



India TaxHour

Quarterly India tax updates

(January – March 2026)

9 April 2026

Subject matter experts

We will discuss...

Economy / International tax / Regulatory updates

Direct tax updates

- Finance Act 2026
- Income Tax Rules 2026
- India-France Treaty
- International Financial Services Centre (IFSC) and National Pension Scheme (NPS) tax updates

Indirect tax updates

- GST Updates
 - Intermediary services made recipient-based
 - Post-supply discounts to be provided through credit notes
- GSTAT - administrative updates
- Global Trade Advisory updates

Recent judicial pronouncements

Economy / International tax / Regulatory updates

Economy/International tax/Regulatory updates (January – March 2025)

Indian Economy: Growth and Inflation indicators; Tax collections

International Tax: International Initiative on Anti-Base Erosion and Profit Shifting (BEPS) - Two-Pillar (Pillar1 and 2) Project under the G20/OECD Inclusive Framework (IF)

Pillar 2

- January 2026 - IF agrees on a permanent simplified Effective Tax Rate (ETR) safe harbour, a one-year extension of the transitional CbCR safe harbour, and a substance-based tax incentive safe harbour
- March 2026 - Ministry of Corporate Affairs (MCA) amends Accounting Standard (AS) to align with Pillar Two rules.

Pillar 1

- OECD releases updated FAQs on Amount B Pricing and updated Pricing Automation Tool

India-USA Bilateral Trade Agreement (BTA):

February 2026 – The US Supreme Court has legally invalidated the reciprocal tariffs imposed under the International Emergency Economic Powers Act (IEEPA) by the President. This has immediate implications on the ongoing India-US Bilateral Trade Agreement (BTA) negotiations.

Regulatory Updates:

Foreign direct investment (FDI) - March 2026 – Government approves some relaxations to Press Note no. 3 (2020 series) (“PN3”) regarding FDI from countries sharing land borders with India.

External Commercial Borrowings (ECB)-February 2026 - RBI revises ECB rules through the Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026.

Direct tax updates

Key changes on passing of Finance Act 2026

- Taxation provisions for buy-back
 - Currently, buy-back taxed as capital gains; 22% for domestic promoter companies and 30% for other promoters
 - Now, clarified that additional tax applicable to buyback u/s 68 of companies act
- Start-up Incentives
 - Threshold limit increased from INR 1 billion to 3 billion
- IFSC Incentives
 - OBU's whose tax holiday ends on 31 March 2025, now eligible to claim extended benefit for another 10 years from 1 April 2026

Key changes on passing of Finance Act 2026

- Clarity on Set off and withholding of refunds
- Minimum period for furnishing of return
 - Currently, no minimum period for furnishing return in response to reassessment notice
 - Now, a minimum period of 30 days
- Mandatory uploading of order of ITAT on the designated portal
 - Earlier, the ITAT sent its order to taxpayer and Principal Commissioner or Commissioner
 - ITAT now needs to mandatorily upload its order on the designated portal designed

Income Tax Rules 2026

- New Income-tax Rules, 2026 and related forms ('2026 Rules') under ITA 2025 on 20 March 2026.
- Replace the 1962 Rules with effect from 1 April 2026.
- Consistent with the simplification approach adopted in overhauling the ITA 1961, the new Rules framework:
 - Simplifies, consolidates, streamlines, renumbers and standardizes the existing rules and forms while largely retaining the overall framework and compliance timelines.

Particulars	IT Rules 1962	IT Rules 2026
Number of Rules	511	333
Number of Forms	399	190

Income Tax Rules 2026

- Additional Rules introduced
 - Rule 45- Non-resident rendering services or providing technology in India to eligible resident company [setting up electronics manufacturing facility, or manufacturing electronic goods, article, etc.in India] and wanting to opt for presumptive taxation –conditions to be satisfied by the resident company prescribed
 - Rule 166- Criteria for treating a return of income as Defective return
 - Rule 176- Codifying detailed workflow for Faceless Assessment under section 273
- Key changes in existing Rules
 - Rule 10 and 11 - Indirect transfer Rules
 - Rule 47- Changes in Tax Audit Report
 - Rule 76 - Overhaul of FTC Form architecture
 - Rule 136- Single unified rule for exercising or withdrawal of option for new tax regime
 - Rule 167- A smarter, digital First appeal filing mechanism

Income Tax Rules 2026

Rule 128- Applicability of GAAR

- Background
 - Rule 128(2) provides that GAAR applies to any arrangement where tax benefit arises on or after 1 April 2017, irrespective of when the arrangement was entered into
 - This raised concerns for investments made prior to 1 April 2017
- Amendment made in Rule 128(2) by 2026 Rules to explicitly exclude GAAR applicability to income:
 - Accruing or arising, or
 - Deemed to accrue or arise or
 - Received or deemed to be received
- Such income must arise from transfer of investment made before 1 April 2017
- Exclusion applies irrespective of date of transfer
- Amendment made effective from 1 April 2026

Amendment notified vide Notification No. 55/2026 dated 31 March 2026

Protocol amending India-France tax treaty | Proposed Changes

Key changes to the India-France tax treaty **basis Indian Press Release and unofficial English translation of the French text** hosted by the French tax authorities:

- **Article 1 - Preamble – changes introduced as per MLI**
- **Article 5 Permanent Establishment (PE) – Service PE introduced**
- **Business Income – Article 7 – restriction on the executive and general administrative expenses**
- **Article 11 Dividends – Tax rate changed from present 10%**

Tax rate on dividends not to exceed

- **5% if beneficial owner holds > 10% capital** of company paying dividend
- Otherwise, -15%
- **Article 12 Royalties and Fees for Technical Services and Payments for use of equipment – make available clause introduced**
- **Article 14 Capital Gains** - Income derived from the alienation of shares in a company or similar rights or interests, such as rights or interests in a partnership or trust, if the entity is a resident of the other Contracting State, is taxable in that other Contracting State.
- **Deletion of MFN Clause**
- **Effective Date:**

The amendments shall enter into force subsequent to completion of internal procedures under the laws of both countries. Once such amendments are entered into force, these amendments shall apply in India from April 1 following the calendar year in which amendments are entered into force

Irrespective of above, amendments in relation to ‘Dividends’ and ‘Capital Gains’ would apply after 2-year period following end of calendar year in which amendment enters into force. Amendments in relation to ‘FTS’ applicable retrospectively from 1 Jan 2024

International Financial Service Centre Authority (IFSCA) Income Tax updates

Tax holiday for IFSC units and OBUs

- The Finance Act 2026 has proposed the following measures:
 - Existing and new OBUs will enjoy the aforesaid income tax deduction benefits for a period of 20 consecutive years starting from the relevant tax year.
 - Existing and new units in IFSC will enjoy the aforesaid income tax deduction benefits for a period of 20 consecutive years out of a block of 25 years starting from the relevant tax year, at the option of the taxpayer.
 - OBUs and business units in IFSC commencing operations on or after 1 April 2026 will need to comply with the SAAR, which requires that the OBU/business unit is not formed by the splitting-up, reconstruction, reorganization or transfer of a business already in existence in India.
- Reduction of the income tax rate to 15 percent

IFSC units will enjoy a concessional tax rate of 15 percent (vis-à-vis the existing tax rates of 22 percent for units incorporated as a company in India, and 35 percent for firm units operating as branches of foreign companies) plus applicable surcharge and cess

Minimum Alternate Tax (Final Tax)

9% tax on branch in ifsc of foreign entity

National Pension System – Income-tax Implications on Regulatory updates

Income-tax Provisions

On final withdrawal /exist – 60% of the corpus not taxable; 40% not taxable as mandatory purchase of annuity policy. Annuities received taxable. Corpus received on death not taxable.

Key Regulatory change: Subscribers can now **withdraw up to 80% of their accumulated corpus as a lump sum at retirement, compared to the earlier limit of 60%**,. For smaller corpus amounts up to ₹8 lakh, full withdrawal of 100% is now permitted, eliminating the mandatory annuity requirement in such cases

Indirect tax updates

Finance Act 2026 Updates

Amendment of Section 13(8)(b) of the IGST Act – Liberalisation of export rules by way of deletion of ‘intermediary’ provision

Aligning Place of Supply for Intermediary Services

- Section 13(8)(b) omitted w.e.f. 30 March 2026
- Place of supply aligned to recipient’s location (Sec 13(2))
- Reinforces destination-based taxation principle
- Enables export qualification (subject to other conditions)

Impact of the Change

- Reduces tax disputes & litigation
- Earlier: Dept taxed based on place of supply in India
- Now: Clearer framework for intermediary services
- Minimizes unnecessary tax exposure in India

Amendment of Section 15(3)(b) of the CGST Act – Simplification of taxation of post-supply discounts

Simplifying Post-Supply Discounts & ITC Reversals

- Sections 15(3)(b) & 34 amended
- No pre-existing agreement or invoice linkage required for post-supply discounts
- Discounts can now be extended via credit notes
- Proportionate ITC reversal to accompany credit notes

Impact of the Change

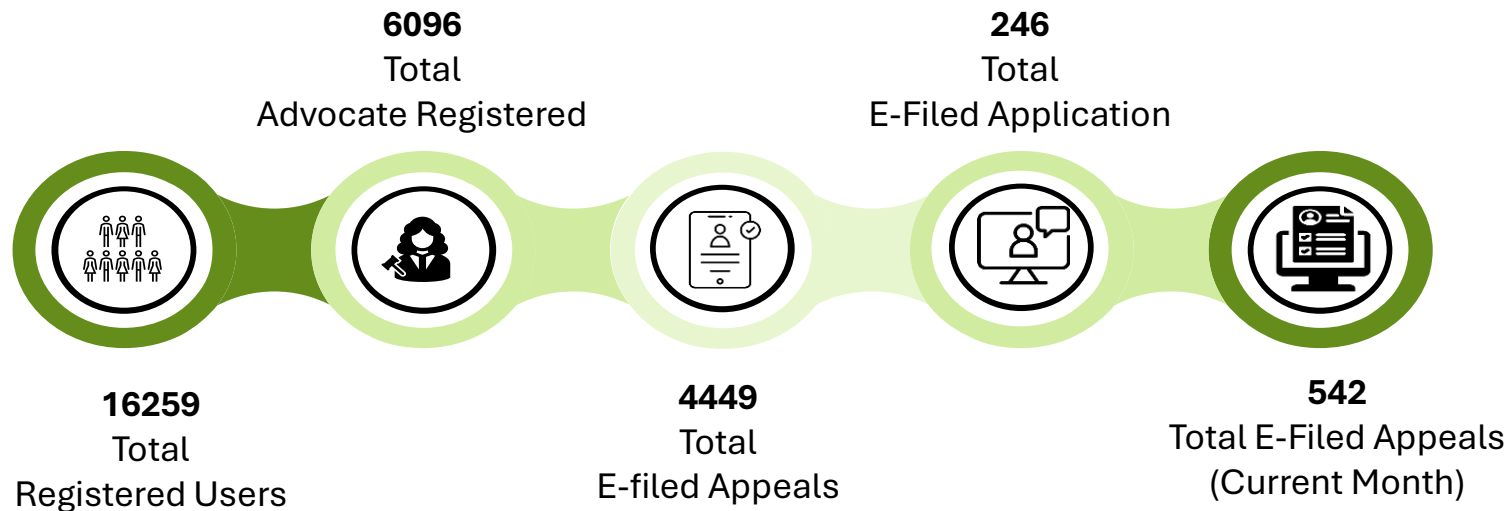
- Simplifies compliance, reconciliation & documentation
- Streamlines ITC reversal process, especially under IMS
- Restores commercial flexibility:
 - Year-end discounts
 - Performance-linked incentives
 - Volume/turnover rebates
- Effective from 30 March 2026

Goods and Service Tax Appellate Tribunal (GSTAT)

Operationalizing GST's Appellate Framework

- GSTAT comprises Judicial & Technical Members with GST expertise
- Ensures consistent, specialized adjudication
- Second appeals shift from High Courts → GSTAT
- Leads to faster resolution of tax disputes
- Marks the long-awaited activation of GST's core appellate system
- Improves efficiency, uniformity & access to justice
- As of now there are 15 functional state benches of GSTAT

Statistics of GSTAT



*As on 08-04-2026 ; 09:36 PM

Global Trade – US Reciprocal Tariff Updates

U.S. tariff Updates (1/2)



IEEPA tariffs struck down

On 20 February 2026, the U.S. Supreme Court (*Learning Resources v. Trump*, 6–3) held that IEEPA does not authorize tariff imposition. All IEEPA-based duties (covering China, Canada, Mexico, Brazil, Russia, Iran, Cuba, Venezuela-related measures, and broad “reciprocal tariffs”) are unlawful.



Imposition of 10% import surcharge

Simultaneously, the U.S. imposed a temporary 10% import surcharge under Section 122 of the Trade Act, 1974 (effective 24 Feb–24 July 2026, subject to extension), with wide product and country exemptions, and continued the global suspension of de-minimis duty-free treatment through a separate Executive Order.



Litigation at the CIT for refunds

On 4 March 2026, the Court of International Trade (CIT) in *Atmus Filtration* ordered CBP to liquidate or reliquidate entries without IEEPA duties for (i) unliquidated entries and (ii) liquidated but non-final entries. After CBP explained the scale and system constraints, the court suspended the “immediate compliance” requirement on 6 March 2026, pending development of an administrable refund process.

U.S. Tariff Updates (2/2)



India-US Bilateral Trade Agreement put on hold

- The India–US Bilateral Trade Agreement was launched on 13 February 2025 to deepen trade ties through reciprocal tariff reductions and improved market access.
- To show early progress, both countries announced a framework for an Interim Trade Agreement on 6 February 2026, ahead of the full BTA.
- The interim deal proposed tariff cuts by India on US industrial and agricultural goods and a reduction of US reciprocal tariffs on Indian exports to about 18%.
- The interim trade pact was put on hold after a US Supreme Court ruling that curtailed the President’s authority to impose country specific “reciprocal” tariffs under the International Emergency Economic Powers Act, .
- With the US reworking its tariff regime, India-US Bilateral Trade Agreement has been put on hold.



Section 301 investigations initiated

- The U.S. has launched sweeping Section 301 investigations into excess manufacturing capacity (16 economies) and forced labor practices (60 economies), potentially triggering broad new tariffs.
- Importers may seek refunds of IEEPA tariffs, but the process remains uncertain; a dual strategy of litigation and administrative claims is advised.

Judicial Pronouncements – Direct Tax

Non-Compete Fees

Sharp Business System vs. Commissioner of Income-tax [2025] 181 taxmann.com 657 (SC)/[2026] [19-12-2025]

Facts of the case

- The assessee (Sharp Business System) had paid non-compete fees and claimed the expenditure as a revenue deduction
- The other assessees with similar issues treated the expenditure as intangible asset and claimed depreciation
- The Delhi HC held non-compete fees as a capital expenditure because it created an advantage of enduring nature by restricting competition

Issue

- Whether non-compete fees paid by the assessee is a capital expenditure or revenue expenditure?

Decision of Supreme Court

- Non-compete fees are paid to protect or enhance business profitability by facilitating more efficient operations
- The duration of the benefit is not decisive
- From the payer's perspective, non-compete compensation is paid in anticipation of benefit due to reduced competition
- Non-compete arrangement is not for a fixed term and can be terminated upon breach- benefit cannot be regarded as permanently enduring in the capital sense
- No new business or fixed asset was acquired, and the existing assets remained unchanged- non-compete fee allowed as revenue expenditure

Supreme Court denied Mauritius Tax Treaty benefits and upheld AAR ruling of not admitting the application as prima facie designed for avoidance of tax.

Facts of the case

- Tiger Global entities (TGIHL) were Mauritian companies with valid TRCs
- They had acquired shares of a Singapore Company before 1 April 2017. The Singapore Company derived its value substantially from assets held in India as it was the holding company of the Indian company.
- They transferred these shares to a Luxembourg Company and claimed capital gains exemption under the India Mauritius DTAA.
- They filed an application under section 197 for NIL withholding, which was denied on the ground that they were not eligible for India Mauritius Treaty benefits independent in their decision making.
- They filed an application to the Authority for Advance Ruling which was not admitted on the grounds that
 - The issue involved in the questions raised in the present applications was designed prima facie for avoidance of tax.
 - The objective of India Mauritius DTAA is to grant exemption for gains arising on transfer of shares of Indian Company and not of a company that is not resident of India
 - Control and management of the applicants was not in Mauritius but in USA
- the AAR held that the entire arrangement entered into by the assesseees was intended to claim benefits under the DTAA in a manner not contemplated by the lawmakers and constituted an arrangement for avoidance of tax in India.
- On writ, the Delhi High Court held in favour of the Mauritius Entities and allowed Treaty benefits on the gains arising on sale of Singapore Company basis TRC as sufficient proof of residence and also found commercial and economic substance in Mauritius.

Question in SLP before the Supreme Court

- Whether the AAR was right in rejecting the applications for Advance Ruling on the ground of maintainability, by treating the capital gains arising out of a transaction of sale of shares of a Singapore Co., which holds the shares of an Indian company, by a Mauritian company controlled by an American company, to be prima facie an arrangement for tax avoidance, and hence, whether it can be enquired into to ascertain whether the capital gains would be taxable in India under the Income Tax Act read with the relevant provisions of the Mauritius Treaty or not?”

Supreme Court denied Mauritius Tax Treaty benefits and upheld AAR ruling of not admitting the application as prima facie designed for avoidance of tax.

Decision of Supreme Court

- First, taxability is established under Section 9(1)(i);
- second, the availability of treaty relief is contested by challenging the residency claim in view of the prima facie finding that effective management and control were not in Mauritius, the scope of Article 13, and the applicability of Circular No. 789 and Azadi Bachao Andolan in the current factual context;
- third, GAAR and, in the alternative, JAAR are invoked to pierce the structure and deny treaty benefits where the transaction lacks genuine commercial substance.

The applications preferred by the Mauritius Company relate to a transaction designed prima facie for tax avoidance and were rightly rejected as being hit by the threshold jurisdictional bar to maintainability, as enshrined in proviso (iii) to Section 245R(2). Accordingly, capital gains arising from the transfers effected after the cut-off date, i.e., 01.04.2017, are taxable in India under the Income Tax Act read with the applicable provisions of the DTAA.

* Supreme Court Decision in case of The Authority for Advance Rulings v. Tiger Global International II Holdings [2026]182taxmann.com 375 (SC)

Bangalore Tribunal held that the individual was resident of India under the tie breaker clause of the DTAA and so capital gains arising on transfer of Indian shares taxable

Facts of the case

- An individual, an Indian citizen stayed in India for 141 days in the financial year 2019-20 (“relevant year”).
- He was a tax resident in the preceding years and had spent 1237 days (more than 365 days) in the preceding four years.
- He had resigned from his Indian employment and relocated to Singapore in February 2019 for the purpose of employment. His family relocated to Singapore in March 2019.
- He claimed his residential status to be ‘non-resident’ for the FY 2019-20
- During FY 2019-20, he sold shares of Indian Company and claimed exemption from capital gains under Article 13(5) of the India-Singapore tax treaty.
- The Income-tax Officer and the DRP held that the individual was ‘resident’ in India on the ground
 - The 60 days threshold extends to 182 days only in case of Indian citizens taking up overseas employment during the year or Indian Citizens ‘being outside India’ come on a visit to India. ‘being outside India’ applies only to non-resident Indian Citizen. Since the individual was resident in earlier years, the threshold of 182 days is not available.
 - Thus, the treaty benefits were denied to him, attracting tax on his global income.

Decision of the Tribunal

- The Tribunal held that the individual was resident of India as it was in India for more than 60 days and 365 days in the past 4 years; and extended period of 182 days in clause (a) should not apply as the individual has not left India in FY 2019-20 but in FY 18-19 and clause (b) also should not apply as he was not a non-resident in the preceding years.
- Under the Tie breaker clause of the India Singapore DTAA, he was resident of India, as
 - He had permanent home both in India and Singapore
 - Centre of vital interest – personal and economic relations (investments were made overseas only during the year and not at the beginning of the year), lies in India
 - He is an Indian National

Judicial Pronouncements – Indirect Tax

Supreme Court | Two-year time limitation applicable to refund of pre-deposit?

BLA Infrastructure Private Limited [2026(1) TMI 639- SC Order dated 09 January 2026]



Facts of the case

- The taxpayer sought refund of the statutory pre-deposit made under Section 107(6) of the GST Act upon succeeding in appeal.
- The refund claim was rejected by the authorities as being time-barred under Section 54(1) of the GST Act.
- The Jharkhand High Court held that Section 54 was inapplicable to refunds of pre-deposit, treated the limitation provision as directory, and directed refund with interest.



Issue

- Whether refund of a mandatory statutory pre-deposit made under Section 107(6) of the GST Act is governed by the two-year limitation period under Section 54(1) of the GST Act.



Decision of the Court

- In appeal, the Supreme Court ruled that refund of a statutory pre-deposit is:
 - not governed by Section 54;
 - is a consequence of appellate success,
 - flows from Section 107(6) read with Section 115 of the GST Act.
- High Court's interpretative exercise on Section 54, particularly the characterization of the limitation period as directory was set aside.
- The authorities were directed to process the refund along with applicable interest within four weeks.

Telangana High Court | CGST- Constitutional validity of distribution time limit as per ISD rules

BirlaNu Limited [2026 (1) TMI 894 - TELANGANA HIGH COURT *dated* 30 December 2025]



Facts of the case

- The petitioner, registered as an ISD, accumulated ITC in certain months and distributed such credit in subsequent months.
- The Department alleged contravention of Rule 39(1)(a) of the CGST Rules, 2017, on the ground that ITC was not distributed in the month of availment, and initiated penalty proceedings.



Issue

- Whether Rule 39(1)(a) of the CGST Rules, 2017, mandating distribution of ISD credit in the same month in which it is availed, was ultra vires Section 20 of the CGST Act, 2017 for the period prior to 01 April 2025, and whether penalty proceedings could be sustained on that basis ?



Decision of the Court

- The Telangana High Court held that Section 20 of the CGST Act (as applicable prior to 01.04.2025)
 - prescribed only the mechanism for distribution of ITC; and
 - did not stipulate any time-bound requirement.
- Rule 39(1)(a) same-month distribution requirement held ultra vires Section 20.
- The subsequent amendment to Section 20 with effect from 01.04.2025 was held to be prospective.
- Consequently, the audit findings, show cause notice, and penalty proceedings were quashed.

Karnataka High Court | Validity of cross-charge for RCM

Micro Labs Limited [2026-TIOL-331-HC-KAR-GST *dated* 09 December 2025]



Facts of the case

- The petitioner procured common input services at its Head Office for multi-State use.
- ITC on forward-charge services was distributed via ISD, while RCM-related ITC was allocated through cross-charging due to the pre-amendment ISD bar on RCM invoices.
- The DGGI disputed this approach, insisting that RCM-related ITC be routed only through ISD, and proposed ITC reversal with interest and penalties.



Issue

- Whether, for the pre-amendment period, RCM ITC for common services be distributed via cross-charging (Sec 31) or only through ISD



Decision of the Court

- The Karnataka High Court held that Common ITC distribution under CBIC Circular 199/11/2023-GST valid only via tax invoices for RCM services..
- The amendment to the ISD definition effective from 01.04.2025 was held to be prospective.
- Court upheld cross-charging of eligible ITC, quashing demand.

Thank you!

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