

A Monthly E-Newsletter

Vol 06 Issue 2
February 2025

The Bottom Line

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KEY METRICS

Indices

| | | | |
|------------------|--------|--------|---|
| BSE SENSEX | 77,501 | -0.82% | ▼ |
| NSE NIFTY50 | 23,508 | -0.58% | ▼ |
| NASDAQ Composite | 19,627 | 1.64% | ▲ |
| NIKKEI 225 | 39,572 | -0.81% | ▼ |

Currency

| | | | |
|----------|--------|--------|---|
| USD/INR | 86.54 | -1.15% | ▼ |
| Euro/INR | 89.67 | -1.24% | ▼ |
| GBP/INR | 107.22 | -0.17% | ▼ |
| JPY/INR | 0.56 | -2.71% | ▼ |

Note: The month-on-month movement as on January 31, 2025 is represented in percentages
Source: NSE.com, BSE.com, NASDAQ.com, NIKKEI.com, Investing.com

DIRECT TAX

Circulars/Notifications

Cases where timeline to file the appeal was not expired, now covered under the VSV Scheme

In order to resolve the difficulty in cases where an order in case of a taxpayer was passed on or before July 22, 2024 and the timeline for filing the appeal in respect of such order was still available which was later filed within the stipulated time without seeking any condonation of delay, it has been notified that the same shall be considered as pending as on the specified date for the purpose of the scheme and the taxpayer shall be allowed to opt for the scheme.

Notification No. 08 of 2025 dated January 20, 2025

Guidelines issued for application of PPT clause in DTAA

Guidelines for applying the PPT in DTAA's have been issued to prevent treaty abuse and revenue leakage. The PPT allows denial of treaty benefits if the principal purpose of an arrangement was to obtain tax advantages, unless it aligns with the treaty's objectives. It has been clarified that the PPT clause shall apply prospectively depending on whether the PPT has been introduced in the DTAA through Multilateral Instruments or through bilateral negotiations. It has been further clarified that the grandfathering provisions in India's Tax Treaties with Cyprus, Singapore and Mauritius shall not be covered by PPT and shall be governed by the respective Treaty provisions ensuring tax certainty.

Circular No. 01 of 2025 dated January 21, 2025

Judicial Rulings

Receipts for maintenance, support and additional services shall not be taxable in absence of PE in India

The Tribunal ruled that receipts for maintenance, support, and additional services cannot be categorized as FTS under the India-Singapore DTAA. It emphasized that for receipts to be considered FTS, the service provider must make technical knowledge available to the recipient, enabling independent application. The Tribunal also said that Assessee rendered services only to the extent of migration of software from old version to new version and there is no new technical knowledge that is being shared, thus treating the receipts as business income and not FTS. Consequently, the same will be non-taxable in case of absence of a PE in India.

Murex Southeast Asia Pvt Ltd (Mumbai ITAT)

Employee secondment to India not generating any income does not create any PE

The High Court upheld Tribunal's decision that secondment of employees to Samsung India

Cases where timeline to file the appeal was not expired, now covered under the VSV Scheme

Guidelines issued for application of PPT clause in DTAA

Employee secondment to India not generating any income doesn't create any PE

did not create a Fixed Place PE under the India-Korea tax treaty. The Court emphasized that the seconded employees were working for Samsung India's benefit, performing activities like market information collection and trend studies, rather than furthering Samsung Korea's global business interests. The High Court also noted that since Samsung Korea was not providing consulting or other services to Samsung India through these employees, the PE provisions were not applicable.

Samsung Electronics Co. Ltd (Delhi High Court)



INDIRECT TAX

Circulars / Notifications / Press Releases

Sale of old and used vehicles

18% GST shall be levied on margin of sale of old and used vehicles.

Notification No. 04/2025-Central Tax (Rate) dated January 16, 2025

Taxability of sponsorship services

Sponsorship services provided by Body Corporates would be under Forward Charge Mechanism.

Notification No. 07/2025-Central Tax (Rate) dated January 16, 2025

Late fees for delayed filing of GSTR-9C waived

For FY 2017-18 to 2022-23, the late fees for delayed filing of GSTR-9C shall stand waived, if the GSTR-9C for the aforesaid financial years is filed on or before March 31, 2025.

Notification No. 08/2025-Central Tax dated January 23, 2025

Amnesty scheme under GST

One of the conditions for filing application under amnesty scheme is to withdraw the appeal applications filed against the demand order for which waiver application is to be submitted. However, for the appeal applications filed before March 21, 2023, withdrawal option is not available in GST portal. For such cases, the taxpayers have been advised to submit their request for withdrawal of appeal applications to the concerned Appellate Authority.

Advisory dated January 14, 2025

Judicial Rulings

Proceedings towards taxation of online gaming stayed till final hearing by Apex Court

Till the final hearing, the proceedings of all SCNs issued for demand in relation to impugned matter would remain stayed.

Gameskraft Technologies Pvt Ltd (Supreme Court of India)

Lease hold rights not taxable

Assignment of leasehold rights in immovable property is not liable to GST as it falls outside the scope of supply.

Gujarat Chamber of Commerce and Industry (Gujarat High Court)

Taxation of Corporate Guarantee

Operation of Circular No. 204/16/2023-GST dated October 27, 2023, stayed till further Orders and Notice issued to the department for levying tax on corporate guarantee relying on aforesaid Circular.

Vedanta Ltd (Bombay High Court)

Issuance of SCN

There is no bar under law for issuing multiple SCN for a single financial year on totally different subject matters.

ALM Industries Ltd. (Allahabad High Court)

Sale of old and used vehicles to be taxed at 18%

Proceedings towards taxation of online gaming stayed till final hearing by Apex Court

Assignment of lease hold rights in immovable property not taxable

Realization of exports proceeds

The refund application cannot be rejected due to realization of export proceeds in Indian rupees instead of foreign currency. As per Circular No. 88/07/2019-GST, dated February 01, 2019, refund would be eligible even in cases where export proceeds were realized in Indian Rupees routed through a freely convertible Vostro account of a non-resident bank.

Elite International (Delhi High Court)



CORPORATE & ALLIED LAWS

Circulars / Notifications

FEMA regulations for non-debt instruments amended

RBI issued the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) (Third Amendment) Regulations, 2025, to update the principal regulations, particularly in relation to investment mechanisms for persons resident outside India. The key amendments include changes in the following Schedules:

- Schedule I – Investment by a Person Resident Outside India in Equity Instruments
- Schedule II – Investment by FPIs
- Schedule VI – Investment in an LLP
- Schedule VII – Investment by FVCI
- Schedule VIII – Investment by a Person Resident Outside India in an Investment Vehicle
- Schedule X – Investment in IDRs

RBI Notification No. FEMA 395(3)/2025-RB dated January 14, 2025

Conditions for SNRR Accounts relaxed

RBI introduced the Foreign Exchange Management (Deposit) (Fifth Amendment) Regulations, 2025, which shall come into force immediately. The recent amendments have introduced key changes to the Foreign Exchange Management (Deposit) Regulations, 2016 (the "Principal Regulations"). The key amendments are:

- The Principal Regulations previously allowed any person

resident outside India, having business interest in India to open, hold and maintain a SNRR Account with an authorised dealer in India. Now, this facility is extended to allow such persons to have such account also with a branch of the authorised dealer located outside India.

- Units located in an IFSC, under Section 18 of the Special Economic Zones Act, 2005, may now open an SNRR Account with an authorised dealer in India outside the IFSC for the purpose of conducting business-related transactions outside the IFSC.

RBI Notification No. FEMA 5(R)(5)/2025-RB dated January 14, 2025

Due diligence certification by Debenture Trustees

Absence of a format for due diligence certification in case of unsecured debt securities, has been plugged now. The new certification format is in line with Issue and Listing of Non-Convertible Securities Regulations and is applicable with immediate effect.

Circular No. SEBI/HO/DDHS/DDHS-PoD-3/P/CIR/2025/009 dated January 28, 2025

Guidelines on settlement of dues payable by borrowers of ARCs

Settlement should be considered only if it is the best option. Settlement policy should be approved by the Board. Cut-off date for one time settlement of dues, risk exposures in arriving at settlement amount as well

FEMA regulations for non-debt instruments amended

Conditions for SNRR accounts relaxed

Guidelines on settlement of dues payable by borrowers of ARCs

as methodology to arrive at the realisable value of security must be part of the policy. Reasons for any significant variation between value of securities at the time of acquisition of financial assets and realisable value of the securities assessed at the time of settlement, must be reported.

RBI/2024-25/106 DoR.SIG.FIN. REC.56/26.03.001/2024-25 dated January 20, 2025



CFO WATCH

SEBI eases timeline for ESG rating reviews post-BRSR publication

IAASB and IESBA release global standards for sustainability reporting and assurance

SEBI eases timeline for ESG rating reviews post-BRSR publication

To address operational challenges faced by ERPs in managing high volumes of BRSR disclosures, the timeline for ERPs to review rating increases from 10 to 45 days following the publication of a company's BRSR. While other material events viz. controversies, penalties still require a review within 10 days, the relaxation for BRSR-related updates aim to balance compliance burden with accurate ESG assessment, promoting ease of doing business.

IAASB and IESBA release global standards for sustainability reporting and assurance

New and revised standards provide a unified global approach to addressing the growing market demand and call from regulators and other stakeholders for trustworthy sustainability information to support stakeholder decisions. These standards establish clear expectations for ethical behavior in sustainability reporting and assurance, empowering practitioners and organizations to enhance trust and confidence in sustainability information and providing a framework-neutral approach that allows ISSA 5000 and IESSA to be applied to sustainability information prepared under any suitable sustainability reporting framework.



MERGERS & ACQUISITIONS

India's Financial Markets Reach New Heights: M&A and IPO Boom in 2024

India's M&A activity reached an unprecedented \$109 billion in 2024, showcasing a robust 38% year-on-year growth. This record-breaking performance stems from increased domestic and cross-border transactions across key sectors, including technology, renewable energy, and financial services.

Robust corporate strategies and heightened investor confidence drove this 38% growth. Indian corporates significantly contributed \$48 billion, almost doubling their participation from \$26 billion the previous year. High-profile deals such as the Viacom-Disney merger reshaped the entertainment sector, Aster DM's acquisition of Quality Care bolstered its healthcare presence, and Bharti Group's investment in BT Group expanded its global telecommunications reach. Conglomerates like Adani Group, Reliance Industries, and Birla Group actively pursued acquisitions to enhance their portfolios and enter new markets, further amplifying M&A activity. Private equity firms played a pivotal role, fuelling growth in startups and acquiring stakes in established companies. India's IPO market also experienced unprecedented growth in 2024, with total equity fundraising hitting \$74 billion. Over 300 IPOs were launched, spanning diverse sectors like automobiles, telecom, and e-commerce. This included milestone IPOs such as Hyundai Motor India's record-breaking \$3.3 billion offering, which surpassed LIC's 2022 benchmark, and Vodafone Idea's \$2.2 billion FPO, India's largest to date.

With a \$35 billion IPO pipeline for 2025 and a growing focus on ESG investments, India's financial markets are poised for sustained growth. This unprecedented momentum cements the country's status as a global investment powerhouse, offering fertile ground for M&A and capital market activity.



IN THE NEWS

Is reciting a PoEM that easy?

January 17, 2025

Author: Ameet Baid, Pragya Bansal & Roshni Chaurasia, ASA

With increased use of technology and globalisation, business management practices have become smarter. A global head of business can now attend board meetings virtually and participate/ conclude strategic decision making. Such transformative approach of conducting business has its own set of challenges including establishing the tax residential status of multinational corporations.

Increasing payment of Royalty by Indian subsidiaries - Tax & Regulatory issues to be considered

January 13, 2025

Author: Ashwath Pai & Sagar Nagaraj, ASA

Since the 1991 economic reforms, India has witnessed a rise in multinational groups investing in the country. While these groups allow their subsidiaries to utilize advanced technologies, the IP often remains with the parent companies, with Indian subsidiaries paying royalties for its use. The royalty rate depends on factors like the nature and utility of the IP and the group's global policies. However, such payments must comply with

Indian regulations, including SEBI guidelines for listed entities and Transfer Pricing norms under income tax laws.

Integrating Clinical Trials with Forensics Compliance

January 06, 2025

Author: Bhushan Sharma, Baker Tilly ASA India

As the complexity and scale of clinical trials continue to expand globally, integration of clinical trials with forensics compliance holds a growing significance in the healthcare and pharmaceutical sector. Clinical trials are the cornerstone of medical innovation, driving the development of new treatments and therapies that improve patient outcomes and advance public health. As the landscape of clinical trials evolves, upholding the highest standards of integrity, transparency, and ethical conduct has become more crucial than ever. This article explores how integrating forensic methodologies and compliance frameworks can enhance the transparency and reliability of clinical trials. It also highlights the critical importance of adhering to anti-bribery and anti-corruption laws and underscores the pivotal role of forensic audits and investigations in upholding these standards.

Land Of Rising Opportunities: Japan's Journey into Vibrant India

January 03, 2025

Author: Himanshu Srivastava & Shyam Ramakrishnan, Baker Tilly ASA India

India, with its robust economic growth and evolving consumer landscape, has become a priority destination for global businesses, including Japanese companies. As the world's fifth-largest economy, India offers immense opportunities across sectors like manufacturing, technology, and renewable energy. However, entering this diverse and dynamic market requires careful planning and strategic execution. From understanding regulatory frameworks to navigating cultural nuances, Japanese firms must approach India with a well-rounded perspective. This article explores the various modes of market entry, key considerations, and latest trends shaping India's business environment, providing a comprehensive guide for companies looking to establish a strong presence in this burgeoning economy.

GLOSSARY

ARC

Asset Reconstruction Company

BRSR

Business Responsibility and Sustainability Report

DTAA

Double Taxation Avoidance Agreement

ERP

ESG Rating Provider

ESG

Environmental, Social and Governance

FEMA

Foreign Exchange Management Act

FPI

Foreign Portfolio Investor

FTS

Fee for Technical Services

FVCI

Foreign Venture Capital Investor

GST

Goods & Services Tax

IAASB

International Auditing and Assurance Standards Board

IDR

Indian Depository Receipt

IESBA

International Ethics Standards Board for Accountants

IESSA

International Ethics Standards for Sustainability Assurance

IFSC

International Financial Services Centre

IP

Intellectual Property

IPO

Initial Public Offer

ISSA 5000

International Standard on Sustainability Assurance 5000

ITAT

Income Tax Appellate Tribunal

LLP

Limited Liability Partnership

M&A

Mergers & Acquisitions

PE

Permanent Establishment

PoEM

Place of Effective Management

PPT

Principal Purpose Test

RBI

Reserve Bank of India

SCN

Show Cause Notice

SEBI

Securities and Exchange Board of India

SNRR

Special Non-Resident Rupee Account

VSV

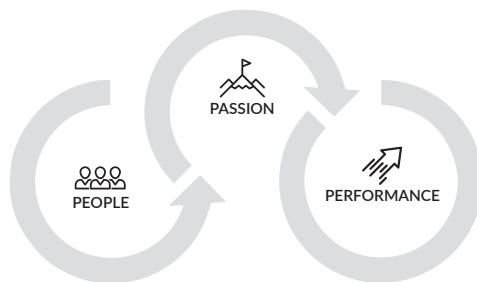
Vivad se Vishwas

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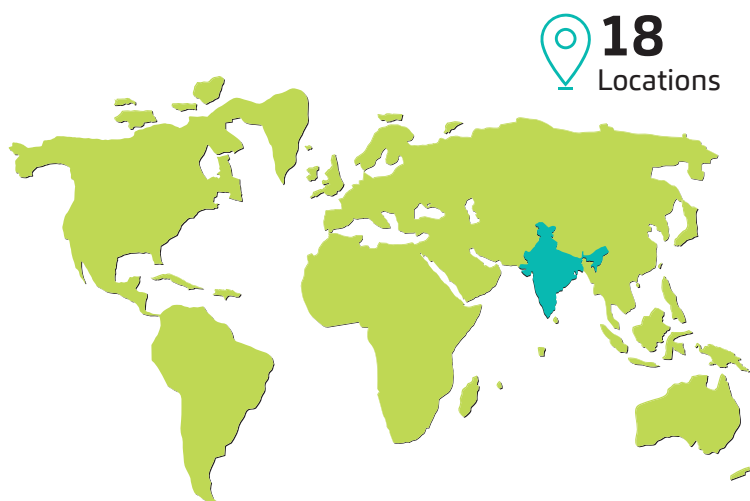
SERVICES

- Accounting and Business Support
- Assurance
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- Digital Automation and Transformation
- Risk Advisory
- Taxation
- Transaction Advisory

Well structured teams with domain specialization are guided by leaders who possess expertise and experience and are present PAN India to ensure excellent client service.

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658
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Vishakhapatnam

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