

Katalyst Kaleidoscope

October 2026: Tax and Regulatory Insights

SUMMARY OF CONTENTS

A. Income Tax Highlights.....	2
1. SC: AIF trust not taxable at maximum marginal rate merely because investors are not named in trust deed.....	2
2. Madras HC: Conversion of zero-coupon debentures into equity shares is constructive receipt of accrued interest.....	2
3. Telangana HC: Tax benefit alone does not trigger GAAR; set-off of loss on bonus share trades against slump sale gain upheld.....	3
4. Kolkata ITAT: Depreciation allowed on brands arising on demerger.....	4
5. Delhi ITAT: Mauritius tax residency certificate not conclusive, but Revenue must prove treaty abuse; matter remanded.....	4
6. Delhi ITAT: Gain on sale of offshore holding company owning Indian subsidiary not taxable in India under India-Ireland treaty.....	5
7. Delhi ITAT: Buyback of shares by Indian company from its Dutch parent not taxable in India as capital gains.....	6
B. Corporate Law Highlights.....	6
1. NCLT Bengaluru: Selective capital reduction approved for exit of one investor.....	6
2. NCLT Mumbai and Ahmedabad: Ten wholly owned subsidiaries amalgamated into Adani Power; tax dues to be settled within one year.....	7
C. SEBI and Other Highlights.....	7
1. SEBI Board approves new Portfolio Managers Regulations, 2026.....	7
2. SEBI Board approves Settlement Regulations, 2026 to replace the 2018 regulations.....	8
D. Goods and Service Tax Highlights.....	8
1. GST Council's 57th meeting: arrest powers to be withdrawn, blocked credits released and refunds automated.....	8

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A. Income Tax Highlights

1. SC: AIF trust not taxable at maximum marginal rate merely because investors are not named in trust deed¹

A trust whose beneficiaries are not determinate is taxed at the maximum marginal rate. Relying on a CBDT circular of 2014, the Board for Advance Rulings had held that a SEBI-registered Category III Alternative Investment Fund (AIF) set up as a trust would attract this rate because its trust deed did not name the investors or their shares. The Delhi High Court quashed that ruling, as covered in our edition of [August 2025](#), and the Supreme Court has now declined to interfere.

The High Court had reasoned that under the SEBI Act and the AIF Regulations, an AIF cannot accept investments before it is registered, so naming investors in the trust deed at the time of its execution is impossible and the law does not compel the impossible. Once investors are admitted and their contributions and shares become determinable under the contribution agreements, the beneficiaries are determinate and the maximum marginal rate does not apply. It also held that the circular cannot be applied in such circumstances.

This leaves the ruling undisturbed, bringing relief to AIF trusts that were exposed to tax at the maximum marginal rate.

2. Madras HC: Conversion of zero-coupon debentures into equity shares is constructive receipt of accrued interest²

A zero-coupon debenture pays no periodic interest; the return is the difference between the issue price and the redemption value, which builds up over its tenure. The question before the Madras High Court was when this accrued interest is taxed if the debentures are converted into equity shares before maturity.

The assessee held 5,006 zero-coupon convertible debentures of INR 1.00 Crore face value, issued in 2009 for nine years. In 2012, the issuer prematurely converted them into equity shares valued at INR 1.76 Crores, including accrued interest of INR 75.46 lakhs. TDS was deducted only on the interest accruing in that year, and the assessee offered only that year's interest to tax, not the balance of INR 61.97 lakhs relating to earlier years, contending that she followed the cash system of accounting, received no cash, and that conversion is not a 'transfer'. The Principal Commissioner of Income Tax revised the reassessment order for want of examination, and the Tribunal upheld the revision.

¹ Central Board of Direct Taxes v. Equity Intelligence AIF Trust & Anr., Supreme Court [Special Leave Petition (Civil) Diary No. 2801/2026], dated October 7, 2026

² Sanjay Saumya v. The Principal Commissioner of Income Tax, Coimbatore-1, Madras High Court [T.C.A. No. 151 of 2026], dated September 21, 2026

The High Court dismissed the assessee's appeal. On conversion, the issuer discharged its interest obligation by allotting shares, and income received in kind is taxable even under the cash system. A taxpayer cannot claim credit for TDS on the interest while disclaiming its taxability. Conversion is not a transfer for capital gains, but that does not change the character of the embedded interest. The plea of double taxation failed, as the interest taxed forms part of the cost of the shares. As the matter was only remanded to the Assessing Officer, the assessee can raise these issues there.

Katalyst comment:

Investors who convert deep-discount or zero-coupon instruments before maturity should examine the tax on accrued interest at the time of conversion, particularly where TDS has been deducted on only part of it.

3. Telangana HC: Tax benefit alone does not trigger GAAR; set-off of loss on bonus-share trades against slump sale gain upheld³

The assessee sold its apparel business as a going concern, resulting in a long-term capital gain. It then invested part of the surplus in shares of large listed companies, buying them before announced bonus issues and selling an equal number after the bonus shares were allotted, while continuing to hold the rest. The resulting short-term capital loss was set off against the gain on the slump sale. The GAAR Approving Panel held the share transactions to be an impermissible avoidance arrangement. As its directions cannot be appealed under the Act, the assessee approached the High Court through a writ petition.

The High Court set aside the panel's directions. Under the General Anti-Avoidance Rule (GAAR), the Revenue must prove that there is an "arrangement", that its main purpose is to obtain a tax benefit, and that at least one further condition, such as misuse or abuse of the Act, is met. The Court held that trades on a recognised stock exchange at market prices, with unknown counterparties and results outside the assessee's control, are not a pre-ordained scheme. The Panel had reasoned backwards from the tax benefit to the purpose, and ignored the assessee's commercial explanation and its continued holding of part of the shares.

The Court further held that set-off of a genuine loss is part of computing income, and that a tax benefit under GAAR is one obtained by circumventing the scheme of the Act, which was not the case here. The assessee had applied the rules on cost of bonus shares and the first-in-first-out method as prescribed, and dealing on a stock exchange is the most ordinary means of investing.

³ EKGE Retail LLP v. Assistant Commissioner of Income-tax, Central Circle-3(4), Hyderabad & Ors., Telangana High Court [Writ Petition No. 21210 of 2022], dated October 13, 2026

4. Kolkata ITAT: Depreciation allowed on brands arising on demerger⁴

The Kolkata ITAT has allowed Tata Consumer Products Limited depreciation on brands and a distribution network that arose on its demerger from Tata Chemicals Limited.

Under the scheme effective April 1, 2019, the assessee issued shares worth INR 6,099 Crores to the shareholders of Tata Chemicals. A merchant banker valued three brands and a distribution network in the books of Tata Consumer Products Ltd (not recorded in the books of Tata Chemicals), at INR 2,459 Crores and the balance as goodwill. The assessee claimed depreciation of INR 615 Crores on the brands and network and INR 891 Crores on goodwill. The Assessing Officer disallowed the claim, holding that a restructuring must be tax neutral and that depreciation is available only on intangibles in the demerged company's books.

The Tribunal allowed the claim. It held that the restriction to the demerged company's written down value does not apply to brands never recorded in its books and identified by the resulting company through expert reports and having acquired them for consideration, it is entitled to depreciation. On goodwill, the Tribunal followed Smifs Securities, noting that the later withdrawal of goodwill depreciation does not affect other intangibles. Rejecting the tax avoidance allegation, it observed that the Revenue could have invoked the provision to determine the actual cost of the assets, which it did not.

Katalyst comment:

Depreciation on Goodwill is no longer available, but brands and distribution networks identified on a demerger remain depreciable based on purchase price allocation.

5. Delhi ITAT: Mauritius tax residency certificate not conclusive, but Revenue must prove treaty abuse; matter remanded⁵

Emerging India Focus Funds, a Mauritius-resident Foreign Portfolio Investor, earned capital gains of INR 289 Crores in AY 2023-24 on redemption of mutual fund units, and claimed exemption under the India-Mauritius tax treaty. The Assessing Officer taxed INR 134 Crores on units acquired after April 1, 2017, and denied exemption on INR 125 Crores on earlier units, invoking the limitation of benefits clause as the licence of the assessee's controlling shareholder had been cancelled in April 2022.

On the first issue, the Tribunal followed its ruling in the assessee's own case for AY 2022-23 that units of mutual funds and shares are distinct securities, so the treaty provision on gains from shares does not apply to units.

⁴ Tata Consumer Products Limited v. ACIT, Circle 4(1), Kolkata, Kolkata ITAT [ITA No. 1604/KOL/2024], dated October 7, 2026

⁵ Emerging India Focus Funds v. ACIT, Circle International Tax 1(2)(2), Delhi ITAT [IT(IT)A No. 148/Del/2026], dated September 29, 2026

On treaty eligibility, the Revenue relied on the Supreme Court ruling in Tiger Global International II Holdings⁶. The Tribunal agreed that a tax residency certificate is necessary but not conclusive proof of residence. However, Tiger Global does not make every Mauritius entity without employees or an office a conduit; the Revenue must establish abuse, namely that control and decision-making lay elsewhere. As the assessee had no effective opportunity to rebut this, the issue was remanded to the Assessing Officer.

6. Delhi ITAT: Gain on sale of offshore holding company owning Indian subsidiary not taxable in India under India-Ireland treaty⁷

Can India tax an Irish company when it sells a foreign company that owns an Indian subsidiary? The Delhi ITAT has held that it cannot, under the India-Ireland tax treaty.

FireEye Ireland Limited, an Irish tax resident with over 150 employees, sold its holdings in seventeen group companies to another Irish group company in July 2021, as part of an internal restructuring. One of them was a US company that held an Indian subsidiary. The assessee disclosed the gain in its Indian return but claimed it was taxable only in Ireland under the treaty, where it was also exempt as an intra-group transfer. The Assessing Officer, upheld by the Dispute Resolution Panel, taxed the gain as an indirect transfer of the Indian company's shares, and argued that treaty relief should be denied as it led to double non-taxation.

The Tribunal deleted the addition. The treaty provision allowing India to tax gains on sale of shares applies only where the company whose shares are sold is resident in India or Ireland. Here, the shares sold were of a US company, so the gain fell under the residuary provision, which taxes it only in the seller's country. The treaty term 'alienation' cannot be read as the wider 'transfer' defined in Indian law, and India's indirect transfer rule, being a domestic deeming provision, cannot be read into the treaty.

On treaty abuse, the Tribunal found no evidence. The assessee had been in business since 2013 with real operations, and the agreement covered seventeen entities, so it was too narrow a view that the restructuring was done only to transfer the Indian company. Following its own orders for the earlier years, it also held that receipts from sale of standard software were not taxable as fees for technical services.

Katalyst comment:

The ruling rests on the wording of the India-Ireland treaty, and the order does not discuss the Supreme Court's Tiger Global ruling. Offshore holding structures should therefore be tested treaty by treaty.

⁶ AAR v. Tiger Global International II Holdings, Supreme Court, [2026] 485 ITR 214 (SC), dated January 15, 2026

⁷ FireEye Ireland Limited v. ACIT, Circle 1(3)(1), International Taxation, New Delhi, Delhi ITAT [IT(IT)A No. 1431/Del/2025], dated September 30, 2026

7. Delhi ITAT: Buyback of shares by Indian company from its Dutch parent not taxable in India as capital gains⁸

Perfetti Van Melle Holding B.V., a tax resident of the Netherlands holding 99.9% of Perfetti Van Melle India Private Limited, tendered its shares in a buyback and received INR 9.29 Crores, which was also its cost. The Assessing Officer taxed ~ INR 277 Crores as capital gains, on the ground that the buyback increased the value of the shares the assessee continued to hold; alternatively, he applied the deemed sale consideration provision for unquoted shares under the head capital gains.

The figure was arrived at by applying the value of INR 298.30 per share, as certified by the company, to the 92.91 lakh shares bought back, against the buyback price of only INR 10 per share. The Assessing Officer reasoned that the value so foregone by the assessee had accrued to the shares it continued to hold, and so was taxable.

The Tribunal allowed the appeal; the Revenue could not rebut the assessee's contentions that a shareholder's income from a buyback is exempt, and that a transfer of shares by a company to its wholly owned subsidiary, including through a buyback, is not taxed. Relying on the coordinate bench ruling in Huntsman Investment, the Tribunal also held that the gains from the buyback are not chargeable to tax in India under the India-Netherlands tax treaty.

B. Corporate Law Highlights

1. NCLT Bengaluru: Selective capital reduction approved for exit of one investor⁹

India1 Payments Limited cancelled the equity shares held by IDBI Trusteeship Company Limited, as trustee of India Advantage Fund S3 I, a venture capital fund in extended liquidation holding 27.92% of the company. The payout was adjusted against the securities premium account. The shareholders approved the reduction unanimously, and an independent valuer had valued the shares.

The Regional Director and the Registrar of Companies objected to the selective nature of the reduction, the use of the securities premium account and the valuation. The company responded that all other shareholders had no objection to the selective payout and that it had sufficient free cash. The Income Tax Department observed that withholding tax and capital gains may arise, and the RBI required a net worth of INR 100 Crores.

⁸ Perfetti Van Melle Holding B.V. v. ACIT/DCIT (International Taxation), Delhi ITAT [ITA No. 1804/Del/2023], dated October 7, 2026. The Tribunal relied on Huntsman Investment (Netherlands) BV v. ADIT (International Taxation), Delhi ITAT, [2026] 184 taxmann.com 602 (Delhi-Trib.), and the order refers to paragraphs 5 and 5A of Article 13 of the India-Netherlands tax treaty

⁹ NCLT Bengaluru Bench order dated September 18, 2026, in the matter of India1 Payments Limited, C.P. No. 128/BB/2025

Katalyst Kaleidoscope

October 2026: Tax and Regulatory Insights

The Tribunal accepted the proposal as the reduction was made in compliance with SEBI's directions and funded out of excess funds, and the investor had entered at a higher average price. It confirmed the reduction, directing compliance with the foreign exchange, RBI and tax provisions in making the payment.

2. NCLT Mumbai and Ahmedabad: Ten wholly owned subsidiaries amalgamated into Adani Power; tax dues to be settled within one year¹⁰

Adani Power Limited ("APL") has obtained the approval of the National Company Law Tribunal (NCLT) for merging its ten wholly owned subsidiaries into itself from April 1, 2025. As the subsidiaries are registered in different States, the scheme was approved by two Benches: Ahmedabad for the nine Gujarat-based subsidiaries on August 4, 2026, and Mumbai on September 24, 2026 for Vidarbha Industries Power Limited, a thermal power company that APL had acquired through the insolvency process.

Both Benches rejected the concerns raised by the regulators. The Regional Director pointed to the negative net worth of Vidarbha, but the Tribunal accepted that it was acquired on a clean-slate basis under the resolution plan and that APL's net worth remains positive. The Income Tax Department objected that the losses of one subsidiary, Resurgent Fuel Management Limited, would be set off against APL's profits, but the Tribunal noted that, not being an industrial undertaking, it cannot carry forward its losses on amalgamation.

The Tribunal clarified that the approval does not exempt the companies from stamp duty or taxes, and that all tax liabilities and litigation of the subsidiaries pass to APL. The Ahmedabad Bench further directed APL to complete the assessment and payment of the nine subsidiaries' pre-merger tax dues within one year, and to disclose the outstanding position in its next balance sheet.

C. SEBI and Other Highlights

1. SEBI Board approves new Portfolio Managers Regulations, 2026¹¹

At its meeting on September 24, 2026, the Securities and Exchange Board of India (SEBI) Board approved the SEBI (Portfolio Managers) Regulations, 2026, which will replace the 2020 Regulations once notified, following the draft released on July 23, 2026. The Regulations are shorter (at 33 pages against 70) and make the following key changes:

- **Wider investment options:** portfolio managers may invest in IPOs and primary market debt issues, and in foreign securities within FEMA and the Liberalised Remittance Scheme limits.

¹⁰ NCLT Mumbai Bench order dated September 24, 2026, in the matter of Vidarbha Industries Power Limited and Adani Power Limited, C.P. (CAA)/71(MB)/2026 in C.A. (CAA)/283(MB)/2025; and NCLT Ahmedabad Bench order dated August 4, 2026, in the matter of Adani Power Dahej Limited and others, C.P. (CAA)/9(AHM)/2026 in C.A. (CAA)/66(AHM)/2025

¹¹ SEBI Press Release No. PR 59/2026 dated September 24, 2026 (215th Board meeting)

Discretionary managers may put up to 10% of client assets in investment-grade unlisted debt and take derivatives exposure up to 1.25 times client assets.

- **Investing through mutual funds:** managers may invest client funds in direct plans of mutual funds, with a minimum ticket size of INR 25 lakhs. Entities operating only through this route can register separately, with a net worth of INR 2 Crores and a fixed fee capped at 1% of assets.
- **Independent fund managers:** they may manage client portfolios in association with a registered portfolio manager, who remains fully responsible, and clients get an exit option if the manager leaves.
- **Easier compliance:** graduates can be Principal Officers, a dealing room is not required for managers with assets under INR 100 Crores, and a standard investment management agreement is introduced.

2. SEBI Board approves Settlement Regulations, 2026 to replace the 2018 regulations¹²

The SEBI Board has approved the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2026, retaining the key features of the draft covered in our [August 2026 edition](#). The regulations come into force on the day after the 30th day from notification. The additional points are:

- **Interest on disgorgement:** interest is charged at 9% per annum from the date of the violation, till the application is filed for pending matters and till the final order for others, and at 12% thereafter till the application is filed.
- **Wider scope:** misrepresentation of financial statements and diversion of funds can be settled, subject to remedial terms such as bringing back diverted funds.
- **One-time window:** entities whose applications were rejected, withdrawn or returned under the 2018 regulations may apply within 90 days of commencement, with an additional 20% of the settlement amount.

¹² SEBI Press Release No. PR 59/2026 dated September 24, 2026 (215th Board meeting)

D. Goods and Service Tax Highlights**1. GST Council's 57th meeting: arrest powers to be withdrawn, blocked credits released and refunds automated**

At its 57th meeting held on October 8, 2026, the GST Council recommended changes to simplify procedures, strengthen automation, rationalise compliance and remove long-standing restrictions on input tax credit (ITC) and refunds. These are recommendations only; they will take effect through notifications, circulars and amendments to the law, on dates to be notified, except where a date is mentioned below. The key recommendations are:

- **Arrest and prosecution:** the power of arrest under the GST law is to be withdrawn completely. The monetary threshold for prosecution is to rise from INR 1 Crore to INR 5 Crores, and the minimum punishment is to be removed, leaving the sentence to the court's discretion in every case.
- **Credit that was blocked:** ITC is to be allowed on health and life insurance taken for employees, telecommunication towers and pipelines laid outside the factory, free samples, and stock written off on expiry of shelf life where the law requires the goods to be destroyed.
- **Credit for the same line of business:** ITC is to be allowed on restaurant and catering services, hotel stays (up to INR 7,500 per unit per day) and gym and fitness services when used for the same line of business, as is already allowed for passenger transport, tour operator and motor vehicle rental services. A mechanism is also to be provided to file an objection and obtain a personal hearing where credit is blocked in the electronic credit ledger.
- **Refunds without officer intervention:** 90% of the refund claimed on zero-rated supplies and inverted duty structure is to be sanctioned provisionally by the system, and any excess balance in the electronic cash ledger is to be refunded in full. The 90% provisional refund for exporters was covered in our [September 2025 edition](#), and its extension to inverted duty structure in our [February 2026 edition](#).
- **Wider scope of refunds:** refunds are to be extended to accumulated ITC on input services and capital goods under inverted duty structure, and on capital goods for zero-rated supplies. Refund of credit on input services applies to credit availed on or after November 1, 2026, and of credit on capital goods, spread over 60 months, to credit availed on or after April 1, 2027. The cap on refund for zero-rated supplies of goods, at 1.5 times the value of like goods supplied domestically, is also to be removed.
- **E-way bill:** goods in transit can be inspected, detained or seized only in the State where the supplier or recipient is located or registered, and not in transit States, except where no e-way bill has been generated. A conveyance can be intercepted only on specific intelligence with

the prior approval of an officer of the rank of Joint Commissioner or above, and goods or conveyances in transit cannot be confiscated.

- **Export of services:** services to a foreign branch or office of the same entity can qualify as exports, as the condition that the supplier and recipient should not be merely establishments of a distinct person is to be removed. Where the recipient makes goods physically available to the supplier, the place of supply will be the recipient's location, so that testing and repair services provided in India to a recipient outside India will be exports. Supplies to special economic zones and free trade warehousing zones on behalf of overseas buyers are to be zero-rated, and a circular is to clarify that payment may be received in foreign exchange or Indian rupees.
- **Penalties and appeals:** the general penalty is to be reduced from INR 25,000 to INR 10,000, and the penalty in non-fraud cases to 5% if the tax, interest and penalty are paid within 30 days of the order under section 73 or 60 days under section 74A. No show cause notice will be issued where the disputed tax is below INR 10,000, including in pending matters, and the pre-deposit for appeals in penalty-only cases is capped at INR 40 Crores. This builds on the pre-deposit for penalty-only appeals covered in our [Union Budget 2025-26 edition](#).
- **Notices covering multiple years:** a validation clause is to be introduced in the CGST Act for notices covering multiple financial years, which courts had held to be invalid, as covered in our [December 2025](#), [February 2026](#) and [April 2026](#) editions.
- **E-invoicing and intellectual property:** e-invoices are to be raised for reverse charge supplies from unregistered persons and for imports of services, for taxpayers with turnover of INR 5 Crores or more. Transfer of title in intellectual property rights, whether temporary or permanent, is to be treated as a supply of services.
- **Returns from April 2027:** FORM GSTR-1, GSTR-1A and the invoice furnishing facility are to be enhanced for better reconciliation with GSTR-3B, and an electronic statement of tax paid under reverse charge and ITC claimed is to be introduced on the portal. GSTR-1 and GSTR-3B are to be aligned with the statutory time limits for ITC, with invoice-level mapping for payments made through FORM DRC-03. A circular is to clarify the reporting and reversal of ITC, the Invoice Management System, the electronic credit reversal and reclaim statement and the tracking of reverse charge payments.
- **Registration, amendment and cancellation:** registration is to be largely automated. The automatic route continues for applicants who will pass on ITC of up to INR 2.5 lakh a month, and small out-of-state suppliers selling through e-commerce operators can register using the operator's warehouse as their principal place of business, within the same limit. Most amendments will be approved automatically, except a change of principal place of business, which is also automatic for taxpayers under the automatic route. Cancellation requests will be approved automatically once dues and returns are cleared, at first where monthly ITC stayed

below INR 2.5 lakh or the final return was filed on time, and later for all requests. Certain grounds on which officers could cancel registration are to be removed, and system-based cancellations and restorations for defaults such as missing returns or bank details will happen automatically once compliance is made good.

Katalyst comment:

Withdrawing arrest powers and raising the prosecution threshold is a welcome step towards a transparent, trust-based investigation regime. Releasing blocked credits and allowing credit for the same line of business will reduce the cascading of tax and ensure a smoother flow of credit across the supply chain.

The refund changes remove the blockage of credit and ease working capital, but the relief is gradual and prospective. Refund of credit on input services applies only to credit availed from November 1, 2026, so credit accumulated earlier stays blocked, and refund of credit on capital goods applies from April 1, 2027 and is spread over 60 months. Businesses should plan cash flows accordingly. Treating services to foreign branches as exports will help Indian service providers supplying to or through their overseas offices, and automation of registration, amendment and cancellation will reduce interaction with officers.