

US-India Tax Forum

NEWSLETTER

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LATEST NEWS AND HIGHLIGHTS



USISPF TAX CONCLAVE:

A Global Perspective on the Multilateral Tax Deal

Join us for a round of enriching discussions on recent developments in international tax, including progress on Pillar One and Pillar Two negotiations, the future of digital taxation across the world, expectations from India's G20 presidency, and much more

SAVE THE DATE

Monday,
March 06, 2023

New Delhi



Rasmi Ranjan Das

Joint Secretary (FT & TR), Central Board of Direct Taxes,
Ministry of Finance



Pascal Saint-Amas

Former Director of the Center for Tax
Policy and Administration, OECD, and
Partner, Brunswick Group



Akhilesh Ranjan

Former Member, Central Board of
Direct Taxes, Ministry of Finance, and
Advisor, Price Waterhouse & Co LLP

For more details, please contact **Anikha Ashraf** at aashraf@usispf.org



Summary of key recommendations from 49th GST Council Meeting



Tax Forum organises consultation for members with office of Directorate of International Customs to discuss CAROTAR issues

US-INDIA TAX FORUM'S ADVOCACY EFFORTS



GST

- Advocacy on legislative and procedural issues
- Practical challenges faced during GST audits requiring state wise/ GSTIN wise financial statements
- Clarification on reimbursement of ESOP provided by parent company being classified as import of service
- Clarification on taxability of gift cards and vouchers
- Advocacy with Goods and Services Tax Network (GSTN) around technical issues
- Engagement with Group of Ministers constituted on various issues

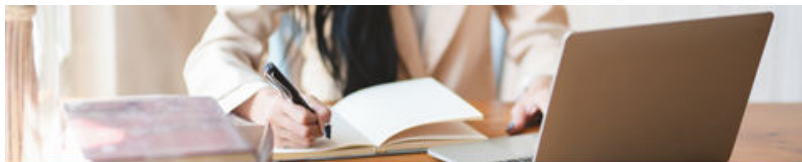


CUSTOMS AND EXCISE

- Advocacy to address ambiguities in classification of products
- Advocacy efforts on export incentive schemes including SEIS and RoDTEP
- Issues and challenges under CAROTAR rules and Faceless Assessments
- Review of All Industry Duty Drawback Rates
- Duty rationalisation requests
- Amendment in custom duty benefits for Oil & Gas sector
- Challenges in implementation of Advanced Analytics in Indirect Taxation (ADVAIT) Module under Customs

CORPORATE TAX

- Recommendations for policy and procedural changes in Indian Transfer Pricing regime
- Challenges emerging from implementation of TDS under various provisions of the Act
- Taxability of per-diem allowance



UPCOMING EVENTS

- USISPF Tax Conclave: A Global Perspective on the Multilateral Tax Deal



PAST EVENTS

- Consultation with Directorate of International Customs
- Consultation with GST Policy Wing for courier and transportation sector

RECENT TAX RULINGS



In association with

On the international tax front, [Karnataka High Court](#) held that payments made by IBM India to IBM Phillipines not in the nature of FTS but as business income. Further held that IBM India was not liable for withholding tax default as IBM Phillipines had no PE in India. [Delhi ITAT](#) held that capital gains

arising from transfer of shares in the hands of Singaporean company with a valid Tax Residency Certificate are not taxable in India since covered by Article 13 of India-Singapore DTAA. ITAT rejected invocation of GAAR by the Revenue as the Assessee's case fell within the exceptions on applicability of GAAR with regard to quantum of transaction and cut off date for share acquisition.

On Transfer Pricing front, [Delhi ITAT](#) viewed that a markup of 5% for the IT services rendered by its AE was an acceptable level of markup as endorsed under international guidelines and as per EU Joint Transfer Pricing Forum since any parent organization could not be expected to supply support services without charging anything for such services rendered. [Delhi ITAT](#) emphasized on the mandatory nature of reference by AO to TPO for ALP determination, held that the contrary would result in breaching the mandatory instructions of CBDT Instruction No. 3/2003. Separately, [Karnataka HC](#) held that non-compliance of DRP's directions by AO was violation of provisions under Section 144C, thus leading to setting aside of the order.

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*To contribute to our ongoing discussions on these matters,
please write to [@Shweta Kathuria](#) and [@Anikha Ashraf](#)*

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