NSIGHT

Monthly Newsletter

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INVENTURE ADVISERS

Govt exempts FIIs & BIS from tax on Government Securities income

- The Govt has introduced Income-tax (Amendment) Ordinance, 2026 (Ordinance No. 2 of 2026), promulgated on 5.6.2026 and effective retrospectively from 1.4.2026, to amend Schedule IV of the Income-tax Act, 2025 by inserting Sl. Nos. 13D and 13E.

- Under these amendments, interest income and capital gains arising from the sale, exchange, or transfer of Indian Government securities are fully exempt from income tax, when earned by:
  - Foreign Institutional Investors (FIIs); and
  - The Bank for International Settlements (BIS), Basel, Switzerland.

  The exemption is available subject to furnishing prescribed information in the prescribed form and manner.

Delhi HC Ruling in respect of secondment arrangements

- The Delhi High Court (HC) has recently delivered a landmark ruling in the case of *CIT v. Ernst & Young U.S. LLP* (EY US) on the issue of taxability in India of payments received by foreign entity, from its Indian group entity as reimbursement of secondment expenses. The HC ruled in favour of the Revenue by reversing the decision of the ITAT favouring the taxpayer, and held that the payments made by EY India entities to EY US on account of reimbursement of salary and related cost of secondees under a secondment arrangement, is taxable in India in the hands of EY US as 'Fees for technical services' (FTS) under the India US DTAA.

Brief Facts:

- EY US deputed its employees to EY India entities to provide professional services in the field of assurance, tax, transaction and business advisory services etc., to ensure the application of EY Group policies / processes and other quality standards in the EY India entities.

- EY India entities reimbursed EY US for the salary and related costs of such secondees, largely on a cost-to-cost basis.

- EY US argued that the payments received from EY India entities were mere reimbursements, and therefore, no income element arose in India.

- The Revenue contended that the arrangement involved, rendering of technical / consultancy services, taxable as Fees for Technical Services (FTS) under Section 9(1)(vii) of the Income-tax Act, and Article 12 of the India–US DTAA.

HC Ruling:

- The High Court ruled in favour of the Revenue and held that payments made to EY U.S. for seconded employees are taxable in India as FTS. The HC reversed the earlier ITAT decision which had granted relief to EY US.

- While delivering its judgement, the HC placed reliance on its earlier ruling in the case of Centrica India Offshore Pvt. Ltd. and made the following observations which displayed that the secondees never ceased to be the employees of EY US and that EY US retained an overarching control over them, strengthening the case for taxability of payments received from EY India as FTS:

  - The secondees were working in EY India entities during the period of assignment. On such assignment, the secondees continued to maintain their lien with EY US. They were entitled to all available benefits including social security from EY US. This made the assignment of the secondees, akin to a deputation from the taxpayer to the Indian entities, to enable the secondees to use their expertise of technical knowledge/know how and make available the same to Indian entities for use in future.

  - EY India entities could not have terminated the services of the secondees, and they only have the right to undertake legal or disciplinary action against misconduct, fraud, wilful negligence or any illegal action of any international assignee and terminate the secondment prior to the agreed period, and relieve them from EY India entities to enable them to join EY US.

  - The Court held secondees transferred technical expertise, global EY methodologies, processes and operational know-how. This enabled Indian entities to use those skills independently in future. Therefore, the 'make available test' under the Indian US DTAA for categorising the payments as FTS was satisfied.

  - Absence of markup does not decide taxability. Real nature of transaction matters, not invoicing form. Even pure reimbursements can be taxable if underlying service is technical.

Our Take: *The Delhi HC has relied heavily on the Centrica case thereby reviving the approach taken therein. The Ruling could possibly impact MNC and GCCs with higher withholding tax exposure, increased cost of global mobility, reopening of past assessments. There is a necessity now to re-examine the secondment arrangements, considering the nature of services provided by secondees.*

Extension of deadline to file GST appeal (GST)

- The Central Government has extended the deadline to file GST appeals before the GSTAT (Goods and Services Tax Appellate Tribunal) under Section 112 of the CGST Act from 30.6.2026 to 31.7.2026. This extension applies to appellate orders that were communicated to taxpayers before 1.5.2026, and to departmental applications where orders were passed before 1.2.2026.

Company Law Talk

Important MCA relief measures for stakeholders

- In response to the data centre disruption caused by the fire incident on 5.6.2026, the Ministry of Corporate Affairs (MCA) has announced key relaxations to support companies and professionals:
  - Extension of Name Reservation Validity
    - Approved name reservations expiring between 21–30 June 2026 stand extended till 10 July 2026.
    - For name reservations that expired between 5–20 June 2026, stakeholders can seek an extension up to 10 July 2026 by raising a ticket with the MCA Helpdesk on or before 30 June 2026.
  - Extension of E-form Resubmission Timelines
    - Resubmission due dates falling between 21–30 June 2026 are automatically extended till 10 July 2026.
    - For resubmissions that lapsed between 5–20 June 2026, extension requests may be submitted through the MCA Helpdesk by 30 June 2026.
  - Relief on DPT-3 Filing
    While the due date for filing Form DPT-3 remains 30 June 2026, companies can now file the form without additional fees up to 31 July 2026.

Amendment in Companies (CSR) Policy Rules

- The MCA has made amendments to Companies (Corporate Social Responsibility Policy) Rules 2014 vide notification dated 27.5.2026. The amendments primarily introduce 2 new definitions for Not for Profit Organization (NPO) and Zero Coupon Zero Principal (ZCZP) Instrument and provisions of CSR Implementation through ZCZP Instruments.

FEMA Talk

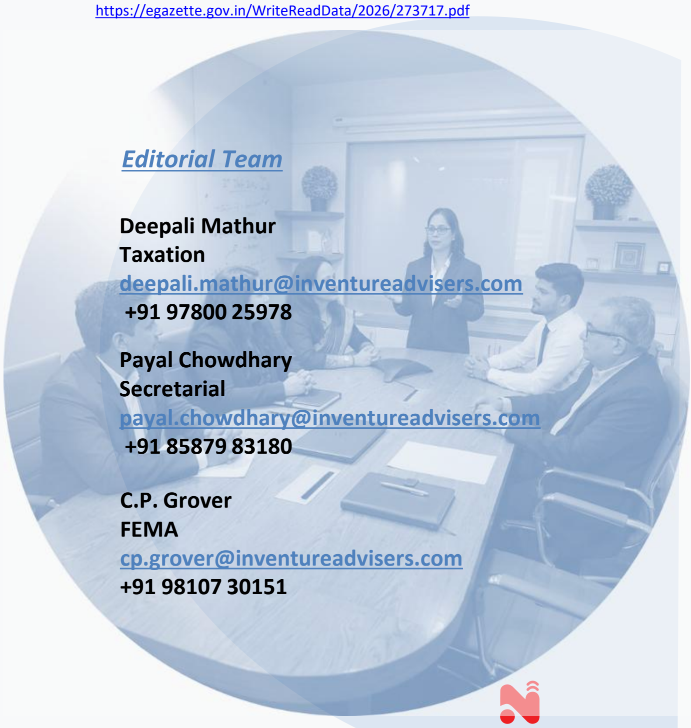
Liberalisation of Foreign Portfolio Investment:

- The Govt. of India has liberalised Foreign Portfolio Investment (FPI) under Schedule III of the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 by permitting all individual person(s) resident outside India to invest in equity instruments of a listed company on a recognised stock exchange in India, with enhanced investment limit of less than 10 per cent of the total paid-up equity capital on a fully diluted basis. Earlier the permission was only given to Non-Resident Indians (NRIs) and Overseas Citizens of India (OCIs).

- If the investments by an individual person resident outside India breach the prescribed investment limits, he / she shall have the option of divesting his holdings or reclassify such holdings as Foreign Direct Investment (FDI).
  https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=13483&Mode=0

New FCRA Rules

- The Ministry of Home Affairs has notified the FCRA Amendment Rules, 2026, dated 22.6.2026. These rules tighten the compliance and transparency for NGOs receiving foreign funds. The key operational and regulatory changes include widening the scope of management accountability, mandatory purpose and location disclosures, restrictions on organizations foreign nationals for registrations, minimum spend requirement, stricter utilization, steeper fines etc.
  https://egazette.gov.in/WriteReadData/2026/273717.pdf



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