A Monthly E-Newsletter

Vol 06 Issue 1
January 2025

The Bottom Line

WHAT'S INSIDE

KEY METRICS

Indices

BSE SENSEX	78,139	-2.08%	▼
NSE NIFTY50	23,645	-2.02%	▼
NASDAQ Composite	19,311	0.48%	▲
NIKKEI 225	39,895	4.41%	▲

Currency

USD/INR	85.55	-1.18%	▼
Euro/INR	88.57	0.95%	▲
GBP/INR	107.04	0.62%	▲
JPY/INR	0.54	3.69%	▲

Note: The month-on-month movement as on December 31, 2024 is represented in percentages
Source: NSE.com, BSE.com, NASDAQ.com, NIKKEI.com, Investing.com

DIRECT TAX

Circulars/Notifications

Additional FAQs in relation to VSV Scheme issued and the deadline extended to January 31st

Additional guidelines have been issued by way of FAQs in relation to the eligibility of cases, computation of tax payable, taxes paid before filing of declaration, TDS related queries, etc. to provide more clarity to the taxpayers in deciding to opt for the scheme. Further, the due date for filing the declaration to opt for VSV Scheme (with lower payment amount) has also been extended from December 31, 2024, till January 31, 2025.

Circular No. 19 dated December 16, 2024 & Circular No. 20 of 2024 dated December 30, 2024

Due date for filing belated / revised ITR for resident individuals extended

The due date for filing belated / revised ITR for resident individuals has been extended from December 31, 2024, till January 15, 2025.

Circular No. 21 of 2024 dated December 31, 2024

Judicial Rulings

Transfer expenses deductible on slump sale

The Tribunal allowed the deduction of transfer expenses while calculating capital gains on a slump sale. The dispute centered around expenses related to the transfer of business, which the Tribunal confirmed could be deducted under the relevant provisions. It also emphasized that the law permits the deduction of such expenses, noting that excluding them would contradict the legislative intent behind the computation of capital gains in slump sales.

Larsen and Toubro Ltd (Mumbai ITAT)

Indexation benefit allowable on sale of shares of a foreign company

It was held that the AO had erred in denying the indexation benefit on the sale of shares of a foreign company. The Tribunal emphasized that the provisions clearly allow the indexation benefit for both domestic and foreign assets, and there was no ambiguity in the law.

Aarav Fragrances and Flavors Private Limited (Mumbai ITAT)

Mere purchase of advertisement space from third party vendor is a transaction of service and not taxable as 'Royalty' under DTAA

The Tribunal ruled that the payments received from the Indian AE of the Singapore based Company for advertisement space shall not be taxable as Royalty under the India-Singapore DTAA. The Company only purchased advertising space from third-party publishers, such as Google and Facebook, and provided it to the Indian AE, without granting any rights to modify or control the server. The Tribunal emphasized that various judicial precedents have already propounded the principle that a mere receipt of service using equipment under control, possession and operation of the service provider will only be a transaction of service, and not "use or right to use" equipment, which would not attract royalty tax.

Criteo Singapore Pte. Ltd (Delhi ITAT)

Additional FAQs in relation to VSV Scheme issued and the deadline of 31 Dec extended

Due date for filing belated / revised ITR for resident individuals extended

Mere purchase of advertisement space from third party vendor is a transaction of service and not taxable as 'Royalty' under DTAA

INDIRECT TAX

Circulars / Notifications / Press Releases

Recommendations of GST Council meeting

Various recommendations have made by the Council in the 55th meeting. These shall be effective once notified. Some key recommendations made are:

(i) Supply of sponsorship services provided by a body corporate to be brought under forward charge mechanism.

(ii) Supply of goods warehoused in a SEZ or FTWZ before clearance of such goods for exports or to the Domestic Tariff Area, shall be treated neither as supply of goods nor services. Similarly, transactions in vouchers shall also be treated neither as a supply of goods nor services.

(iii) In case of supply of online services to unregistered recipients, the State of the unregistered recipient is mandatorily required.

(iv) Under Section 17(5)(d) of CGST Act, 2017 the phrase "plant or machinery" shall be replaced with "plant and machinery" retrospectively, with effect from July 01, 2017.

Press release dated December 21, 2024

Changes in the e-way bill and e-invoice systems

Following changes shall be implemented:

(i) Starting January 01, 2025, Multi-Factor Authentication will be mandatory for taxpayers with turnover exceeding 200 million, from February 01, 2025, for those with turnover exceeding INR 50 million and from April 01, 2025, for all taxpayers.

(ii) E-way bills cannot be generated after 180 days from the date of generation of invoice or debit note.

(iii) The extension of e-way bills will be limited to 360 days from their original date of generation.

Advisory dated December 17, 2024

Judicial Rulings

ITC eligibility on telecommunication towers

Telecommunication towers do not meet the criteria of permanency. They are not permanently attached to the earth, as they can be dismantled and relocated. These towers are not erected with the intention of permanency, and their placement on concrete bases is merely to protect them from natural elements. Therefore, they can be classified as movable property, making them eligible for ITC.

Bharti Airtel Ltd (Delhi High Court)

Pre-deposit for filing appeal

The High Court directed the department to consider the appeal on merits, where the pre-deposit was made under the IGST head instead of the CGST and SGST, despite the liability being created under the latter in the demand order.

Mercedes Benz India Pvt Ltd (Telangana High Court)

Various recommendations made by GST Council

ITC eligibility on telecommunication towers

Changes in the e-way bill and e-invoice systems

Realization of proceeds in case of exports

As clarified in Circular No.88/07/2019-GST dated February 01, 2019 refund cannot be rejected merely on receipt of proceeds in Indian currency for exports as along as it is permissible as per the RBI guidelines.

Elite International (Delhi High Court)

Timelines for availment of ITC

Section 16(4) of CGST Act is arbitrary and capricious as it disallows ITC when returns are not filed within time limit prescribed under said sub-Section. Late fees and interest are sufficient deterrents for delay in filing returns.

Anand Steel (Madhya Pradesh High Court)

CORPORATE & ALLIED LAWS

Circulars / Notifications

Extension in due date for filing CSR Report

Guidelines issued for regulated entities participating in DRS

Integrated filing by listed entities

Extension in due date for filing CSR Report

Due date of filing the CSR Report for the financial year 2023-24, in Form CSR-2 has been extended from December 31, 2024 to March 31, 2025.

MCA Notification dated December 31, 2024

Guidelines issued for regulated entities participating in DRS

Mandatory guidelines have been laid down for regulated entities participating as lenders under DRS announced by various State governments. The guidelines though exhaustive, include the following –

- Participation shall be basis Board approved policy and subject to existing regulatory norms
- Selection of borrowers should be as per terms of the scheme
- Terms and conditions of the scheme shall be communicated to the borrowers
- Sacrifice by the regulated entities of principal and interest shall be treated as a compromise settlement and shall attract prudential treatment
- Any changes in terms and conditions of the original loan contract shall be evaluated as per existing prudential framework
- No receivable shall be created against the government on account of the DRS and exposure shall continue to be on borrower till receipt of funds by regulated entities.

Before implementation of DRS, State governments will have to engage with relevant stakeholders and evolve a model operating procedure. The model operating procedure shall contain details of how schemes will be funded and designed.

RBI/2024-25/100 DOR.STR. REC.54/21.04.048/2024-25 dated December 31, 2024

Integrated filing by listed entities

For ease of filing and compliance by listed entities, SEBI has mandated integrated filing in terms of LODR regulations, applicable from quarter ending December 31, 2024. Timeline for such filing are:

- Integrated filing (governance) - within 30 days from the end of the relevant quarter
- Integrated filing (financial) - within 45 days from the end of the first 3 quarters and 60 days from the end of the last quarter and financial year.

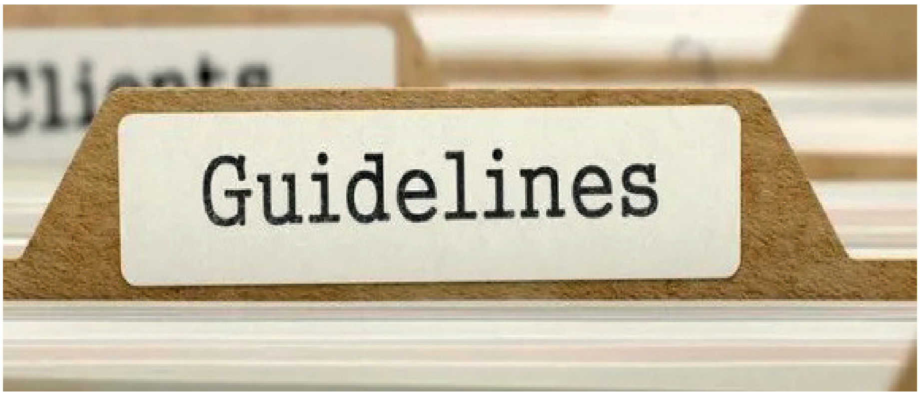
Detailed format of both the above filings have been provided. SEBI has also mandated appointment requirements of secretarial auditor and guidelines for disclosure of employee benefit scheme related documents in the secretarial compliance report of peer reviewed Company Secretary under LODR regulations.

Circular No. SEBI/HO/CFD/CFD-PoD-2/ CIR/P/2024/185 dated December 31, 2024

Uploading documents in document repository platform of stock exchanges

To facilitate effective maintenance of records and documents relied upon by merchant bankers while conducting due diligence in public issues, stock exchanges have set up online document repository platform for merchant bankers to upload and maintain documents electronically. The list of documents to be uploaded, will have to be informed by the stock exchanges. Timelines have been prescribed for uploading the documents. The merchant bankers must ensure that the documents are legible, relevant and complete.

Circular No. SEBI/HO/CFD/CFD-TPD-1/P/CIR/2024/170 dated December 5, 2024



CFO WATCH

Key measures approved by SEBI for simplifying ESG compliances

IFRS Foundation publishes guide to help sustainability related risks

FASB issues ASU to clarify induced conversion guidance for convertible debt

SEBI approves enhancements in BRSR requirements

To enhance ease of doing business for listed entities and their value chain partners concerning BRSR requirements on ESG disclosures and assurance, several measures have been approved by SEBI. These include deferring ESG disclosures for value chains to FY 2025-26 and their assurance to FY 2026-27, making value chain ESG disclosures voluntary, and narrowing their scope to top partners contributing 2 per cent or more of purchases and sales by value. Additionally, previous year reporting will be optional in the first year, and a new leadership indicator for green credits is introduced.

IFRS Foundation publishes guide to help sustainability related risks

To support the global application of IFRS S1 and S2 standards, the IFRS Foundation has introduced a guide to aid companies in identifying and disclosing material sustainability-related risks and opportunities that impact financial outcomes, aligning with the increasing demand for sustainability information in investment decisions. It explains sustainability risks and opportunities per IFRS S1, emphasizing dependencies and impacts and highlights the interconnectedness of businesses with stakeholders, society, and the environment. The guide provides a step-by-step approach to materiality judgments and insights for aligning sustainability disclosures with financial reporting and other frameworks like ESRS and GRI Standards.

FASB issues ASU to clarify induced conversion guidance for convertible debt

FASB has issued an ASU to clarify guidance on induced conversions of convertible debt under Subtopic 470-20. The update addresses uncertainties arising from the increased use of cash convertible instruments and questions about accounting for settlements differing from original conversion terms. It provides criteria to determine if such transactions should be classified as induced conversions or debt extinguishments, including cases involving instruments not currently convertible. Effective for annual periods starting after December 15, 2025, with early adoption permitted, the ASU allows entities to apply the guidance prospectively or retrospectively.

MERGERS & ACQUISITIONS

Foreign Investors boost Indian equities with ₹24,454 crore inflow in early December

After two months of substantial outflows, FPIs have made a robust return to Indian equity markets, injecting a net ₹24,454 crore in the first week of December 2024. This recovery follows net withdrawals of ₹21,612 crore in November and a record ₹94,017 crore in October.

Several factors have contributed to this positive shift. Stabilizing global conditions and expectations of potential interest rate cuts by the U.S. Federal Reserve have enhanced investor confidence. Additionally, uncertainties in Chinese markets, partly due to proposed tariffs by U.S. President-elect Donald Trump, have redirected foreign investments towards Indian equities, which are perceived to offer clearer long-term growth prospects despite relatively high valuations.

FPIs have shown increased interest in financial and IT stocks. HDFC Bank, which saw its Foreign Inclusion Factor raised from 0.37 to 0.56 in the Morgan Stanley Capital International index, became a key driver for foreign investments in the financial sector. Similarly, the IT sector's robust performance made it a favoured choice for global investors.

Factors such as the policy directions of the incoming U.S. administration, domestic inflation and interest rates, and the evolving geopolitical landscape will play crucial roles in shaping future FPI behaviour. The third-quarter earnings performance of Indian companies and the country's economic growth trajectory will also significantly influence investor sentiment. However, the continuity of this trend will depend on both global and domestic economic developments in the coming months.

Panel discussion on Enhancing India-Australia Trade Relations by Indo-Australia Chamber of Commerce

December 18, 2024

Ajay Sethi, Managing Partner of Baker Tilly ASA India, was part of a panel discussion with Nick McCaffrey, Deputy High Commissioner of the Australian High Commission in India, Former Ambassador Anil Wadhwa, Chair of the Northern India Chapter, IACC, and Ajay Srivastava, Founder of the Global Trade Research Initiative, during the Northern Meet at the Australian High Commission.
Ajay highlighted the crucial role of Free Trade Agreements in driving India's economic growth and discussed how ECTA and CECA can be further leveraged. The panel also explored ways to go beyond formal agreements to strengthen trade ties between India and Australia, focusing on key sectors for collaboration and the changing priorities over the last decade.

AI's Role in Forensics and Governance at IIA India, Delhi Branch

December 02, 2024

Parveen Kumar and Gaurav Bhatia, ASA were invited by the Institute of Internal Auditors – Delhi Branch to speak on "Integrity and Insight: Impact of AI on Forensics & Governance."

Navigating the Net Operating Loss: Deductions Allowed Under IRC Section 172

December 05, 2024

Author: Sundeep Gupta, Baker Tilly ASA India, Manoj Sharma, Shivpriya Satti & Pushpa MB, ASA

The article brings out the vital role of Section 172 of the IRC for businesses in managing NOLs, offering both financial relief and tax benefits. NOL occurs when the deductible expenses of business exceed its taxable income, resulting into a loss for the year. This loss is permitted to carry forward and enables businesses to offset taxable income in future years with these losses, which is crucial for maintaining financial health and liquidity. Eligible taxpayers for NOL deductions include Individuals, C Corporations, Non-life insurance Companies, Estates and Trusts. However, Partnerships and S Corporations cannot claim NOLs at the entity level, instead, the losses pass through to their partners and shareholders respectively.

GLOSSARY

AE
Associated Enterprise

AI
Artificial Intelligence

AO
Assessing Officer

ASU
Accounting Standards Update

BRSR
Business Responsibility and Sustainability Report

CECA
Comprehensive Economic Cooperation Agreement

CGST
Central Goods & Services Taxt

CSR
Corporate Social Responsibility

DRS
Debt Relief Scheme

DTAA
Double Taxation Avoidance Agreement

ECTA
Economic Cooperation and Trade Agreement

ESG
Environmental, Social and Governance

ESRS
European Sustainability Reporting Standards

FASB
Financial Accounting Standards Board

FAQ
Frequently Asked Question

FPI
Foreign Portfolio Investor

FTWZ
Free Trade Warehousing Zone

FY
Financial Year

GRI
Global Reporting Initiative

GST
Goods & Services Tax

IFRS
International Financial Reporting Standard

IRC
Internal Revenue Code

IT
Information Technology

ITAT
Income Tax Appellate Tribunal

ITC
Input Tax Credit

ITR
Income Tax Return

LODR
Listing Obligations and Disclosure Requirements

NOL
Net Operating Loss

RBI
Reserve Bank of India

SEBI
Securities and Exchange Board of India

SEZ
Special Economic Zone

TDS
Tax Deducted at Source

VSV
Vivad se Vishwas

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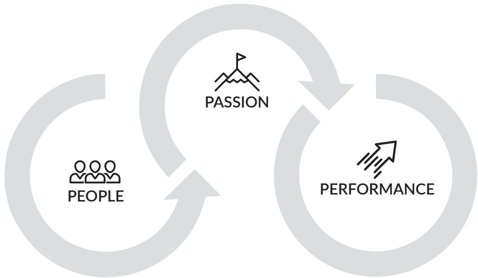

SERVICES

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- Digital Automation and Transformation
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- 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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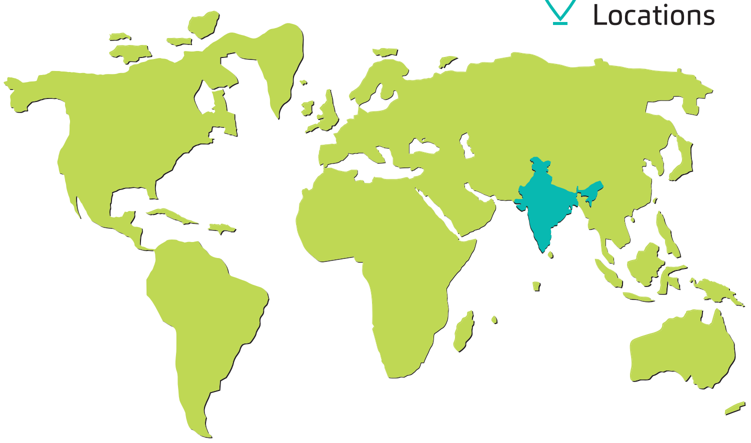

18 Locations

70 Partners/ Directors

6000+ Clients

1200+ In-house Professionals

GLOBAL PRESENCE

43,000 Staff

658 Offices

141 Territories

$5.2bn Turnover

Disclaimer: We have taken all steps to ensure that the information in this document has been obtained from reliable sources and is accurate. However, this document is not intended to give legal, tax, accounting or other professional guidance. We recommend appropriate advice be taken prior to initiating action on specific issues.

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