

# DEVMANTRA TIMES

## FEBRUARY EDITION

ISSUE NO.36, DATED 1<sup>ST</sup> February, 2024

Dear Readers,

We welcome you to the Thirty Sixth edition of DevMantra Times for the month of February 2024. We look forward to a Viksit Bharat under the dynamic leadership of our Prime Minister Shri Narendra Modi and various bold initiatives of the Government. FDI is coined as First Developed India and Jai Shri Ram is echoing in every corner of the Country. With pride we present an update on regulatory announcements and Interim Budget 2024.

### ECONOMIC UPDATES

#### FISCAL DEFICIT TARGET OF 4.5% OF GDP BY FY26 A CHALLENGE: FITCH

India's government faces challenges in meeting its fiscal deficit target of 4.5% of GDP in FY26, according to global ratings agency Fitch. The agency predicts a 6.5% growth in the Indian economy in FY25, supported by 11% growth in government capex. The government has set a 5.1% fiscal deficit for FY25, down from 5.8% in FY24. Fitch expects the new government to maintain the fiscal path laid down in the interim budget.

#### PAYTM PAYMENTS BANK: THE CONTROVERSIES AND CHALLENGES AHEAD FOR INDIA'S FINTECH POSTER BOY

The RBI's action prohibits the bank from accepting further deposits, conducting credit transactions, or carrying out top-ups on customer accounts after February 29. Paytm wallet users will still be able to use their existing balance until it is exhausted, but they will not be able to add any more money to their accounts. The RBI's move comes after concerns were raised about money laundering and questionable dealings within the bank.



#### MONTHLY GST MOP-UP FROM ONLINE GAMING COMPANIES JUMP 400 PC SINCE OCTOBER 1

Monthly GST collections from online gaming companies have surged by over 400% to Rs 1,200 crore since October 1 due to the implementation of a 28% tax on e-gaming platforms. The GST Council clarified last year that online gaming companies must pay 28% GST on the full face value of bets.

#### INDIA'S CRUDE OIL IMPORTS FROM RUSSIA HIT 12-MONTH LOW BUT LONG-TERM APPETITE REMAINS INTACT

India's crude oil imports from Russia dropped for the second consecutive month in January, reaching their lowest level in a year. However, experts believe that India's long-term demand for Russian crude remains strong. The decline in Russian imports was offset by increased sourcing from Iraq, while supplies from Saudi Arabia also decreased.

#### CABINET APPROVES SIGNING OF INDIA-UAE BILATERAL INVESTMENT TREATY

Government approved the signing and ratification of a Bilateral Investment Treaty (BIT) between India and the United Arab Emirates (UAE). This agreement is expected to facilitate and encourage investments between the two nations. The decision was taken at the cabinet meeting chaired by PM Modi.



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### FOREIGN INVESTMENT INTO INDIA TUMBLES EVEN AS ECONOMY BOOMS.

The pullback comes despite a wave of planned investments announced by foreign companies and investment funds. They include projects from semiconductor plants spearheaded by American firms to multibillion-dollar renewable energy projects drawing interest from Gulf countries.

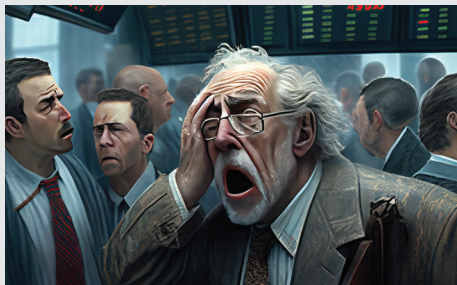
### BILL FOR NFIR ALMOST READY; LIKELY TO BE INTRODUCED IN NEXT SESSION: DEA SECRETARY

The government is preparing a draft Bill for the establishment of the National Financial Information Registry (NFIR), which will serve as a central repository of financial and ancillary information. The objective is to provide lending agencies with the right credit-related information. Economic Affairs Secretary Ajay Seth stated that the draft Bill is almost ready and may be



### STARTUP UPDATES PAYTM SHARES RALLY 5% AS DOOMSDAY CALL ATTRACTS DIP BUYERS. IS THE WORST OVER?

Paytm's freefall in shares seems to have found a bottom after 3 days of selling that eroded investor wealth. Bernstein screamed buy the dip and the stock rallied 5% today. Regulatory action will impact investors' assessment of the business model risk and management's ability to handle regulatory risk. Market analyst Sanjiv Bhasin is waiting for more clarity on the Paytm fiasco.



Startups talk up funding winter, but loosen their purse strings

During the ongoing funding winter, several internet majors such as Paytm, Policybazaar parent PB Fintech, Flipkart failed to control expenses in FY23. Horizontal omnichannel retailers such as Nykaa, Mamaearth parent Honasa Consumer and FirstCry also saw both employee expenses and marketing costs rise anywhere between 23% to 55% during FY23.

### NASSCOM WANTS GOVERNMENT TO LET OVERSEAS INDIAN STARTUPS LIST DIRECTLY.

Industry body Nasscom surveyed 139 startups. Of these, Nasscom said approximately 16.5% of Indian-origin startups have externalised legal structures and would consider raising equity capital through public listing in India if the regulations are amended to allow for a direct listing.

### ZEE'S SHARES FALL 5% AFTER SONY PICTURES DENIES AGREEING TO MERGER EXTENSION DEADLINE

In a statement, SPNI said that ZEE's notice to the BSE and the NSE on December 17, seeking an extension of the merger deadline is "an acknowledgment that they will not be able to meet the December 21, 2023 deadline to close the SPNI/ZEE merger."

### WHY THIS VOLUME OF NEWSLETTER IS IMPORTANT FOR READER?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax and Companies Act, Start-up Update, notification, circulars and case laws which may directly or indirectly impact our readers.

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At DevMantra, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.

DevMantra was founded based on the unalterable premise of excellence, acuity, integrity and an unwavering commitment to delivery. These principles continue to form the edifice of our approach as an organization, to our clients, our professionals and our community, and this has served us well in our journey so far. This approach has allowed DevMantra to work with and advise the very best clients, both in India and internationally. We encourage our people to strive for excellence and innovation within a meritocratic working environment and support their entrepreneurial spirit. It is our consistent endeavour with our people, to ensure that they imbibe the culture of the firm and form part of the weft and weave of the fabric of DevMantra. Our core values remain the guiding principles for everything we do, and we would like to emphasize "Knowledge" as one of the fundamental beliefs which drive the success of our operations. As we keep on reiterating, Knowledge is our number one priority. We don't count time when it comes to gain any new knowledge or to reinstate the earlier one.

Our clients trust our expertise and putting countless hours in keeping ourselves up to date on the subject we are advising on, deserve their trust.

REGARDS & BEST WISHES,  
EDITORIAL TEAM



### GST

#### **REGULATORY UPDATES PENALTY LEVIED EVEN THOUGH E-WAY BILLS WERE PRODUCED BEFORE PASSING OF ORDER IS UNJUSTIFIED: HC**

**EDITORIAL NOTE:** Although assessee failed to generate e-Way Bill on time, Tax Invoices issued contained all relevant details including detail of vehicle transporting goods, moreover, CGST and SGST were already charged by SAIL, therefore, no intention to evade tax was evident in instant case and once e-Way Bills were presented before passing of penalty order, and all documents including tax invoices,

#### **DEMAND ORDER WITH INTEREST AND PENALTY TO BE SET ASIDE AS NO OPPORTUNITY OF HEARING WAS PROVIDED TO ASSESSEE: HC**

**EDITORIAL NOTE:** Order in form GST DRC-07 passed by revenue by which demand for excess Input Tax Credit had been raised against assessee, along with interest and penalty was to be set aside as no opportunity of hearing was provided to assessee and decision making process adopted by revenue was vitiated and runs contrary to principles of natural justice and statutory requirements of section 75(4)

#### **GSTN ISSUES NEW ADVISORY ON FURNISHING BANK ACCOUNT DETAILS BY REGISTERED TAXPAYERS UNDER RULE 10A**

**EDITORIAL NOTE:** GSTN has issued an advisory for furnishing bank account details by registered taxpayers under Rule 10A of the Central Goods and Services Tax Rules, 2017. [Dated 23rd January 2024], wherein the Taxpayers are requested to take immediate action to provide the necessary information and avoid any adverse consequences. The GSTN has issued an advisory for taxpayers to promptly furnish their bank

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account details, who have not provided it to avoid disruption in business activities and the subsequent suspension of GST.

Refund claim for zero-rated supplies doesn't disentitle assessee from claiming refund for unutilized ITC: HC

**Editorial Note:** Where assessee's application for refund of unutilized Input Tax Credit (ITC) due to an inverted duty structure was rejected by deficiency memos on three reasons (a) refund claimed and received earlier pertained to zero-rated supplies, (b) debit entries for claims were not made, and (c) non-submission of supporting documents, said reasons were to be rejected directing assessee to submit all necessary documents to establish refund claim and matter was to be remanded back.

### HOLDING OF SHARES BY HOLDING CO. IN ITS SUBSIDIARY CAN'T BE TREATED AS SUPPLY OF SERVICE: HC

**EDITORIAL NOTE:** Since it is clear from circular No. 196/08/2023-GST that mere holding of shares by holding company in a subsidiary company cannot be treated as supply of service, order issued by revenue against assessee, a subsidiary of M/s. Yonex, Japan which proceeds on basis that said holding of shares amounts to "supply

of service" was clearly illegal, arbitrary and without jurisdiction and thus same was to be quashed.



### HC DIRECTS GOVT. TO CONSIDER EXTENDING BENEFIT OF TIME LIMIT EXTENSION TO FILE APPEAL U/S 129 AND 130 OF CGST ACT

**Editorial Note:** Where Central Government had issued a notification extending time for filing appeal against orders passed under sections 73 or section 74 till 31-1-2024, however did not include orders passed under sections 129 and 130, Central Board of Indirect Taxes, was to be directed to consider adding section 129 and section 130 in said notification at earliest.

### WRIT PETITION COULD NOT BE ENTERTAINED AT SCN STAGE; HC DIRECTED ASSESSEE TO FILE OBJECTIONS TO SCN

**Editorial Note:** Where assessee challenged show cause notice issued by revenue authority for proposing recovery of ineligible input tax credit based on mismatch with GSTR-2A statements, writ petition could not be entertained at show cause notice stage;

assessee was directed to file objections to SCN.

### INCOME TAX REGULATORY UPDATES SERVICE TAX COLLECTED BY NR AIRLINES OPERATOR ON SALE OF TICKETS NOT TO BE INCLUDED IN GROSS RECEIPT: ITAT.

**Editorial Note:** ITAT Kolkata held that service tax collected by the assessee on the amount paid to it for rendering the services is not to be included in the gross receipts for the purpose of computing the presumptive income of the assessee u/s. 44BBA of the Income Tax Act. Only such amounts which are paid or payable for the service provided by the assessee can form part of the gross receipts for the purpose of computation of gross total income u/s. 44BBA(1).



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### LOSS ON REDUCTION OF CAPITAL INVESTED IN SHARES OF CO. IS ELIGIBLE FOR SET OFF AGAINST CAPITAL GAINS: ITAT

**Editorial Note:** INCOME TAX: Where assessee's shareholding in TTSL was reduced pursuant to a scheme of arrangement and restructuring and no consideration was paid by TTSL to assessee, long term capital loss arising to assessee on account of reduction of capital was to be allowed or set-off against any other capital gain.

### ITR FILED WITH TENTATIVE DETAILS DUE TO SEIZURE OF BOOKS ISN'T BASIS FOR REASSESSMENT IF AO ACCEPTED RETURN: SC

**Editorial Note:** INCOME TAX: Where returns filed by assessee were accompanied by tentative profit and loss account and other details of income like cash flow statements, statements showing source and application of funds reflecting increase in capital and current accounts of partners of assessee which were duly enquired into by Assessing Officer in assessment proceedings.

### DIRECT TAX TO GDP RATIO HAS INCREASED FROM 5.62% IN F.Y. 2013-14 TO 6.11% IN F.Y. 2022-23: CBDT

**Editorial Note:** The CBDT has released updated Consolidated Time-Series data for F.Y. 2022-23, revealing a 160.52% increase in Net Direct Tax Collections from Rs. 6,38,596 crore in F.Y. 2013-14 to Rs. 16,63,686 crore in F.Y. 2022-23. Additionally, the Direct Tax to GDP ratio rose from 5.62% to 6.11% during same period. The total number of ITRs filed in F.Y. 2022-23 is 7.78 crore, marking a 104.91% increase compared to the 3.80 crore filed in F.Y. 2013-14.



### DELHI HC QUASHES CIC'S ORDER DIRECTING I-T DEPT. TO PROVIDE INFO. RELATED TO PM CARES FUND.

**Editorial Note:** INCOME TAX/RTI: Provisions of section 138 of Income-tax Act, 1961, which lays down a specific procedure relating to disclosure of information relating to a third party under Income-tax Act would override section 22 of RTI Act

### CBDT FURTHER EXTENDS DEADLINE FOR PROCESSING ITRS WITH REFUND CLAIMS FOR AYS UP TO 2020-21 TILL APRIL 30, 2024

**Editorial Note:** The CBDT vide its order under section 119, dated 16.10.2023 and 01.12.2023, directed that all validly filed returns up to Assessment Year 2020-21 bearing refund claims, which could be processed by 31-01-2024. The matter has been re-considered by the board, and it has been decided to extend the time further till 30.04.2024 in respect of returns of income validly filed electronically up to AY 2020-21

### ITAT UPHELD REVISIONAL ORDER AS AO FAILED TO EXAMINE WHETHER ASSESSEE CORRECTLY DEDUCTED TDS ON WINNING AMOUNT

**Editorial Note:** Where assessee-company, engaged in business of providing online games service, deducted TDS on winning amount paid to players of game of Rummy, when prize money paid was more than Rs. 10,000 as per provisions of section 194B, since Assessing Officer had not examined or verified details furnished by assessee regarding deduction of tax as per provisions of section 194B.

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### NO DEEMED INCOME U/S 69A/69B IF SOURCE OF CASH & STOCK DISCREPANCIES FOUND DURING SURVEY WAS FROM BUSINESS OPERATIONS

**Editorial Note:** Where during course of survey, assessee surrendered excess stock, cash and receivables and offered same to tax as business income, however, AO treated said surrendered amount as unexplained investment under sections 69 and 69B, since it emerged that source of income of assessee was from its business operations, income surrendered by assessee during survey could not be brought to tax under deeming provisions of sections 69A and 69B.

### CORPORATE LAW UPDATES DRAFT IRDAI REGULATIONS 2024: REGISTRATION, CAPITAL, SHARES TRANSFER & AMALGAMATION

**Editorial Note:** The proposed IRDAI regulations for 2024 represent a significant step towards fostering a more conducive business environment in the Indian insurance sector. By addressing concerns related to listing, lock-in periods, and providing clarity on various aspects, these regulations aim to strike a balance between business facilitation

and policyholder protection. Stakeholder engagement through feedback is crucial, ensuring a robust regulatory framework that benefits both the industry and its consumers.



### A DEEP DIVE INTO CII GUIDELINES ON INDEPENDENT DIRECTORS' APPOINTMENT AND BOARD

#### **Editorial Note:**

The Confederation of Indian Industry (CII) has issued Guidelines on the Appointment of Independent Directors and the Process of Board Evaluation. The Guidelines aim to serve as guidance on the Appointment of Independent Directors, Succession Planning

and the Process of conducting Board Evaluation. The Guidelines are divided into 2 parts respectively with 'Part A' focusing on Appointment of Independent Directors & Succession Planning and 'Part B' on the Process of Board Evaluation.



### SEBI PROPOSES GUARDRAILS AND ADDITIONAL MEASURES TO REVAMP NOMINATION FACILITIES IN SECURITIES MARKET.

#### **Editorial Note:**

To provide convenience to investors, and establish uniformity in the nomination facilities and procedures, SEBI has issued a consultation paper to revise & revamp nomination facilities in the Indian securities market. Proposals include secure and verifiable methods, such as digital signatures or Aadhar, for making, changing, or canceling nominations. Acknowledgement of these actions will be provided to investors. Stakeholders may submit their comments by Mar 08, 2024.

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### UNION BUDGET 2024

#### Viksit Bharat by 2047

##### Approach

- 1.Transparent
- 2.Accountable
- 3.People-centric
- 4.Trust-based administration

#### **CITIZEN-FIRST'; 'MINIMUM GOVERNMENT, MAXIMUM GOVERNANCE**

#### **DIRECT TAX | INCOME TAX**

Direct Tax Collections more than trebled in last 10 years.

#### **Number of return filers swelled to 2.4 times**

**Faster refunds:** Reduction in average processing time of returns from 93 days (2013-14) to 10 days (2023-24).

The age-old jurisdiction-based assessment system was transformed with the introduction of **Faceless Assessment and Appeal**, thereby imparting greater efficiency, transparency and accountability.

Introduction of **updated income tax returns, a new Form 26AS and prefilling of tax returns** have made filing of tax returns simpler and easier.

**Average processing time** of returns has been reduced from 93 days in the year 2013-14 to a mere **ten days** this year, thereby making refunds faster.

#### TAX RATES

**Retention of same tax rates:** - For direct and indirect taxes, including import duties.

There is now **no tax** liability for tax payers with income up to ₹ **7 lakh**.

The threshold for **presumptive taxation** for retail businesses was increased from ₹ **2 Cr. to ₹ 3 Cr.**

The threshold for **professionals** eligible for presumptive taxation was increased from ₹ 50 lakh to ₹ **75 Lakh**

**Corporate tax rate** was decreased from 30 per cent to **22 per cent** for existing domestic companies and to **15 per cent** for certain **new manufacturing companies**. (clarity awaited)

#### **DIRECT TAX INCOME TAX**

##### **Continuity in taxation**

- 1.Certain tax benefits to Start-ups;
  - 2.Investments made by sovereign wealth funds/pension funds;
  - 3.Tax exemption of some IFSC
- EARLIER EXPIRING ON 31.03.2024 EXTENDED UP TO 31.03.2025**

#### **WITHDRAWAL OF OUTSTANDING DIRECT TAX DEMAND: -**

**Withdrawal of outstanding direct tax demand: -**

- Up to ₹25,000 pertaining up to FY 09-10
- Up to ₹10,000 for FY 10-11 to FY 14-15

EXPECTED TO BENEFIT 1CR. TAX PAYERS

#### **INDIRECT TAX | GOODS AND SERVICES TAX | CUSTOMS GST**

The average monthly gross GST collection has almost doubled to ₹ 1.66 lakh Cr., this year. States too have benefited.

Increase in tax buoyancy of State revenue from 0.72 (2012-16) to 1.22 in the post-GST period (2017-23).

The biggest beneficiaries are the consumers, as reduction in logistics costs and taxes have brought down prices of most goods and services.

Positive sentiment about GST

- 94% industry leaders view transition to GST as largely positive

- 80% of respondents feel GST has led to supply-chain optimisation

GST has reduced the compliance burden on trade and industry

It has led to supply chain optimisation, as elimination of tax arbitrage and octroi has resulted in disbanding of check posts at state and city boundaries.

Customs| Decline in import release time since 2019 by:

- 47 per cent at Inland Container Depots
- 28 per cent at Air Cargo complexes
- 27 per cent at Sea Ports

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### Tax Compliance Calendar for January 2024

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 <sup>th</sup> Feb	Jan 2024	TDS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
11 <sup>th</sup> Feb	Jan 2024	GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23  b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13 <sup>th</sup> Feb		GSTR-6 [Return by input service distributor (ISD)] a) GSTR-5 (Return by Non- resident). b)GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	Person registered as ISD a) Non-resident taxable person (NRTP) b)OIDAR services provider
15 <sup>th</sup> Feb		Deposit of PF & ESI contribution	All Deductors
20 <sup>th</sup> Feb	Jan 2024	GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for QRMP scheme



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### Tax Compliance Calendar for October 2023

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
22 <sup>nd</sup> /24 <sup>th</sup> Feb	Jan 2024	PMT 06 Payment of tax liability	Tax payers (Quarterly Filers under QRMP)
10 <sup>th</sup> Feb	Jan 2024	GSTR - 8	Return to be filed by the E-commerce operators who are required to collect TCS

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