



LATEST NEWS AND HIGHLIGHTS



Following the conclusion of our Tax Conclave earlier this month, US-India Tax Forum met with delegation from Fiscal Affairs Department of International Monetary Fund in New Delhi to continue our ongoing discussions surrounding the global tax deal and its implication on multinational entities.



Forum met with Mr. Shashank Priya, Member, Central Board of Indirect Taxes & Customs to discuss various industry issues under GST Laws.



Forum met with Ms. Rama Mathew, Member (Tax Policy), Central Board of Indirect Taxes & Customs discuss various industry issues under GST Laws.



Forum submits post-budget memorandum to Ministry of Finance on Direct & Indirect Tax Proposals under Finance Bill, 2023

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
- Reversal of input tax credit on destruction of date-expired pharmaceutical products
- GST applicability on reimbursement towards Lost-in-hole equipment
- Clarification on taxability of gift cards and vouchers
- Availing Input Tax Credit under GST against IGST paid through TR6 Challan
- Clarification on place of supply for courier services



CUSTOMS AND EXCISE

- Advocacy to address ambiguities in classification of telecommunication products and equipment
- Advocacy to address challenges arising from misclassification of products
- Advocacy efforts on export incentive schemes including SEIS and RoDTEP
- Issues and challenges under CAROTAR rules and Faceless Assessments
- Duty rationalisation requests
- Amendment in custom duty benefits for Oil & Gas sector



CORPORATE TAX

- Recommendations for policy and procedural changes in Indian Transfer Pricing regime
- Challenges in implementation of TDS under various provisions of the Act
- Challenges in electronic furnishing of Form IOF for non-residents
- Issues emerging from proposed TCS amendments in Finance Bill 2023
- Extension of concessional tax regime for External Commercial Bond (ECB) and INR Bonds
- Challenges in bringing non-resident investors within ambit of section 56(2) (viiB) of the Act
- Clarification on taxation of debt repaid to unit holders of Business Trusts



UPCOMING EVENTS

- Consultation with Tax Research Unit to discuss indirect tax issues for oil & gas and pharmaceuticals sector
- Consultation with GST Policy Wing to discuss GST policy & procedural issues for oil & gas and pharmaceuticals sector



PAST EVENTS

- USISPF Tax Conclave: A Global Perspective on the Multilateral Tax Deal
- Consultation with GST Policy Wing for courier & logistics sector
- Meeting with Tax Policy & Legislation Unit to discuss taxation of per-diem allowances

In association with

In International Tax, [Delhi High Court](#) directed the Revenue to reconsider a Nil withholding tax application of a US-based entity in the light of Article 12 of India-US DTAA and the Supreme Court's judgment of Engineering Analysis. Here, the petition before the High Court was preferred due to denial of Nil withholding tax on prospective payment of Rs.418 Cr. by holding the same to be in the nature of royalty. [Bombay High Court](#) overturned AAR ruling in a Mauritian SPV's case and held the capital gains arising on sale of stake in Mumbai International Airport Ltd. to a GKV Group company as exempt under Article 13(4) of India-Mauritius DTAA. [Mumbai ITAT](#) held that payments received by a US-based entity for providing access to Microsoft software to its group companies does not amount to royalty under the domestic law as well as India-US DTAA. [Delhi ITAT](#) granted stay to Amazon Web Services, Inc. against demand of Rs. 549 Cr for 180 days with a condition of payment of 10% of outstanding and a bank guarantee to cover further demand of 10%. Here ITAT considered Amazon's plea that it has a strong case as the receipts pertained to Cloud Computing Services for which different benches of the Tribunal have denied taxability as Royalty/FTS. In another case, [Delhi ITAT](#) held that subscription income received for providing access to online database is not taxable in India as royalty under Article 12(3) of India-US DTAA since the US-based company was neither the creator of the content put in the database nor did it transfer any copyright or licence to use the content of the database

On Transfer Pricing front, [Delhi ITAT](#) upheld the use of customs data under CUP method to benchmark transactions relating to import and export of agricultural commodities, explaining that with no tariff rates notified and absence of complete details of the differences arising out of contract terms and product quality, *the customs data being Govt. notified would provide a reasonable basis for arriving at the uncontrolled transaction price.* [Mumbai ITAT](#) deleted TP adjustment on cost allocation charges towards Central & Regional Support Services and Business Support Services after noting that cost allocation among group companies was on the basis of a well-accepted allocation key method.

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GST

- Government of Delhi issues SOP for Cancellation of Registration and creation of Repository of Non-genuine Taxpayers.



Customs & Excise

- Ministry of Finance issues clarification on Customs classification of Telecommunication products and equipment



Corporate & International Tax

- Government likely to notify exemption for certain category of investors from angel tax provisions

- OECD releases Fifth Peer Review Report under Action 6 of the OECD/G20 BEPS Project

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

US-India Strategic Partnership Forum www.usispf.org
US-India Tax Forum www.usindiataxforum.org

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