

TAX Talk

Finance Act 2025

- ❑ The Finance Bill 2025 which was presented by the Hon'ble Finance Minister on 1.2.2025 has received the assent of the President on March 29, 2025.
- ❑ While moving the Bill in the Lok Sabha, certain amendments were made in the Finance Bill, primarily to address ambiguities / uncertainties in the Bill. Additionally, some significant changes were also introduced. Some of the relevant amendments include:
 - Abolishing of equalization levy of 6% on consideration received by a non-resident (who does not have a permanent establishment in India), from the provision of online advertisement services, provision for digital advertising space, or any other facility or service for the purpose of online advertisement, effective from 1.4.2025. Consequently, the exemption provided to such income u/s 10(50) is also removed.
 - Clarificatory amendment made in the new presumptive scheme introduced for non-residents engaged in the business of providing services or technology for setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, articles or thing in India u/s 44BBD of the Income-tax Act (Act), clarifying that the provisions of section 44DA (taxation of royalties or FTS earned by non-residents through a PE) and Section 115A (taxation of royalty and FTS in no PE situation) will not apply under the section.
 - Expansion in scope of processing of income tax returns under section 143(1) of the Act, by including prescribed inconsistencies in the return with respect to information furnished in the return of any preceding previous year.

Reduction / waiver of interest on failure to deposit TDS / TCS due to technical glitches

- ❑ The CBDT has directed that Chief Commissioner of Income-tax or Director General of Income-tax may reduce or waive interest on late deposit of TDC / TCS u/s 201(1A)(ii) / 206C(7) of the Act in the following cases:

- The payment is initiated by the taxpayers / deductors / collectors and the amounts are debited from their bank account on or before the due date, and
- The tax could not be credited to the Central Govt., before due date because of technical problems, beyond the control of the taxpayer / deductor / collector.
- ❑ Waiver application will be considered even if the interest has already been paid by the taxpayer. Refund may be granted to the deductor, if waiver is ordered.
- ❑ An application for waiver under these provisions cannot be made beyond one year from the end of the financial year for which the interest is charged.

<https://incometaxindia.gov.in/communications/circular/circular-no-5-2025.pdf>

Amendment in Transfer Pricing Safe Harbour Rules

- ❑ The CBDT has amended Transfer Pricing Safe Harbour Rules (TP SHR), effective from 25.3.2025. The amendments include:
 - Widening of the definition of 'core auto components', to include lithium-ion batteries for use in electric or hybrid electrical vehicles;
 - Widening the threshold limit from INR 200 crores to INR 300 crores for the following eligible international transactions:
 - Provision of information technology enabled services;
 - Provision of knowledge process outsourcing services; and
 - Provision of contract research & development services, wholly or partly relating to generic pharmaceutical drugs.
 - Extension of applicability of the SHR to AY 2025-26 (FY 2024-25) and AY 2026-27 (FY 2025-26).

Amendment in Form 3CD

- ❑ The CBDT has revised Statement of particulars required to be furnished u/s 44AB of the Act in Form 3CD, w.e.f. 1.4.2025. The amendments include modification in the following clauses :
 - (i) Clause 12, to include presumptive taxation scheme for non-resident cruise ship operator u/s 44BBC of the Act;
 - (ii) Clause 19, to exclude references to certain redundant sections;
 - (iii) Clause 21, to mandate reporting of expenses incurred

- for settling proceedings related to legal contraventions notified by the Central Government;
- (iv) Clause 22, to report payments to Micro and Small Enterprises (MSEs) in line with Section 43B(h);
- (iii) Clause 26, for updating disclosures on account of liabilities under Section 43B(h);
- (iv) Clauses 28 and 29, to remove disclosures u/s 56(2)(viii) & 56(2)(viib);
- (v) Clause 31, to include a dropdown selection for reporting the nature of loans or deposits;
- (vi) A new Clause 36B introduced to report details of share buybacks under Section 2(22)(f).

Press Release dated 31.3.25 on Advance Pricing Agreements

- The CBDT entered into a record 174 Advance Pricing Agreements (APAs) with Indian taxpayers in FY 2024-25. These includes Unilateral APAs (UAPAs), Bilateral APAs (BAPAs) and Multilateral APAs (MAPAs). With this, the total number of APAs since the inception of the programme has reached 815, comprising 615 UAPAs, 199 BAPAs and 1 MAPA. This marks the highest number of APAs signed in a single financial year since the programme's launch.

Delhi HC ruling on establishment of DAPE

- The assessee, a company established in Finland and engaged in manufacturing advanced telecommunication systems and equipment, had established a liaison office in India which was followed by incorporation of a Wholly owned subsidiary in India. The assessee claimed in its ITR that income from offshore supply to Indian customers, was not taxable in India. Assessing Officer (AO) held that the subsidiary was liable to be treated as Dependent Agent Permanent Establishment (DAPE) of the assessee in India and accordingly held that 70% of total equipment revenue was attributed to the sale of hardware, 30% of the same was attributed to the supply of software, and the same was taxed as royalty. The CIT(A) upheld the view of the AO. The ITAT, however, held that DAPE did not come into existence.
- On appeal, the Hon'ble Delhi HC held that since the AO had abjectly failed to prove that said subsidiary stood conferred with authority to bind or conclude contracts on behalf of assessee and further, it was not generating any revenue or income for assessee, no DAPE could be

said to have come into existence and, thus, assessee could not be said to have a PE in India.

CIT v. Nokia Network OY

Delhi HC ruling on AMP expenditure as an international transaction

- The assessee was engaged in the business of manufacture, sale, marketing and trading of Indian Made Foreign Liquor (IMFL). The IMFL was sold under brands owned and licensed to the assessee by its associated enterprise (AE). The assessee incurred expenditure on advertising, marketing and promotion (AMP) for brand building for the brand owned by AE. The AO held that the assessee had incurred extremely high level of AMP expenditure and the same would be liable to be treated as an international transaction. The Tribunal held that the revenue had failed to demonstrate the existence of an international transaction only on account of the quantum of AMP expenditure by the assessee.
- On appeal, the Hon'ble Delhi HC upheld the order of the Tribunal and observed that while dealing with the issue of bench marking of AMP expenses, the revenue needs to establish the existence of international transaction before undertaking bench marking of AMP expenses and such transactions cannot be inferred merely on the basis of Bright Line Test (BLT). It further held that revenue having failed to demonstrate on the basis of any tangible material that an international transaction between the assessee and its AE had come into existence and the existence of an international transaction cannot rest on a mere inference or surmise.
- The Hon'ble HC, following the enunciation of the Court in the case of Maruti Suzuki, observed that the revenue's approach of seeking to benchmark every AMP expenditure incurred by an entity, which happens to use a brand owned by a foreign AE and is licensed for use, leading to a presumption of an existence of an international transaction, was wholly untenable. Unless the expenditure pertained to a transaction as defined by section 92F and the same meeting the thresholds prescribed therein, it would be wholly impermissible for an international transaction being presumed to exist and a benchmarking analysis being undertaken.

PCIT v. Beam Global Spirits & Wine (India) (P.) Ltd.

Who we are

InVenture Advisers is an integrated professional services firm providing a range of consulting, transaction advisory, assurance and tax services. Our role is to understand and solve the complexities involved in growth, consolidation, governance and compliance issues facing client organisations. We deliver solutions that help implement strategic plans, increase market share, reduce costs, procure projects, raise funds, acquire businesses, manage risks, optimize taxes, ensure governance and timely compliance.

For further information on how we can help address your tax issues and compliance requirements, please contact any of our expert team below:

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