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JANUARY 2025

Legal Updates, Insights and Summary Judgements

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Insights & Updates: Key Perspectives, Partner Additions, Roundtables, and Recent Developments

Gujarat Chamber of Commerce and industry & Ors vs. Union of India & Ors

Gujarat Chamber of Commerce and Industry & Ors. vs. Union of India & Ors.

[Order dated 03.01.2025 in Special Civil Application No. 11345 of 2023 and connected matters]

The Hon'ble Gujarat High Court examined the applicability of Goods and Services Tax (GST) to the transfer/assignment of leasehold rights in industrial land under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act").

Brief facts of the case:

The Gujarat Industrial Development Corporation (GIDC), established under the Gujarat Industrial Development Act, of 1962, acts as the nodal agency of the Government of Gujarat for developing industrial estates. GIDC acquires land, develops infrastructure (roads, water supply, street lighting, etc.), and allots industrial plots to entities through long-term lease agreements (typically 99 years). A registered lease deed is executed upon fulfillment of specific conditions in the allotment letter. The lease deed allows lessees to assign their leasehold rights to third parties with GIDC's approval, subject to the payment of transfer fees.

The petitioners, including the Gujarat Chamber of Commerce and Industry, challenged the imposition of GST on transactions involving the transfer or assignment of leasehold rights in industrial land. They argued that such transactions do not constitute a "supply" of goods or services as defined under the GST regime, emphasizing that the nature of the transaction is akin to a sale of an interest in immovable property, which is outside the purview of GST.

The Hon'ble Court's Ruling Addressed the following Critical Aspects:

1) Scope of the Term 'Property':

- In strict legal parlance, the term 'property' refers to the right of ownership or an aggregate of rights guaranteed and protected by law. This includes the rights to possess, use, enjoy, dispose of, and exclude others from interfering with it.
- The Court observed that 'property' encompasses both physical objects (such as plots of land and buildings) and incorporeal ownership rights, like the right to possess, derive income, or alienate property. Leasehold rights fall under the category of incorporeal rights, adding further weight to the petitioners' argument.

2) Scope of the Term 'Immovable Property':

- Since the CGST Act does not define 'immovable property,' the Court referred to relevant provisions in other statutes: Section 3(26) of the General Clauses Act, 1897, Section 3 of the Transfer of Property Act, 1882, and Section 2(6) of the Registration Act, 1908. These statutes collectively describe immovable property as including tangible land/buildings and intangible rights arising from the land.
- The Court highlighted provisions under the Gujarat Stamp Act, 1958, and the Registration Act, requiring mandatory registration of assignment agreements and equating long-term leases exceeding 98 years to conveyances for stamp duty purposes.
- Additionally, Entry No. 41 of Notification No. 12/2017 was cited, which exempts certain long-term leases by state industrial development corporations from GST obligations.
- Under the Transfer of Property Act, an absolute transfer through assignment conveys ownership rights along with the underlying interest in the land, aligning with the exclusion of immovable property from GST.
- Moreover, the petitioners gained benefits by constructing and operating a factory building, which is "profit à prendre," an immovable property not taxable under the GST Act. GIDC only leased the land, and the lessee developed it with a building for business use. The transfer to the assignee includes both the land and the building, along with leasehold rights. This transfer of immovable property is not subject to GST.

3) Assignment as a Transfer of Immovable Property:

- The Court ruled that assignment rights are akin to the transfer of immovable property, as these rights represent the benefits and legal interests arising from such property.
- Referencing Gopal Saran vs. Satya Narayana (1989), the Court noted that the term 'assignment' includes the complete transfer of all rights in a property, including lease rights, making it a transfer of immovable property subject to stamp duty rather than GST.
- Applying these principles, the Court held:
- The assignment extinguishes the assignor's estate in the property and transfers all rights to the assignee.
- Such transactions include both the tangible (land/building) and intangible (rights to possess, alienate, or derive income) aspects of immovable property.
- Therefore, leasehold rights, being indivisible from immovable property, cannot be taxed under GST.

4) GST Applicability to Assignment Rights under Section 7 of the CGST Act

- The Court analyzed the definition of "supply" under Section 7 of the CGST Act and clarified that the transfer of leasehold rights in immovable property does not fall within the ambit of "supply" because it lacks the characteristics of goods or services.
- Further, the court referred to Sections 2(17), 2(102), and 2(105) of the CGST Act to analyze whether the assignment of leasehold rights constituted a "supply" under GST.
- Section 2(17) defines "business" to include activities undertaken for consideration, but the Court held that the absolute transfer of leasehold rights is not a business activity; it is a property transaction.
- Section 2(102) defines "services" as anything other than goods, money, and securities, but the court concluded that leasehold rights represent an interest in immovable property, which does not qualify as a service.

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The Hon'ble Gujarat High Court has settled a highly litigious issue of taxability of assignment of leasehold rights, ruling that such transaction cannot be subject to levy of GST as it is a 'right arising out of immovable property'. This is one of the hottest issues affecting the real estate sector and shall come as a relief to taxpayers as the sector is already mired in a lot of GST litigation.

To delve into the specifics, please review the information provided in the following link :

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Udumalpet Sarvodaya Sangham vs. The AUthority & Ors.

Udumalpet Sarvodaya Sangham vs. The Authority & Ors

[Order dated 06.01.2025 in W.P.(MD).Nos.26481 of 2024 & batch matters]

The Hon'ble Madras High Court (Madurai Bench) examined multiple writ petitions challenging the validity of notices/orders issued under Section 169 of the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as "TNGST Act").

The petitioners, including Udumalpet Sarvodaya Sangham, challenged the validity of notices and orders issued by the GST authorities. The petitioners contended that the authorities uploaded these notices/orders only on the GST portal without adhering to other statutory modes of service prescribed under Section 169 of the TNGST Act, such as personal delivery, registered post, or email. Many petitioners argued that they were unaware of these notices due to reliance on tax practitioners for portal management, leading to a breach of natural justice. The Department contended that service through the portal constituted valid service, citing earlier judgments and arguing that Section 169(1)(a) to (f) should be read disjunctively, meaning compliance with any one mode would suffice.

The Hon'ble Court's ruling addressed two critical aspects:

(a) Interpretation of Section 169 of the TNGST Act

The Court held that Section 169 provides six alternative modes of service (including personal delivery, registered post, email, and portal uploads). However, the modes specified in Clauses (a) to (c) of Section 169(1) are alternative modes of primary service (in-person delivery, registered post, or email), which must be attempted first. Only upon failure or impracticability of these modes can the Department resort to Clauses (d) to (f) (portal publication, newspaper publication, or affixture).

(b) Rules Cannot Override Statutory Requirements

The Court rejected the Department's reliance on Rule 149 of the GST Rules (which only provides for electronic service), emphasizing that Rules cannot circumscribe the modes of service prescribed under the parent statute ie TNGST Act. When the Statute had also mandated issuance of notice in person/ registered post/ e-mail, etc., the Rules cannot be limited to only serving it through electronic modes.

(c) Adherence to Natural Justice

The Court clarified that the statutory provisions for notice service aim to ensure fairness and procedural compliance. The authorities' reliance solely on portal uploads without exploring alternative methods violated the principles of natural justice. Notices were required to be served effectively in compliance with statutory requirements.

The Hon'ble Court set aside the impugned assessment orders and directed the petitioners to file their replies to the show cause notices on or before 31.01.2025. The department was instructed to provide the petitioners with a hearing and issue fresh orders in compliance with the principles of natural justice and statutory requirements.

Pursuant to this judgment dated 06.01.2025, the Hon'ble Madras High Court further clarified on 10.01.2025 that non-compliance with multiple service modes under Section 169 results in procedural irregularity, thereby rendering the notices invalid. The court directed that in cases of procedural failure, the timeline for the petitioners to respond would be extended by 15 days from the date of proper service as per the prescribed modes. This supplementary order emphasizes stricter adherence to procedural safeguards, reinforcing that technological convenience cannot supersede statutory mandates.

W&B Comment on the Implications of the Judgment:

The Hon'ble Madurai Bench's decision underscores the critical importance of adhering to statutory procedures for serving notices under the Tamil Nadu Goods and Services Tax Act, 2017 (TNGST Act). The ruling strengthens procedural safeguards and emphasizes the duty of the State to follow statutory modes of service to uphold natural justice. The judgment has significant implications for various stakeholders. Taxpayers and businesses, especially those relying on tax practitioners, benefit from the clarity that notices must be served through all prescribed methods to ensure fair communication. Tax authorities are now obliged to integrate traditional modes of service, such as registered post and personal delivery, with electronic communications, thereby increasing administrative responsibilities and ensuring procedural compliance. Tax practitioners and legal advisors must remain vigilant in monitoring all statutory communication channels to keep their clients informed. The mode of communication for notices has been a concern for a long time. The instant issue parallels the issue of automated notices under GST, where a growing dependency on technology-driven communications has created compliance challenges for taxpayers. There are concerns about the proliferation of automated notices under GST, which have led to increased disputes and litigation. Such automated notices have significantly increased the compliance burden on taxpayers, leading to higher transaction costs and resource allocation for dispute resolution. Furthermore, the Delhi High Court has also recently emphasized that uploading information by the investigation wing of the Income Tax department would not be a substitute for recording a satisfaction note by the Assessing Officer for the purpose of initiation of proceedings under Section 153C of the IT Act affirming that statutory procedures cannot be overridden by convenience or technological reliance. Moving forward, policymakers could consider revisiting Section 169 of the TNGST Act to harmonize technological advancements with procedural fairness, possibly by establishing clear guidelines on the hierarchy of service methods.

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The Hon'ble Madras High Court, in a taxpayer friendly interpretation of Section 169 of the CGST Act has held that in-person delivery, registered post, or email should be preferred over portal publication, newspaper publication, or affixture. A lot of taxpayers have often complained that they were not aware that the notice has been uploaded on the portal. This judgment may come as a relief to them.

To delve into the specifics, please review the information provided in the following link :

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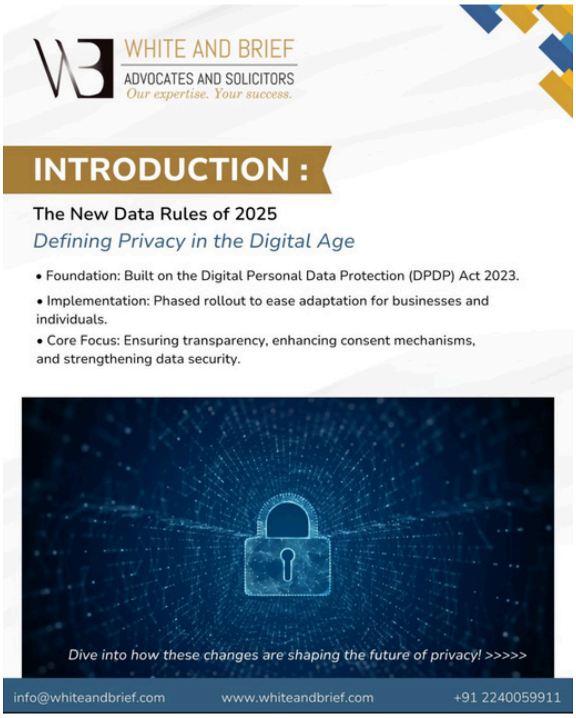
The New Data Rules of 2025: Defining Privacy in the Digital Age

TWith the foundation laid by the Digital Personal Data Protection (DPDP) Act, 2023, the new data rules emphasize transparency, consent mechanisms, and robust data security.



Highlights include:

- Clear standalone notices for data collection and withdrawal.
- Introduction of Consent Managers to ensure secure, independent consent management.
- Strict mandates for encryption, breach reporting, and algorithmic risk assessments, especially for children's data
- A phased approach to cross-border data transfers and localized governance.

These changes bring both opportunities to innovate and challenges in operationalizing consent and managing cross-border complexities. A critical step towards strengthening trust in the digital economy!

To delve into the specifics, please review the information provided in the following link :
https://www.linkedin.com/feed/update/urn:li:activity:7284482736575176704

Recent Judgements

CIVIL

Tarun Dhameja Versus Sunil Dhameja & Anr. CIVIL APPEAL NO. 3034 OF 2012

The judgement in the case of Tarun Dhameja v. Sunil Dhameja & Anr. was delivered by CJI Sanjiv Khanna and Justice Sanjay Kumar. This case revolved around the interpretation and enforceability of an arbitration clause in a Partnership Deed wherein the central issues pertained to whether the arbitration clause was optional or mandatory and whether legal representatives of a deceased partner could invoke arbitration.

The arbitration clause in the said Partnership Deed which was before the court for consideration read as "That if at any time either during the continuance of the partnership or after the retirement of any partner, any dispute or difference shall arise between the partners or their respective heirs or any one claiming through or under them, the same shall be referred to arbitration. Arbitration shall be optional & the arbitrator will be appointed by partners with their mutual consent. In any case of dispute arise then the Jurisdiction of Indore Civil Court shall be applicable & acceptable by the partners.".

The appellant Tarun Dhameja (as legal heir of the deceased partner Yeshwant Boolani) invoked the arbitration clause which was resisted and contested by the respondents.

The Supreme Court while interpreting the said arbitration clause held that the first portion of the clause was clear in that the same stated that legal representatives or anyone claiming through a partner could invoke the arbitration clause. Further, as regards the second portion of the clause, the court clarified that the term "optional" only pertained to appointing an arbitrator through mutual consent, rather than nullifying the arbitration clause itself. The court emphasized that a broad interpretation of arbitration clauses should prevail to promote dispute resolution.

Where mutual consent for appointing an arbitrator could not be achieved, the court retained the authority under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator. The court differentiated this case from earlier rulings in Wellington Associates Ltd. v. Mr. Kirit Mehta and Jagdish Chander v. Ramesh Chander, noting that the language of the arbitration clauses in those cases was completely different.
The Supreme Court set aside the High Court's judgment and allowed the appeal. It directed the Madhya Pradesh Arbitration Centre to appoint an arbitrator to adjudicate the dispute. The court clarified that it made no observations on the merits of the parties' claims and emphasized the need for arbitration clauses to be interpreted pragmatically to uphold parties' intentions.

Urban Improvement Trust Versus Smt. Vidhya Devi & Ors
CIVIL APPEAL NO. 14473 OF 2024

The Supreme Court of India, in Urban Improvement Trust v. Smt. Vidhya Devi & Ors., delivered by Justices J.B. Pardiwala and Manoj Misra, addressed critical issues of procedural compliance and the right to property under the Rajasthan Urban Improvement Act, 1959 (RUI Act). The case concerned land acquisitions in Nangli Kota and Moongaska, initiated in 1976 by the Urban Improvement Trust. The respondents, landowners and legal heirs, challenged the acquisition as procedurally flawed and unconstitutional, citing irregularities and non-payment of compensation. While the appellants argued compliance with legal requirements and invoked the principle of delay and laches, the Court upheld the High Court's quashing of the acquisitions due to procedural and constitutional violations.

The central issue was compliance with Section 52 of the RUI Act, which mandates serving individual notices to landowners and publishing notices in the locality before an acquisition notification under Section 52(1). For Nangli Kota, the Court found that although individual notices were not served, landowners had constructive notice, evidenced by their participation in the proceedings, making the acquisition procedurally valid. However, for Moongaska, the absence of notices and the lack of evidence showing participation of all landowners rendered the acquisition procedurally defective and invalid.

Compensation was another major concern. Section 60A of the RUI Act requires compensation to be determined and paid within six months of notification for the acquisition to be valid. In the case of Nangli Kota, compensation was deposited only in 1997—over two decades after initiation—while for Moongaska, compensation was deposited after the acquisition had already been quashed. The Court ruled that these delays contravened statutory timelines and violated Article 300A, which guarantees the right to property and requires just and equitable compensation for expropriation. The Court emphasized that timely compensation is a substantive right, integral to the fairness of acquisition processes.

On the issue of delay in challenging the acquisition, the appellants argued that the respondents' writ petitions, filed decades later, were barred by delay and laches. However, the Court noted that procedural irregularities and constitutional violations cannot be dismissed solely due to delay. It observed that the respondents were unaware of the acquisition status due to government opacity, mitigating their delay. The Court stressed that blatant procedural flaws necessitate judicial intervention regardless of the time elapsed.

Ultimately, the Supreme Court quashed both acquisitions. The acquisition of Nangli Kota was deemed invalid due to delayed compensation, despite procedural validity through constructive notice. For Moongaska, the lack of proper notice and participation by landowners rendered the process fundamentally flawed. The judgment reinforced the importance of procedural safeguards in land acquisition, asserting that statutory compliance ensures fairness and justice. It reaffirmed the constitutional right to property under Article 300A, requiring strict adherence to due process.

This ruling underscore the judiciary's role in balancing public development with individual rights, ensuring responsible and transparent use of the state's power of eminent domain. The decision is expected to impact future land acquisition cases by reinforcing the necessity of timely compensation and proper notice to landowners.

Daliben Valjibhai & Ors. Versus Prajapati Kodarbhai Kachrabhai & Anr CIVIL APPEAL NO. OF 2024

The judgement in the case of Daliben Valjibhai & Ors. v. Prajapati Kodarbhai Kachrabhai & Anr. was delivered by Justice Pamidighantam Sri Narasimha and Justice Manoj Misra.
This case revolved around the issue of limitation in a suit for cancellation of a registered sale deed. The central question was whether the suit, filed 13 years after the sale deed's execution, was barred by limitation or whether it could proceed based on the plaintiffs' claim of having discovered the fraud only in 2017.

The appellants alleged that the sale deed dated December 4, 2004, was executed fraudulently by forging their signatures and photographs. They claimed to have become aware of the fraudulent deed on March 31, 2017, when they received notice from the Deputy Collector concerning revenue records. They filed the suit on April 18, 2017, seeking cancellation of the sale deed.

The Trial Court dismissed the suit under Order 7 Rule 11, CPC, citing that it was time-barred since it was filed 13 years after the sale deed's execution. On appeal, the First Appellate Court reversed this decision, holding that limitation was a mixed question of law and fact, requiring trial. The High Court, however, reinstated the Trial Court's decision, stating that the plaintiffs should be deemed to have knowledge of the sale deed from the date of its registration in 2004.

The Supreme Court overturned the High Court's decision and restored the judgment of the First Appellate Court. It emphasized that the limitation period for a fraud-based claim under Article 59 of the Limitation Act begins when the fraud is discovered, not from the date of registration. It reiterated that a plaint could not be rejected under Order 7 Rule 11 of CPC, unless it unequivocally disclosed that the suit was barred by law. Issues of fraud and limitation often involve mixed questions of law and fact, which requires trial. The Supreme Court restored the First Appellate Court's judgment and directed the Trial Court to expedite the case while refraining from commenting on the merits.

ARBITRATION

Arun Bhoomi Corporation Versus Jagruti Developers COMMERCIAL ARBITRATION PETITION NO. 384 OF 2024

Justice Arif S. Doctor delivered the Judgement in the case of Arun Bhoomi Corporation vs. Jagruti Developers. The Bombay High Court recently heard an Arbitration Petition (No. 384 of 2024) filed under Section 37 of the Arbitration and Conciliation Act, 1996. The petition challenges an order dated June 21, 2024, issued by the Arbitral Tribunal in an ongoing dispute between Arun Bhoomi Corporation and Jagruti Developers regarding a real estate development project in Mira, Thane.

Arun Bhoomi Corporation, the petitioner, sub-licensed the development of a plot of land to Jagruti Developers under agreements signed in 2009 and 2011. Alleging material breaches by Jagruti, the petitioner issued a termination notice in 2015. However, Jagruti developers disputed the termination and continued asserting their rights over the project, leading to arbitration proceedings.

In 2019, Jagruti developers sought relief under Section 9 of the Arbitration Act to halt further construction and prevent third-party sales, which was dismissed by the Bombay High Court in 2020. However, in 2024, Jagruti developers filed an application under Section 17 seeking interim reliefs, including financial disclosures and the deposit of sale proceeds into an escrow account. The Arbitral Tribunal, by majority, allowed partial reliefs.

The petitioners, represented by Senior Advocate Mr Seervai, argued that the Tribunal's order contradicted the 2020 court ruling, which had restricted Jagruti developers from pressing similar reliefs in arbitration. They contended that the order would cause financial hardship, disrupt ongoing construction, and potentially violate RERA regulations. The petitioners relied on Union of India vs. N Murugesan(2022) and Raman Tech vs. Solanki Traders (2008), emphasising the importance of delay and financial hardships.

On the other hand, Jagruti developers, represented by Senior Advocate Mr Shah, defended the Tribunal's decision, asserting that substantial investments were made and that the petitioners had engaged in unauthorised sales. Jagruti developers argued that the interim reliefs were necessary to secure their interests pending a final award. Jagruti developers referred to Kewal Kiran Clothing Ltd. vs. Hasmukh Dedia (2019) and Raymonds Ltd. vs. A. Singhania (2019), arguing that delay alone should not defeat interim reliefs.

The High Court found that Jagruti developers' delay of nearly nine years in filing the application was inexcusable and that the Tribunal had overlooked critical aspects, such as financial prejudice to the petitioners. Consequently, the court ruled in favour of Arun Bhoomi Corporation, setting aside the Tribunal's order.

The judgment underscores that an arbitral tribunal must carefully evaluate whether the claimant has established a clear case and assess the balance of convenience and potential prejudice to the respondent. Tribunals should avoid granting reliefs that may cause financial hardship, disrupt ongoing projects, or interfere with statutory obligations, as such failures can lead to the setting aside of their orders.

GENERAL CORPORATE

M/s Crystal Transport Private Limited & Anr. v. A. Fathima Fareed Unisa & Ors. (Case No. C.A. No. 007709 - 007710 / 20231)

The Court in the instant case ruled that an outgoing partner of a dissolved firm has the right to seek accounts, and a share of the profits earned from the firm's assets, even if the assets are taken over by another entity without the partner's consent. Crystal Transport Service, a partnership firm, was formed in the early 1970s with four equal partners. In 1978, three partners allegedly diverted funds to a private limited company (fourth defendant) without the consent of the fourth partner (plaintiff). When the plaintiff demanded accounts, the defendants refused, leading to the filing of Original Suit No. 286 of 1978. The plaintiff sought dissolution of the firm, settlement of accounts, distribution of shares, and the appointment of a receiver.

The defendants contended that the private limited company was established with the consent of all partners and that the firm's assets and liabilities were transferred under an agreement dated June 25, 1978. Multiple receivers were appointed, but challenges persisted in settling the firm's accounts, resulting in various appeals, revisions, and cross-objections. The core dispute revolved around the plaintiff's entitlement to profits derived from the firm's assets after the firm's dissolution, particularly those earned by the private company (fourth defendant).

The Supreme Court upheld the Madras High Court's ruling that the final decree was based on reports prepared without affording proper opportunity to the parties to challenge them, necessitating a remand.

In matters of partnership law, Section 37 of the Indian Partnership Act, 1932 provides critical protections for outgoing partners. The section stipulates that if business is carried on with the firm's assets without a final settlement, the outgoing partner is entitled to a proportionate share of profits at 6% per annum. During the account settlement process, as directed by the preliminary decree, the Commissioner was tasked with examining accounts under Sections 37 and 48 of the Act. Notably, the transfer of assets to the fourth defendant company without the plaintiff's consent falls within Section 37's scope.

The Court emphasized that an outgoing partner's entitlement to profits continues until the final settlement of accounts, irrespective of the dissolution date. Crucially, the quantum of business profits derived from the firm's assets by the fourth defendant company remains a matter of evidentiary proceedings. Section 37 fundamentally safeguards outgoing partners by ensuring their continued profit entitlement, with the caveat that continuing partners might have the option to purchase their share through a valid agreement. Complementing this, Section 48 prescribes a hierarchical framework for post-dissolution account settlement, guaranteeing equitable distribution among partners based on agreed ratios.

The Supreme Court dismissed the appeal, upheld the remand order, and directed the trial court to reassess the evidence for final decree preparation. The Bench emphasized that the rights of outgoing partners must be protected until an equitable settlement is reached. This ruling reinforces the principles of fairness and equity enshrined in the Indian Partnership Act, of 1932, ensuring that outgoing partners are not deprived of their rightful share in the firm’s assets and profits.

WhatsApp LLC v. Competition Commission of India & Ors. (Competition App. (AT) No. 1 of 2025)

In the present case, the National Company Law Appellate Tribunal (NCLAT) dealt with the Competition Commission of India's (CCI) directives concerning WhatsApp's 2021 privacy policy update and the penalties imposed for alleged violations of the Competition Act, 2002. The Tribunal granted partial relief to WhatsApp while staying certain aspects of the CCI's order.

The dispute arose after WhatsApp's updated privacy policy required users to accept terms allowing data sharing with Meta entities. The CCI held that the policy violated Section 4(2)(a)(i) by imposing unfair terms, Section 4(2)(c) by creating entry barriers in the online advertising market, and Section 4(2)(e) by leveraging WhatsApp's dominant position to coerce user acceptance. The CCI imposed a ₹213.14 crore penalty on WhatsApp, prohibited data sharing with Meta for five years, and directed WhatsApp to provide Indian users with an opt-out mechanism starting in 2029. The order further required WhatsApp to detail its data-sharing practices and allow users to change their choices via app settings.

WhatsApp challenged the CCI's order before the NCLAT, arguing that data protection and privacy concerns fall under the purview of the Digital Personal Data Protection (DPDP) Act, which has been enacted but is yet to be enforced. WhatsApp contended that the five-year ban jeopardized its business model, which relies on data sharing to support personalized advertising and small businesses. It also highlighted that similar issues are under judicial review in the Supreme Court and Delhi High Court.

The NCLAT bench noted that WhatsApp's business model depends on data sharing for advertising and a prolonged ban could disrupt its operations in India, where it has over 500 million users. The Tribunal observed that the DPDP Act is expected to provide a regulatory framework for data-sharing practices and acknowledged that the Supreme Court had not stayed WhatsApp's 2021 privacy policy.

While the NCLAT stayed the five-year ban on data sharing, it directed WhatsApp to deposit 50% of the ₹213.14 crore penalty within two weeks. Other aspects of the CCI's directives, including the opt-out mechanism and greater transparency in data-sharing practices, were left intact. The Tribunal clarified that both parties could seek modifications to the order if the DPDP Act or other data protection laws are implemented.

This ruling balances the enforcement of competition law with the practical realities of WhatsApp's business model. It highlights the need for clear legislative frameworks governing data protection while ensuring that market dominance is not exploited unfairly.

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CRIMINAL

Dalip Kumar @ Dalli v. State of Uttarakhand, Criminal Appeal No(s). 1005/2013

In this case, the Supreme Court deliberated on important issues relating to sexual assault and its evidentiary requirements under criminal law. The Court highlighted that the absence of bodily injuries does not negate the occurrence of sexual assault and emphasized the need to consider victims' responses to trauma through a nuanced and empathetic lens. The present case pertains to the conviction of the appellant under Sections 363 and 366-A of the IPC, which was upheld by the High Court before being challenged before the Supreme Court. The primary issue for consideration was whether the evidence presented by the prosecution was sufficient to sustain the conviction.

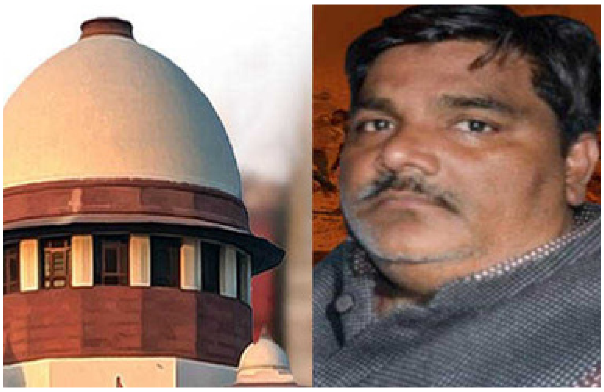
The prosecution alleged that the appellant kidnapped the prosecutrix, the daughter of PW-1, with the intent of subjecting her to illicit intercourse. The trial court found the appellant guilty under Sections 363 and 366-A IPC, and the High Court upheld this conviction. Aggrieved, the appellant approached the Supreme Court, arguing that the prosecution had failed to establish the essential ingredients of the alleged offenses beyond reasonable doubt. Upon reviewing the evidence, the Supreme Court noted that the prosecutrix (PW-2) in her testimony admitted that she voluntarily accompanied the appellant. Furthermore, her younger sister, who allegedly saw her leaving with the appellant, was not presented as a witness by the prosecution. The FIR was lodged with considerable delay, casting doubts on the credibility of the prosecution's claims. Medical evidence presented by PW-3 showed no signs of injury or sexual assault. Additionally, the prosecutrix's age was determined to be between 16-18 years, making it uncertain whether she was a minor at the time of the incident. Given this ambiguity, the benefit of the doubt was extended to the appellant.

The Supreme Court also referred to the Supreme Court's Handbook on Gender Stereotypes (2023) to reaffirm that bodily injuries are not necessary to prove sexual assault and that victims react differently to trauma. The Court noted that trauma responses are deeply individual. Some victims may exhibit outward signs of distress, while others may remain calm or silent due to fear, stigma, or helplessness. It is a misconception that sexual assault necessarily leaves physical injuries. Fear, shock, and social conditioning often prevent victims from resisting or reporting the crime immediately. The absence of physical injuries or immediate outcry should not form the sole basis for discrediting the victim's account.

However, in the present case, there was no evidence to establish coercion or force, undermining the charge under Section 366-A IPC. Regarding the charge under Section 363 IPC, the prosecution's failure to present a key witness and the lack of conclusive evidence regarding the prosecutrix's age further weakened the case against the appellant. Considering the inconsistencies in the prosecution's case, the Court found no justification to sustain the conviction. Accordingly, the Supreme Court set aside the conviction and quashed the impugned judgment. The appellant was discharged of his bail bond, and the appeal was allowed.

This judgment reinforces the principle that a conviction must be based on clear and substantive evidence, rather than assumptions or delayed allegations, ensuring fairness in criminal jurisprudence.

Mohd. Tahir Hussain v. State of NCT of Delhi, 2025 INSC 100



In the present case, the Supreme Court addressed a Special Leave Petition filed by the accused in multiple cases related to the 2020 Delhi riots, including the murder of an Intelligence Bureau officer and charges under the Prevention of Money Laundering Act ("PMLA"). The petitioner sought interim bail to campaign for the Delhi Assembly Elections. The case raised critical questions about the scope of statutory rights, interim bail provisions, and public interest.

The petitioner had been in custody since March 2020 and contended that denial of interim bail to campaign for elections infringed upon his rights, particularly given the prolonged duration of his detention. The High Court had earlier allowed custody parole for filing nomination papers but refused interim bail for campaigning. The petitioner's appeal led to a split verdict by a two-judge bench of the Supreme Court.

Justice Mithal dismissed the petition, emphasizing that the right to campaign for elections is not a fundamental or statutory right. He noted that the petitioner's rights were adequately protected through custody parole, which allowed him to file his nomination papers. The Court underscored that granting interim bail for campaigning would set an undesirable precedent, opening the door for numerous undertrial prisoners to seek similar relief. The judgment highlighted that under Section 62(5) of the Representation of the People Act, 1951, incarcerated individuals are prohibited from voting, and extending the right to campaign would conflict with this statutory restriction. Furthermore, Justice Mithal expressed concerns over the potential for witness tampering, given the serious allegations against the petitioner, including the use of his premises as an "epicenter" for riots.

In a dissenting judgment, Justice Amanullah allowed the petitioner interim bail until February 4, 2025, subject to strict conditions. While acknowledging the gravity of the allegations, he emphasized that they remained unproven, and the petitioner's prolonged incarceration without trial violated principles of personal liberty under Articles 14 and 21 of the Constitution. Justice Amanullah observed that the petitioner had secured bail in several related cases and noted systemic delays in the trial process. He highlighted that meaningful participation in elections requires direct engagement with the electorate, which could not be achieved solely through indirect means like social media. The dissenting opinion framed the denial of interim bail as a disproportionate restriction on the petitioner's statutory and constitutional rights.

The Supreme Court's split verdict reflects the complexity of balancing individual liberties with public interest in cases involving severe allegations. Justice Mithal's opinion prioritized legislative intent and public safety, while Justice Amanullah's dissent underscored constitutional guarantees and the presumption of innocence. The matter was referred to the Chief Justice of India for final resolution, highlighting its significance in evolving election and criminal law jurisprudence.

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Sterling and Wilson Private Limited vs. Joint Commissioner [WP No. 20096 of 2020 judgment dated 10.01.2025]

In this ruling, the Hon'ble Andhra Pradesh High Court, decided the question that for the purposes of levy of GST, whether the installation of solar panels would amount to 'works contract' subject to 18% GST or will it be composite supply simpliciter subject to 5% GST. The court on a previous occasion vide its order dated 25.11.2022 had remanded the matter back to the Appellate Authority directing that order shall be passed as per Circular No.163/19/2021-GST, dated 06.10.2021. However, the petitioner submitted that the circular has not been notified and was not available for adjudication, to which the Government Pleader also agreed and hence by way of review application, the matter was once again brought before the Court.

The petitioner was in the business of setting up solar power plants, paying GST at the rate of 5% on such supply, and as the inputs were taxed at a higher rate, he filed refund application to claim refund of Rs. 8,65,63,538, under inverted duty structure. This application was rejected and department issued show cause notice proposing to levy GST at the rate of 18%. The petitioner submitted that the transaction should be treated as 'composite supply; the two constituent taxable supplies falling under Sl.No.234 of Notification No.01/2017-CT(Rate) dated 28.06.2017 and Sl.No.38 of Notification No.11/2017-CT(Rate) and applying Section 8, the same would result in tax being levied @ 5%. He submitted that installation of solar plant resulted in movable property.

On the other hand, department submitted that, the installation of solar plant resulted in immovable property and hence it is supply of 'works contract' service, taxable at 18%.

The Court analysed the legal provisions in respect of 'composite supply' and 'works contract'. The Court notes that composite supply has been defined under Section 2(30) and its taxability is determined based on Section 8. In respect of works contract it was noted that the supply of works contract is defined in Section (119) and it is also composite supply on combined reading of Section 7 and Note 6 of Schedule II to the CGST Act. The Court explained that while all 'works contracts' are 'composite supply', there may be 'composite supply' which are not 'works contract'. The Court observed that only those composite supplies which result in construction etc. of immovable property would be works contract.

The Court relied upon the judgments of Commissioner of Central Excise, Ahmedabad v. Solid and Correct Engineering Works (2010) 1 SCC 122 and the sample copy of the agreement between the petitioner and one of its clients and held that the solar plant is an immovable property. The Court observed that the property, which is attached to a structure embedded in the earth, would also become immoveable property only when such attachment is for the permanent beneficial enjoyment of the structure, which is embedded in the earth. In this case, the civil foundation is embedded in the Earth, but the solar modules and the Solar Power Generating System have been attached to the civil structure for better permanent and beneficial enjoyment of the Solar Power Generating Station. The Court rejected the reliance placed by the department on the decision of Duncans Industries Limited vs. State of Uttar Pradesh (2000) 1 SCC 633, on the ground that in that case the finding of fact by High Court that the plant and machinery was embedded to earth was accepted by the Supreme Court and the Apex Court proceeded to decide the question on the basis of 'permanent purpose'. In the present case however, the goods are not embedded in the earth.

W&B Comments: This judgment has given a major relief to the businesses involved in the proliferation of renewable energy as the stand taken by the department would have caused a major unreasonable tax burden on such businesses country-wide. However the confusion over this issue still prevails, which was further complicated by Circular 163/19/2021-GST which states that GST on such specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, for the period of 1st July, 2017 to 31st December, 2018. This circular is in clear violation of concept of 'composite supply' under Section 8 and further has been stayed by the Hon'ble Allahabad High Court its judgment of Dharampal Satyapal Limited Versus Union of India 2023 (8) TMI 1218. This issue should attract immediate attention of the GST Council and should be dealt with comprehensively.

Union of India vs. Shantanu Sanjay Hundekari [SLP(C) Diary No. 55427 of 2024 order dated 24.01.2025]

In this order, the Hon'ble Supreme Court upheld the order passed by the Hon'ble Bombay High Court in Shantanu Sanjay Hundekari vs. Union of India 2024 (3) TMI 1277. In the case before the Bombay High Court, employees of a shipping company, were issued a show cause notice under Section 74 of the CGST Act, 2017 whereupon a demand of Rs. 3731,00,38,326/- towards penalty was demanded from them, being the tax amount stated to be defaulted by their employer.

These employees where not in charge of the day-to-day business of their employer but held a power of attorney to represent them before the tax authorities. The tax authorities had invoked Section 122(1A) and Section 137 of the CGST Act, which provides that any person who retains the benefit of a transactions listed in Section 122(1) shall be liable to penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on. Section 137 provides that when the offence has been committed by a company with the consent or connivance of or is attributable to any negligence on the part of, any director, manager, secretary or other officer of such company, such person shall also be deemed to be guilty of that offence.

These employers were foreign companies which did not have any employee or fixed establishment in India and solely for the purpose of representing and acting on behalf of them, in tax matters before the Indian tax authorities, the petitioners were given the power of attorney. Throughout the proceedings the petitioners had cooperated with the GST authorities for investigation and taken a stand that they were not personally availing the benefit of any ITC, nor does the show cause notice alleged that any personal benefit is achieved by the petitioners. They also submitted that they were neither legal experts nor had any in-depth legal understanding of GST laws or its interpretation and their role was essentially to assist and cooperate with the investigation authorities and had given clarifications relating to distribution of ITC, legitimately taken by their employer on payments made to third party vendors on procurement of services. The crux of their submission was that Section 122(1A) and Section 137 of the CGST Act do not apply to them if there is no suggestion that any personal benefit was availed by them.

The Bombay High Court had held that Section 122(1A) applies only to a taxable person, defined under section 2(107), as it specifically speaks about the applicability of the provisions of clauses (i), (ii), (vii) or clause (ix) of sub-section (1) of Section 122. The Court observed that it is difficult to accept the case of the revenue that the petitioners as employees were in any legal position under the CGST Act to retain the benefit of a transaction. Further there was no material to show that it is at the instance of petitioners, that the transactions are conducted, so as to make them liable for such a penalty. With respect to Section 137, the court observed that that proceedings under Section 137 cannot be initiated under Section 74 of the CGST Act. The Court observed that principle of vicarious liability cannot be attracted in case of these provisions. The court quashed the show cause notices issued to the employees.

Now the Supreme Court has rejected the SLP filed by the department and after taking note of the cogent reasons adopted by the Bombay High Court, observed that there are no reasons to interfere with such judgment. However, the Apex Court allowed the question of law in respect of Section 122(1A) and Section 137 to be kept open.

W&B Comments: This upholding of the judgment of the Bombay High Court by the Hon'ble Supreme Court will come as a breath of relief for many tax professionals working for the numerous businesses across the country. The sword of penalty under GST merely for being an employee of a business will neither improve the GST collections as such employee do not have the large amounts of demand raised by the revenue neither improve any intended GST compliance as the employee are powerless and do not take the business or transactional decisions of their employer. The focus of the department should rather be on making their investigation process more evidence based, as the Bombay High Court observed that department failed to place anything on record to show that the employees personally received the benefit of any alleged tax evasion.

Pinnacle Vehicles and Services Private Limited vs. Joint Commissioner WP (C) No. 25724 of 2024 judgment dated 15.01.2025:

In this judgment, the Hon'ble Kerala High Court held that the authorities under the CGST and the SGST Act are already cross empowered under Section 6 of both the Acts and there is no requirement of a separate notification / circular.

The petitioner filed a writ petition for the quashing of the show cause notices issued under Section 74 of the CGST Act by the officers of the State GST Department, challenging thereby their jurisdiction to issue such notice until and unless conditions for exercise of such cross empowerment have been first specified by the government on the recommendations of the GST Council through a notification issued for such purpose. The petitioners relied upon the judgment of the Madras High Court in Tvl. Vardhan Infrastructure v. Special Secretary MANU/TN/2310/2024 in which has been held that in the absence of such an enabling notification, the proceedings initiated by the State GST Authority are to be seen as without jurisdiction.

The matter was first head by a single judge who considered he submissions of the petitioners and the judgment of the Madras High Court in the above case and referred the matter to a larger bench. The division bench in the present case held that the cross empowerment of the of the GST officers of the SGST/UGST Department is through the legislative mandate under Section 6(1) of the CGST Act. Such mandate, without any notification is unqualified and the government has power to qualify such powers by notification passed on recommendations of the GST Council. The Court relied upon the case of the Delhi High Court in Indo International Tobacco Ltd. and Ors. v. Additional Director General, DGGI and Ors. (2022) 97 GSTR 414 (Delhi) holding that Section 6 is meant to give effect of harmonious convergence of the State and the Union for the same event of taxation.

W&B Comments: Thie issue of cross empowerment and multiple proceedings is quite common in GST. Multiple notices/letters are issued on the same issue by officers of CGST and SGST or CGST and DGGI, two officers of same department and even SCN by one officer and Audit Notice for same tax period by another officer. The taxpayer is forced to represent his case on identical facts before multiple officers. In such a scenario while the judgment of the Kerala High Court clarifies the matter, it is also important at the level of execution, i.e. GST portal the issues of cross empowerment do not create hassle.

Vigneshwara Transport Company vs. Addl. Commissioner of Central Tax 2024 (12) TMI 1511

In this ruling, the Karnataka High Court quashed a show cause notice on the grounds that the investigation underlying the issue of such notice under Section 74 of the CGST Act was not conducted by the proper officer.

The investigation in the case of the petitioner was conducted by Commissioner (CGST), without being the proper officer. Once the Commissioner conducted almost all of the investigation he transferred the case to Principal Commissioner (CGST),, who was actually the proper officer to conduct such proceedings. Relying upon the records built by the Commissioner / Improper Officer the Principal Commissioner issued the impugned show cause notice without himself investigating the case.

The Court analysed the provisions of Chapter 14 (Inspection, Search, Seizure and Arrest) of the CGST Act and observed that such powers can only be exercised by the proper officer. It held hat when the investigation, inspection, search and seizure is substantially completed by an improper Officer, is the show cause notice issued by a proper Officer under Section 74 of the CGST Act and KGST Act liable to be set aside. When the investigation itself is ab initio void, then notice under Section 74 based upon such investigation has to be considered illegal as there is no satisfaction on the part of proper officer – he cannot issue SCN based on ‘borrowed satisfaction’.

W&B Comments: This judgment should make it clear that the Department has to strictly follow the letter of the law and cannot forgo the procedures and casually treat them as inconsequential formality. The Court by stressing upon the need to have ‘satisfaction’ before issuing notice under Section 74 has highlighted the central role of proper officer in GST procedures.

Articles

Legal analyses of Challenges in FinTech and Digital Lending

The rapid evolution of financial technology (FinTech) has transformed the landscape of lending in India, introducing innovative digital platforms that offer swift and convenient access to credit. While these advancements have enhanced financial inclusion, they have also presented significant legal challenges, particularly concerning unregulated lending practices. In December 2024, the Indian government proposed stringent legislation to address these issues, aiming to protect consumers and uphold financial stability.

The Rise of Digital Lending in India

Digital lending platforms have gained substantial traction in India, leveraging technology to streamline the borrowing process. These platforms utilize algorithms and data analytics to assess creditworthiness, enabling quicker loan approvals compared to traditional banking methods. This efficiency has made digital lending particularly appealing to individuals and small businesses seeking immediate funds. However, the surge in digital lending has not been without complications.

The convenience and speed offered by these platforms have sometimes come at the cost of adequate regulatory oversight, leading to the proliferation of unregulated lending entities. These unregulated lenders often operate without proper authorization, engaging in predatory practices that exploit vulnerable borrowers.

Legal Challenges in the FinTech Landscape

The intersection of technology and finance presents unique legal challenges. One primary concern is the regulatory ambiguity surrounding digital lending activities. Many digital lenders operate outside the purview of traditional financial regulations, creating a gray area that complicates enforcement actions against malpractices. Unregulated lending activities have led to numerous consumer complaints, including exorbitant interest rates, hidden charges, and aggressive recovery tactics. In extreme cases, borrowers have faced harassment and coercion, leading to severe psychological distress and, tragically, instances of suicide. These issues underscore the urgent need for a robust legal framework to govern digital lending practices.

Government's Legislative Response

In response to these challenges, the Indian government, in December 2024, proposed the Banning of Unregulated Lending Activities (BULA) Bill. This draft legislation seeks to prohibit all lending activities not authorized by the Reserve Bank of India (RBI) or other relevant regulators. The bill defines "unregulated lending activities" as any lending not covered by existing laws, whether conducted digitally or through traditional means. The proposed penalties for engaging in unregulated lending are stringent. Violators could face imprisonment ranging from two to seven years and fines between ₹2 lakh and ₹1 crore. For those employing unlawful methods to recover loans, the punishment could escalate to imprisonment of three to ten years and fines up to twice the loan amount. Additionally, the bill criminalizes misleading advertisements that entice borrowers into unregulated loans, with offenders facing up to five years in prison and fines up to ₹10 lakh. To enhance transparency and consumer protection, the bill proposes the creation of a centralized online database listing all authorized lenders. This platform would allow the public to verify the legitimacy of lenders and report illegal lending activities. The government has invited stakeholders to submit comments on the draft bill by February 13, 2025, indicating a collaborative approach to finalizing the legislation.

Regulatory Measures by the Reserve Bank of India

Parallel to the government's legislative efforts, the RBI has intensified its regulatory oversight of digital lending platforms. In August 2024, the RBI tightened norms for peer-to-peer (P2P) lending platforms, prohibiting them from assuming credit risk, providing credit enhancement, or offering guarantees. These measures aim to ensure that P2P platforms operate strictly as intermediaries, with lenders bearing the risk of loan defaults. Furthermore, the RBI has taken action against non-banking financial companies (NBFCs) that violated regulatory guidelines. In January 2025, the central bank began unwinding restrictions on several NBFCs after they demonstrated improved compliance. These actions reflect the RBI's commitment to maintaining financial stability while encouraging responsible lending practices.

Challenges in Implementation

While the proposed BULA Bill and the RBI's regulatory measures represent significant strides toward curbing unregulated lending, several challenges persist. Enforcing these regulations, especially against entities operating anonymously or from foreign jurisdictions, poses a considerable hurdle. The digital nature of these platforms allows them to circumvent traditional regulatory frameworks, making detection and enforcement difficult. Additionally, there is a risk that overly stringent regulations could stifle innovation in the FinTech sector. Striking a balance between protecting consumers and fostering technological advancement is crucial. Regulators must ensure that compliance requirements do not become overly burdensome, potentially discouraging legitimate digital lending initiatives that contribute to financial inclusion.

Conclusion

Addressing the legal challenges in FinTech and digital lending necessitates a multifaceted approach. Robust legislation, such as the proposed BULA Bill, is essential to establish clear legal boundaries and deterrents against unregulated lending. However, legislation alone is insufficient.

Effective enforcement mechanisms, inter-agency collaboration, and international cooperation are vital to tackle the cross-border nature of many digital lending platforms. Consumer education also plays a pivotal role. Empowering borrowers with knowledge about their rights and the risks associated with unregulated lending can reduce vulnerability to predatory practices. Financial literacy programs should be integrated into broader educational initiatives to equip individuals with the skills to make informed borrowing decisions. Moreover, the FinTech industry must engage proactively with regulators to develop self-regulatory frameworks that promote ethical lending practices. By fostering a culture of responsibility and transparency, the industry can build trust with consumers and contribute to the sustainable growth of digital lending in India. While the rise of digital lending in India offers significant benefits, it also presents substantial legal challenges. The government's proposed legislation and the RBI's regulatory measures are critical steps toward mitigating these challenges. However, a collaborative effort involving regulators, industry stakeholders, and consumers is essential to create a balanced ecosystem that safeguards borrower interests while encouraging innovation in the FinTech sector.

A Critical Analyses of Data Privacy and Security in Corporate Banking

In November 2024, a whistleblower alleged that Bank of America bankers in Asia shared nonpublic information with investors ahead of a significant stock sale in India. This incident underscores the critical importance of data privacy and security in corporate banking, raising questions about compliance, trust, and the legal implications of breaches in a sector that handles sensitive financial information.

The Corporate Banking Landscape: A Data-Driven Sector

Corporate banking operates in a data-rich environment where financial institutions process and store vast amounts of sensitive information. This includes proprietary business data, transaction histories, investment strategies, and confidential client information. With such data serving as the lifeblood of operations, maintaining its integrity and confidentiality is paramount. However, the increasing digitization of banking processes has exponentially heightened the risks associated with data breaches. Whether through cyberattacks, insider threats, or procedural lapses, breaches in corporate banking can lead to reputational damage, financial losses, and regulatory penalties. The Bank of America incident exemplifies how even a single lapse can have far-reaching consequences.

Legal and Regulatory Frameworks Governing Data Privacy

Data privacy and security are governed by stringent regulations across jurisdictions. In India, the recently enacted Digital Personal Data Protection Act, 2023 (DPDPA) establishes comprehensive requirements for data collection, storage, and processing. It emphasizes accountability, consent, and the rights of data principals (individuals). Corporate banks must align their operations with these requirements to mitigate risks and maintain customer trust.

Globally, regulations like the General Data Protection Regulation (GDPR) in the European Union and the California Consumer Privacy Act (CCPA) in the United States set similarly high standards. Banks operating across borders must navigate these overlapping legal frameworks to ensure compliance and avoid punitive measures.

Challenges to Data Privacy and Security in Corporate Banking

- Insider Threats: The Bank of America case highlights insider threats as a major challenge. Employees with access to sensitive data can intentionally or unintentionally leak information, undermining client trust and violating legal obligations.
- Cybersecurity Threats: With increasing reliance on digital infrastructure, banks are prime targets for cyberattacks. Ransomware, phishing, and Distributed Denial-of-Service (DDoS) attacks can compromise vast amounts of client data, leading to financial and operational disruptions.
- Third-Party Risks: Corporate banks often rely on third-party vendors for various services. A weak link in the vendor's security framework can expose the bank's data to risks.
- Regulatory Complexity: Navigating the myriad of global and local regulations requires robust compliance frameworks. Noncompliance can result in hefty fines and legal liabilities.
- Technological Obsolescence: Legacy systems in many banks are ill-equipped to handle modern security challenges. Upgrading these systems without disrupting operations is a significant hurdle.

Best Practices for Ensuring Data Privacy and Security

To address these challenges, corporate banks must adopt a proactive and multi-faceted approach:

- Robust Governance Framework: Establish clear policies and procedures for data handling, ensuring accountability at all organizational levels. Appointing a Chief Information Security Officer (CISO) can centralize efforts and foster a security-first culture.
- Advanced Cybersecurity Measures: Leverage advanced technologies like Artificial Intelligence (AI) and Machine Learning (ML) to detect and mitigate threats. Regular penetration testing and real-time monitoring can preempt potential breaches.

- Comprehensive Training Programs: Educate employees on the importance of data privacy and equip them with tools to identify and prevent security lapses.
- Vendor Risk Management: Implement stringent due diligence processes for third-party vendors and ensure contractual obligations include robust data protection clauses.
- Regulatory Alignment: Stay abreast of evolving regulations and update compliance mechanisms accordingly. This includes conducting regular audits and maintaining detailed documentation.
- Data Encryption and Anonymization: Employ encryption to protect data at rest and in transit. Anonymizing sensitive information can further reduce the risks of unauthorized access.
- The Role of Technology in Safeguarding Data
- Emerging technologies offer innovative solutions to bolster data privacy and security in corporate banking:
- Blockchain Technology: Blockchain's decentralized architecture enhances transparency and security, making it an ideal tool for securing transaction data and ensuring audit trails.
- Cloud Security Solutions: As banks increasingly adopt cloud services, robust cloud security frameworks are essential to safeguard data.
- Behavioral Analytics: AI-driven behavioral analytics can identify unusual patterns, flagging potential insider threats or unauthorized access in real-time.

Legal Implications of Breaches

The Bank of America whistleblower case underscores the legal ramifications of data breaches. Potential consequences include:

- Regulatory Penalties: Breaches can attract penalties under laws like the DPDPA, GDPR, or industry-specific regulations.
- Civil Liability: Clients whose data is compromised may pursue legal action, leading to expensive settlements or prolonged litigation.
- Criminal Proceedings: In cases of gross negligence or willful misconduct, organizations and individuals may face criminal charges.

- Reputational Damage: Beyond legal penalties, breaches erode client trust and can lead to a loss of business.

Conclusion

The Bank of America incident serves as a stark reminder of the stakes involved in data privacy and security within corporate banking. While regulatory frameworks provide the foundation, the onus is on banks to proactively address vulnerabilities through technology, governance, and training. A resilient approach to data privacy not only mitigates risks but also enhances client trust, positioning banks as reliable custodians of sensitive information. As the digital transformation of the sector continues, a steadfast commitment to data security will remain indispensable to navigating the challenges and opportunities of the modern corporate banking landscape.

Decriminalization of Corporate Offenses: Recent Amendments and Their Impact on Corporate Governance

India's rapid socio-economic and market transformation has necessitated reforms to create a balance between regulatory oversight and business facilitation. The decriminalization of corporate offenses under the Companies Act is one such step aimed at fostering ease of doing business while maintaining robust corporate governance standards. Many non-grievous offenses, previously subject to criminal action, have been decriminalized to streamline processes and encourage entrepreneurship.

Need for Reform

The need for reform stemmed from the overly stringent provisions in the Companies Act, 2013, which often imposed harsh penalties for minor and technical lapses. According to the Ministry of Corporate Affairs (MCA), over 97% of cases under the Act involved non-serious violations, yet they faced severe penalties, creating a deterrent for businesses and burdening courts. Recognizing this, the government initiated reforms to re-categorize offenses into civil and criminal categories, ensuring proportionate penalties and simplifying compliance. These efforts, led by the Injeti Srinivas Committee, resulted in significant amendments through the Companies (Amendment) Acts of 2019 and 2020.

Key Amendments and Mechanisms

The Companies (Amendment) Act, 2019, marked the first major step in the decriminalization process. It decriminalized 16 compoundable offenses, introduced an in-house adjudication mechanism for minor violations, and redefined penalties for procedural lapses. These changes were designed to address issues without overburdening judicial systems. Notably, while corporate social responsibility (CSR) violations were initially criminalized, they were later clarified as civil liabilities, reflecting a more balanced approach.
Building on this, the Companies (Amendment) Act, 2020, further decriminalized 46 provisions and replaced imprisonment with fines for 11 offenses. This Act also introduced clearer guidelines for penalties, ensuring consistent enforcement. The introduction of the in-house adjudication mechanism (IAM) is a cornerstone of these reforms. This mechanism allows minor defaults to be resolved by adjudicating officers, thereby reducing the burden on courts. Since its implementation, IAM has facilitated the resolution of over 1,000 cases, showcasing its effectiveness.

Positive Impacts on Corporate Governance

- **Enhancing Ease of Doing Business**

The reforms have significantly enhanced the ease of doing business by fostering a business-friendly environment.

By reducing the fear of harsh penalties for minor infractions, the reforms have boosted investor confidence and encouraged entrepreneurship. Businesses now find it easier to navigate compliance requirements, which, in turn, promotes economic growth.

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Another key benefit of these reforms is the encouragement of voluntary compliance. Companies are more likely to adhere to regulations proactively, knowing that minor infractions will not result in disproportionate consequences. This shift also aligns with India's goal of leveraging its demographic dividend effectively by creating a more conducive environment for business operations.

- **Reducing Litigation Burdens**

The reduction in litigation burdens is another critical outcome of decriminalization. Courts are no longer overwhelmed with minor cases, allowing them to prioritize significant corporate governance violations. Regulatory bodies, too, can allocate resources more efficiently, focusing on ensuring compliance rather than punitive measures.

- **Supporting Honest Corporates**

The reforms have bolstered confidence among law-abiding corporates by demonstrating the government's commitment to supporting honest wealth creation. This approach aligns with global best practices, enhancing India's appeal as an investment destination.

Challenges and Concerns

- **Risk of Leniency**

Critics argue that decriminalization may lead to a perception of leniency, potentially encouraging non-compliance among certain entities. To mitigate this, robust enforcement mechanisms must be established to ensure that civil penalties are effectively imposed and collected.

- **Balancing Accountability**

Certain offenses, particularly those involving fraud or significant public interest, must retain stringent penalties to deter malpractice. A balanced approach is essential to maintaining trust in the corporate governance framework while facilitating business operations.

Conclusion

To ensure the long-term success of these reforms, continuous monitoring and evaluation are crucial. Strengthening IAM through regular training and capacity-building programs for adjudicating officers will enhance its effectiveness. Periodic reviews of offenses and penalties will help address emerging challenges and ensure fairness in enforcement. Policymakers must also engage actively with businesses and legal experts to adapt regulations to evolving market dynamics. By fostering collaboration, India can create a dynamic governance framework that supports sustainable growth. India's move to decriminalize corporate offenses represents a significant shift toward modernizing its corporate governance framework. By reducing criminal liabilities for minor infractions, the reforms align with global standards, support entrepreneurial growth, and reduce judicial burdens. However, achieving the desired balance between facilitation and accountability requires a cautious and adaptive approach. With consistent evaluation, robust enforcement, and active stakeholder engagement, these reforms have the potential to position India as a global leader in corporate governance, fostering a resilient and equitable economy.

GST and Production Linked Incentive (PLI) Scheme: Understanding the Tax Compliance Nexus

Post-2014, India has witnessed a significant push towards digitalization, self-reliance, and export-driven growth. Key reforms like the introduction of the Goods and Services Tax (GST) in July 2017 and the Production-Linked Incentive (PLI) scheme in 2020 have played a pivotal role in India's economic prowess. While GST unified India's indirect tax structure, the PLI scheme incentivizes manufacturers to boost domestic production, thereby reducing import dependency and enhancing export competitiveness.

Overview of the PLI Scheme

The PLI scheme aims to bolster domestic manufacturing with an outlay of INR 1.97 lakh crore for 14 key sectors, including electronics, pharmaceuticals, textiles, and electric vehicles. Incentives range from 4% to 6% on incremental sales over a base year. The scheme's compatibility with WTO guidelines ensures the incentives are tied to production rather than exports, maintaining compliance with global trade norms.

Each sector under the PLI scheme benefits from targeted incentives. State-specific schemes complement the PLI initiative, offering GST refunds and subsidies based on projected production and sales volumes.

GST and Its Role in PLI Compliance

GST has streamlined the indirect tax regime by subsuming multiple taxes and creating a uniform tax structure. For PLI beneficiaries, maintaining GST compliance is crucial as production and sales records directly influence incentive eligibility.

Benefits like Input Tax Credit (ITC) further reduce production costs, enhance competitiveness, and prevent tax burdens from cascading to consumers. However, non-compliance risks delays in PLI disbursements, underscoring the need for meticulous adherence to tax regulations.

Additionally, GST's role in facilitating smooth operations for industries under the PLI scheme cannot be overstated. The government's focus on reducing the compliance burden through measures like e-invoicing and GST audits further underscores the importance of this tax regime in driving efficiency.

Sectoral Analysis and Challenges

- Electronics Manufacturing The electronics sector benefits from incentives of 4%-6% on incremental sales and reduced GST rates on inputs. However, high logistics costs, limited domestic supply chains, and production cost disabilities of 8.5%-11% compared to global counterparts persist. Despite GST relief, these factors hinder the sector's competitiveness. Addressing these challenges through improved infrastructure and supply chain integration is essential.

- Drones and Drone Components The nascent drone sector faces varying GST rates—5%, 18%, and 28%—based on application. This inconsistency, coupled with a lack of domestic suppliers, increases import dependency and costs. Industry stakeholders have called for reduced GST rates and policy interventions to alleviate these challenges. Moreover, the sector's growth is critical, as drones have applications across agriculture, logistics, and surveillance, promising significant economic impact.

- Electric Vehicles (EVs) The EV market enjoys a reduced GST rate of 5%, significantly lower than the 28% for internal combustion engine vehicles. However, lithium-ion batteries, which constitute 30%-40% of an EV's cost, are taxed at 18%, raising overall production costs. Additionally, GST rates on EV charging infrastructure vary, further complicating the sector's growth. Harmonizing these tax rates could significantly bolster EV adoption and production.

- ACC Batteries ACC batteries, crucial for renewable energy and EVs, are supported under the PLI scheme and phased manufacturing programs. However, high GST rates on components (up to 28%) and import dependency remain significant barriers. The sector demands reduced GST rates and custom duty exemptions to boost local manufacturing and achieve energy security. Collaboration with global partners for technology transfer and investment in R&D could also help address these challenges.

- Textiles and Technical Textiles The textile sector benefits from schemes like PM MITRA and the National Technical Textiles Mission. However, issues such as an inverted duty structure—where raw materials are taxed at higher rates than finished products—and high logistics costs impede growth. The Gujarat High Court's recent ruling on GST rates for technical fabrics highlights the need for consistent and fair tax policies. Predictability in PLI policy extension and inclusion of more products within the textile domain will enhance producer confidence and market strength. Additionally, enhancing access to affordable raw materials and reducing transportation costs could amplify the sector's potential.

Recommendations for Policy Refinement

To maximize the PLI scheme's impact and address sector-specific challenges, the following measures are essential:

- Implement a uniform GST rate on critical inputs to simplify compliance and reduce costs.
- Streamline tax credits to prevent cascading tax burdens.
- Enhance infrastructure support to reduce logistics and production costs.
- Encourage domestic supply chains to minimize import dependency.
- Offer targeted tax reliefs for emerging sectors like drones and EVs to boost competitiveness.

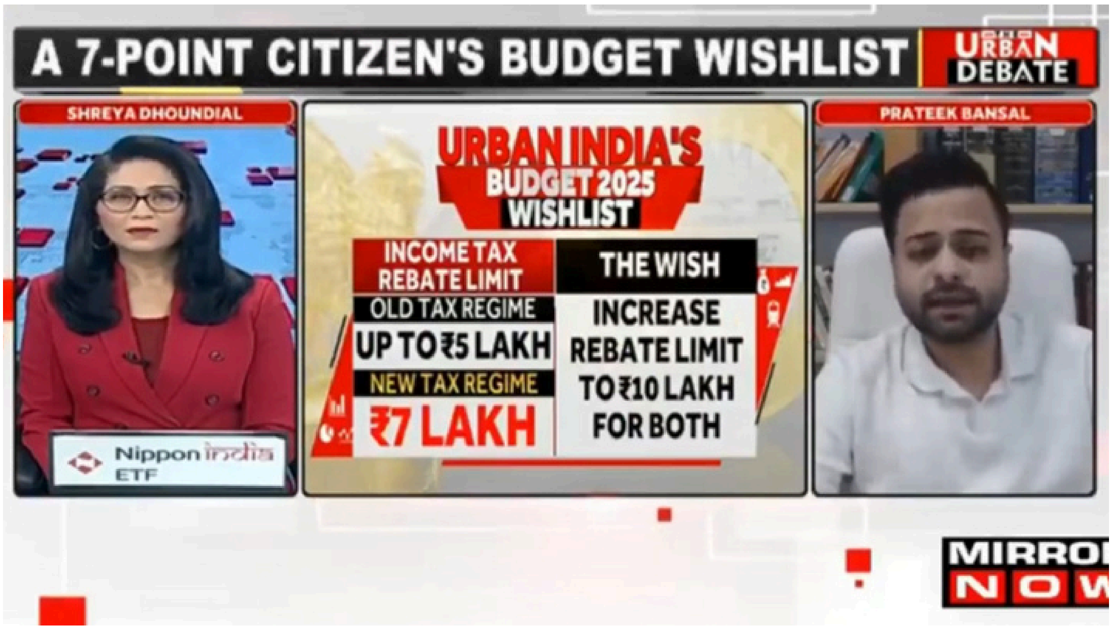
Additionally, regular engagement between industry stakeholders and policymakers can ensure that evolving challenges are addressed promptly. Leveraging technology to streamline tax compliance and incentivizing innovation through tax credits for R&D are further steps that could drive growth.

Conclusion

The nexus between GST and the PLI scheme highlights the need for a balanced approach to tax policies and incentives. By addressing sector-specific barriers, refining tax structures, and expanding infrastructure, India can strengthen its manufacturing base. This will not only fulfill the vision of “Atmanirbhar Bharat” but also enhance export competitiveness, foster innovation, and drive sustainable economic growth. A robust alignment of tax and production policies is pivotal for positioning India as a global manufacturing hub, ensuring long-term economic resilience and prosperity.

A Closer Look at Our Recent Features

The Urban Debate anchor SHREYA DHOUNDIAL at Mirror Now discussed the Budget 2025 Expectations



#prebudgetviewpoint - In this edition of The Urban Debate anchor SHREYA DHOUNDIAL at Mirror Now discussed the Budget 2025 Expectations and how PM Narendra Modi addressed the media as Parliament's Budget session began. Finance Minister Nirmala Sitharaman will present the Union Budget on February 1, 2025. A panel of experts has joined Shreya Dhoundial to discuss this in detail. Our Tax Partner,Prateek BansalPrateek Bansal said “I would expect govt to introduce basic exemptions in the new tax regime..”

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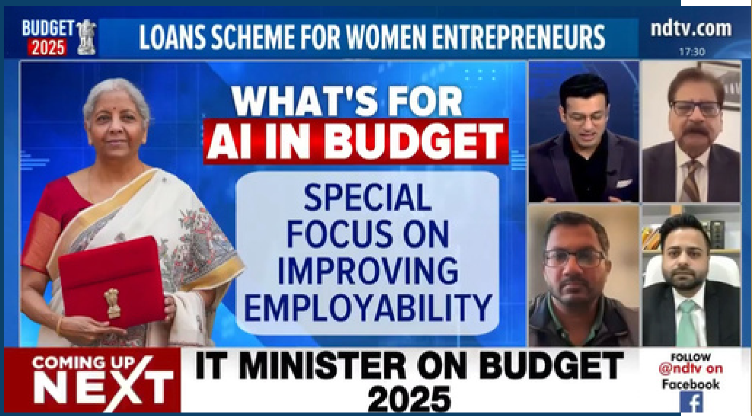

#UnionBudget2025 | Tax Relief & Exemptions 🔹

The Finance Minister's announcement of an increased income tax exemption for individuals earning up to ₹12 lakhs is a significant step towards enhancing disposable income and boosting economic activity. This move is set to benefit a large section of taxpayers while aligning with the broader vision of financial inclusion and economic resilience.

Prateek Bansal, Partner - Taxation, White and Brief - Advocates & Solicitors shared his views with NDTV #BudgetWithNDTV panel anchored by Ankit Tyagi

Click on the link to see the full discussion https://www.linkedin.com/feed/update/urn:li:activity:7293538042588405760

#postbudgetviewpoint - In this video anchor SHREYA DHOUNDIAL discusses the giant tax relief for Middle-class

1.Finance Minister Nirmala Sitharaman's Budget 2025 delivers a game-changing relief for the middle class, announcing no income tax for earnings up to ₹12 lakh. Prateek Bansal, Partner - Tax, White and Brief - Advocates & Solicitors joins a panel of experts to discuss this in detail.

Click on the link to see the full discussion. https://www.linkedin.com/feed/update/urn:li:activity:7292068958201856000

Our Partner Prateek Bansal has been featured in Hindustan Times article titled What is standard deduction in income tax and who is eligible.

We are delighted to share that our Partner Prateek Bansal has been featured in Hindustan Times article titled What is standard deduction in income tax and who is eligible.

To read the full article click here –
https://www.hindustantimes.com/business/what-is-standard-deduction-in-income-tax-and-who-is-eligible-101738375989360.html

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Our Partner Prateek Bansal has been featured in Business Standard article

We are delighted to share that our Partner Prateek Bansal has been featured in Business Standard article titled Budget 2025 : Women , SC /STs entrepreneurs can now get up to Rs 2 crore loan.

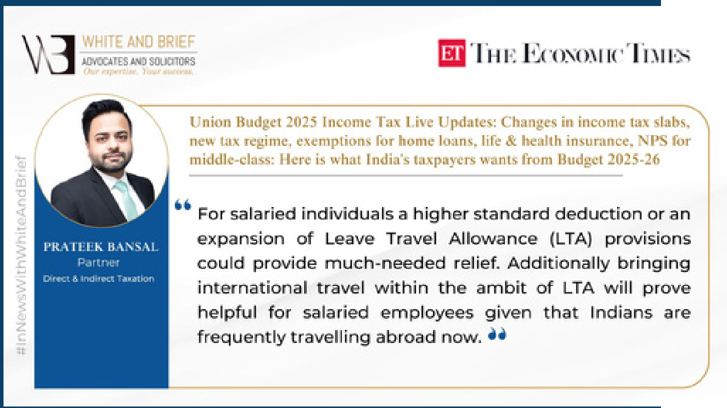
To read the full article click here - https://www.business-standard.com/finance/personal-finance/budget-2025-women-sc-sts-entrepreneurs-can-now-get-up-to-rs-2-crore-loan-125020100557_1.html

Our Partner Prateek Bansal has been featured in ET NOW article

We are delighted to share that our Partner Prateek Bansal has been featured in ET NOW article titled Budget 2025 expectations: Here’s what to expect for commercial real edtate market.

To read the full article click here - https://www.etnownews.com/budget/budget-2025-expectations-heres-what-to-expect-for-commerical-real-estate-market-article-117608267

Our Partner Prateek Bansal has been featured in The Economic Times



We are delighted to share that our Partner Prateek Bansal has been featured in The Economic Times article titled Union Budget 2025 Income Tax Live Updates : Changes in income tax slabs , new tax regime , exemptions for home loans , life & health inurance, NPS for middle-class: Here is what India's taxpayers wants from Budget 2025-26

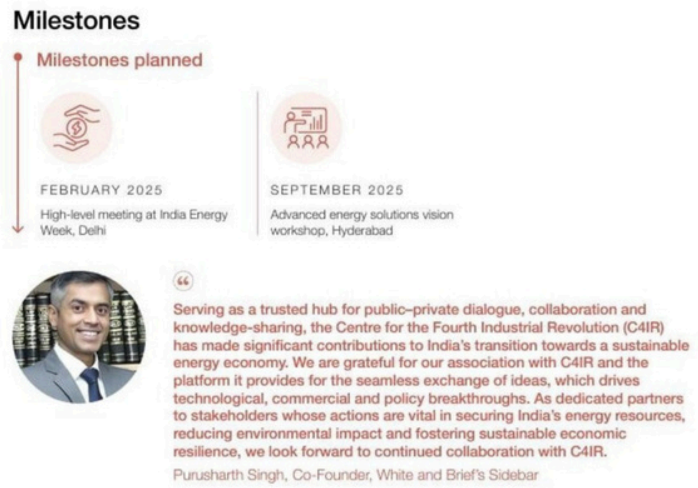
To read the full article click here – Delighted to share joyful moments from Christmas celebrations at our Delhi office— overflowing with cheer and holiday spirit!

Our Partner Prateek Bansal has been featured in Business Today article

We are delighted to share that our Partner Prateek Bansal has been featured in Business Today article titled HAL, BEL , BDL , Mazagon Dock , Cochin Shipyard, GRSE shares : Budget 2025 expectations.

To read the full article click here - https://www.businesstoday.in/union-budget/story/hal-bel-bdl-mazagon-dock-cochin-shipyard-grse-shares-budget-2025-expectations-461826-2025-01-23

Purusharth Singh , Co-Founder of White and Brief's Sidebar , has been featured in the Centre for the Fourth Industrial Revolution (C4IR) India


Milestones

Milestones planned

FEBRUARY 2025

High-level meeting at India Energy Week, Delhi

SEPTEMBER 2025

Advanced energy solutions vision workshop, Hyderabad

Serving as a trusted hub for public–private dialogue, collaboration and knowledge-sharing, the Centre for the Fourth Industrial Revolution (C4IR) has made significant contributions to India's transition towards a sustainable energy economy. We are grateful for our association with C4IR and the platform it provides for the seamless exchange of ideas, which drives technological, commercial and policy breakthroughs. As dedicated partners to stakeholders whose actions are vital in securing India's energy resources, reducing environmental impact and fostering sustainable economic resilience, we look forward to continued collaboration with C4IR.

Purusharth Singh, Co-Founder, White and Brief's Sidebar

Purusharth Singh , Co-Founder of White and Brief's Sidebar , has been featured in the Centre for the Fourth Industrial Revolution (C4IR) India – An Impact Journey 2025 report by the World Economic Forum (WEF) on Advanced Energy Solutions Dialogue Series – India.

This dialogue series is accelerating the deployment of transformative energy solutions – such as clean fuels, green hydrogen, energy storage, and advanced nuclear technologies – to industrial scale, reducing timelines from decades to years. It aligns with India's ambitious goals of achieving 5 MMBTU green hydrogen production capacity and 40 GW electrolyzer manufacturing by 2030, while supporting job creation, investment growth, and healthcare savings.

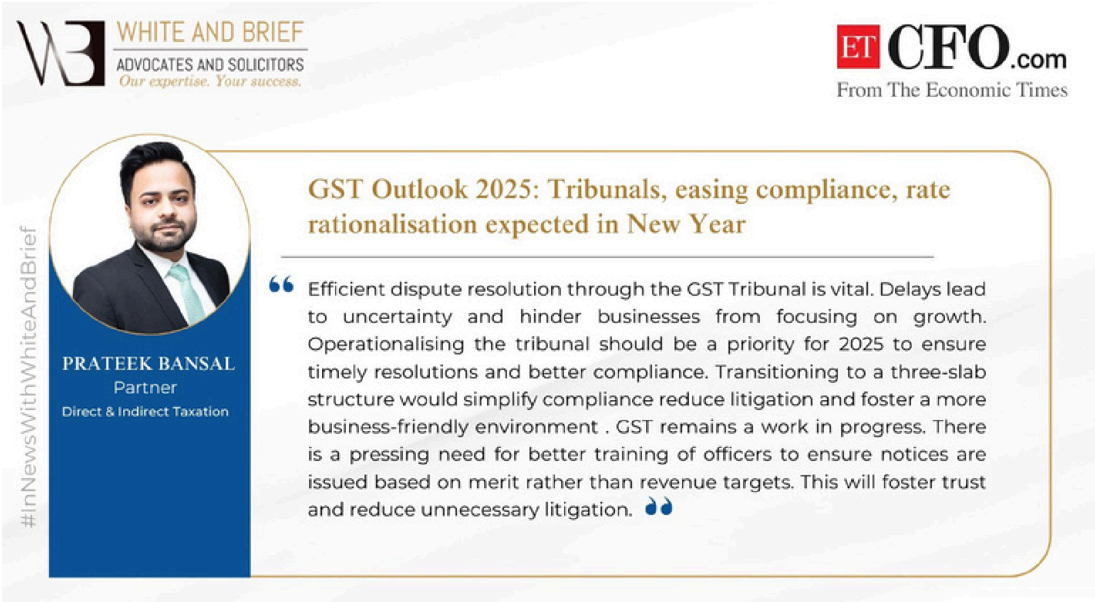
Lauding WEF and C4IR's initiatives, Purusharth had the following to say:

"Serving as a trusted hub for public–private dialogue, collaboration, and knowledge-sharing, the Centre for the Fourth Industrial Revolution (C4IR) has made significant contributions to India's transition towards a sustainable energy economy. We look forward to continued collaboration with C4IR to drive technological, commercial, and policy breakthroughs.
To access the full report, visit:
https://reports.weforum.org/docs/WEF_C4IR_India_An_Impact_Journey_2025.pdf

[In an exclusive conversation with CNBC-TV18 our Tax Partner Mr. Prateek Bansal shared his expectations from #Budget2025.]

Click here to read his comments in the live updates:
https://www.cnbctv18.com/budget/budget-2025-live-updates-expectations-proposals-finance-minister-nirmala-sitharaman-liveblog-19537073.htm

Our Partner Prateek Bansal has been featured in ETCFO



We are delighted to share that our Partner Prateek Bansal has been featured in ETCFO article titled - Gst Outlook 2025: Tribunals , easing compliance , rate rationalisation expected in New Year .

To read the article click here :
https://cfo.economictimes.indiatimes.com/news/tax-legal-accounting/gst-outlook-2025-tribunals-easing-compliance-rate-rationalisation-expected-in-new-year/116772637

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We are thrilled to share that a delegation of MDs and CEOs from Furniture Manufacturing Industry, led by our Partner Mr. Prateek Bansal met Mr.Piyush Goyal Hon’ble Minister of Commerce & Industry, Government of India




We are thrilled to share that a delegation of MDs and CEOs from Furniture Manufacturing Industry, led by our Partner Mr. Prateek Bansal met Mr.Piyush Goyal Hon’ble Minister of Commerce & Industry, Government of India in New Delhi. The discussions focused on implementation of upcoming Quality Control Orders (QCOs) for the furniture industry, promotion & safeguarding of domestic manufacturing and joint action plan between Government & industry to ensure quality and sustainability.

The delegation comprised of:

1. Mr.Hiten ParekhMD, Nilkamal Limited
2. Mr.Somesh DokaniaDirector ,Durian
 Industries
3. Mr.Dhiren GopalDirector,Featherlite
 Group
4. Mr.Vivek DeshpandeFounder & Director,
 Spacewood Furnishers Pvt. Ltd.
5. Mr.Swapneel NagarkarCOO –Godrej Interio Godrej & Boyce Mfg. Co. Ltd.
6. Mr.Sunil SureshChairman & MD, Stanley Lifestyles
7. Mr.Mufaddal PankhawalaMD, Asian.
 Prelam Lamàni
8. Mr. Pulin Shah, Director, Reactive Polymers

We are thankful to Hon'ble Minister for the patient and fruitful discussions.

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