KATALYST ADVISORS

# Katalyst Kaleidoscope

December 2025: Tax and Regulatory Insights

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## A. Income Tax Highlights

### 1. Mumbai ITAT: Sale of shares taxable as capital gains in absence of non-compete consideration[1]

The assessee held less than 4% shares in the company, which were acquired when he was a minor and held as long-term investments. The assessee sold the shares pursuant to a share purchase agreement under which a foreign buyer acquired majority shareholding in the company and offered the gains to tax as long-term capital gains. The Assessing Officer, however, treated the entire consideration as business income, alleging that the transaction amounted to transfer of business and that the non-compete clause in the agreement warranted such treatment.

The Mumbai ITAT noted that the assessee was merely a shareholder and was not involved in the management or business affairs of the company. It further observed that the assessee had received consideration solely for transfer of shares, with no part of the consideration attributable to the non-compete clause under the agreement. In the absence of any consideration for refraining from carrying on business, the Tribunal held that the receipt could not be characterised as business income. Accordingly, the consideration received on sale of shares was held to be taxable as capital gains.

### 2. Delhi ITAT: Concessional tax rate under section 115BAA applies to total income including long-term capital gains[2]

The assessee, a domestic company, had exercised the option to be taxed under the concessional corporate tax regime by filing Form 10-IC under section 115BAA. In the relevant assessment year, the assessee earned long-term capital gains on sale of land and applied the tax rate of 20% under section 112 on such gains. The Delhi ITAT held that once an assessee opts for taxation under section 115BAA, the rate prescribed therein applies to the total income of the company. Accordingly, long-term capital gains also form part of total income taxable at the concessional rate of 22%, and a separate rate under section 112 cannot be applied.

***Katalyst comment:***

*This decision appears to ignore the principle that a special provision overrides a general provision; as such the special tax rates prescribed for capital gains should continue to apply to such income.*

### 3. Delhi ITAT: Capital Reduction valuation to be tested on transfer date and section 50CA is inapplicable where consideration exceeds FMV[3]

[1] Ravi Shroff v. ACIT [2025] 180 taxmann.com 392 (Mumbai Tribunal), dt. November 7, 2025
[2] Maharishi Education Corporation P. Ltd. v. ITO 179 taxmann.com 698 (Delhi - Trib.) dt. October 24, 2025

[3] RBS AA Holdings (Netherlands) B.V., v DCIT, ITA No.2261/Del/2022 dt. December 19, 2025

The Delhi ITAT examined the tax treatment of a capital reduction involving unlisted shares, where the assessee had computed a long-term capital loss by adopting the actual consideration received pursuant to an NCLT-approved reduction and the proportionate cost of acquisition based on the price paid under a duly executed share purchase agreement. The Assessing Officer rejected this approach by determining fair market value with reference to the last audited balance sheet date, invoking Section 50CA, and substituting the actual acquisition cost with the face value of shares, alleging a tax avoidance arrangement.

The Tribunal held that for the purposes of Section 50CA, fair market value must be determined strictly as on the actual date of transfer in accordance with Rule 11UAA, and not with reference to an earlier balance sheet date. Since the consideration received exceeded the FMV determined on the transfer date, Section 50CA was held to be inapplicable. The Tribunal further accepted the cost of acquisition as per the share purchase agreement and rejected the adoption of face value, holding that a capital reduction undertaken pursuant to NCLT approval cannot, by itself, be characterised as a colourable device. Accordingly, the long-term capital loss claimed by the assessee was upheld.

***Katalyst comment:***

*While there is some basis for the reasoning adopted by the Tribunal, the requirement to determine fair market value strictly as on the date of transfer raises practical challenges, as it may not be feasible for companies to close and finalize accounts at or near the date of transfer.*

### 4. SC: Non-compete payments allowable as revenue; depreciation available if treated as capital[4]

The Supreme Court examined whether a non-compete fee paid by an assessee constitutes revenue or capital expenditure, and whether such payment, if treated as capital, qualifies as a depreciable intangible asset. The appeals arose from conflicting High Court decisions, including a view that non-compete rights were merely personal rights and therefore not eligible for depreciation. The Court held that the purpose and commercial effect of the payment is determinative. Where a non-compete fee is paid to facilitate the efficient conduct of business, protect an existing business, or enhance profitability, without creating a new asset or a new profit-earning apparatus, such expenditure would be allowable as revenue expenditure under section 37(1). The Court rejected distinctions between rights in rem and rights in personam, as well as between positive and negative rights, and held that non-compete rights have independent commercial value and business utility. The Court clarified that while such payments may qualify as revenue expenditure depending on the facts, even where a non-compete payment is regarded as capital expenditure and depreciation must be allowed in such cases.

[4] Sharp Business System [TS-1685-SC-2025] vs Commissioner of Income Tax -III. dt. November 11, 2025

### 5. Mumbai HC: GAAR invocation stayed in NCLT-sanctioned demerger transaction[5]

The background of the case is that there was a demerger of an undertaking of NXT Digital Ltd with Hinduja Global Solutions Limited ("HGSL") in 2022, and there were substantial losses of the demerged undertaking which were sought to be set off by HGSL. The tax department invoked GAAR, with the approval of the Approving Panel, and a writ petition was filed by HGSL (*more details covered in the November 2025 issue of Katalyst Kaleidoscope*).

In the above context the Bombay High Court granted interim relief by staying the invocation of GAAR. Prior to sanction of the scheme, the Income-tax Authorities were duly notified and no objections were raised. Notwithstanding the same, a reference under section 144BA and consequential directions invoking GAAR were subsequently issued.

The Court noted that the petition raised arguable issues, particularly in light of section 72A(4), which expressly permits the transfer of accumulated losses and unabsorbed depreciation of a demerged undertaking. It was contended that where such a transfer is specifically allowed by statute and the demerger has been approved by the competent authority after due notice, invocation of GAAR may not be justified. Taking note of these contentions and the absence of any appellate remedy against GAAR directions, the Court held that a strong prima facie case was made out and granted interim stay of the impugned proceedings. The matter has not yet been finally adjudicated.

***Katalyst comment:***

*The order underscores that GAAR should not be invoked mechanically in restructuring transactions approved by a competent authority and expressly recognized under the tax statute; the final outcome may have wider implications for tax-neutral demergers.*

[5] Hinduja Global Solutions Limited vs PCIT, Central-1, Mumbai [writ petition 4867 OF 2025] dt. December 19, 2025

## B. Corporate Law Highlights

### 1. MCA Notification: Revised Thresholds for Classification as Small Company[6]

The MCA has substantially enhanced the financial thresholds for classification as a small company. The earlier and revised limits for paid-up share capital and turnover are summarized below:

| Particulars | Earlier thresholds | Revised thresholds (w.e.f. December 1, 2025) |
|---|---|---|
| **Applicable to** | Company other than a public company | |
| **Paid-up Share Capital** | Not exceeding INR 2 crores | Not exceeding INR 10 crores |
| **Turnover** | Not exceeding INR 20 crores | Not exceeding INR 100 crores |

***Katalyst comment:***

*The substantial enhancement of the thresholds significantly expands the scope of companies qualifying as small companies, thereby easing compliance requirements and reducing regulatory burden for a large number of entities. By expanding eligibility under Section 233, several mergers are expected to shift to the Regional Director route, minimizing delays and significantly reducing the burden on the NCLT.*

### 2. NCLT sanctions cross-border intra-group amalgamation of Flipkart's Singapore entities[7]

The NCLT, Principal Bench, has sanctioned a composite scheme of amalgamation involving Flipkart Internet Private Limited, India ("Transferee Company"), and its Singapore-incorporated group entities. Flipkart Private Limited ("Holding Company") was the ultimate holding company and held 100% shareholding in seven Singapore-based subsidiaries. These subsidiaries, together with the Holding Company, indirectly held the entire shareholding in the Transferee Company. Under the scheme, the seven wholly owned Singapore subsidiaries were first merged into the Transferee Company, followed by the amalgamation of the Holding Company into the Transferee Company. As a result, the Transferee Company became the sole surviving entity.

The Tribunal noted that the scheme was an intra-group restructuring aimed at simplifying the overseas holding structure and eliminating multiple layers of foreign entities. The Regional Director observed that applicable compliances under the cross-border merger framework and FEMA would be required. The Transferee Company clarified that the scheme was deemed approved by the RBI under the Cross Border Merger Regulations and undertook to comply with

[6] MCA Notification no 794 of 2025, dt. December 1, 2025
[7] Flipkart Internet Pvt. Ltd. [LSI-1787-NCLT-2025-(NDEL)], dt. December 12, 2025

post-effectiveness conditions. The Tribunal also recorded that the scheme was exempt from notification to the Competition Commission of India as an intra-group merger, and that the Income-tax Department raised no objections, confirming that the scheme complied with tax laws and did not involve any tax avoidance.

### 3. NFRA – statutory mandate and expanding regulatory oversight.

NFRA has been set up in pursuance of Section 132 of the Companies Act and has wide ranging powers, including making recommendations to the Government on laying down on accounting and auditing policies and standards for adoption of companies, overseeing the quality of auditing and related professions and having the power of investigation on companies in certain situations. Clearly, NFRA has become a major player in the eco system, especially for listed companies.

In this context, given below is the link to the NFRA Annual Report 2024-2025 published in December 2025.

NFRA Annual Report 2024-25 | National Financial Reporting Authority | India

### 4. ROC Mumbai penalizes excess interim dividend declaration violating statutory limits.[8]

The Registrar of Companies, Mumbai, passed an adjudication order imposing penalties on a private company and its officers in default for contravention of Section 123(3) of the Companies Act, 2013. The company had declared an interim dividend in a board meeting, purportedly out of profits generated during the financial year up to the quarter preceding the date of declaration. However, during the statutory audit, the provision for tax was revised, resulting in a reduction of the profits for the relevant quarter and revealing that the interim dividend declared exceeded the permissible limits prescribed under the Act.

The ROC observed that the excess declaration of interim dividend was attributable to a miscalculation of tax provisions by the management, which led to an overstatement of profits for the preceding quarter. The ROC further noted that where profits for the relevant period stand reduced, the rate of interim dividend cannot exceed the average rate of dividends declared during the immediately preceding three financial years. Holding that such declaration and distribution of excess interim dividend was in contravention of Section 123(3), the ROC imposed penalties on the company and its officers in default under Section 450 of the Companies Act, 2013.

[8] ROC Order - East Bridge Advisors Private Limited - Order ID: PO/ADJ/12-2025/MB/01029, dt. December 5, 2025

## C. SEBI Highlights and Others

### 1. SEBI Overhauls Informal Guidance Framework: Wider Access and Centralized Digital Process.[9]

The SEBI (Informal Guidance) Scheme, 2025 revises the earlier framework and introduces changes across eligibility, process and timelines. A comparative snapshot of the key differences is set out below:

| Criteria | Old Framework – SEBI (Informal Guidance) Scheme, 2003 | Amended Framework – SEBI (Informal Guidance) Scheme, 2025 |
|---|---|---|
| **Eligible Applicants** | Intermediaries registered with SEBI, listed companies, prospective issuers, mutual fund trustees / AMCs, acquirers under SAST Regulations | Expanded to also include AIF managers / trustees of pooled investment vehicles, recognized stock exchanges; clearing corporations; depositories |
| **Mode of Filing** | Addressed to the concerned SEBI department | Mandatory electronic filing by email to SEBI's Nodal Coordination Cell |
| **Application Format** | No standard prescribed format | Mandatory filing in Schedule-I format |
| **Application Fee** | ₹25,000 | ₹50,000 |
| **Timeline for SEBI Response** | Indicative 60 days from receipt of request | 60 days, excluding time taken by applicant to provide clarifications |
| **Timeline for submission of clarifications by the applicant** | No prescribed timeline | Applicant must respond within 15 days; one extension of 15 days may be granted |
| **Refund on Rejection** | Refund after deduction of ₹5,000 as processing fee | Refund after deduction of ₹10,000 as processing fee |
| **Confidentiality** | Confidential treatment up to 90 days | Confidential treatment up to 90 days; option to redact commercially sensitive information |

[9] Securities and Exchange Board of India (Informal Guidance) Scheme, dt. November 18, 2025

***Katalyst comment:***

*The revised framework expands access to informal guidance while introducing a more structured and centralized application process, with clearer timelines and disclosure requirements. This is expected to bring greater procedural certainty and consistency in SEBI's informal guidance mechanism, without altering its non-binding nature.*

## 2. SEBI proposes standardized AIF drawdown and distribution norms[10]

SEBI has issued a draft circular dated November 7, 2025 seeking public comments on clarifying and standardising drawdown and distribution mechanisms for Alternative Investment Funds (AIFs), pursuant to the 2024 amendments mandating pro-rata and pari-passu investor rights. The draft seeks to address ambiguity in capital calls and distribution practices by prescribing uniform operational modalities, in response to industry representations highlighting inconsistent approaches, particularly in cases involving investor exclusions and changes in the basis of pro-rata computation during a scheme's tenure.

Under the draft framework, AIFs must adopt either commitment or undrawn commitment as the basis for pro-rata drawdowns, disclose the chosen methodology upfront in the PPM, and apply it consistently throughout the scheme tenure. Distributions are required to be pro-rata to an investor's contribution to the relevant investment, including on a time-weighted basis where disclosed. Existing schemes may continue with their current drawdown methodology, while other schemes must align future drawdowns with the prescribed approaches, without such alignment being treated as a material change. Distributions in respect of investments made on or before December 13, 2024 may continue in accordance with existing distribution waterfalls. The draft also restricts reallocation of unutilised commitments under excuse or exclusion clauses, limits drawdown practices resulting in disproportionate exposure or concentration breaches, clarifies the position for open-ended Category III AIFs, and excludes carried interest and performance-linked profit sharing from pro-rata distribution requirement.

## 3. SEBI revamps block deal framework with fixed windows and T+0 alignment[11]

The SEBI Circular dated October 8, 2025 revises the existing Block Deal Framework under the SEBI Master Circular issued in December 30, 2024. The revisions seek to enhance price discovery and execution certainty for large trades, while also harmonizing the framework to accommodate

[10] SEBI draft circular for public comments, dt. November 7, 2025
[11] SEBI circular on block trade; circular no SEBI/HO/MRD/POD-III/CIR/P/2025/134 dt. October 8, 2025

block deals executed under the optional T+0 settlement cycle; the key changes introduced by the revised framework, as compared to the earlier regime, are set out below.

| Criteria | Earlier Framework | Revised Framework |
|---|---|---|
| **Trading hours for block deal mechanism** | Trading hours not expressly standardized; block deal windows operated within normal market hours | Stock exchanges may set trading hours between 08:45 AM and 05:00 PM, with block deals permitted only during specified windows |
| **Permissible price range** | Orders permitted within ±1% of the applicable reference price | Expanded to ±3% of the applicable reference price (subject to surveillance and price bands) |
| **Minimum order size** | ₹10 crore | Increased to ₹25 crore |
| **Treatment of block deals under optional T+0 settlement** | Separate and standalone block deal mechanism prescribed for optional T+0 settlement | Integrated into the general block deal framework |
| **Relationship between T+1 and T+0 block deals** | T+0 block deal window operated separately from block deal windows applicable to T+1 settlement | Single, unified framework applicable to both T+1 and optional T+0 settlement cycles |
| **Pricing, size and execution norms for T+0** | Governed separately under the T+0 block deal mechanism | Same pricing, minimum order size, delivery, disclosure norms apply |

## 4. SAT holds RPT materiality under LODR to be assessed on an aggregated basis[12]

The Securities Appellate Tribunal has upheld SEBI's interpretation that materiality of related party transactions (RPTs) under Regulation 23 of the SEBI (LODR) Regulations must be assessed on an aggregate basis, covering all transactions entered into with a related party during a financial year. The Tribunal rejected the contention that materiality can be evaluated contract-wise, holding that such an approach would undermine the intent of transparency and shareholder protection embedded in the LODR framework.

Significantly, the Tribunal held that a business transfer or business allocation arrangement between a listed entity and its joint venture entity constitutes an RPT, given the existence of equity participation and joint control. Such arrangements were characterised as involving the transfer of a profit-making apparatus and therefore required to be assessed based on their economic substance and valuation impact. Where the aggregated value of such transactions crosses the prescribed thresholds, prior shareholder approval is mandatory. The ruling reinforces a substance-over-form approach and clarifies that business transfers or allocations under joint

[12] Linde India Ltd. vs Securities and Exchange Board of India [LSI-1770-SAT-2025-(MUM)], dt. December 5, 2025

venture structures cannot be used to dilute aggregation and approval requirements under the LODR regime.

### 5. Securities Market Code (SMC) Bill, 2025 tabled in Parliament[13]

The finance minister tabled on Thursday, December 18, 2025 the SMC Bill, 2025 in the Lok Sabha, proposing a sweeping consolidation of the Companies Securities Law. The Bill seeks to merge 3 existing legislations into a single unified code; these 3 are SCRA 1956, SEBI Act 1992 and the Depositories Act 1996. This was first proposed in the Union Budget of 2021-2022 and is aimed at reducing overlaps, removing obsolete provisions and aligning legislations; it also seeks to strengthen the regulatory architecture, enhance investor protection and improve Ease of Doing Business in the capital market.

This will have wide ranging implications on capital markets, and whilst one will have to wait to see the final form in which this legislation is enacted, in the meantime, here are a few key aspects of the Code:

- The strength of the SEBI Board will increase from 9 to 15 members; it seems to open up some window for broadening the entry of non-government members into the Board.
- It provides for inter regulatory co-ordination and introducing regulatory sandboxes to facilitate innovation in financial products.
- There is a provision for SEBI to follow a transparent process for subordinate legislations, periodic reviews of regulations and carry out Regulatory impact assessments.
- There is also a provision to address conflicts of interest by requiring SEBI board members to disclose any "direct or indirect interests" when participating in decision making.
- The Court seeks to decriminalize contraventions of a minor, procedural or technical nature by converting them into civil penalties. At the same time, it enhances punishment for market abuse, including jail term up-to 10 years and proposes to include such abuses in PMLA.
- The Code seeks to mandate SEBI to special an investor charter outlining key principles and facilitating investor participation in the investor market.

### 6. Requirement for probate done away with[14]

The Repealing and amending Act, 2025 has repealed a few Acts (such as The Indian Tramways Act, 1886) and also released several Amending Acts; in addition, it has repealed several amending Acts, and amended certain others. The Statement of Objects and reasons to this Act mentions that this is a periodical measure to repeal old and obsolete such laws.

[13] Securities Market Code (SMC) Bill, 2025, dt. December 18, 2025
[14] Repealing and Amending Act, 2025 passed by Rajya Sabha on December 17, 2025

Additionally, a few Acts have also been amended and one such important one is whereby the requirement obtain a probate is done away with. The rationale mentioned is that Section 213 of the Indian Succession Act, 1925 is discriminatory in the sense it requires Hindus, Jains and a couple of other communities to obtain a probate if the will is made in certain states, and in certain other circumstances, if a will is made outside those states also.

### 7. Supreme Court bars title challenge by long-standing tenants; eviction upheld[15]

The Supreme Court reiterated that a tenant who entered into possession under a valid tenancy cannot dispute the title of the landlord or a lawful successor. In eviction proceedings, the landlord is not required to prove ownership in a highly technical manner; it is sufficient to show that they have lawfully stepped into the position of the earlier landlord. Succession through a Will, particularly when supported by a probate order, is treated as adequate proof, and the tenant cannot insist on strict ownership evidence to resist eviction.

The Court further clarified that attornment of tenancy need not be express or formal and can be inferred from conduct, such as continued payment or collection of rent and issuance of notices asserting succession. Where a tenant has occupied the premises for decades and has consistently paid rent to the landlord or their successors, the tenant cannot later dispute the landlord's ownership, especially when such challenge is raised only after eviction proceedings are initiated.

On facts, the Court found the landlord's requirement to be genuine, as it was based on the expansion of an existing family business. The Court also observed that the lower courts had ignored material evidence and relied on assumptions rather than the record. Accordingly, the Supreme Court set aside the earlier decisions, allowed the eviction, directed payment of rent arrears, and granted limited time to vacate considering the long-standing nature of the tenancy.

## D. Goods and Service Tax Highlights

### 1. Karnataka HC[16] holds consolidated GST SCNs covering multiple financial years to be invalid.

Under this case, one consolidated SCN was issued for alleged wrong availment of input tax credit (ITC) of ~ 12 crores including tax, interest, and penalty. In this regard, the Karnataka HC quashed the composite SCN for F.Y.2019-20 to F.Y.2023-24 and the department was granted liberty to issue separate year-wise notices in accordance with Law and limitation; the HC also held that-

[15] Jyoti Sharma vs Vishnu Goyal & Anr, [Special Leave Petition (C) No.29500 of 2024]; dt. September 11, 2025
[16] Pramur Homes and Shelters v. Union of India & Ors.TS-1011-HC(KAR)-2025-GST dated December 11, 2025

1) **SCNs are without jurisdiction:** The clubbing or consolidating multiple financial years in a single SCN is illegal, invalid, impermissible, and contrary to the CGST/KGST Act.
2) **Violation of Principles of Natural Justice**: Each financial year involves different turnovers, ITC positions, contracts, amendments in law, and reconciliations. A single SCN deprives taxpayers of the **right** to provide year-wise explanations and defences.
3) **Distinction between section 73 and 74 cannot be blurred:** Issuance of one SCN for multiple years **enables** the department to wrongly invoke Section 74 (fraud cases with 5-year limitation) for all years, even where Section 73 (non-fraud, 3-year limitation) applies**.**
4) **ITC entitlement is financial year specific:** Time limit to claim ITC is financial year specific as per section 16(4) of the CGST Act. A consolidated allegation of "wrong ITC for five years" is **conceptually** wrong and legally unsustainable.
5) **Section 74A Reinforces Year-Wise Assessment:** Section 74A (effective from November 1, 2024) was introduced to reinforce legislative intent that GST determinations are intrinsically financial-year specific.

***Katalyst comments:***

*A welcome judgement by the Karnataka HC. In a similar case, the Bombay HC[17] (Goa Bench) has also quashed the consolidated SCNs issued for multiple assessment years against two developers, which proposed GST demand and recovery of ineligible ITC on construction services rendered to landowners. The HC also held such consolidation as "without jurisdiction" and termed it as "a judicial overreach."*

## 2. Kerala HC[18] directs GST authorities to proceed against suppliers before denying ITC to recipients

An SCN was issued to a bona fide purchasing dealer for FY 2019–20, wherein ITC reversal was proposed solely because selling dealers failed to upload outward supplies or remit tax. In this regard, the Kerala HC has held that a purchaser who has paid tax in good faith and holds valid tax invoices and e-way bills should not be penalized solely because the seller failed to deposit the tax with the government. The authorities must follow the procedures in Section 42, which involves communicating discrepancies to both the supplier and the recipient before disallowing credit. Accordingly, the HC quashed the SCN, directing that recovery must first be attempted from the suppliers first.

[17] Milroc Good Earth Developers vs UOI & ors [TS-871-HC(BOM)-2025-GST] dated October 23, 2025
[18] K.V. Joshy & C.K. Paul v. Assistant Commissioner, Central Tax & Central Excise, Chalakudy & Ors. [TS-984-HC(KER)-2025-GST] dated December 5, 2025

### 3. Delhi HC[19] holds GST demands for the pre-resolution plan period to be unsustainable.

The Delhi High Court held that the effective date of approval of Patanjali's final resolution plan of under section 31 of the IBC was September 4, 2019, not July 24, 2019, as only the former reflected NCLT's complete and final approval; consequently, GST demands pertaining to the period prior to September 4, 2019 were set aside. Further, the Revenue was directed to undertake a fresh GST assessment only for the period after September 4, 2019, reinforcing the principle that tax authorities cannot reopen or enforce claims relating to periods covered by an approved resolution plan.

[19] Patanjali Foods Limited vs Assistant Commissioner CGST Narela Division & ors. [TS-1005-HC(DEL)-2025-GST] dated December 12, 2025