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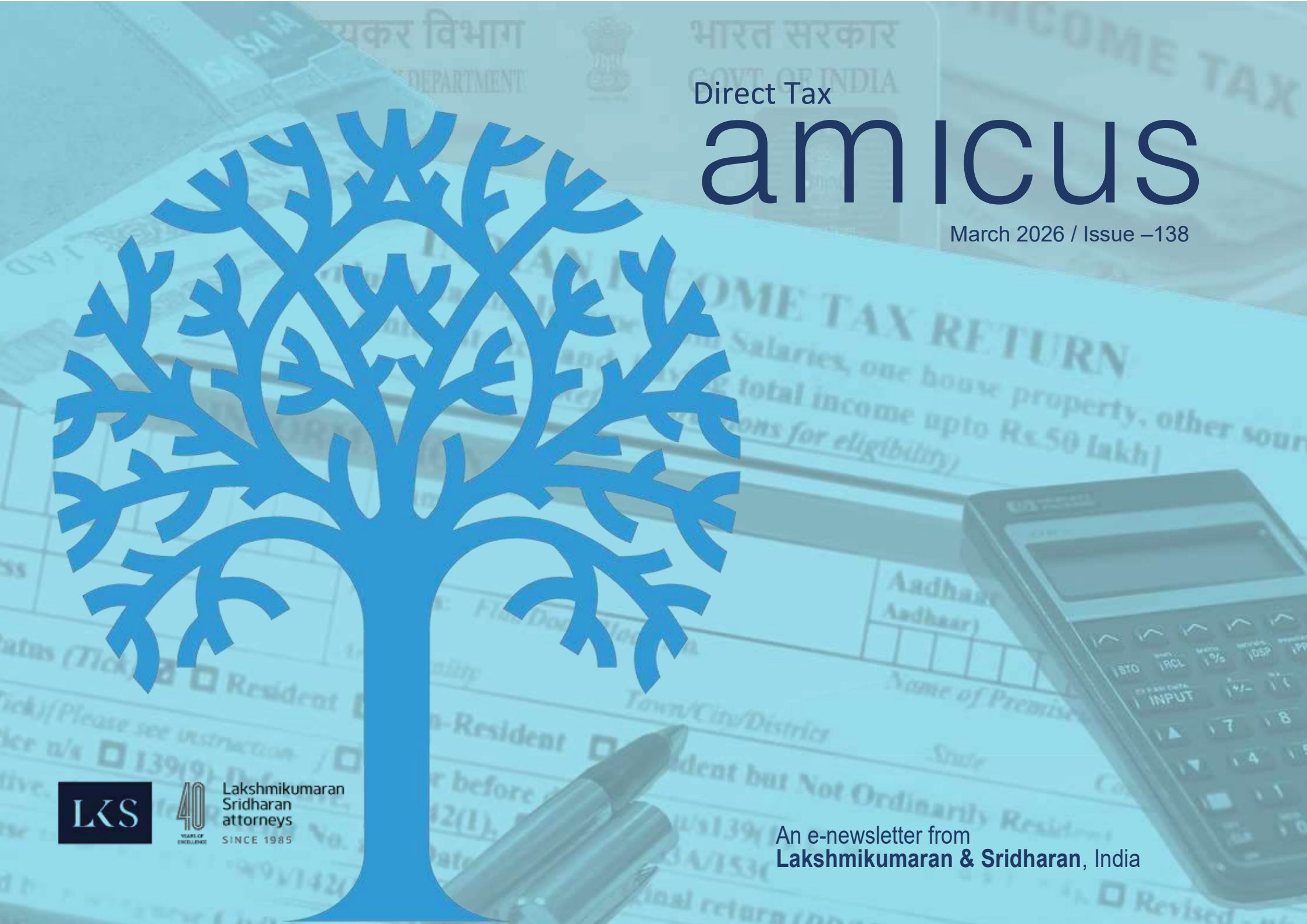

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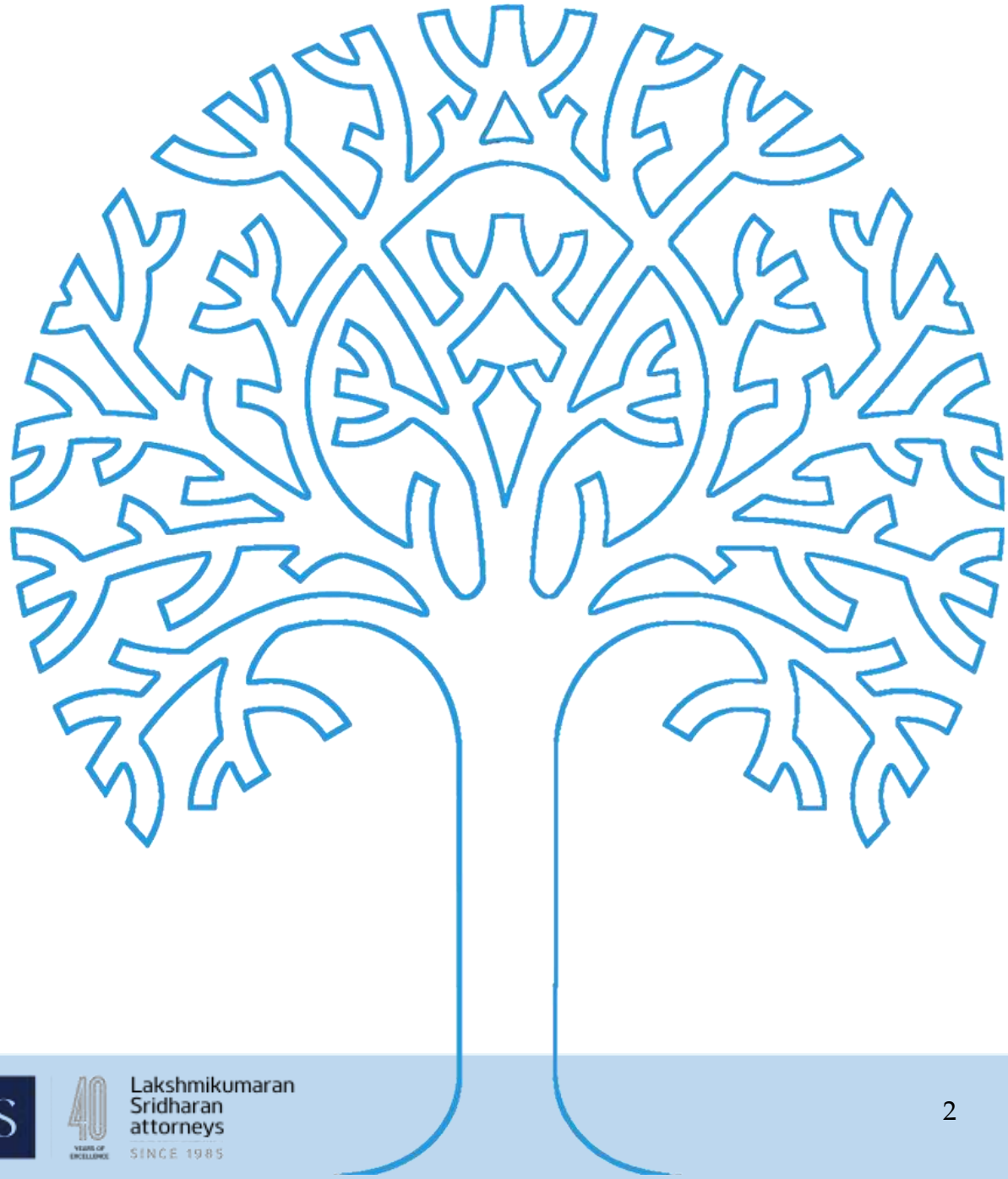


Article

Updated returns in Union Budget 2026: Slightly distant from the home stretch?

By **Dhananjai Dhokalia and Devashish Jain**

The facility of updated returns was introduced as a landmark measure *vide* the Finance Act, 2022. This facility was aimed at encouraging voluntary disclosures of additional income by a certain category of taxpayers while developing an additional source of revenue for the government. In the recent Union Budget 2026, important changes have been introduced in the updated returns provisions. The article in this issue of Direct Tax Amicus discusses the concept of updated returns, the changes proposed by Union Budget 2026, their impact and the hits and misses of the amendments. Pondering over the question as to whether the Union Budget 2026 meets taxpayers' expectations, the authors note that various changes are desirable to further effectuate the remedy sought to be provided by updated returns.

Updated returns in Union Budget 2026: Slightly distant from the home stretch?

By Dhananjai Dhokalia and Devashish Jain

Introduction

The facility of updated returns was introduced as a landmark measure *vide* the Finance Act, 2022[1]. This facility was aimed at encouraging voluntary disclosures of additional income by a certain category of taxpayers[2] while developing an additional source of revenue for the government. The reform is viewed as a settlement mechanism aimed at curtailing the quantum of disputes before the tax authorities and the appellate forums and providing certainty to the taxpayers.

From the time of its introduction, the concept of updated return has undergone certain changes. The changes were aimed at enhancing the coverage of updated returns. In the recent Union Budget 2026, important changes have been introduced in the updated returns provisions. The changes aim at extending the benefit to cases where reassessments have been initiated and also where a taxpayer has filed a loss return. The amendment is a positive step by the Government aimed at preventing possible disputes.

However, as the saying goes, '*there are no free lunches in life*', the opportunity to file updated returns comes with an additional cost.

In this article, the authors have discussed the concept of updated returns, the changes proposed by Union Budget 2026, its impact and the hits and misses of the amendment.

Development of updated returns under Income-tax

The original envisaged concept allowed taxpayers to file an updated return within 24 months from the end of the relevant assessment year upon payment of additional tax on a graded level basis[3]. This helped taxpayers to voluntarily offer their additional income (if any) to taxes without facing a risk of

[1] Section 139(8A) and Section 140B of Income-tax Act, 1961 ('**IT Act, 1961**').
[2] Memorandum to the Finance Bill, 2022.
[3] Section 140B of IT Act, 1961 provides additional tax rates of 25%, 50%, 60% and 70% depending on the timeline within which the updated return is filed by taxpayer out of the overall 48-month period.

assessment and litigation[4]. Also, the penalty and prosecution risk associated with non-disclosure of income stands mitigated. Considering the success of the concept of updated return, the aforesaid timeline was extended from 24 months to 48 months *vide* Finance Act, 2025. However, the opportunity to file updated return comes with an additional cost. In addition to the normal tax and interest liability, the taxpayers opting to file updated return are also liable to pay additional tax in the range of 25% to 70% depending on the year in which the additional income is disclosed *vide* updated return.

The facility of filing updated returns came with several restrictions. The restrictions barred taxpayers from filing an updated return *inter alia,* in cases where (1) updated return is a return of loss, or (2) reassessment proceedings are pending[5].

Recent amendments *vide* the Union Budget 2026

Until now, filing of updated returns was barred in case re-assessment[6] proceedings were initiated for the relevant assessment year. The taxpayers had no option to self-declare the income in the reassessment proceedings and claim immunity from the penalty and prosecution proceedings upon payment of additional tax. Resultantly, the taxpayers who were even willing to offer additional income to tax refrained from doing so in the reassessment proceedings due to the looming risk of penalty. This led to multiple proceedings before the tax authorities and also increasing the quantum of litigation before the appellate forums.

In this respect, *vide* Union Budget 2026, the Government has permitted taxpayers to file an updated return even pursuant to the initiation of re-assessment proceedings[7]. However, the return must be filed within the due date specified in the notice issued u/s 148 of the IT Act, 1961. This benefit, nevertheless, is available if the taxpayer deposits an additional tax of 10%, over and above the prescribed additional tax (i.e., payable on a graded level basis). Consequently, no penalty will be levied on such additional disclosure[8].

The amendment provides another opportunity to the taxpayers to offer additional undisclosed income to tax upon

[4] As per Budget Speech of Hon'ble Finance Minister of India for Financial Year 2025-26, nearly 90 Lakh taxpayers have voluntarily updated their returns and paid additional tax upto February 2025.
[5] Refer to Section 139(8A) of IT Act,1961.
[6] Re-assessment proceedings are initiated against taxpayers basis notices issued u/s 148 of IT Act, 1961 or Section 280 of IT Act, 2025.
[7] *Ibid*.
[8] Section 270A(11A) of IT Act, 1961 & Section 439(13A) of IT Act, 2025 [as proposed *vide* Finance Act, 2026].

payment of additional taxes. The amendment is a benevolent measure and will help to reduce the ongoing litigations.

In addition, the pre-amended provisions barred the filing of an updated return in cases where updated return is a return of loss. Due to the said restriction, the taxpayers were denied of an opportunity of reporting additional income if the overall return is a return of loss. The restriction was against the overall objective of updated return which promotes disclosure of previously untaxed income.

In this respect, *vide* another amendment, taxpayers are now permitted to file an updated return if it leads to a reduction in losses declared earlier. Meaning thereby, just because a taxpayer is filing an overall loss return, they will not be excluded from filing an updated return now. Only where losses may increase as a result of filing updated return, the said facility shall not be available.

This is also a benevolent measure for the taxpayers and aligned with the overall concept of updated returns.

Does the Union Budget 2026 meet taxpayers' expectations?

Despite the recent amendments, there exist few areas where further legislative amendments are desirable to ensure that the concept of updated return meets the envisaged objective.

The taxpayers, while filing their updated returns, may commit some *bona fide* errors. However, the provisions related to the updated return do not allow any revision/ modification. This bar can lead the taxpayers to bear the costs of even unwarranted mistakes. Some cases to this effect have already reached the Tribunal[9]. The Tribunal, while adjudicating over such issues, has allowed the taxpayers' plea and directed the jurisdictional assessing officer to assess the corrected updated return of income[10].

Further, no updated return can be filed in cases where income escaping assessment amounts or likely amounts to INR 50 Lakhs or more, and a show cause notice u/s. 148A of the IT Act is issued against the taxpayer[11]. The said disparity should be removed in the interest of overall objective of reducing tax litigation. It is always open for a tax officer to question the

[9] Income Tax Appellate Tribunal.
[10] *Nararshabh Sharma* v. *Assessing Officer, Ward-7(3), Pune* [[2025] 178 taxmann.com 349 (Pune-Trib)].

[11] Show Cause Notice is required to be issued under Section 148A(1) of IT Act, 1961 or Section 281(1) of IT Act, 2025.

correctness of the updated return. Accordingly, extending updated return to such cases will further reduce the quantum of litigation.

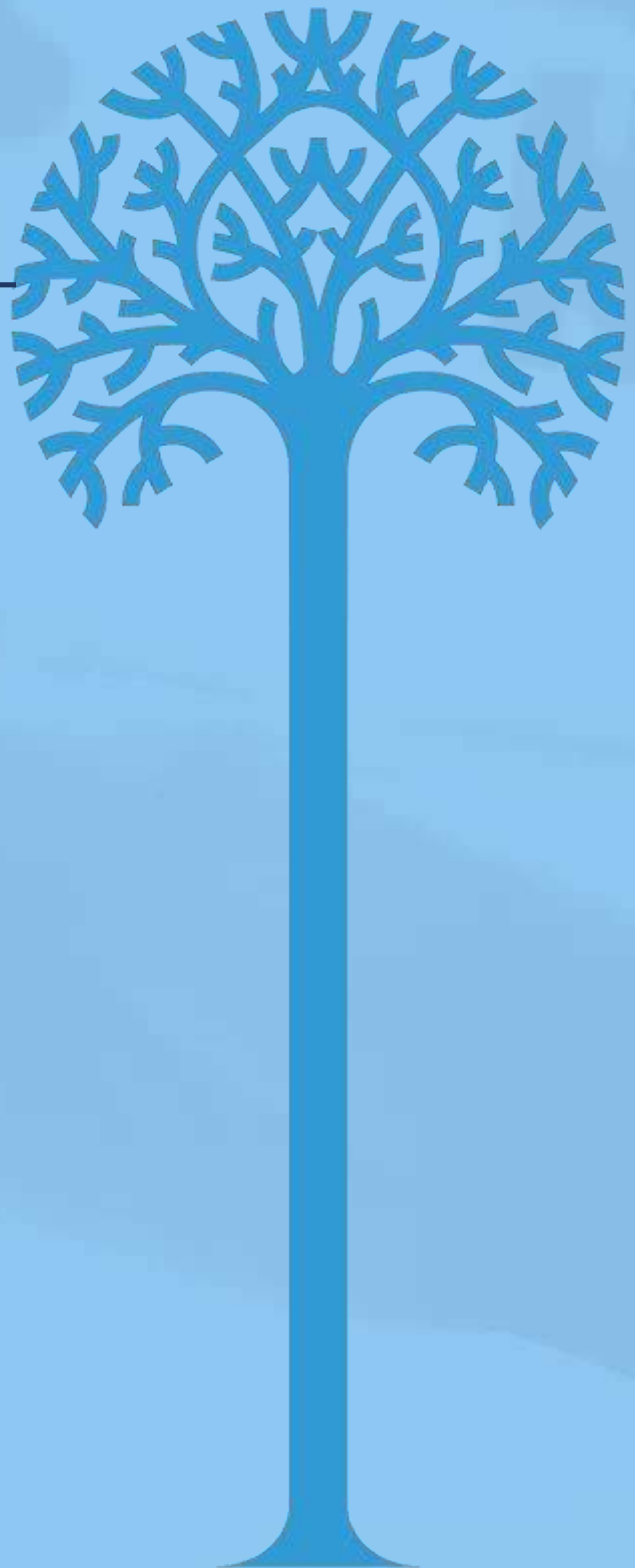
Conclusion

The concept of updated return holds huge potential for enhancing the mutual trust between taxpayers and the tax authorities. The facility of updated returns has proven to be highly beneficial for non-resident taxpayers who have limited knowledge of the tax framework in India and have inadvertently failed to file return(s) of income. This facility helps buy peace of mind for the taxpayers.

However, like any other concept, certain other changes are desirable to further effectuate the remedy sought to be provided by updated returns. Accordingly, it would be appropriate if the Government re-looks and makes suitable amendments to bridge the underlying gaps.

[The authors are Senior Associate and Principal Associate, respectively, in Direct Tax practice at Lakshmikumaran & Sridharan Attorneys]

Notifications & Circulars



- Combating offshore tax evasion – Overview of amendments in Rules 114F to 114H
- India-France DTAC – Overview of the amending protocol signed by India and France

Combating offshore tax evasion – Overview of amendments in Rules 114F to 114H

To combat the problem of offshore tax evasion and avoidance and stashing of unaccounted money abroad, the G20 and OECD countries developed a Common Reporting Standard ('**CRS**') on Automatic Exchange of Information ('**AEOI**'). The CRS on AEOI requires the financial institutions of the 'source' jurisdiction to collect and report information to their tax authorities about account holders 'resident' in other countries, and to transmit information on an automatic basis yearly. On similar lines, an Inter-Governmental Agreement ('**IGA**') was entered between India and USA wherein it was *inter alia* agreed that Indian financial institutions will provide the necessary information to Indian tax authorities, which will then be transmitted to USA, automatically.

To implement CRS on AEOI and IGA with the USA, and with a view to provide information to other countries, legislative amendments were made in Section 285BA of the IT Act. Further, to provide a legal basis for maintaining and reporting information about the Reportable Accounts by Reporting Financial Institutions ('**RFIs**') Rules 114F to 114H were inserted in the IT Rules.

Recently, CBDT *vide* Notification No. 19/2026 dated 5 March 2026, amended the aforesaid rules with effect from 1 January 2026. Some of the key changes include the following:

- Accounts of entity holding specified e-money products and Central Bank Digital Currency ('**CBDCs**') (i.e., digital currency issued by Central Bank) are now classified as 'Depository Institutions,' subjecting them to mandatory reporting requirements.
- Crypto-assets have been included within the definition of financial assets for reporting purposes.
- Low risk accounts where the rolling ninety-day average aggregate account balance does not exceed USD 10,000 have been excluded from reporting requirement.
- Stricter PMLA-aligned KYC requirements for accounts other than U.S. reportable accounts.
- Relaxation from reporting of gross proceeds from sale or redemption of financial assets to the extent of already having been reported under the Crypto-Asset Reporting Framework.

With the aforesaid amendments, the Indian reporting regime is being aligned with emerging international transparency standards that increasingly cover digital financial instruments alongside conventional accounts.

India-France DTAC – Overview of the amending protocol signed by India and France

The Central Board of Direct Taxes *via* press release dated 23 February 2026 has stated that India and France have signed an amending protocol to update the India–France Double Taxation Avoidance Convention ('**DTAC**') of 29 September 1992. The protocol substantially revises the treaty architecture to bring it closer to current international tax standards and to reduce interpretive uncertainty in cross-border transactions. The principal changes are as follows:

- Conferring taxing rights over capital gains from the sale of shares of a company to the jurisdiction where such company is resident;
- Deleting the Most-Favoured-Nation clause;
- Uniform 10% tax rate for dividend income;
- Revised the definition of *'fees for technical services'* by aligning with India-US DTAA;
- Expanding the scope of permanent establishment ('**PE**') by introducing the concept of service PE;
- Strengthens exchange-of-information and introduces a new article on tax-collection cooperations; and
- Incorporates applicable BEPS Multilateral Instrument provisions already operative between the two countries.

The impact of this amendment is significant. From India's perspective, the protocol enlarges source-based taxing rights, especially in relation to share transfers, and brings finality to long-running disputes around MFN-based treaty claims. For taxpayers, the amendment offers greater certainty for India–France business operations. However, it is pertinent to note that the aforementioned changes will take effect only after completion of internal legal procedures in both countries and in accordance with the agreed terms and conditions.

Ratio Decidendi

- Sum received as an interim measure in arbitral proceeding is not taxable till litigation/ proceedings attain finality – *Telangana High Court*
- Reason not to be indicated for selecting a case for scrutiny while issuing a notice under Section 143(2) – Assessee cannot demand disclosure unless arbitrariness/vendetta shown – *Delhi High Court*
- Draft assessment order is mandatory even where revisionary powers exercised by PCIT under Section 263 – *Gujarat High Court*
- DRP cannot issue directions upon passing of final assessment order under Section 144C – *Bombay High Court*
- Sales tax subsidy granted by the state government, subject to specified fixed capital investment, is a capital receipt not chargeable to tax – *Punjab & Haryana High Court*

Sum received as an interim measure in arbitral proceeding is not taxable till litigation/ proceedings attain finality

The appellant-assessee was allotted a work contract by M/s Krishna Bhagya Jala Nigam Limited ('**KBJNL**') for the construction of a canal. During the execution of work, disputes arose, and the appellant-assessee raised an arbitration claim. The arbitrator allowed the said claim, which was partly confirmed by the District Court. Aggrieved by the said Order, KBJNL filed an appeal before the High Court of Karnataka. The High Court *vide* interim order dated 21 December 2005, stayed the operation of the District Court's order and directed KBJNL to deposit INR 3 crores to the appellant-assessee as an interim measure, pending disposal of the appeal.

The Assessing Officer treated the aforesaid amount as a revenue receipt and brought it to tax in the year of receipt (i.e., AY 2006-07). The Assessment Order was restored upon the revenue's appeal[12]. Aggrieved by the ITAT's Order, the appellant-assessee filed an appeal before the High Court of Telangana.

The High Court allowed the appellant-assessee's appeal and set aside the ITAT's Order *inter alia* observing that the amount of INR 3 crores, deposited pursuant to the direction of the High Court of Karnataka, cannot be treated as a revenue receipt or income taxable in the year of receipt as the underlying dispute has not received finality while relying on existing precedents[13]. However, the High Court directed the Assessing Officer to pass appropriate orders after the final determination of the dispute under arbitration proceedings.

[*G.H. Reddy & Associates (Construction) Pvt. Ltd.* v. *The Income Tax Officer* – Order dated 6 February 2026 in ITTA No. 464 of 2012, High Court of Telangana]

Reason not to be indicated for selecting a case for scrutiny while issuing a notice under Section 143(2) – Assessee cannot demand disclosure unless arbitrariness/vendetta shown

The petitioner filed a writ petition before the High Court challenging the notice issued under Section 143(2) of the IT Act, whereby the petitioner's case was selected for scrutiny without specifying any reason. The petitioner relied upon CBDT circulars

[12] ITA No. 813/Hyd/2009

[13] *CIT* v. *Hindustan Housing and Land Development Trust* [1986 161 ITR 524], and *SGP Ltd.* v. *CIT(A)* [(2010) 226 ITR 444].

dated 23 June 2017 and 13 October 2021 and contended that the Assessing Officer was required to indicate the reason for selecting the case for scrutiny and whether the scrutiny was limited or complete. Consequently, the petitioner prayed the High Court to set aside the aforesaid notice.

The High Court dismissed the Writ Petition and observed that the scrutiny framework and the circulars issued by the CBDT are inter-Departmental matters meant to determine the categories of cases to be taken up for scrutiny. No assessee can, as a matter of right, demand disclosure of the reason for scrutiny selection unless arbitrariness or vendetta is shown. The notice under Section 143(2) of the IT Act is only an intimation, and the Assessing Officer is required during assessment to call for information through specific notices, which was done in the present case.

[*Bharat Bansal* v. *National Faceless Assessment Centre, Delhi* – Order dated 17 February 2026 in W.P.(C) 2238/2026, Delhi High Court]

Draft assessment order is mandatory even where revisionary powers exercised by PCIT under Section 263

A transfer pricing adjustment was made in the hands of the petitioner-company *vide* Order dated 26 July 2021. Since the petitioner-company qualified as an *'eligible assessee'* under Section 144C(15)(b) of the IT Act, a draft assessment order was also passed on 20 September 2021. Consequently, in the absence of any objections being filed before the Dispute Resolution Panel ('**DRP**'), a final assessment order was passed on 29 October 2021.

Subsequently, PCIT, while exercising its revisionary power under Section 263 of the IT Act, set aside the above-mentioned assessment order by holding it to be erroneous and prejudicial to the interest of revenue. In doing so, the PCIT directed the Assessing Officer to pass a fresh assessment order *de novo* without specifying the stage from which such a proceeding should commence.

Pursuant to this, the Assessing Officer passed a final assessment order on 26 March 2025 under Section 143 read with Sections 263 and 144B of the IT Act, without passing a draft assessment order. This was challenged by way of a writ before the High Court of Gujarat.

The High Court, while allowing the writ petition, observed that the Assessing Officer was required to revert to the stage of the TPO's order and follow the statutory mandate of issuing a fresh draft assessment order as per Section 144C of the IT Act. In view of the underlying violation, the High Court quashed the final assessment order. Further, the High Court rejected the revenue's

plea of remanding the matter back to the Assessing Officer in view of the same being barred by limitation by placing reliance on *PCIT* v. *Sumitomo Corporation India (P.) Ltd.*[14]

[*Sun Pharmaceutical Industries Limited* v *DCIT* – Decision dated 6 January 2026 in Special Civil Application No.5973 of 2025, Gujarat High Court]

DRP cannot issue directions upon passing of final assessment order under Section 144C

A draft assessment order was issued by NFAC proposing certain transfer pricing adjustments. Aggrieved by the same, the petitioner company filed its objections before the DRP. Further, the petitioner company, *via* an email, intimated the jurisdictional assessing officer about the objections filed before the DRP. However, in the absence of any specific intimation being filed before the NFAC, a final assessment order was passed by the NFAC. Aggrieved by the same, the petitioner company also filed an appeal before the CIT(A). However, the DRP passed direction under Section 144C(5) of the IT Act without appreciating that a final assessment order had already been passed.

Aggrieved by the action of DRP, the petitioner company filed a writ petition before the High Court of Bombay. The High Court, while allowing the writ petition placed reliance on *Undercarriage and Tractor Parts Pvt. Ltd.* v. *DRP and Ors*[15] and observed that DRP directions can be issued only when assessment proceedings are pending; once a final assessment order is passed, the DRP cannot issue any directions or findings. Consequently, the CIT(A) was directed to decide the appeal filed by the petitioner company without being influenced by the DRP's findings/ observations.

[*Fugro Survey India Private Limited* v. *The National Faceless Assessment Centre and Ors.* – Decision dated 10 February 2026 in W.P. No. 3710 of 2024, Bombay High Court]

Sales tax subsidy granted by the state government, subject to specified fixed capital investment, is a capital receipt not chargeable to tax

The appellant was engaged in the business of manufacturing yarn and was eligible for sales tax subsidy/ exemption under the State Government Incentive Scheme. The appellant was entitled to the sales tax subsidy for 10 years, subject to a ceiling of 300% of fixed capital investment. In view of the said subsidy/exemption, the appellant collected sales tax from its customers; however, it did not deposit the same with the

[14] [2024] 166 taxmann.com 55 (Delhi).

[15] Writ Petition No.2387 of 2020 decided on 12th September 2023.

government. During the assessment, the Assessing Officer treated the sales tax subsidy as a revenue receipt. The assessment order was upheld by the ITAT.

Upon appeal, the High Court, while allowing the appeal, observed that incentives granted to promote capital investment are capital receipts even if received after commencement of production. Further, it was also observed that one has to apply a *'purpose test'*, and that the point of subsidy, its source, and its form are immaterial. Reliance in this regard was placed on the Supreme Court's decision in *CIT* v. *Chaphalkar Brothers Pune*[16] wherein it was held that the exemption from entertainment tax received by multiplexes only because of capital investment was capital in nature.

[*Vardhman Textiles Ltd.* v. *CIT & Anr.* – Decision dated 26 February 2026 in ITA-517-2008 (O&M), Punjab & Haryana High Court]

[16] 2018 (13) SCC 358

NEW DELHI 7th Floor, Tower E, World Trade Centre, Nauroji Nagar, Delhi – 110029 Phone : +91-11-41299800, +91-11-46063300 E-mail : Lsdel@lakshmisri.com , lprdel@lakshmisri.com	**MUMBAI** 2nd floor, B&C Wing, Cnergy IT Park, Appa Saheb Marathe Marg, (Near Century Bazar)Prabhadevi, Mumbai - 400025 Phone : +91-22-30567800/30567801 E-mail : lsbom@lakshmisri.com
CHENNAI Door No.27, Tank Bund Road, Nungambakkam, Chennai 600034. Phone : +91-44-2833 4700 E-mail : lsmds@lakshmisri.com	**BENGALURU** 4th floor, World Trade Center, Brigade Gateway Campus, 26/1, Dr. Rajkumar Road, Malleswaram West, Bangalore-560 055. Phone : +91-80-49331800 Fax:+91-80-49331899 E-mail : lsblr@lakshmisri.com
HYDERABAD 'Hastigiri', 5-9-163, Chapel Road, Opp. Methodist Church, Nampally, Hyderabad - 500 001 Phone : +91-40-2323 4924 E-mail :lshyd@lakshmisri.com	**AHMEDABAD** B-334, SAKAR-VII, Nehru Bridge Corner, Ashram Road, Ahmedabad - 380 009 Phone : +91-79-4001 4500 E-mail : lsahd@lakshmisri.com
PUNE 607-609, Nucleus, 1 Church Road, Camp, Pune-411 001. Phone : +91-20-6680 1900 E-mail : lspune@lakshmisri.com	**KOLKATA** 6A, Middleton Street, Chhabildas Towers, 7th Floor, Kolkata – 700 071 Phone : +91 (33) 4005 5570 E-mail : lskolkata@lakshmisri.com
CHANDIGARH 1st Floor, SCO No. 59, Sector 26, Chandigarh -160026 Phone : +91-172-4921700 E-mail :lschd@lakshmisri.com	**GURUGRAM** OS2 & OS3, 5th floor, Corporate Office Tower, Ambience Island, Sector 25-A, Gurugram-122001 phone: +91-0124 - 477 1300 Email: lsgurgaon@lakshmisri.com
PRAYAGRAJ (ALLAHABAD) 3/1A/3, (opposite Auto Sales), Colvin Road, (Lohia Marg), Allahabad -211001 (U.P.) Phone : +91-532-2421037, 2420359 E-mail : lsallahabad@lakshmisri.com	**KOCHI** First floor, PDR Bhavan, Palliyil Lane, Foreshore Road, Ernakulam Kochi-682016 Phone : +91-484 4869018; 4867852 E-mail : lskochi@laskhmisri.com
JAIPUR 2nd Floor (Front side), Unique Destination, Tonk Road, Near Laxmi Mandir Cinema Crossing, Jaipur - 302 015 Phone : +91-141-456 1200 E-mail : lsjaipur@lakshmisri.com	**NAGPUR** First Floor, HRM Design Space, 90-A, Next to Ram Mandir, Ramnagar, Nagpur - 440033 Phone: +91-712-2959038/2959048 E-mail : lsnagpur@lakshmisri.com

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