5,000 with respect to interest income for inclusion in SFT has been abolished. Now, the information for all account/deposit holders (except Jan Dhan Accounts) is required to be reported by specified persons.

Notification No. 1 dated January 5, 2023

Time limit extended for compliances with respect to capital gains exemption

In view of the representations received from the taxpayers and on further consideration of the then-prevailing COVID-19 pandemic, CBDT has extended the time limit of compliances including investment, deposit, payment, acquisition, purchase, construction etc. for the purpose of claiming capital gain exemption under section 54 to 54GB of the Income Tax Act. Accordingly, the date of compliances falling between April 1, 2021 to February 28, 2022 (both days inclusive), has now been extended to March 31, 2023.

Circular No. 1 dated January 6, 2023

Judicial Rulings

Lessor to be considered the real owner in case of finance lease

Where revenue took a position that lease payments made by the assessee to its holding company under a finance lease were not allowable as a deduction, as assessee was the real owner of assets, Supreme Court held that the lessor, and not the lessee, is the real owner in such cases, and deduction is allowed for lease rentals paid by the assessee.

CIT v. Narmada Chematur Petrochemicals Ltd. (Supreme Court)

Reassessment notice issued without signature is invalid

Where revenue issued a physical notice for reassessment of income without signing the same, either manually or digitally, and also failed to send a soft copy to the assessee, it was held that such notice is invalid and is effectively no notice in the eyes of law, thus rendering the proceedings jurisdictionally defective.

Prakash Krishnavtar Bhardwaj v. ITO (Bombay High Court)

Limit on interest income for submission in SFT removed

Time limit extended for compliances with respect to capital gains exemption

Reassessment notice issued without signature is invalid

Assessee to get benefit of investment in residential house even in case of delay in execution of sale deed

Benefit under section 54F was allowed to the assessee in respect of investment of long-term capital gains in a new residential house on the basis of unregistered sale agreement, even though the sale deed was executed after the time limit provided in the said section. It was held that this section is a beneficial provision and substantial compliance would entitle assessee to claim deduction therein.

Mrs. D. Vijayalakshmi v. ITO. (Chennai ITAT)



INDIRECT TAX

Circulars / Notifications

GST rate and classification of goods

Clarification has been issued regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 48th meeting.

Circular No. 189/01/2023-GST dated January 13, 2023

GST applicability on certain services

Following clarifications have been issued:

- i. Accommodation service provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are exempt supplies.
- ii. Incentives paid by MeitY to acquiring banks under the incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in nature of subsidy and not taxable.

Circular No. 190/02/2023-GST dated January 13, 2023

Judicial Rulings

Clarifications for rectifications also apply to FY 2019-20

Circular No.183/15/2022-GST dated December 27, 2022 covers rectification of *bona fide* mistakes for FY 2017-18 and 2018-19 only. It was ruled that the said Circular shall be applicable for FY 2019-20 also.

M/s Wipro Ltd. India (Karnataka High Court)

Cash is not “goods” liable for seizure

Seizure is limited to goods, documents, books or things, which may be ‘useful for or relevant to any proceedings’. Cash does not fall within the definition of goods and is also not relevant for any proceedings. The powers of search and seizure are draconian powers and must be exercised strictly in terms of the statute and only if the necessary conditions are satisfied. The department was directed to return the amount along with interest accrued thereon.

Mr Arvind Goyal CA (Delhi High Court)

Nature of supply

The activity of designing and development of tools for the overseas OEM’s as per the requirement and specification provided by such OEM’s, shall be treated as supply of goods

M/s Precision Camshafts Ltd (AAAR Maharashtra)

Transfer of going concern

Transfer of entire proprietorship business with assets, liabilities along with the employees and their benefits cannot be treated as supply of goods since business cannot be said to be a movable property. The said transfer of a going concern shall be treated as supply of services under GST law and covered under exemption subject to fulfilment of other conditions laid down therein.

Mr. Jayesh Popat (AAR West Bengal)

Taxability of hostel leasing rentals

Residential buildings are leased

GST applicability on certain services clarified

Cash is not “goods” liable for seizure

to educational institutions for the purposes of accommodation of students. The category of building should be residential dwelling for exemption under GST. The category as mentioned in the lease deed is that of a ‘student’s hostel’ and it cannot be equated with residential dwelling. Therefore, said supply is not eligible for exemption.

M/s Aluri Krishna Prasad (AAAR Andhra Pradesh)



CORPORATE & ALLIED LAWS

Circulars / Notifications

RBI issues directions in respect of ownership and control of banking companies

Effective January 16, 2023, RBI has issued Reserve Bank of India (Acquisition and Holding of Shares or Voting Rights in Banking Companies) Directions, 2023. These directions have been issued to ensure that ultimate ownership and control of banking companies are well diversified and major shareholders of banking companies are 'fit and proper' on continuing basis. RBI has directed that banks should assess such status of a person who files an application to acquire majority shareholding. Persons having 5 per cent or more shareholding in the paid-up share capital or voting rights are classified as majority shareholders. Banks are also required to have a continuous monitoring mechanism to assess the status of such shareholders. RBI has also issued guidelines in this regard.

RBI/DOR/2022-23/95 DOR. HOL. No. 95/16 .13 .100/2022-23 dated January 16, 2023

Amendments made for reporting through SMF

The guidelines for reporting through SMF on FIRMS portal have been amended. The key changes are:

- The forms submitted on the portal will be auto-acknowledged. The AD banks shall verify the same within five working days based on the uploaded documents, as specified
- In cases of delayed reporting, the AD banks shall either advise for the late fee computed by the system or compounding of contravention.

RBI/2022-23/160 A.P. (DIR Series) Circular No. 22, dated 04.01.2023

Amendments made in respect of appointment and qualification of Directors

The Companies (Appointment and Qualifications of Directors) (Amendment) Rules, 2023 have been notified, effective January 23, 2023, amending the provisions of

RBI issues directions in respect of ownership and control of banking companies

Amendments made for reporting through SMF

Companies (Appointment and Qualifications of Directors) Rules, 2014. Now, whenever a company receives the declaration by the Director in Form DIR-8, it shall file Form DIR-9 within thirty days with the Registrar. Further, any application for removal of disqualification of directors shall be made in Form DIR-10 and filed before the Regional Director.

Notification dated January 20, 2023



CFO WATCH

SEBI notifies amendments to SEBI (LODR) regulations

New standards by ICAI on sustainability assurance engagements and social audits

SEBI notifies amendments to SEBI (LODR) regulations

Following key amendments have been notified in SEBI (LODR) regulations:

- Definition of 'senior management' amended to include functional heads of an entity
- Requirement for approval of shareholders for the purpose of appointment to Board of Directors now applicable also for reappointment
- All listed entities to disclose in its annual report (FY 2022-23 and onwards), the details of material subsidiaries of the listed entity, including the date and place of incorporation and the name and date of appointment of the statutory auditors of such subsidiaries
- REITs and InvITs are now required to comply with the governance norms stipulated under SEBI REIT Regulations, 2014 and SEBI InvIT Regulations, 2014, respectively, instead of corporate governance provisions under the LODR Regulations effective April 01, 2023.

ICAI issues SSAE 3000 and Social Audit Standards

The Sustainability Reporting Standards Board of the ICAI, issued SSAE 3000-“Assurance Engagements on Sustainability Information”. The standard highlights the scope, application, procedures for reasonable assurance and limited assurance engagements and attestation and direct reporting engagements. Provisions of the standard shall be mandatorily applicable from March 31, 2024.

ICAI has also published the “Social Audit Standards” which the social auditors are required to follow in the social audits commencing on or after January 14, 2023. These standards apply whenever an independent social audit of a social enterprise is carried out. Compliance is a mandatory requirements for social auditors in respect of social enterprises listed on social stock exchange.

SEBI extends the relaxation pertaining to dispatch of hard copy financial statements

SEBI provided further extension to listed entities till September 30, 2023, to dispatch hard copy of the financial statement to those shareholders who have not registered their email address.

MERGERS & ACQUISITIONS

2022 India M&A round up

Despite adverse global macroeconomic conditions, India demonstrated signs of stable corporate deals and surpassed pre-Covid levels to reach USD 159 billion with 2103 transactions in 2022, a 29% increase from 2021 in terms of value. A major part of the deal value was largely driven by the merger of HDFC Bank and HDFC, the biggest deal ever in Indian history, worth \$40 billion.

Other high value transactions include Adani's acquisition of Ambuja & ACC Cements and merger of Air India with Vistara. Domestic deals took up a major share of the deals (72% by value and 52% by volume). Technology and financial services accounted for significant deal value representing over 30% of total deal value.

Private equity investments stood at USD 52 billion, 22% lower than 2021 but 20% higher than all other preceding three years in terms of value and volume. While buyouts and late-stage deals witnessed a 55% and 33% drop in deal value, early-stage deals saw an increase of 13% over 2021.

In 2022, some of the largest deals occurred in the banking, cement, and aviation industries as businesses tried to consolidate their positions, reduce competition, and enter new disruptive markets. While the M&A transaction landscape was dominated by domestic consolidation, outbound M&A activity also witnessed record deal values to date of USD 17.9 billion across 61 deals.

2023 Outlook

After a great 2021, 2022 was a more realistic year barring few high value transactions. The deal momentum is anticipated to be steady but slow in 2023. Traditional manufacturing sectors such as metals, casting, forgings, textiles etc could see consolidation to achieve scale. Similarly, divestment of non-core businesses and sale of stressed asset would be the theme to watch out for.

IN THE NEWS



Events/Webinars

Training and Induction of Professional Staff (TIPS)

- January 2023

Bi-annual Training and Induction of Professional Staff (TIPS), January 2023 was organized at Hotel Le-Meridien, Gurugram where pan-India trainees acquired the knowledge of different verticals in ASA and the working methodologies to serve the clients and embark on their journey of becoming a world class professional.

Articles

Setting up in India - Top 20 key issues and pitfalls

- January 10, 2023

Author: Himanshu Srivastava, Partner, Business Advisory Services
Published in French language, this article would serve as an initial guide for investors keen to engage with India, aid review and decide an optimal entry strategy.

It helps to navigate through the complexities when it comes to starting a business in India, deep understanding of the preferred investment route, type of entity chosen, regulatory compliances, labour regulations, intellectual property rights, taxation, or even exit strategy.

Mandatory compliances for foreign subsidiaries

- January 23, 2023

Author: Himanshu Srivastava, Partner, Business Advisory Services

Foreign subsidiaries incorporated in India as Private Limited Companies are treated as domestic companies and are governed by various central and state laws, as well as sectoral, state-specific, or activity-based regulations. This article in French language outlines a list of compliance requirements for subsidiaries of foreign companies operating in India as a Private Limited Company, such as audit, direct and indirect tax, labour law and sectoral reporting.



GLOSSARY



AD
Authorized Dealer

AAR
Authority for
Advance Ruling

AAAR
Appellate Authority
for Advance Ruling

FIRMS
Foreign Investment
Reporting &
Management System

GST
Goods &
Services Tax

ICAI
Institute of
Chartered
Accountants of
India

InvIT
Infrastructure
Investment Trust

ITAT
Income Tax
Appellate Tribunal

LODR
Listing
Obligations
& Disclosure
Requirements

M&A
Mergers &
Acquisitions

RBI
Reserve Bank
of India

REIT
Real Estate
Investment Trust

SCN
Show Cause Notice

SEBI
Securities and
Exchange Board of
India

SFT
Statement of
Financial
Transactions

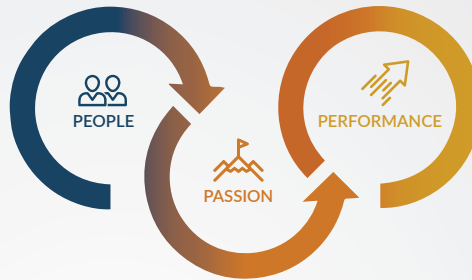
SMF
Single Master Form

SSAE
Standard on
Sustainability
Assurance
Engagements

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18 INDIAN LOCATIONS AND 6 FOREIGN DESKS COMBINED WITH INTERNATIONAL AFFILIATIONS ENSURES GLOBAL STANDARDS WITH REGIONAL EXPERTISE



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Vishakhapatnam

International Affiliates
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Belgium, Brazil, Bulgaria, Canada, China,
Denmark, Egypt, France, Finland, Germany,
Hong Kong, Hungary, Israel, Italy, Japan,
Luxembourg, Malaysia, Mexico, Morocco,
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