

# DEVMANTRA TIMES

## JUNE EDITION

Issue No.40, Dated 1st June, 2024

### Dear Readers,

We welcome you to the Fortieth edition of DevMantra Times for the month of June 2024. As the incoming government forms in June 2024, we are on the cusp of a new era, from significant amendments in financial regulations to groundbreaking environmental policies and the regulatory announcements of June 2024 set the stage for the incoming government's agenda. This grand finale encapsulates the essence of a dynamic governance period, paving the way for what promises, to be an equally eventful new chapter in our regulatory journey, with pride we present an update on regulatory announcements.

### Economic Updates

#### **Tata Motors Finance to be merged with Tata Capital.**

Tata Motors announced a merger of Tata Motor Finance with Tata Capital, approved by their respective boards. This aligns with Tata Motors' strategy to focus on core businesses and emerging technologies. Tata Capital will issue its equity shares to Tata Motor Finance shareholders, giving Tata Motors a 4.7% stake in the merged entity. Tata Capital, a major NBFC in India, will expand its presence in CV/PV financing, aiming to offer innovative products and digital services.

The merger is subject to regulatory approvals and is expected to take 9-12 months to complete, with no adverse impact on customers or creditors.

#### **India to drag Australia to WTO arbitration on services trade commitments.**

India has taken Australia to arbitration at the WTO over changes to services commitments, impacting trade. The new regulations aim to lower global trade costs by \$125 billion.

#### **Refined Russian petroleum goods imports rise 14% in May.**

India's import of refined products from Russia increased by 14% in May, with naphtha imports tripling. State-run refiners brought in 77% more Russian products, but imports were lower than China and Europe.

#### **India major gainer of China+1, exports to soar to \$835 billion by 2030: Nomura**

India and Vietnam are emerging as key beneficiaries of the China plus one strategy, with Nomura predicting significant growth opportunities for Asian economies. According to a report by Nomura, India's exports are projected to skyrocket to \$835 billion by 2030 from \$431 billion in 2023, driven by its vast domestic market attracting companies seeking supply chain diversification away from China.

#### **Netherlands emerges as India's 3rd largest export destination in 2023-24.**

The Netherlands has emerged as India's third largest export destination after the U.S. and UAE during 2023-24, even as the country's merchandise shipments dipped by over 3%, according to the Commerce Ministry data. The main commodities which registered healthy exports growth in the Netherlands include petroleum products (\$14.29 billion), electrical goods, chemicals, and pharmaceuticals in the last fiscal.

#### **Heatwave drags manufacturing growth to three-month low in May: PMI data.**

India's manufacturing growth slowed to a three-month low in May as intensive heatwave hampered production volumes leading to a softer rise in new orders and output. But the sector remained in expansionary territory in May.

#### **RBI's mega Rs 2.1 trillion dividend payout due to drop in provision; Kotak says FY26 dividend to be high too**

Kotak Institutional Equities said that the Reserve Bank of India's surplus transfer of Rs 2.1 trillion was aided by a significantly lower provision of Rs 428 billion. It further added that for FY2026, the surplus transfer is expected to be at least as high as this year.

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### RBI moves 1 lakh kg of gold from UK back to India, first such move of this quantum since 1991.

India's central bank has moved around 100 tonnes of gold from the UK to its domestic vaults, with plans to relocate more soon, according to a TOI report. This significant transfer, the first since 1991, addresses logistical and storage diversity concerns. The RBI, which held 822.1 tonnes of gold as of March, coordinated closely with various government bodies and used special aircraft for secure transport.

### Baron Capital boosts food delivery firm Swiggy valuation to \$15.1 billion.

A fund managed by US-based asset management firm Baron Capital Group has increased the valuation of food delivery firm Swiggy to \$15.1 billion. This is 25 per cent higher than the last fair value recorded by the investor, according to regulatory filings with the US Securities and Exchange Commission (SEC).

### Byju's processes employees' May salaries from business collections.

BYJU'S processed employees' May salaries from business collections. Salaries paid from company's collections, highlighting financial health and debt-raising challenges. Company raised debts, implemented strategic initiatives. Investors, including Prosus, General Atlantic, Sofina, Peak XV, Tiger, Owl Ventures, approached NCLT Bengaluru.

### Tata Group firms engaged in over 100 Gen AI projects: N Chandrasekaran.

TCS chairman N Chandrasekaran announced over 100 Gen AI projects within Tata Group, showcasing tangible business impact in customer experience, productivity, and efficiency.

### 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.

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.

### STARTUP UPDATES





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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 endeavor 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*

### JUDICIAL UPDATES

**ITC can't be allowed if fake invoices received from non-existent firms; mere registration of supplier not sufficient: HC**

#### Editorial Note:

Where petition challenged orders denying input tax credit due to bogus inward supplies from non-existent firms not receiving actual goods despite initial registration, High Court upheld revenue's action, ruling that mere registration is insufficient when supplier is non-existent, deciding against assessee/petitioner. Where assessee filed a petition under Article 226 of the Constitution of India seeking to challenge an order passed by the Deputy Commissioner, Commercial Tax, imposing tax liability and penalty on the petitioner for allegedly claiming false Input Tax Credit (ITC). The petitioner also challenged the

dismissal of their appeal against this order by the Additional Commissioner.

**Amount debited from electronic cash and credit ledgers before expiry of statutory period for filing appeal to be refunded: HC**

#### Editorial Note:

Where pursuant to assessment order, amount of tax was debited from Electronic ledger of assessee before expiry of three months i.e. statutory period for filing appeal, by invoking section 78, since authority had failed to explain recourse of section 78, amount debited was to be refunded to assessee.

**HC remanded matter as tax liability was imposed using balance sheet of subsequent year instead of relevant year.**

#### Editorial Note:

Where assessment order is based on subsequent year's financial statement instead of relevant year, breaching natural justice principles,

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High Court requires reconsideration and mandates assessee/petitioner to remit Rs. 10 lakhs towards disputed tax under Section 73 of CGST Act before fresh assessment.

**DGGI can initiate proceedings for clandestine supply even if SGST dept. already investigating transaction with one supplier:HC**

#### Editorial Note:

Where DGGI conducted investigation at assessee's premises, seized records and accounts, issued summons under section 70 of GST Act, Assessee argued that State GST Authorities already proceeding against assessee for investigation of a tax period, DGGI could not have conducted a parallel proceeding and investigation for same tax period.

**Income from shares is not taxable under GST as supported by Circular 196, HC quashes demand order**

#### Editorial Note:

Income from shares was not taxable and as such, demand could not be sustained in eye of law and same was quashed. Assessee alleged that contended that income from shares was not taxable and it was beyond purview of GST and authority without considering same, had issued fresh demand which could not be sustained in eye of law.

**Service of 'Marketing / recruitment / Referral consultant' provided to foreign colleges isn't intermediary service: AAR**



#### Editorial Note:

Where applicant cannot be construed to have been facilitating services of foreign colleges and university to prospective students, as students cannot be construed as service recipients particularly in absence of consideration flowing from students to applicant, therefore, applicant cannot be considered as 'intermediary' for purpose of Section 2(13) of IGST Act.

**HC remanded matter as assessee failed to reply to SCN alleging discrepancy in GSTR-3B and auto-populated GSTR-2A**

#### Editorial Note:

Where impugned order was passed confirming tax liability of assessee as assessee had failed to reply to show cause notice, same was to be set aside subject to condition that assessee remitted 10 percent of disputed tax amount and a fresh order was to be issued after providing reasonable opportunity including a personal hearing to assessee.

**Input Tax Credit is not admissible under section 17(5)(d) on Rotary Car Parking System: AAR**

#### Editorial Note:

Where Section 17(5)(d) states that term "construction" includes re-construction, renovation, additions or alterations or repairs, to extent of capitalization, to said immovable property and "Rotary Car Parking System" falls under ambit of additions as envisaged in said explanation clause, to immovable property, therefore, Input Tax Credit is not admissible under section 17(5)(d) on Rotary Parking System desired to be installed by applicant-assessee.





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### INCOME TAX REGULATORY UPDATES



#### Interest is payable on refund of excess DDT paid by assessee: ITAT

##### Editorial Note:

Where refund of DDT was granted, since interest payment under section 244A was a statutory obligation and non-discretionary in nature, assessee would be entitled to payment of interest on already ordered DDT refund.

#### Donations made to other charitable trusts out of accumulated income not hit by sec. 11(1) Explanation 2: HC

##### Editorial Note:

Where assessee-trust made donations to other charitable trusts out of accumulated income, since said donations were in any case reversed and had been advanced only for an extremely short duration, same would not be hit by provisions of Explanation 2 to section 11(1) as

same applies only to amounts credited or paid to certain categories of institutions

#### No additions towards unexplained investment if there was no evidence to support AO's conclusion: ITAT

##### Editorial Note:

Where Tribunal deleted addition made on account of bogus share application money received by assessee-company noticing that Commissioner (Appeals) had duly recorded its satisfaction relating to identity, genuineness and creditworthiness of amounts received along with confirmations, address, cheque number and PAN, Tribunal's order required no interference. ITAT Delhi held that addition of unexplained investment under section 69 of the Income Tax Act merely on the basis of loose sheet alone without any other corroborative evidence is unsustainable in law.

#### Legal services towards registration of products in foreign countries not taxable in India under India-USA DTAA: ITAT

##### Editorial Note:

Where AO held that legal professional expenses incurred by assessee was FTS as per article 12 of DTAA taxable in India, however, assessee contended that said expenses did not qualify as FTS, but were in nature of Independent personal services, covered under article 14 of DTAA with concerned countries or in alternate they qualify as business income as per article 7 of DTAA.

#### No concealment penalty if tax sought to be evaded is nil after considering self-assessment tax: ITAT

##### Editorial Note:

Where assessee paid self-assessment tax prior to issue of reopening notice and AO levied penalty equivalent to 100 per cent of tax sought to be evaded on ground that assessee did not file a valid return under section 139, as per Explanation 4 to section 271(1)(c) amount of tax to be evaded was to be determined by taking into consideration amount of tax on total income assessed as reduced by amount of advance tax.

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### Checklist for Clauses 1 to 4 of Form 3CD in Tax Audit under the Income Tax Act, 1961

#### Editorial Note:

Part A of Form No. 3CD covers routine particulars in Clauses 1 to 8A. Specifically, Clause 1 requires the assessee's name and branch details if applicable; Clause 2 requires the address; Clause 3 mandates the PAN or Aadhaar Number for individuals and PAN for other entities, noting if PAN is not allotted; Clause 4 requires details of indirect tax liabilities, such as registration or GST numbers. To assist tax auditors, this story provides a detailed audit checklist for Clauses 1 to 4.

### Higher tax rate prescribed for foreign Co. not to be regarded as violation of non-discriminatory clause in DTAA: ITAT

#### Editorial Note:

Interest paid by Indian branch/PE of assessee, a French bank, to its head office (a foreign company) would not be taxable in India under India France DTAA since branch had borrowed from overseas head office and debt claim of head office was connected to PE branch in India.



### Cost of acquisition of shares to be taken as nil if bonus shares were allotted without any payment: ITAT

#### Editorial Note:

Where assessee had acquired certain number of shares of a company without payment and on basis of his holding original shares, since assessee had not paid any price for acquiring shares, specific provision relating to acquisition of financial asset under section 55(2)(aa)B(iiiia), without any cost would be applicable and therefore, cost of acquisition of shares which became property of assessee prior to 1-4-2001 was to be taken as nil.

### CORPORATE LAW UPDATES

#### SEBI redefines 'Large Corporates' (LCs); relaxes borrowing norms for LCs through issuance of debt securities.

#### Editorial Note:

SEBI has relaxed borrowing norms for large corporates (LCs) through issuance of debt securities. Now, an entity with outstanding long-term borrowings of Rs 1000 crore or above would be classified as LC. Also, SEBI has introduced incentives for LCs in case of surplus in requisite borrowings and moderated disincentives if they fail to meet at least 25% of their incremental borrowings. Earlier, LCs were defined as those with outstanding long-term borrowings of at least Rs 100 crore or above.





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**Sebi tweaks framework for clearing corps on liquid assets; issues prudential norms for exposure.**

**Editorial Note:**

May 30 (PTI) Capital markets regulator Sebi has tweaked guidelines for accepting liquid assets as collateral by clearing corporations (CCs) and put in place prudential norms for exposure of such entities in a bid to strengthen the risk management framework.



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### Tax Compliance Calendar for June 2024

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 <sup>th</sup> June	May 2024	TDS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
11 <sup>th</sup> June		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> June		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> June		Deposit of PF & ESI contribution	All Deductors
20 <sup>th</sup> June		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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25 <sup>th</sup> June	May 2024	<b>PMT 06 Payment of tax liability</b>	Tax payers (Quarterly Filers under QRMP)
10 <sup>th</sup> June	May 2024	GSTR - 8	Return to be filed by the E-commerce operators who are required to collect TCS
15 <sup>th</sup> June	FY 24-25 (AY 25-26)	Advance Tax	First installment of advance tax
30 <sup>th</sup> June	FY 23-24	DPT 3	Annual Return of Deposits
30 <sup>th</sup> June	FY 23-24	Annual Equalization Levy Return	Furnishing of Equalization Levy statement

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