KATALYST
ADVISORS

Katalyst Kaleidoscope

September 2026: Tax and Regulatory Insights

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A. Income Tax Highlights

1. Mumbai ITAT: Sequential family and external transactions for transfer of shares cannot be treated as a composite transaction so as to substitute higher price for earlier transfers[1]

The facts of the case are as follows:

- The assessee, an individual holding substantial equity in an unlisted company ("Target Co.") part of the Bharat Serums and Vaccines group, transferred shares of the company to a family-owned company ("Unlisted Co.") in September 2019 at INR 265 per share, pursuant to internal restructuring.
- Subsequently, the promoters entered into an agreement in November 2019 with the Advent group ("Acquirer") for acquisition of the Target Co.'s shareholding through the Unlisted Co., laying down a pricing methodology contingent on conditions precedent, due diligence and closing.
- In February 2020, upon fulfilment of contractual conditions, the Acquirer infused capital and acquired control of the Unlisted Co.
- The assessee transferred further shares of the Target Co. to the Unlisted Co. at ~INR 1,900 per share.

The Assessing Officer alleged that both transfers formed part of a single pre-arranged scheme, citing newspaper reports from June 2019 regarding acquisition talks. Disregarding the actual consideration of INR 265 share for the September 2019 transfer, the Assessing Officer substituted the subsequent price of ~INR 1,900 per share for the September transfer, making an addition of approx. INR 97 Crores.

Section 48 of the Income Tax Act, 1961[2], while prescribing the mode of computation of capital gains, specifically employs the expression 'the full value of the consideration received or accruing as a result of the transfer of the capital asset'. The legislative emphasis, therefore, is on the consideration which actually accrues or is received as a consequence of a particular transfer. The Act also provides for a mechanism dealing with transfer of unquoted shares and has prescribed the circumstances in which the declared consideration can be replaced by the prescribed 'fair market value', when consideration received is below the fair market value (being adjusted net book value); however, the transfer in September 2019 was at a consideration higher than the prescribed fair market value, and hence, a substitution of consideration is not warranted.

The Tribunal observed that the documentary evidence consistently supports the assessee's explanation that the transfer effected in September 2019 and the transfer completed in February 2020 constituted two independent commercial transactions, each governed by its own factual background and contractual framework. Newspaper reports appearing in June 2019 indicated that negotiations with the Acquirer were in progress, but that cannot constitute evidence of a

[1] DCIT v Bhavna Bharat Daftary, Mumbai ITAT [It Appeal No. 9520 (MUM) OF 2025], dated August 17, 2026

[2] Section 72 of Income Tax Act, 2025

concluded contract or establish that the sale consideration stood irrevocably determined months before the execution of the Definitive Agreement itself.

The Mumbai ITAT thus rejected the Assessing Officer's substitution of sale consideration of the September 2019 transaction with reference to the subsequent transfer in February 2020, and deleted the addition.

2. Bangalore ITAT: Success fee paid to advisor for disinvestment allowed as deduction from taxable capital gains[3]

The individual assessee sold shares of a private company, in which he was a promoter. While computing capital gains, the assessee claimed success fee, paid to a transaction advisor for identifying investors, negotiating terms, coordinating due diligence and facilitating the transaction, as selling expenses, and offered the net capital gains to tax. The claim was disallowed by the Assessing Officer on the grounds that the engagement was with the company, the buyer did not engage any intermediary, and the consultant had not introduced the purchaser.

However, the Tribunal found that the engagement letter, invoices, confirmation issued by the consultant, payment through the assessee's personal bank account, and contemporaneous email correspondence established that the consultant had rendered advisory services in connection with the divestment of the assessee's shareholding and that the success fee had been offered to tax by the advisor.

The Tribunal concluded that the expenditure had a direct nexus with the transfer of shares and therefore qualified for a deduction while computing capital gains.

3. Mumbai ITAT: PMS fees allowable as a deduction while computing capital gains[4]

The assessee claimed portfolio management services fees / charges as a deduction while computing capital gains. The Assessing Officer disallowed such deduction, holding that such expenditure represented fees paid to a portfolio manager for activities relating to purchase and sale of securities and allied services, and that such fees were not directly relatable to the cost of acquisition or the transfer of specific securities.

The Mumbai ITAT found that divergent views have been expressed by different coordinate benches on this issue. Following the principle that where two reasonable constructions of a taxing provision are possible, the interpretation favourable to the assessee should be adopted, and in

[3] Shri Mohan Rajashekar v ITO, Bangalore ITAT [ITA No. 176/Bang/2026], dated July 21, 2026
[4] Ameeta Jagdish Thackersey v ITO, Mumbai ITAT [IT Appeal No. 1685 (MUM) of 2026], dated August 10, 2026

the absence of any binding decision of higher courts, the ITAT allowed claiming PMS fee as a deduction while computing capital gains.

4. Mumbai ITAT: Buyback of shares below market value cannot be subject to deemed taxation[5]

Under Section 56(2)(x) of the Income Tax Act, 1961[6], where a person receives 'property' (including shares), for a consideration lower than its prescribed fair market value (being the adjusted net book value), the difference is chargeable to tax as 'income from other sources'.

A company had subscribed to shares of the assessee-company under an arrangement which provided that the shares would be bought back at the same price once the underlying commercial arrangement came to an end; when that arrangement ended, the buyback was carried out at the agreed price. The Assessing Officer brought the difference between the buyback price and the prescribed fair market value of the shares to tax in the hands of the assessee. A reference under the General Anti-Avoidance Rules had already been rejected, but the revenue's case was that the charge on property received operates independently of anti-avoidance rules.

The Tribunal upheld the non-taxability of the buyback. Shares are property, but the charge applies only where property is received and can be retained; the Tribunal observed that on a buyback, the Companies Act, 2013, requires the shares to be extinguished, and the receipt and the extinguishment cannot be artificially severed so as to postulate the existence of property in the hands of the company. A company buying back its own shares does not acquire an asset at all, and taxability under Section 56(2)(x) is not warranted.

B. Corporate Law Highlights

1. NCLT standardises registry practices across benches[7]

The National Company Law Tribunal (NCLT) has issued administrative circulars regularising uniformity of registry practice across Benches, which is expected to ease, to some extent, the applications and petitions filed with the NCLT. Some of the changes include:

- **Scrutiny of new filings:** Before a matter is taken on record, the registry examines it for defects. The registry must now work from a prescribed checklist and may raise only correctable clerical objections. Questions of law, such as whether the Tribunal has jurisdiction or whether the petition is maintainable, can no longer be raised at the filing counter and must be left to the Bench. Where a defect cannot immediately be cured, the

[5] DCIT v Sanjana Cryogenic Storages Ltd, Mumbai ITAT [ITA No. 2503/Mum/2026], dated August 31, 2026
[6] Section 92 of Income Tax Act, 2025
[7] Administrative Instructions dated 12 August 2026; Circular dated 3 September 2026; SOP dated 8 September 2026

applicant, petitioner or appellant may file an undertaking and the case is taken on record 'with defects', so that filing is not held up at the counter.

- **Allocation and first hearing:** Once a case is registered it must be allotted to a courtroom the same day, and the first hearing must be fixed within three working days of that allotment. Any delay is to be explained to the Bench and reported weekly to the registrar of the Principal Bench.

- **Adjournments:** A request to defer a hearing must reach the Registrar by 2.00 P.M. on the previous working day, with notice to the other side, rather than being sought orally when the matter is called.

- **Filing format:** All fresh petitions, applications, replies, rejoinders and affidavits must be printed back-to-back with immediate effect, as against the previous requirement of single-side printing.

- **Certified copies online:** Certified copies of orders may now be applied for through the e-filing portal, with one free copy of the final order, issue ordinarily within 48 hours, and authentication by QR code. The physical counter facility continues.

Katalyst comment:

There are huge procedural hurdles in NCLT; hopefully, this will help to some extent to smoothen what is otherwise a painful and frustrating journey.

2. Ahmedabad NCLT: Scheme for brand undertaking demerger and CCPS restructuring approved[8]

Abhinand Ventures Pvt. Ltd. ("AVPL") operates and manages the brand business comprising nearly 150 Essar registered brand variants. Essar Power Limited ("EPOL") is the flagship entity of the Essar Group.

The National Company Law Tribunal, Ahmedabad Bench (NCLT), sanctioned a scheme of arrangement entered into between AVPL and EPOL, providing for, inter alia, the following:

- Demerger, transfer and vesting of the brand undertaking of AVPL into EPOL, with effect from the Appointed Date of April 1, 2025. The transfer will centralise ownership of the Essar brand with EPOL, which will own and license the brand and related intellectual property to entities within the group. EPOL shall issue its equity shares to the shareholders of AVPL in consideration.

[8] NCLT Ahmedabad Court – 1 order delivered on August 31, 2026, in the matter of Abhinand Ventures Pvt Ltd and Essar Power Limited, C.P. (CAA) / 22 (AHM) 2026 in C.A. (CAA) / 1 (AHM) 2026

- Conversion of compulsorily convertible preference shares (CCPS) of INR 1000 Crores into unsecured loans valued at INR 875 Crores, being the fair value as on the appointed date. The differential amount of INR 125 Crores will be credited to the capital reserve and adjusted against debit balance in retained earnings.

While the Registrar of Companies questioned the proposed conversion of CCPS, stating Section 55 of the Companies Act, 2013, deals with redemption of preference shares, and the companies did not file an application under said section, the companies argued that Sections 230 to 232 of the Companies Act, 2013, which deal with schemes of arrangement, contain a comprehensive code governing compromises, arrangements and reorganisations of share capital, including substitution and reclassification of securities. The Tribunal noted that the Scheme had been approved by the respective classes of creditors in the requisite statutory manner. It found the Scheme compliant with the statutory procedure and fair to the shareholders and creditors.

Katalyst comment:

Under Income Tax law, for a demerger to be tax neutral, the 'undertaking' being demerged needs to constitute a business activity; the aspect of the brand transfer constituting an undertaking is justifiably indicative of a broader mindset.

3. Bangalore NCLT: Rejects Scheme of Amalgamation due to non-filing of income tax return, rejection by secured creditors and pending insolvency application[9]

Three transferor companies proposed to amalgamate into a single transferee company, having an appointed date of April 1, 2024, vide a Scheme of Amalgamation filed with the National Company Law Tribunal, Bangalore Bench (NCLT), with a view to carry out commercial reorganization, given that all companies were engaged in real estate development, and shared common directors and promoters. Two of the three transferors were profit-making, while the third transferor and the transferee were loss-making.

The Bengaluru Bench of the NCLT declined to sanction the scheme on three grounds:

- **Non-receipt of approval of secured creditors of transferee:** The secured creditors of the transferee company did not approve the scheme at the meeting convened for that purpose. The Bench was of the view that as the scheme was opposed by the very class whose interests it most directly affected, it could not be regarded as being in their interest.

- **Objections raised by the income tax department:** The income tax department raised concerns regarding the non-filing of income tax returns by any of the companies party to the

[9] NCLT Bengaluru Bench order delivered on September 16, 2026, in the matter of Maniveera Structure Pvt Ltd, C.P. (CAA) No. 46/BB/2025

scheme for the F.Y. 2024-25. The companies reasoned that the period of non-filing of return falls after the appointed date, and hence a single post-merger return would be filed by the transferee company on sanction of the scheme by the NCLT. The tax department, however, objected to this approach, stating that nothing in the Income Tax Act, 1961, or the Companies Act, 2013, permits a company to withhold its return beyond statutorily prescribed deadlines because an amalgamation is pending; that the facility of filing a modified return after a merger order is available only where a return has already been filed before that order, so the companies had disabled themselves from the very route they proposed to take. It further contended that the real object of the scheme being to set off the profits of the transferors against the accumulated losses of the transferee. The Bench held that because no returns had been filed, the losses claimed could not be carried forward, a consolidated return filed after sanction would not be a valid return of loss, and the modified return route stood foreclosed.

- **Pending insolvency application against the transferee company:** An insolvency application filed against the transferee company is pending to be disposed. The Bench observed that businesses of the transferor companies that were presently outside the insolvency process would thereby be drawn into it. Sanctioning the scheme would, in the Bench's view, amount to pushing otherwise healthy companies towards likely insolvency, which would be contrary to public policy.

C. Other Highlights

1. Formation of Mediation Council of India[10]

The Mediation Act, 2023, was enacted three years ago, with the objective of establishing a comprehensive statutory ecosystem for mediation. The Act included a provision for the constitution of a statutory body to support and regulate mediation in India.

The Ministry of Law and Justice has now notified the formation of the Mediation Council of India, headquartered in Delhi. Under the Act, it is responsible for recognising mediation institutes and mediation service providers, lay down guidelines for education and certification of mediators, provide for manner of conduct of mediation proceedings, and lay down standards for professional and ethical conduct.

The Council is expected to play a key institutional role in the development, promotion and regulation of the mediation ecosystem under the Act. The members of the Council are yet to be appointed.

[10] Department of Legal Affairs, Ministry of Law and Justice notification dated August 27, 2026

Katalyst comment:

The Indian corporate landscape is lettered with family disputes, partly triggered by unstructured relationships and generational clashes. In this context, mediation is an excellent avenue to resolve such disputes.

2. RBI FAQs on NBFC and CIC definitions[11]

The Reserve Bank of India (RBI) has updated its FAQs on non-banking financial companies to provide certain clarifications to the definitions of Core Investment Company (CIC) and Non-Banking Financial Company (NBFC).

A CIC is an NBFC carrying on the business of acquisition of shares and securities, holds at least 90% of its assets in the form of investment in equity shares, preference shares, debt or loans in group companies, and at least 60% of its net assets constitutes investment in equity shares. The entity must also have total assets of at least INR 100 crores and accept public funds, directly or indirectly. The RBI further clarified that indirect receipt of public funds means funds received not directly, but through associates and group entities that have access to public funds.

The RBI also clarified the principal business test for NBFCs. A company is considered as an NBFC if its financial assets are more than 50% of total assets, and derives at least 50% of its gross income from such financial assets.

The updated FAQs can be read here.

3. NPCI releases MDR framework for UPI transactions

The National Payments Corporation of India (NPCI) announced a merchant discount rate (MDR) for select UPI transactions with effect from October 15, 2026. A 0.4% MDR will be introduced on Person-to-Merchant (P2M) UPI transactions above INR 2,000, with charges capped at INR 300 per transaction for transactions of INR 75,000 and above.

Transactions above INR 2,000 in essential and thin-margin sectors, including railways, telecommunications, insurance, fuel and agricultural inputs, will attract a flat MDR of ₹5 per transaction. Payments relating to mutual funds, securities, stockbrokers and dealers will attract an MDR of 0.02%, capped at INR 300 per transaction.

All person-to-person (P2P) UPI transactions will remain free, irrespective of the amount transferred. Further, small merchants including street vendors receiving up to INR 1 lakh per

[11] RBI FAQs – All you wanted to know about NBFCs, updated on September 15, 2026

month through UPI QR codes under the Person-to-Person-Merchant (P2PM) category will also continue with zero MDR on all transactions.

MDR is a charge within the merchant payment ecosystem. Banks have been advised to ensure that merchants do not pass MDR charges on to customers.

The full FAQs released by NPCI on MDR can be read here.

D. Goods and Service Tax Highlights

1. SC: GST demand raised on merged company is void[12]

Vodafone Mobile Services Ltd. ('VMSL') merged into Idea Cellular (forming Vodafone Idea) under a scheme sanctioned by the National Company Law Tribunal in August 2018. The GST Department issued a show-cause notice to VMSL in August 2024, in relation to a slump sale undertaken by the company prior to the merger.

The Bombay High Court quashed the notice and the proceedings founded on it as void ab initio, on the grounds that a company which has merged into another ceases to exist in law, and no notice or order can be issued in its name. The revenue carried the matter to the Supreme Court, which declined to interfere and dismissed the special leave petition, holding that proceedings could not be initiated against a company that had ceased to exist.

2. Allahabad HC: Failure to file a reply does not dispense with the requirement of a personal hearing[13]

A taxpayer received a show cause notice and did not file a written reply. The department issued a reminder notice in which the columns for the date, time and venue of hearing were marked "NA", and thereafter passed an adjudication order confirming the demand. The taxpayer challenged the order on the ground that no personal hearing had been offered; the department's position was that a taxpayer who had filed no reply could not complain of not being heard.

The High Court set aside the order and remanded the matter. It held that the statute creates two distinct safeguards, the opportunity to file a written reply and the opportunity of personal hearing, and that failure to avail of one does not dispense with the other; the obligation to afford a hearing arises wherever an adverse order is contemplated, whether or not one is requested.

[12] Union of India & Anr. v Vodafone Idea Limited, Supreme Court [Special Leave Petition (Civil) Diary No(s). 47708/2026], dated September 7, 2026

[13] Ved Enterprises vs. State of U.P. & Anr., Allahabad High Court [Writ Tax No. 1003 of 2026], dated July 23, 2026

The "NA" entries in the reminder notice were treated as self-evident proof that no hearing had in fact been offered.

The Court entertained the writ petition, directed a fresh reply within two weeks, followed by a personal hearing and a fresh reasoned order.

3. Delhi HC: Single show cause notice may cover several financial years where fraudulent credit is alleged[14]

A taxpayer was investigated for having availed and passed on input tax credit on invoices issued by suppliers found to be non-existent. The GST department issued a single show cause notice covering five financial years, and confirmed the demand with an equal penalty. The taxpayer challenged the order by writ petition, without first filing a statutory appeal, contending that the bunching of years was impermissible.

The High Court dismissed the petition and relegated the taxpayer to the appellate authority. It held that a consolidated notice spanning several years is not merely permissible but is often necessary, since a pattern of fraudulent credit becomes visible only when the years are read together. Grievances of procedural irregularity cannot displace the absence of substantive evidence that genuine business was carried on, and writ jurisdiction is not a shortcut around the statutory appellate framework.

[14] Ambika Traders v. Additional Commissioner, Adjudication (DGGSTI), CGST Delhi North, Delhi High Court [W.P.(C) 4853/2025], dated July 29, 2026