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CENTENARY SPECIAL ISSUE



AI in Tax & Accounting

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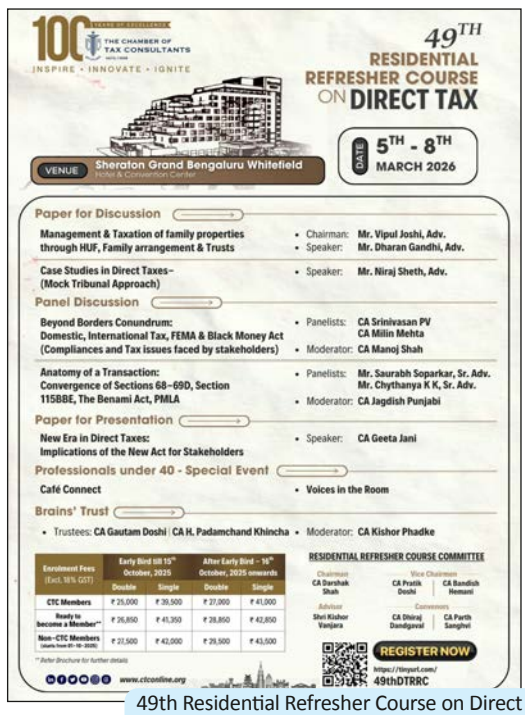
14th Residential Refresher Course on GST - Jaypee Palace Hotel & Convention Centre, Agra [8th to 11th January, 2026]



4th Residential Conference on Foreign Exchange Management Act at Radisson Blue Hotel & Spa, Nashik, Maharashtra [16th to 18th January 2026]



Centenary Year – 2 Day Conference Shatabdi Summit at Hotel Sahara Star, Mumbai [30th & 31st January, 2026]



49th Residential Refresher Course on Direct Taxes, Sheraton Grand Bengaluru Whitefield Hotel & Convention Center [5th to 8th March, 2026]

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From the President

Dear Members,

I trust that all our members had a joyous Diwali, celebrating the festival of lights with family, friends, and loved ones. The past month at the Chamber of Tax Consultants (CTC) witnessed a brief lull in activity—understandably so, given the festive season and the scheduled tax return filing deadlines. With the tax dates extended yet again, we find ourselves in a familiar situation: a temporary reprieve that can be both a relief and a challenge. While extensions offer breathing room, they often lead to delays in client inputs and a cascading pendency in professional commitments.

However, I am confident that our members, being diligent and forward-thinking professionals, will not allow these extensions to slow their momentum. Instead, I urge you to use this quieter phase to complete pending tasks proactively and redirect your focus to areas that often get sidelined—most notably, your own professional development.

This period presents a golden opportunity to invest in ourselves. Think back to the early days of your career: the long hours spent preparing for exams, the rigour of articleship or juniorship, and the unwavering commitment to becoming a qualified professional. That foundation of effort and discipline is what shaped your present success. But as we all know, the journey of a professional never truly ends. Continuous learning is not a luxury—it's a necessity.

In today's dynamic landscape, staying updated with evolving laws, emerging technologies, and new methodologies is crucial. The Indian economy continues to grow steadily despite stormy global weather, thanks to sustained investments in education, infrastructure, and technology over the past few decades. Similarly, CTC, as a responsible professional organisation, remains committed to empowering its members through high-quality learning opportunities. We are proud to offer a range of courses and programmes designed to assist you in staying ahead of the curve in personal upgradation, knowledge acquisition, and familiarization with AI and cutting-edge technology.

Even during this relatively quiet period, we have 6 enriching learning events scheduled over the next fortnight. October was equally vibrant, with sessions on transfer pricing, direct and indirect taxes, and student committee initiatives. Looking ahead, we have a packed calendar featuring Residential Refresher Courses (RRCs), conferences, seminars, and lecture meetings that will run from mid-December through mid-March.

Now is the time to make that investment in yourself. Since enrolment fees are fully deductible, members sometimes forget that these are not actually expenses but more in the nature of an investment which will fetch you rich returns with a minimal gestation period. In my previous communication, I mentioned three major upcoming events. Two of them are already nearing full capacity. If you haven't enrolled yet, I urge you to do so without delay. Additionally, the Shatabdi Summit and a comprehensive programme on the Income Tax Act 2025 are on the horizon. While these events are still a few months away, enrolments tend to fill up quickly—so act now.

This issue of our journal is another step in our collective journey of upskilling. This Centenary Special Issue focuses on Artificial Intelligence (AI), a topic that is rapidly transforming our

professional and personal lives. The impact of AI may seem overwhelming at first, but history reminds us that we have always adapted, evolved and thrived through change. I qualified at a time when even an electronic calculator was considered a luxury. Computers were confined to elite laboratories in global corporations like IBM or superpower governments. Few could have imagined that these machines would one day become integral to our daily lives. Yet here we are, seamlessly using laptops, smartphones, apps, the internet, and social media in both personal and professional spheres. Not only have we embraced this technological revolution, but we've also harnessed it to enhance our productivity and reach.

It may feel like we're on a treadmill that never stops. But just as a fitness enthusiast finds joy in the rhythm of the workout, we too can find fulfilment in the pursuit of excellence. When driven by passion, the process of continuous learning becomes exhilarating rather than exhausting. The key lies in our mindset.

Consider the marathon runner who trains for years, enduring physical and mental challenges. Or the Indian Women's World Cup-winning team, whose victory was built on relentless practice, coping with pressure with an unwavering self-belief and passion for success. They do not notice the exhaustion, physical and mental stress, and the sacrifice for years of intense practice and discipline. What remains in the mind is the glow of achievement and pride. Their journey mirrors ours. If we approach this continuous upgradation with a passion for excelling in our profession (which today includes mastering technology and AI), we shall not feel pressured by this unending upgradation of skills. As professionals, we are also in a marathon or a Championship Match — one that demands effort, resilience, and a deep commitment to growth.

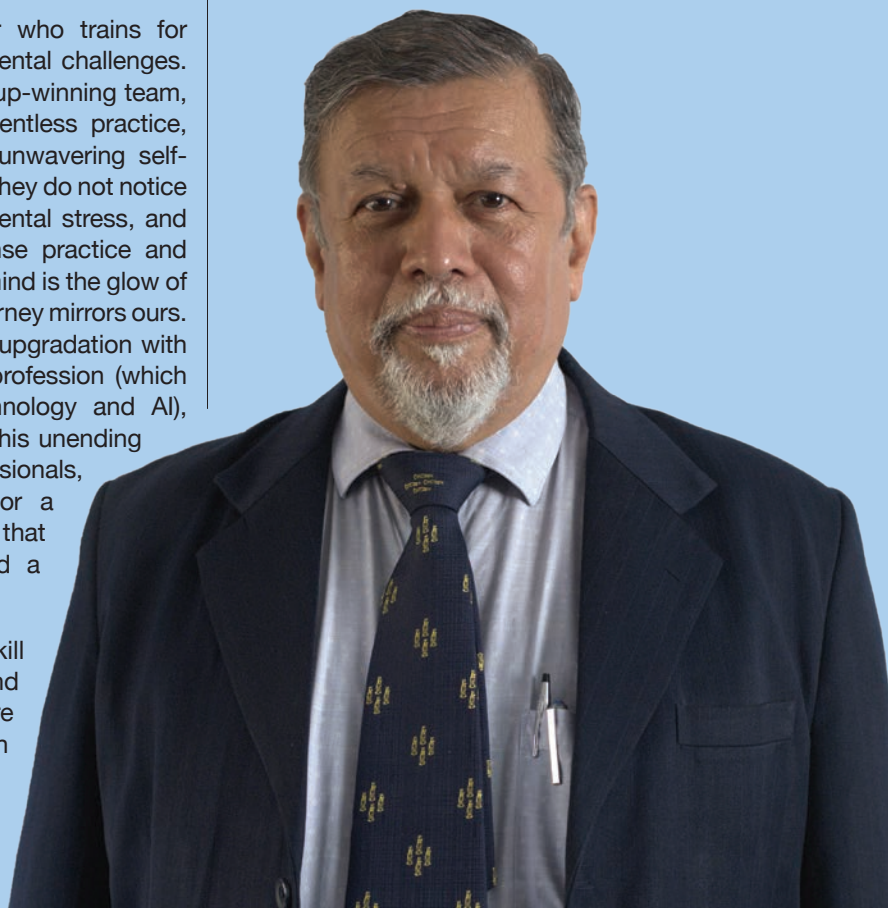
Investing in knowledge and skill enhancement requires time and resources. But the rewards are immense: if backed by a passion for excellence, the result is not exhaustion or a sense de ja vu. Rather, we shall be filled with a sense of awe and amazement on discovering new horizons of what we can achieve, and a sense of pride, confidence, and satisfaction in being a well-rounded, future-ready person and professional. CTC is here to support you every step of the way—as a facilitator, guide, and a partner in your success.

I invite you to explore the opportunities ahead with enthusiasm and purpose. Let this season of reflection and renewal inspire you to take positive and proactive steps toward personal and professional excellence.

Wishing you continued success and happy reading.

CA Jayant Gokhale
President

PS: A confession – my original draft has been improved upon using AI suggestions.



From the Editor's Desk

My Brothers and Sisters,

> "The greatest danger in times of turbulence is not the turbulence—it is to act with yesterday's logic."
>
> *Peter Drucker*

Artificial Intelligence (AI) stands out as one of the most transformative technologies of the 21st century, making significant inroads across diverse sectors such as healthcare, manufacturing, finance, and education. In tax and accounting, the adoption of AI is accelerating, as both practitioners and regulators acknowledge its capacity to reshape longstanding processes.

The most immediate and apparent benefit AI brings to tax and accounting is the marked improvement in efficiency and accuracy. Technologies like machine learning algorithms, natural language processing, and robotic process automation (RPA) are now being utilised to automate repetitive tasks, including data entry, invoice processing, and reconciliation. These automated systems can handle extremely large volumes of transactions with speed and consistency, dramatically reducing manual effort and the risk of human error.

AI's influence extends beyond automation, fundamentally changing the advisory role in tax and accounting. Advanced analytics and predictive modelling empower professionals to provide proactive guidance rather than mere reactive solutions. By analysing historical data and uncovering patterns, AI tools can forecast trends, assess risks, and suggest strategies for tax optimisation and financial planning.

As client expectations evolve, there is a rising demand for value-added services that surpass basic compliance. AI equips professionals with the ability to deliver personalised, data-driven insights, enabling clients to navigate complex regulatory environments and achieve optimal financial outcomes.

On the government's side, AI also promises substantial enhancements to assessment and appeals processes. Existing systems such as Computer Aided Selection of cases for Scrutiny Assessments (CASS), faceless assessments, faceless appeals, and automated GST-related processes already demonstrate the benefits of automation (although their efficacy is questionable, the potential of their proper implementation, making life easier, is not). The intelligent deployment of AI in these areas has the potential to significantly improve process quality while reducing the burdens on both taxpayers and tax officers.

Despite the promise of AI, its integration into tax and accounting is not without significant challenges. Data security remains a top priority, given the sensitive nature of financial information managed by tax and accounting firms. AI systems must be shielded against cyber threats, and the increasing reliance on digital platforms necessitates robust security protocols and vigilant regulatory oversight to prevent data breaches and unauthorised access.

The reliability of AI solutions is closely tied to the quality of their underlying models and the

data inputs they receive. While AI excels at performing routine tasks with precision, complex judgment and nuanced interpretations of tax law continue to require human expertise. Excessive dependence on technology could undermine the critical thinking and professional scepticism that define the accounting profession. Recent incidents, such as the recall of an AI-generated order by the Bangalore Bench of the Income-tax Appellate Tribunal and the quashing of an AI-generated assessment order by the Bombay High Court—both resulting from AI hallucinations and compromised accuracy—underscore the dangers of uncritical reliance on evolving AI technologies.

This is the third special issue of the Chamber's centenary year. It deals with the interesting topic of "Artificial Intelligence in Tax and Accounting". I compliment the Editorial Board for suggesting this topic for a Centenary Special Issue. I also thank CA Dinesh Tejwani, former Chairman, IT Connect Committee (as it was then called), for so thoughtfully designing this issue and helping us with the selection of the authors, as well as for writing for this issue. Thanks also go out to CA Ameya Kunte, Chairman Journal Committee, and CA Bhavik Shah for helping us to come out with this interesting issue. My gratitude to all the authors for their valuable insight brought out in their excellent articles that form the core of this special issue.

At Chamber's journal, we have been experimenting with the AI-generated audio summary of the articles for the last few months. Do give us your feedback, and it will give us the confidence to examine more areas of using AI.

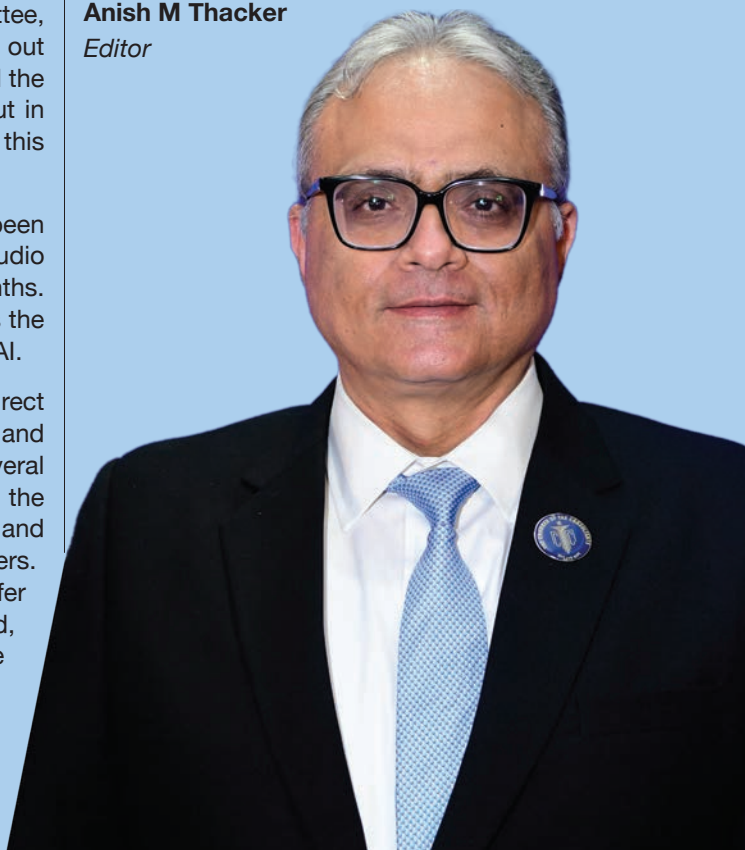
On the practice front, the Central Board of Direct Taxes (CBDT), after many representations and because of several writ petitions by several professional associations, finally extended the time limit for the filing of tax audit reports and the returns for certain classes of taxpayers. There is a lament that the due date for Transfer Pricing compliance did not get extended, and I personally share the anguish of those who have voiced their concern in this regard. I believe decisions for extension must be looked at holistically and not only as a reaction to representations or court directions. The position of the CBDT is not only that of an executing body but also a bridge between the policy makers (Ministry and Parliament) and the common taxpayers whose contribution is significant for the balancing of the Government's books and for keeping the budget deficit in check. An inclusive approach and a bit of appreciation of the bigger picture are all that taxpayers want from the tax administration.

On an inclusive approach and technology, the subject of this special issue, the following quote is apt, and with this quote, I end this month's communication.

> "Technology is best when it brings people together."
>
> *Matt Mullenweg*

Jai Hind!

Anish M Thacker
Editor



Dr Ajay Bhushan Pandey

The Man Behind India's Digital Tax Revolution

In the last two decades, India's tax system has transformed dramatically from cumbersome paper returns and long queues to seamless online filing. This remarkable change is largely credited to Dr. Ajay Bhushan Pandey, whose leadership and digital foresight reshaped how India pays taxes.

A Visionary Leader in Digital Governance

Dr. Ajay Bhushan Pandey, an IAS officer from the 1984 batch of the Maharashtra cadre, has held several significant positions that connect technology and governance. Prior to serving as the Vice President of the Asian Infrastructure Investment Bank, he was the Finance Secretary, Government of India and the CEO of the Unique Identification Authority of India (UIDAI), which is responsible for Aadhaar—the world's largest digital identity program.

This experience gave him a deep understanding of using technology to simplify citizen services. He applied this vision to the Income Tax Department, transforming return filing into a fully digital, data-driven process.

Architect of the Modern ITR e-Filing System



The ITR e-filing portal, launched in 2006, was initially limited in functionality. Under Dr. Pandey's leadership, it was redesign to become a modern, intuitive, and secure platform, efficiently serving millions of taxpayers.

Some of the transformative initiatives he led include:

Aadhaar Integration: Linking Aadhaar with PAN and ITR allowed for seamless online verification, eliminating the need for physical ITR-V submissions.

User-Friendly Interface: The upgraded portal featured pre-filled forms and AI assistance, making tax filing easier for first-time users.

Data-Driven Compliance: Integrating e-filing with Project Insight, an AI analytics platform, enabled the identification of high-risk cases and automated assessments.

Faceless Assessments: The Income Tax Department adopted non-intrusive, faceless assessments to enhance transparency and reduce taxpayer harassment.

Through these innovations, Dr. Pandey transformed tax compliance into a citizen-friendly and secure process.

Bridging Identity, Compliance, and Data Intelligence

Dr. Pandey's genius lies in connecting three critical digital pillars:

Identity: Leveraging Aadhaar for authentication and verification.

Compliance: Streamlining the entire tax filing process for direct and indirect taxes.

Data Intelligence: Using analytics to ensure compliance and prevent tax evasion without manual intervention.

This holistic approach has made the Income Tax Department one of the most advanced digital tax administrations, processing over 7 crore returns annually.

Recognition and Legacy

Under Dr. Pandey's guidance, the e-filing portal has become essential to India's digital governance, lauded for its user-friendliness, transparency, and efficiency. It has eased compliance and enhanced trust between citizens and the government.

An Overview of Artificial Intelligence and its Applications by Professionals

Listen to me

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*See Disclaimer on page 5



Pramod Kumar Siva



William H Byrnes

Overview

Artificial Intelligence is no longer an emerging idea but is redefining how professionals think and work. In tax, legal, and finance functions, it is quietly transforming routine compliance processes for greater efficiency. More than 80 percent of professionals now expect AI to have a transformational impact. India's own momentum, driven by the IndiaAI Mission and 87 per cent enterprise adoption, illustrates how quickly this future is arriving. Tax authorities deploy analytics for risk scoring and audit targeting, while courts and law firms use generative tools for research and reasoning. Yet every advance brings new obligations—to safeguard data, manage bias, and preserve human judgment. Professionals who pair technical literacy with judgment will lead this transition. AI, guided well, can elevate professional work to its highest purpose: combining human insight with machine intelligence to deliver fairness, transparency, and better outcomes.

Introduction

Artificial Intelligence (AI) has quickly emerged as the most appealing technology to professionals worldwide. In just a couple of years, both AI investment and adoption have increased substantially across almost every sector, from healthcare to finance to public administration, radically changing the way professionals work and deliver products and services. A 2025 global survey reveals that about 80% of professionals consider AI will have a "high or transformational" impact on their work within

> AI adoption is advancing in traditional professions, such as accounting, legal, and tax compliance.

the next five years, and most of them perceive it as a positive force.[1]

Initial outcomes align with that positive view: research indicates that leveraging AI remarkably speeds up and improves the quality of data processing, simplifies complicated tasks, and strengthens fraud detection.[2] AI adoption is advancing in traditional professions, such as accounting[3], legal[4], and tax compliance[5].



Enterprises are prototyping and rapidly integrating successful pilots into their existing operations. However, these achievements come with new challenges, ranging from ethical and legal issues to workforce adaptation.

This article is a review of AI adoption in traditional professions, reflecting on its definition, practical applications, benefits, and the regulatory and ethical frameworks for its responsible use.

What is AI? Definition and Evolution

Defining Artificial Intelligence: AI refers to the simulation of human intelligence processes by machines, especially computer systems. Classic definitions describe AI as machines "programmed to think, learn, and make decisions autonomously," integrating subfields like machine learning (ML), natural language processing (NLP), and robotics to perform tasks that traditionally required human cognition.[6] In essence, AI systems use algorithms and models to perceive their environment, extract and analyze data, and then reason and act in a goal-directed manner. These technologies enable AI systems to perform an expanding array of cognitive tasks such as reasoning, learning, perception, and language understanding, at speeds and scales beyond human capability.[7]

AI refers to the simulation of human intelligence processes by machines, especially computer systems.

Evolution and Milestones: Although AI as a concept dates back to mid-20th-century computer science, its practical impact on professions has accelerated dramatically in the

1 *Thomson Reuters, Future of Professionals Report 2025, at 5–7 (2025).*
2 *Id at 7-8 (2025).*
3 *Fadi Bou Reslan & Nada Jabbour Al Maalouf, Assessing the Transformative Impact of AI Adoption on Efficiency, Fraud Detection, and Skill Dynamics in Accounting Practices, 17 J. Risk & Fin. Mgmt. 577 (2024), https://doi.org/10.3390/jrfm17120577.*
4 *Thomson Reuters, How AI Is Transforming the Legal Profession, Thomson Reuters Legal Blog (2025), https://legal.thomsonreuters.com/blog/how-ai-is-transforming-the-legal-profession/.*
5 *Philips Adekemi, Leveraging Artificial Intelligence to Promote International Tax Compliance (2024), https://ssrn.com/abstract=5245928.*
6 *Stuart Russell & Peter Norvig, Artificial Intelligence: A Modern Approach 4th ed. (Pearson 2021). https://www.pearson.com/en-us/subject-catalog/p/artificial-intelligence-a-modern-approach/P200000013598.*
7 *Erik Horvitz, Scientific Progress in Artificial Intelligence: History, Status, and Futures (Feb. 2024) available at, http://erichorvitz.com/AI_Overview_History_Status_Futures_February_2024.pdf.*



last decade.[8] Early rule-based AI systems in the late 20th century gave way to data-driven machine learning in the 2000s, but it is the 2010s and 2020s that witnessed an explosion of AI applications. Advances in computing power (e.g., cloud computing, Graphics Processing Units (GPUs), and the availability of big data) have fueled deep learning methods that have achieved unprecedented accuracy in pattern recognition. By the early 2020s, AI was a deployed tool in organizations with natural language processing-powered virtual assistants like Siri/Alexa and automated document review, while computer vision allowed tax authorities to analyze satellite images of properties for audits. The advent of LLMs and generative AI around 2023–2024 marked another inflection point. AI systems became capable of generating fluent text, writing code, and engaging in dialogue, significantly broadening their utility in professional workflows. Agentic AI (autonomous AI 'agents' that can plan and execute tasks with minimal human input) leverages LLMs and generative AI to autonomously plan, reason, and execute multi-step processes.

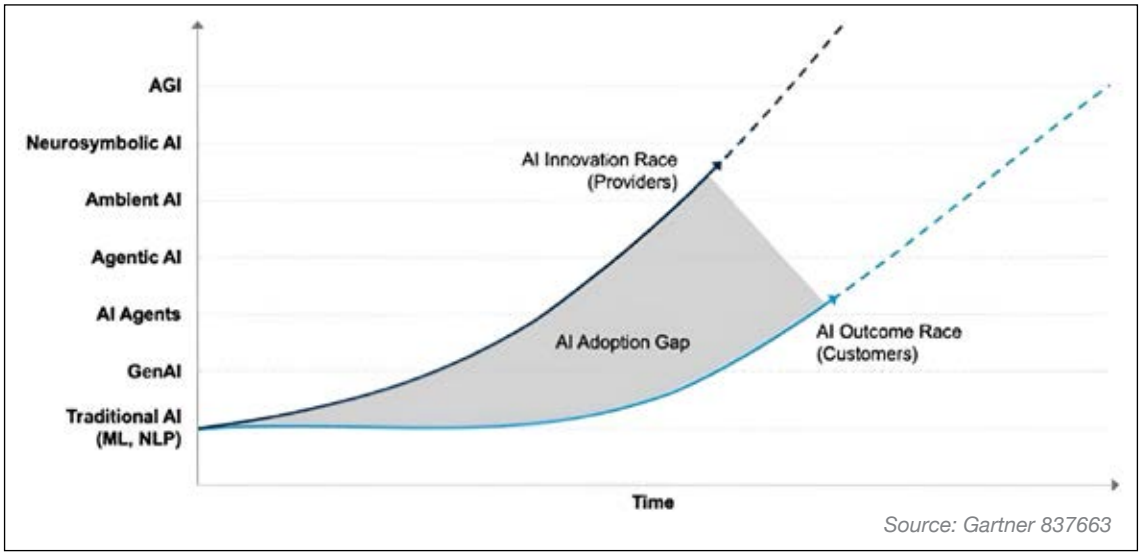
AI has rapidly transitioned from experimental pilots to operational deployment. According to the 2025 Stanford AI Index Report, AI capabilities and real-world adoption are advancing exponentially, driven by scaling model parameters, training data, and computational power.[9] Despite this, Gartner has recently cautioned about a growing "AI adoption gap" where the proliferation of additional new AI tools and technologies are fast outpacing many organizations' ability to absorb them.[10]

Agentic AI leverages LLMs and generative AI to autonomously plan, reason, and execute multi-step processes.

8 *Stanford Institute for Human-Centered Artificial Intelligence, Artificial Intelligence Index Report 2025, Stanford HAI (2025, available at https://hai.stanford.edu/ai-index/2025-ai-index-report.*

9 *Id.*

10 *Gartner, Mind the AI Adoption Gap: Why AI Product Managers Are Key to Realising Value (Sept. 17, 2025) (Gartner Research Doc. No. 837663).*



Source: Gartner 837663

Global & Indian Trends

Global Trends: According to the Stanford AI Index 2025, global corporate AI investment reached $252.3 billion in 2024, up 25.5% from the prior year, with the U.S. leading in private AI funding and research output.[11] From 2023 to 2025, the landscape of AI shifted from experimental pilots to enterprise-grade productivity gains and mainstream adoption.[12] Gartner's October 2025 survey of 2,500 CIOs and technology executives showed a dramatic rise in AI uptake: 58% of responding companies have deployed generative AI, 25% are in the process of implementing during 2026.[13] Moreover, 64% are launching agentic AI before 2028. Professional services (consulting, legal, accounting) are also rapidly adopting AI "co-pilots" to assist with research and routine drafting.



> From 2023 to 2025, the landscape of AI shifted from experimental pilots to enterprise-grade productivity gains and mainstream adoption.

We also see a new focus on AI accountability: for example, in the EU, high-risk AI will require rigorous conformity assessments, transparency, and human oversight before deployment.[14]

11 Id.

12 Gartner, Agentic AI to Define Next Wave of Enterprise RO I (Oct. 21, 2025), https://technologymagazine.com/news/gartner-agentic-ai-to-define-next-wave-of-enterprise-roi.

13 Id.

14 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on Artificial Intelligence (AI Act), 2024 O.J. (L206) 1 (EU) available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1689.

The global regulatory trend is to balance AI's enormous benefits with oversight to mitigate bias, protect privacy, and suppress misuse.

India-Specific Trends: The adoption of AI by the Indian industry has been remarkably rapid. According to NASSCOM's AI Adoption Index, 87% of Indian enterprises are actively using AI solutions in some capacity.[15] In 2024, the Government of India approved the ambitious IndiaAI Mission under the banner "Making AI in India and Making AI Work for India. By 2025, India now rank among the top 4 countries globally for AI research talent and output.[16] Another noteworthy trend is the vibrant Indian AI startup ecosystem: India is now home to thousands of AI-focused startups and has become the world's third-largest startup ecosystem overall.[17] In short, India is positioning itself as a rising AI power, leveraging its strength in IT services and vast talent pool, but with a unique emphasis on democratizing AI benefits across its population.[18] India's regulatory landscape is also evolving; for example, the Digital Personal Data Protection Act, 2023, will govern AI use of personal data, much like the GDPR in Europe.[19]

By 2025, India now rank among the top 4 countries globally for AI research talent and output.



AI in Finance, Tax, and Legal

Auditing, Accounting, and Finance

AI is being integrated into finance workflows, auditing, and accounting, promising enhanced efficiency, automation, and risk detection. Empirical research confirms that AI implementation considerably enhances the efficiency and quality of financial data processing while strengthening fraud detection abilities.[20] A U.S.-based survey of the impact of GenAI among 277 accountants found a 12% increase in ledger granularity, a 7.5-day reduction in monthly close time, yet AI adopters "…log more billable hours without expanding their total client roster, suggesting deeper service provision".[21] A 2025 published literature review found that AI-enabled auditing improved financial reporting accuracy by

15 *National Association of Software an Services Companies and Ernst & Young, NASSCOM AI Adoption Index 2025 (2025),available at https://www.ey.com/content/dam/ey-unified-site/ey-com/en-in/insights/ai/documents/ey-nasscom-ai-adoption-index.pdf.*

16 *Supra note 8.*

17 *KPMG, Exploring India's Dynamic StartUp Ecosystem (Dec. 2024), https://home.kpmg/in/en/home/insights/2024/12/exploring-india-startup-ecosystem.html.*

18 *Press Information Bureau, Transforming India with Artificial Intelligence (June 1, 2025), https://www.pib.gov.in PressReleasePage.aspx?PRID=2178092.*

19 *Digital Personal Data Protection Act, No. 22 of 2023, Acts of Parliament, 2023 (India).*

20 *Mallesha, C. & Hymavathi, M., A Review on AI and Fraud Detection in Accounting: Reducing Risks and Enhancing Financial Security, 28 ACAD. ACCT. & FIN. STUD. J. 1 (2024) at 14, available at https://www.abacademies.org/articles/a-review-on-ai-and-fraud-detection-in-accounting-reducing-risks-and-enhancing-financial-security.pdf*

21 *Choi, Jung Ho and Xie, Chloe, Human + AI in Accounting: Early Evidence from the Field (May 03, 2025) at 4-5. Stanford University Graduate School of Business Research Paper No. 4261, MIT Sloan Research Paper No. 7280-25, Available at SSRN: https://ssrn.com/abstract=5240924.*



92%.[22] AI-driven anomaly detection tools operate in real time to flag unusual transactions, helping auditors identify risks and irregularities early.[23] On the management accounting side, AI tools are aiding decision support and planning. Advanced models like temporal convolutional networks and hybrid neural nets can incorporate a firm's past financials with alternative data (industry trends, sentiment from news or social media), yielding more accurate and timely forecasting.[24]

Tax Administration and Compliance

Tax authorities worldwide are using AI tools to improve tax compliance and enforcement. A key application is fraud detection: revenue agencies use machine learning to flag suspicious filings or transactions in real time.[25] Advanced analytics sifts vast tax datasets (returns, invoices, financial records) to identify anomalies that may expose evasion or error, improving audit targeting.[26] The UK's HMRC reported that its big data system 'Connect' netted an additional 4.6 billion pounds for the 2024-25 tax year.[27] The U.S. IRS' tool 'Line Anomaly Recommender' analyzes line-item relationships of mid-sized corporate returns to identify noncompliance.[28]

> AI-enabled software now assists multinational firms in drafting local files, calculating effective tax rates across countries, and any top-up taxes due, reducing manual workload and errors.

22 *Hossain, Mahmud & Sultana, Fatema, Artificial Intelligence in Financial Statement Preparation: Enhancing Efficiency and Accuracy, 5 Int'l J. Innovative Research in Soc. Sci. 1 (Mar. 6, 2025) at 370, available at https://ijirss.com/index.php/ijirss/article/download/5166/850/8321.*

23 *Chi, Der-Jang & Chu, Chien-Chou, Artificial Intelligence in Corporate Sustainability: Using LSTM and GRU for Going Concern Prediction, 13 Sustainability 11631, 2–5 (2021) at 4-5, available at https://pdfs.semanticscholar.org/1f4f/269d2fd8a-d7456ad861b26a26870afb58ee3.pdf.*

24 *Liang, Shaocheng, et al., A Hybrid Deep Learning Model Using Temporal Convolutional Networks for Financial Time-Series Forecasting with Alternative Data, 38 J. Forecasting 1321 (2025), available at https://www.sciencedirect.com/science/article/abs/pii/S0927538X25001672.*

25 *OECD (2025), Governing with Artificial Intelligence: The State of Play and Way Forward in Core Government Functions, OECD available at Publishing, Paris, https://doi.org/10.1787/795de142-en.*

26 *UK tax administration's use of AI with 'big data' system bags £4.6bn extra, Ross Martin, (Oct. 16, 2025), available at https: www.rossmartin.co.uk/sme-tax-news/8649-hmrcs-big-data-system-bags-gbp4-6bn-extra*

27 *HMRC finds value in 'big data' after bringing in extra £4.6billion, Pinsent Masons (Oct. 8, 2025) available at https://www.pinsentmasons.com/out-law/news/hmrc-big-data-tax-revenue-boost-4-6-billion*

28 *Congressional Budget Justification & Annual Performance Report and Plan Fiscal Year 2021, IRS, Pub. 4450 (Rev. 2-2020) at IRS-39.*

Beyond audits, another emerging use case is Pillar Two minimum tax modeling. The OECD's Pillar Two 15% global minimum tax rules demand extensive multi-jurisdictional calculations. AI-enabled software now assists multinational firms in drafting local files, calculating effective tax rates across countries, and any top-up taxes due, reducing manual workload and errors.[29] On the compliance side, companies are starting to use AI to monitor regulatory changes automatically – a quick-win solution that tracks updates in tax laws or compliance rules and alerts professionals to new requirements.

Research has demonstrated that AI tools can lead to significant efficiency gains, e.g., time saved on legal research and contract review that translates into cost savings for clients.

In India, the Goods and Services Tax Network (GSTN) illustrates AI's real-world impact. Facing fraud schemes like fake invoicing and false input tax credit claims, Indian authorities adopted AI-based analytics around 2021 to monitor GST filings.[30] AI is also used to assist taxpayers – for example, conversational chatbots handle routine queries on filing procedures in some jurisdictions, freeing up human officers for complex issues. Overall, AI in tax administration delivers efficiency and insights by automating data-intensive tasks, detecting patterns of non-compliance, and enhancing transparency (e.g., clear visualizations of a taxpayer's risk profile).[31]

Legal Practice and Other Professional Fields:

AI is also transforming legal practice, from legal research and advice to litigation support. Document review and analysis is one area where AI has seen significant uptake. Machine learning algorithms analyze large volumes of contracts or discovery documents at a speed outpacing attorneys. Research has demonstrated that AI tools can lead to significant efficiency gains, e.g., time saved on legal research and contract review that translates into cost savings for clients.[32] In corporate law practice, AI-based contract analytics are used for flagging unusual clauses during due diligence, while in litigation, e-discovery software applies NLP to identify relevant evidence within millions of emails or documents.

In legal research[33], Indian legal databases (such as CaseMine, Manupatra) and global platforms (such as Westlaw India) are now using AI-enhanced search to help legal professionals find contextually relevant and more precise precedents and statutes. Tools such as Lex



29 *KPMG, The Transformative Potential of GenAI in Transfer Pricing and Valuation, KPMG International, 3–9 (2025), https://kpmg.com/kpmg-us/content/dam/kpmg/pdf/2025/transformative-potential-genai-transfer-pricing-valuation.pdf.*

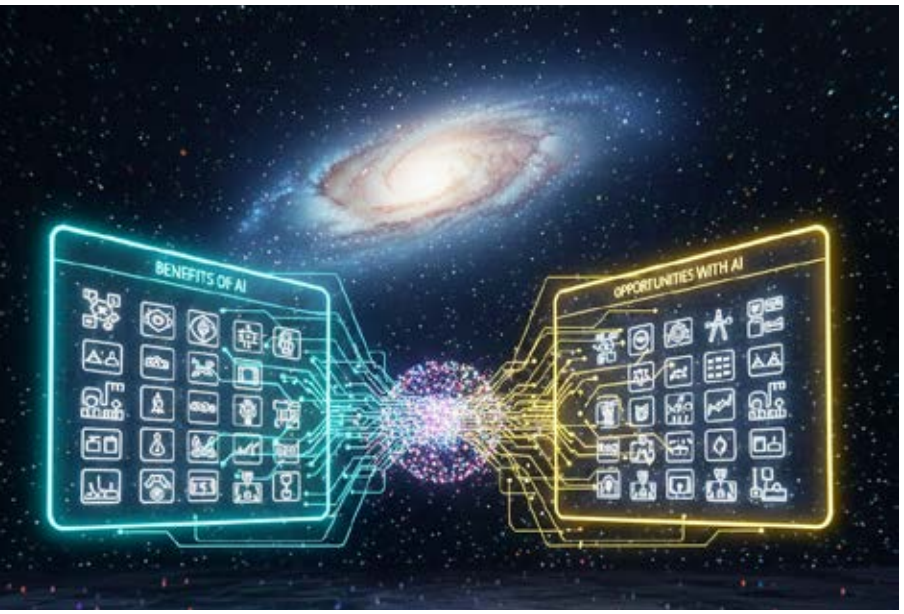
30 *Singh, Rakesh & Banerjee, Priya, Leveraging AI Tools for Enhanced GST Compliance and Fraud Detection in the Indian Taxation System, Exploresearch (June 2025), available at https://www.researchgate.net/publication/392299568, DOI: 10.62823/ExRe/2025/02/02.51.*

31 *OECD (2025), Governing with Artificial Intelligence: The State of Play and Way Forward in Core Government Functions, OECD Publishing, Paris, https://doi.org/10.1787/795de142-en.*

32 *Thomson Reuters, 2025 GenAI Report: Executive Summary for Legal Professionals, Thomson Reuters Institute, 11–14 (Aug. 6, 2025), https://legal.thomsonreuters.com/blog/genai-report-executive-summary-for-legal-professionals-tri/.*

33 *Lauren M. Washburn, Navigating the Power of Artificial Intelligence in the Legal Field, 62 Hous. L. Rev. 735 (2025).*

Machina (Lex Machina is a legal analytics tool by LexisNexis) and Premonition also provide predictive analytics to forecast case outcomes and litigation trends. Judges are also adopting AI tools. The Supreme Court of India's SUPACE (Supreme Court Portal for Assistance in Court's Efficiency) pilot is a system that summarizes case files to help clear backlogs, while some courts abroad use AI to cluster similar cases for faster rulings.[34] These tools show the promise of AI in law as a "legal assistant" to automate routine tasks, focusing lawyers on analysis and client advice.



Benefits and Opportunities of AI for Professionals

By distilling complex data into actionable insights, AI amplifies human expertise and enables proactive, predictive advisory services. AI also enhances quality and consistency in professional work. By applying uniform rules, it standardizes outcomes and reduces human bias. In law, AI research tools ensure key precedents aren't missed; in tax, AI risk scoring applies consistent criteria across taxpayers, promoting fairness and predictability provided the models are well-designed and explainable.

AI is transforming financial and tax administration client service through chatbots and virtual assistants. Taxpayers receive chat guidance, and law firms use AI to handle inquiries or conflict checks, boosting responsiveness and satisfaction. These tools also educate users and enable personalized services such as robo-advisors, tailoring investment portfolios in minutes, enhancing engagement, trust, and efficiency.

AI's rise generates new professional roles. As algorithms handle routine work, professionals will move into higher-value areas as strategic advisors, managing tech-driven issues, auditing algorithms, and advising on AI compliance. New cross-domain roles like data ethicists, AI auditors, and legal technologists are surfacing, blending business and technical expertise. This shift fosters collaboration between professionals and technologists, enriching skills and ensuring responsible AI development. Ultimately, AI expands opportunities—from greater efficiency and accuracy to entirely new ways of delivering value.

Challenges and Ethical Considerations

Despite these benefits, challenges around privacy, bias, fairness and transparency persist. AI systems process sensitive data such as tax records, client files, and financial information, incumbent with risk of breach and legal noncompliance. Professionals must comply

34 Oxford Tech & Justice Lab, India | Increasing use of AI across the justice system (Oct. 2025), https://www.techandjustice.bsg.ox.ac.uk/research/india.

with data privacy laws (such as the EU's GDPR and India's DPDP Act 2023) when deploying AI solutions by using encryption, access controls, and compliance checks. As AI aggregates vast datasets, it amplifies both insight and the responsibility to protect confidential information. Beyond privacy, AI introduces a capacity issue: efficiency gains from automation may shift bottlenecks. As AI accelerates data analysis

Beyond privacy, AI introduces a capacity issue: efficiency gains from automation may shift bottlenecks.

or document review, constraints emerge, such as limited human oversight, data quality, or interpretability, ultimately capping overall performance. Professionals must therefore manage these choke points to ensure AI enhances, rather than merely relocates, productivity limits.

If an AI system is trained on historical legal data (e.g., past sentencing or bail decisions), it may inherit and perpetuate discriminatory patterns present in that data. Moreover, AI's lack of explainability can clash with legal norms: a predictive model might suggest a likely outcome but cannot provide the legal reasoning behind it, which is indispensable in judicial processes. There are also confidentiality and privilege questions when using cloud-based AI services on client data. Lawyers must ensure compliance with privacy laws and bar rules. High-profile incidents have highlighted the risk of "hallucinations" or false information: since 2023, dozens of attorney filings worldwide involved AI-fabricated legal citations, many reported from the US and UK; sanctions include warnings, monetary fines, and professional discipline.[35]

The lack of transparency in how AI makes decisions compounds its use risks. Many AI models function as "black boxes" with opaque decision-making, hindering auditors' ability to interpret and justify AI-derived findings. Recent studies show that even state-of-the-art AI (e.g., large language models) can pinpoint errors in financial statements but still struggle to explain those errors or autonomously complete complex audit processes.[36] This opacity is problematic in legal, finance, and tax professions that demand reason-giving. A taxpayer subjected to an audit by an AI-selected process might challenge it in court, claiming the selection was arbitrary or biased if the government cannot explain the algorithm's reasoning. Such limitations necessitate continued human oversight; current AI applications in accounting largely operate under human-in-the-loop frameworks ("low AI") rather than fully autonomous systems. Likewise, if an AI-driven medical diagnosis errs, doctors need to understand how to fix it. The ethical principle of accountability dictates that AI

The lack of transparency in how AI makes decisions compounds its use risks.

decisions affecting people's rights or interests should be explainable and contestable. As a result, there is growing emphasis on "explainable

35 AI Hallucination Cases Tracker, Artificial Intelligence in Law (Oct. 15, 2025), https://naturalandartificiallaw.com/ai-hallucination-cases-tracker/.See also Federal Court Turns Up the Heat on Attorneys Using ChatGPT for Research, Esquire Solutions (Aug. 12, 2025), https://www.esquiresolutions.com/federal-court-turns-up-the-heat-on-attorneys-using-chatgpt-for-research/; and a New Wrinkle in AI Hallucination Cases: Lawyers Dinged for Failing to Detect Opponents' Fake Citations, LawNext (Sept. 15, 2025), available at https://www.lawnext.com/2025/09/a-new-wrinkle-in-ai-hallucination-cases-lawyers-dinged-for-failing-to-detect-opponents-fake-citations.html.

36 Rushi Wang et al., Automating Financial Statement Audits with Large Language Models (June 2025) (preprint on arXiv) (concluding that GPT-4 could identify many accounting errors from data but struggled to explain errors or perform full corrections, highlighting LLMs' current knowledge gaps).

AI" in professional use-cases – developing models and interfaces that provide humans with understandable justifications for their outputs. Professionals using AI must be prepared to interrogate and interpret its recommendations, rather than accept them blindly.

Recognizing these issues, global standard-setters urge robust governance for high-risk AI. The EU's AI Act would classify many AI applications as high-risk, mandating strict oversight on fairness and accountability. Likewise, professional bodies (e.g., the Institute of Chartered Accountants of India) emphasize that AI should augment, not replace, human judgment in tax compliance. In practice, most tax AI deployments use a human-in-the-loop approach: algorithms generate alerts or suggestions, but final decisions (whether to audit, deny a refund, etc.) remain with humans. This blended approach seeks to capture AI's efficiency gains while maintaining legal integrity and taxpayer trust. Going forward, tax administrations must continue balancing innovation with due process, leveraging AI for smarter tax systems, yet ensuring that accuracy, equity, and explainability are never compromised.[37]

The EU's AI Act would classify many AI applications as high-risk, mandating strict oversight on fairness and accountability.

Conclusion and Future Outlook

AI stands at a crossroads: it can either amplify or erode humanity's core traits—our judgment and cognition.[38] The outcome depends on how we manage bias, privacy, and accountability through strong governance frameworks. Emerging areas such as explainable AI, federated learning, and AI governance are gaining prominence, while governments advance regulations like the EU AI Act and national AI strategies emphasizing data protection and risk-based rules. If guided well, AI can elevate professions by automating data-heavy tasks while humans contribute oversight, creativity, empathy, and ethics.

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37 *Pramod Kumar Siva, Legal and Regulatory Implications of Agentic AI in Tax Administration, 118 Tax Notes Int'l 1711 (June 16, 2025), https://www.taxnotes.com/tax-notes-international/tax-policy/legal-and-regulatory-implications-agentic-ai-tax-administration/2025/06/16/7s7g9.*

38 *Mallik Tatipamula & Azad Madni, Educating a Future Workforce That Will Match AI Disruption, World Economic Forum (Oct. 8, 2025), https://www.weforum.org/stories/2025/10/education-disruptive-ai-workforce-opportunities/*

Advisory 2.0: How AI is Reshaping Tax Consulting

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Bianca Kuijper

Overview

In "Advisory 2.0: How AI is Reshaping Tax Consulting", Bianca Kuijper, Orbitax's Chief Operating Officer, explores how AI is transforming tax advisory. She contrasts the traditional model driven by information asymmetry, labor-intensive research, and lengthy memos with today's AI-powered approach, where tools can streamline data gathering, monitor global tax developments, and generate actionable insights in real time.

Kuijper emphasizes that AI does not replace human advisors but amplifies their capabilities, enabling them to focus on judgment, strategy, and client relationships. By combining curated data, generative and agentic AI, and automated compliance processes, advisors can move from reactive reporting to proactive, strategic guidance.

Trust, insight, and collaboration are now the defining currency of advisory work. In an AI-driven landscape, the most successful tax professionals will use technology to strengthen client relationships, turn compliance into strategy, and offer actionable, forward-thinking insight. Ultimately, the future of tax advisory is collaborative, data-informed, and human-centered, with technology enhancing the value that advisors bring to their clients.

Introduction

Twenty years ago, when I first walked into the international tax practice at Ernst & Young in Amsterdam with a fresh master's degree, the advisory model was simple: clients came with



questions, we researched the answers, and delivered expertise wrapped in billable hours and meticulously crafted memos.

Today, as Chief Operating Officer at Orbitax, I am witnessing the most fundamental shift in tax advisory since the introduction of digital research databases. Unlike my early days, the reliance on AI-powered tools is not just changing how we find answers; it is redefining the entire value proposition of tax consulting. The question tax advisors now face is not just about finding answers, but about using technology to transform those answers into actionable



insights that empower their clients to make strategic decisions, while responding to the ever-increasing demand for efficiency. It's a thrilling and unsettling evolution all at once, because as machines learn to do what we once did, we are prompted to ask a deeper question: Where do we, as humans, fit?

In this article, I reference XatBot (Orbitax's AI assistant) as an example of how AI is reshaping the way we access, interpret, and apply tax knowledge, while challenging traditional notions of what "expertise" means in advisory work. More than the tool itself, it highlights the new possibilities emerging: a collaborative future where human advisors and intelligent systems work together to deliver deeper insight, faster decisions, and greater strategic value for clients.

The End of Information Asymmetry

Let me paint you a picture from my advisory days. As a junior tax advisor for multinational clients, I was tasked with monitoring global tax law changes that could impact our clients. My daily routine involved scanning international tax alerts, manually cross referencing them with the fact patterns of clients assigned to me, and flagging potential implications. The process was methodically executed. I researched local regulations, analyzed complex tax treaties, reviewed rate tables, consulted our internal planning databases, and then synthesized everything into a comprehensive memo. Monitoring tax laws easily took up six hours a day, and depending on the complexity, a memo could take several days to complete.

The traditional advisory model relied on information asymmetry. Clients needed us because accessing comprehensive tax knowledge required specialized training, expensive databases, and years of experience to know where to look. Yet, the real challenge was not time, but value. Clients often hesitated to incur additional fees for routine updates. This created a paradox, where staying well-informed became financially challenging. This traditional approach was not just labor-intensive but also vulnerable to human error and constrained by individual capacity.

Fast-forward to today: AI can perform that same analysis in seconds, monitoring global tax law changes across jurisdictions, drawing from multiple trusted databases, synthesizing withholding tax implications, compliance obligations, and local law requirements, and even producing draft memos or organizational charts instantly. The result is not just faster; it is broader, more consistent, and in many ways more insightful than what I could achieve manually. This is truly remarkable, and this

shift forces us to rethink what expertise really means in an era where technology can replicate, and often exceed, our analytical capabilities.

A Vision Rooted in Expertise

More than two decades ago, two international tax partners at KPMG in Silicon Valley, Gratian Joseph and the late Donald Chung, saw how much time and expertise were consumed by repetitive, manual processes. Both believed that technology could help tax professionals move beyond routine tasks to focus on higher-value thinking. Don, in particular, envisioned a digital tax assistant that could combine the depth of technical knowledge with the efficiency of automation. He even gave it a fitting name: XatBot, an anagram of "tax."

Artificial intelligence, when applied with care and expertise, becomes a catalyst for human collaboration and judgment rather than a substitute for it.

From its inception, the Orbitax platform has been developed by professionals who understand the nuances of international tax practice. Rather than relying on generic algorithms or external data sources, it is built on comprehensive, curated databases of global tax rules, maintained by experts who live and breathe international taxation. This professional foundation ensures that the technology reflects real-world tax logic and supports practitioners in applying their expertise with greater accuracy and efficiency.

Artificial intelligence, when applied with care and expertise, becomes a catalyst for human collaboration and judgment rather than a substitute for it. As technology increasingly takes on the analytical groundwork, the role of the tax professional grows more strategic, centered on interpretation, connection and planning. This, ultimately, was Don Chung's vision: a future where technology amplifies human capability, allowing professionals to focus on what only humans can do: exercising judgment and building personal connections and trust.

Building Trust on a Foundation of Reliable Data

The strength of any intelligent system depends on the quality of the knowledge that supports it. In the case of Orbitax, that foundation is extensive tax research developed over more than two decades by international tax professionals. The platform draws upon a curated global database covering more than 195 jurisdictions, including corporate tax regimes, withholding tax provisions, compliance requirements, rates, forms, and treaties. Its scope reflects years of systematic research, with thousands of law change reports, tax news updates, rates, and treaty records reviewed and refreshed daily to ensure accuracy and relevance.



This structured knowledge base enables the generation of precise and contextually relevant tax insights. By combining verified research with company-specific data, the system produces analyses that mirror professional reasoning while maintaining consistency and speed. Continuous updates across all jurisdictions ensure that it reflects the most recent legislative and treaty developments. For example, in determining the application of India's tax treaties, XatBot will not automatically apply MFN clauses because it relies on a curated database that reflects the India SC Nestlé ruling. Likewise, it will not automatically apply India's treaties as affected by the MLI because the data source already reflects the ITAT rulings barring automatic activation of the MLI sans specific notification.

Equally important, this foundation helps safeguard against a common limitation of general-purpose AI systems: the tendency to generate inaccurate or unfounded information, often referred to as "AI hallucination." Because the underlying information in the platform is curated, validated, and continuously updated by subject-matter experts, the risk of such errors is significantly reduced. Each analysis is anchored in authoritative, up-to-date tax intelligence, providing professionals with confidence that the insights they receive are both reliable and relevant.

Transparency strengthens the relationship rather than diminishing it, creating space for deeper dialogue and strategic collaboration.

In this way, technology grounded in verified knowledge supports the same principles that have always defined the tax profession: precision, trust, and integrity.

Intelligent Monitoring of Tax Trends in Practice

When I think back to the countless hours once spent monitoring global tax developments and cross-referencing them against client fact patterns, the contrast with today's possibilities is striking. What was once an exercise in endurance has become a process of informed engagement, where technology assists in identifying, interpreting, and communicating tax changes as they occur.

Consider, for example, the recent amending protocol to the tax treaty between Brazil and India, which updates key provisions on the taxation of royalties, interest, and capital gains. In the past, identifying affected clients across a multinational portfolio would have required manually reviewing entity charts and jurisdictional exposures. Today, with an integrated monitoring system, I can ask which of my clients may be impacted. Because the platform already contains each client's entity footprint and treaty relationships, it immediately highlights those with relevant connections to Brazil or India.

From there, I can instruct the system to track this development for each affected client and to send alerts when further guidance, ratification updates, or implementing regulations are released. I can even choose to include my clients directly in these alerts, ensuring that they have access to the same real-time information that I do. What once demanded days of research and coordination now becomes a proactive, collaborative process.

This evolution represents more than an efficiency gain; it signals the end of information asymmetry that long defined the advisory model. When both advisor and client share access to the same up-to-date information, the foundation of value shifts from data possession to insight and trust. Transparency strengthens the relationship rather than diminishing it, creating space for deeper dialogue and strategic collaboration. In this new landscape, technology becomes the enabler of

trust — and trust, in turn, the currency of a more valuable and effective advisory partnership.

Beyond the Memo: Refocusing Advisory Value

When I began my career, every tax project seemed to end with a memo, often dozens of pages long, that sought to capture our analysis and planning ideas. I remember spending days assembling these documents after monitoring a new regulation or treaty change, manually verifying provisions, and checking calculations. The memo was our way of showing diligence, but it was also where the limitations of time became most apparent. Despite all the effort, clients sometimes found the output too generic, still asking the question: What does this mean for us?



Today, that same process begins in a very different way. Suppose a development such as the amending protocol to the tax treaty between Brazil and India appears through automated monitoring. Within moments, the system can outline which clients may be affected, summarize the treaty changes, and generate a first draft of the technical analysis. Rather than starting from a blank page, the advisor now begins with a foundation built on verified data and structured reasoning.

This shift changes the nature of our work. Instead of spending hours collecting and formatting information, we can use that time to test the practical implications, refine the analysis, and discuss how the change affects a client's specific structure. The value of the memo is no longer in how much information it contains, but in how well it guides action.

To achieve this, the technology must extend beyond generative text. Generative AI produces language based on probability: an extraordinary capability for drafting, but one that needs precision safeguards in a field as complex as taxation. For that reason, Orbitax combines Generative AI with Agentic AI: systems that can reason through defined steps, apply expert-built logic, and verify their conclusions. These agentic components, such as the Withholding Tax Minimizer, Interest and Penalty Calculator, Global Minimum Tax Model, and Country-by-Country Reporting Analyzer, bring the structure and reliability of human-designed computation into the process.

What emerges is not a replacement for professional writing, but an evolution of it. The initial draft becomes a starting point for deeper reflection, allowing the advisor to concentrate on the nuance of fact patterns, implementation, and strategy. In doing so, we move beyond the era of information asymmetry: where value was defined by access to data, and enter an era where trust, judgment, and collaboration define the true worth of the advisor-client relationship.

Deepening Client Relationships

XatBot's role is not merely that of an analytical powerhouse. It enables advisors to engage more meaningfully with clients, providing space to listen, understand, and tailor advice to the unique circumstances of each business. By automating routine processes, XatBot allows advisors to spend less time on data gathering and more on cultivating relationships, understanding client needs, and providing personalized strategic guidance. This transformation exemplifies how technology can enhance, rather than replace, the human elements of trust and empathy that are so critical in advisory work.

> Generative AI produces language based on probability: an extraordinary capability for drafting, but one that needs precision safeguards in a field as complex as taxation.

Turning compliance into strategy

Perhaps the most significant opportunity created by automation lies in reimagining compliance work. Preparing tax returns and statutory reports has long been a dependable but low-margin activity, essential for maintaining client relationships but rarely a true differentiator. Yet within every return lies a wealth of information: details about entity structures, cross-border transactions, and operating jurisdictions. With intelligent systems capable of analyzing that data and connecting it to current legislative changes, compliance work can become the foundation for continuous advisory engagement.

Going back to the example of my junior advisory days, much of the client information was coming from the corporate tax returns. Each return told a story about where a company operated, its entity footprint, and relevant transactions. That information was invaluable, but its full potential often remained untapped, buried in spreadsheets and static reports.

Today, this same data forms the backbone of intelligent automation. The entity footprint that is captured across multiple corporate tax returns can now be extracted and mapped directly into a monitoring system. The platform uses that information to track relevant law changes automatically, (e.g. a treaty amendment, a new withholding rule, or an updated incentive regime) and to connect those developments to the specific entities or transactions they affect.

Once a change is detected, the system's agentic capabilities come into play. Drawing on the underlying data from the returns and their supporting calculations, it can simulate planning scenarios in real time. For example, it might assess how a change in depreciation rules or tax credit eligibility impacts a client's capital investment strategy, or model how a treaty update could alter the effective tax rate across jurisdictions. The advisor can then refine these outputs, evaluate alternatives, and design an implementation plan that aligns with the client's broader business objectives.

In this way, the compliance process evolves from a backward-looking reporting task into a forward-looking planning exercise. Advisors can move beyond the routine mechanics of tax return preparation to deliver strategic insights rooted in the client's own data. The result is a practice that not only meets filing obligations but also continuously identifies opportunities, transforming the return from a regulatory requirement into a catalyst for value creation.

Advisory 2.0: Trust as the New Currency

As technology takes over the mechanical aspects of tax practice such as data collection, research, calculation, and first-level analysis, what remains is what has always defined our

profession: human judgment, communication, and trust. The tools we use may have changed, but the foundation of advisory work has not.

At Orbitax, we see AI working as 'digital staff', not as a replacement for professionals. The digital systems perform the tasks that require speed, precision, and scale, while human advisors focus on interpretation, strategy, and relationships. Together, they create outcomes that neither could achieve alone.

This collaboration transforms both the advisor's and the client's experience. Tax departments and advisory firms can move beyond data gathering and compliance oversight to become strategic partners in decision-making. With routine work automated, professionals can invest more time in understanding their clients' business models, anticipating challenges, and identifying opportunities that align with long-term objectives.

In this new landscape, trust becomes the most valuable asset. When clients have access to the same information as their advisors, expertise alone is no longer the differentiator. What matters is the ability to contextualize, explain, and guide the client. The relationships built on that foundation of trust will define the next generation of tax advisory.

Advisors who embrace this change will find that technology does not diminish their role; it magnifies it. By combining the precision of digital systems with the empathy and insight that only humans can offer, we can create a model of collaboration that is not only more efficient, but also more meaningful. In an AI-driven world, it is our humanity — our capacity to connect, to interpret, and to build trust — that becomes the true source of value.

Epilogue: Coming Full Circle

When I first walked into the tax practice at Ernst & Young two decades ago, the work was defined by research, memos, and long hours spent mastering complexity. Today, as I look across a landscape shaped by artificial intelligence, I see the same commitment to precision and professionalism, but expressed through very different means.

The tools have evolved, but the purpose has not. Our role as advisors remains to bring clarity where there is uncertainty and to build trust where there is risk. What is changing is the way we do it: by embracing technology not as competition, but as collaboration.

In the end, the question is no longer "Where do we, as humans, fit?" but rather "How do we want to lead?" Those who use technology to amplify judgment and deepen relationships will define the next chapter of our profession.

Author's Note: This article was prepared and refined using Orbitax XatBot AI as part of an experimental writing process: an illustration of the collaboration between human expertise and technology that it describes. The ideas, structure, and conclusions represent the author's own analysis, improved with input from colleagues Dali Bouzoraa and Raiyan Shahryar.



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Reinventing Tax Administration with AI - Stronger, Swifter and Sharper

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Overview

Artificial Intelligence has caught up fancy of all, leaving no area untouched. It is conceptually different from the widely used IT software tools, as the AI is capable of performing tasks that require reasoning and cognitive abilities. AI has great potential for use in business and commercial activities. Risk Management is the main tool employed by the tax authorities for detecting evasion and ensuring compliance. It can be greatly enhanced by integrating AI into it. With its capabilities to access, process, and analyze data from various sources very rapidly, the AI can identify risky and non-compliant taxpayers more accurately. Both the CBDT and CBIC have launched projects for adopting AI in their administrative and enforcement functions. The Small Language Models, which are specific to a domain, will be more useful for tax administrations. The AI is equally useful for taxpayers who can integrate it into their systems for error-free and timely compliance, with the benefit of reduced cost. The tax firms are coming out with AI-powered research and drafting tools. Though AI is capable of taking over most of the functions carried out by tax officers but it would be too risky to entrust such functions to AI.

Introduction

Artificial Intelligence is the most talked about topic of contemporary times, some calling it a boon to mankind, while others demonizing it as the monster created by man for self-destruction. Yuval Noah Harari, a famous historian and author, has termed AI as an existential threat to humanity. Whatever it is, it has caught the fancy of everyone, from the common man to the techno czars, and already found use in many leading areas. India holds a special relevance for AI as it is the second-largest market for AI. Sam Altman, who is a prominent pioneer of AI and has led the Open AI has said that India's adoption of AI has been



unmatched anywhere in the world. According to BCG, a leading consulting firm, 92% of the Indian office workers use AI, as against 64% in the US. Therefore, we have a huge potential in India to tap AI in different walks of life, at the government level as well as at the citizens' level, more particularly in the trade & industry and service sector.

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AI is conceptually different from the traditional IT software programmes, which are structured and follow a very well laid out algorithm, whereas AI is unstructured, self-learning, dynamic, analytical, and predictive, and the most distinct feature is that the user interacts with it in natural language. Traditional software would give the same result every time for the same input, whereas AI may give different results every time because it is self-learning and simulates human cognitive abilities.

AI models are trained on massive data, spanning over websites, articles, books, patterns, and use billions of parameters, giving it the eponymous nomenclature, Large Language Model. It is capable of processing huge data at lightning speed. That is the reason why AI needs huge data centres and consumes a high amount of electricity.

Though the AI is going to affect all walks of life

but the prominent areas that are going to be immensely benefited are Science & Technology, scientific research, and business & commerce. It has already begun to transform the ways in which goods and services are produced, exchanged, traded, and consumed, and is opening up new areas of growth. Appreciating the use of AI in boosting international trade and contributing to inclusive growth, the WTO has dedicated its Annual Trade Report 2025 to the theme of Making Trade and AI work together to the benefit of all.

Tax Administration and AI

Levy of tax is the most essential function of every government, and every person, irrespective of their economic or social status, bears its burden, directly or indirectly, which everyone wants to avoid. In the process of maximizing tax collection and curbing evasion, the tax authorities keep amending the law and the procedures. This results in prescribing regulations and procedures, compliance with which is very cumbersome and challenging for the taxpayers.

The whole thrust of the tax administration is to plug every possible loophole to ensure that no leakage of revenue takes place. In this process, they employ different types of strategies to identify the leakage points in the system and the individual taxpayers who are evading taxes.



Traditionally, the task of detecting evasion was done by depending on human intelligence, scrutinizing the Returns filed by the taxpayers, and analyzing the financial statements and other information available in the public domain and with other government departments. With the advent of Information Technology and the development of software programmes, this underwent a sea change. Most of the tax departments developed customized software tools to scrutinize the Returns and throw up the details of risky taxpayers. Phenomenal increase in the number of taxpayers made it impossible for the assessing authorities to scrutinize every individual Return and detect non-compliance and evasion of tax. This led to a paradigm shift in the very approach of the tax departments for administering the tax laws. Risk Management replaced 100 % assessment. The laws have been amended to provide for payment of tax on the basis of self-assessment by the assessee himself, and only a few cases are picked up for detailed scrutiny or consignment examination on the basis of Risk Assessment. The IT-enabled Risk Assessment tools have been developed by almost all tax authorities, which help them to pick up for detailed scrutiny only the Returns or consignments with a greater possibility of tax evasion. Under Customs, the world over, only a few consignments are picked up for detailed examination based on risk parameters built into the system. The risk parameters are constantly modified in light of experience and business practices, and patterns. The Goods and Services Tax Law, which is the latest major tax law, is totally

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IT-enabled, and without working knowledge of IT, its compliance is not possible. This led to extensive use of IT tools by the taxpayers as well for ensuring compliance. Large organisations have built into their ERP applications the tax compliance requirements for ensuring error-free and timely compliance under tax and other laws. AI has added a new dimension to their Risk Management efforts.

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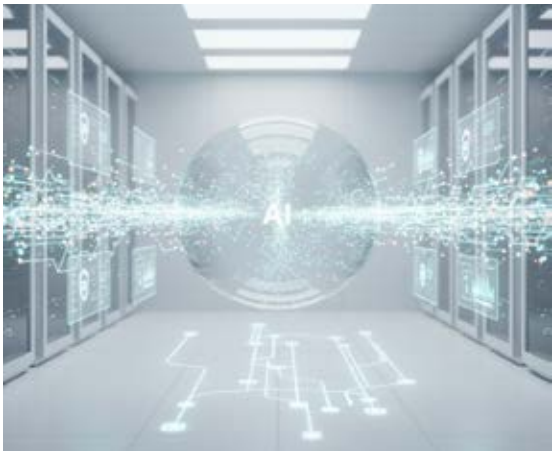
The Generative type of AI can draft documents, create audio & video content and perform many creative tasks. The AI offers a wide range of possibilities for the tax administrations as well as the taxpayers. It would is a big leap forward from the existing use of traditional IT. Already, the tax administrations the world over have started leveraging AI in their administration and enforcement functions. The IMF has recently published a technical Note and Manual on "Generative AI for Compliance Risk Analysis: Application in Tax and Customs Administration." The paper discusses how, in an experiment, GenAI models were used to identify and assess potential risk from a change in the external environment, such as currency devaluation over a long period of time, on the MNCs and medium-sized enterprises. The study involved using GenAI for analyzing the impact of a 25% devaluation in a country's currency on the income tax revenue, transfer pricing between associated companies, dividend distribution, tax disputes, and litigation, etc. Another example uses a review of the Annual Report of an MNC from the perspective of impact on effective tax rate and profit shifting, subsidiary structure, debt usage and leverage, royalties and other deductions, etc. Both illustrations are used to demonstrate the capabilities of GenAI. The AI has huge potential for the collection of intelligence and fraud detection by using the open source data, as well as the specialized data available with the tax administrations. In a study paper authored by Rida Belahouaoui and James Alm, published in the Journal of Financial Management, they have discussed the role AI tools can play in fraud detection in the context of OECD Tax Administration 3.0 has been discussed. It highlights how the AI technology can help fraud detection through a new Adaptive AI Tax Oversight (AATO) framework. The methodology emphasizes the evaluation of AI technology's



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predictive, analytical, and procedural benefits in detecting and combating tax fraud. The World Customs Organization (WCO) has, as part of its Smart Customs Project, prepared a Report on the adoption of Artificial Intelligence and



Machine Learning in Customs, for enhancing risk assessment and fraud detection capabilities. The report emphasizes integration of AI and ML into the Customs systems with a view to increasing operational efficiency, trade facilitation, risk management, collection of intelligence, and predictive analysis.

Indian Tax Administration and AI

Artificial Intelligence has great potential in detecting and curbing tax evasion and fraud, which are stupendous. The Global Tax Evasion Report- 2024, published by the EU Tax Observatory, has estimated the corporate tax revenue losses of over US$ one trillion, which is about 10% of total global corporate revenue. Indian tax administrations have always been at the forefront in the use of IT tools. At the WCO, the Indian Customs has been an active participant and has led the technology drive. The Digital payment system handles more than 700 million transactions a day, and it is running a pilot project to use AI to spot fraud on real real-time basis, which in most cases has a bearing on the taxes. Both apex tax administrative bodies, the Central Board of Direct Taxes and the Central Board of Indirect Taxes & Customs, have been extensively using for long, Data Analytics and Risk Management software tools for identifying risky taxpayers and detecting tax evasion and non-compliance. While the present tools are very effective and use dynamic algorithms, the use of AI is being gradually built into existing systems to enhance the Risk Management capabilities to make the system stronger, swifter, and sharper. The tax and non-tax departments have huge financial and personal data, and giving access to such data to tax administrations would hugely enhance their striking capabilities. The CBIC and the CBDT have robust information exchange arrangements which help both departments in detecting and establishing evasion on real real-time basis, as in many cases suppression or under-reporting under the income tax law has a bearing on the GST or Customs and vice versa. The scrutiny of the Returns is based on the alerts thrown by the Data Analytics, having inbuilt risk parameters which are constantly modified in the

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light of new modes and trends. Use of AI can sharpen such risk parameters, as it is adaptive and capable of accessing and analyzing vast quantities of data across all fields at an amazing speed. The CBIC has a specialized body called the Directorate General of Analytics and Risk Management (DGARM) to undertake intensive analysis and identify risky taxpayers and cargo

under GST and Customs. Analytical tools like BIFA and ADVAITA have proved very effective in targeting the risky and suspect taxpayers or importer/exporters. The National Customs Targeting Centre (NCTC) undertakes analysis of suspect and risky consignments and passengers and alerts the ports and airport officers on real real-time basis, which results in the interdiction of



many consignments of drugs, arms, explosives, and other offending goods. It also leads to an investigation into other fraudulent transactions and Trade Base Money Laundering. Building calibrated AI into such tools can enhance their capabilities exponentially. The state GST departments have also been provided with such BIFA tool by the GSTN, and they also develop their own software tools. Such applications are easy to use in GST, which works in a fully automated ecosystem where actions are conducted through the GSTN Portal. Fraudulent Input Tax Credit by using fake invoices is the biggest challenge under GST and constitutes the single largest mode of GST evasion, which uses wrong or non-existing addresses, and Adhar/PAN/ Mobile numbers of poor gullible persons for registration of their fake business entity for generating GST invoices. Use of AI can be leveraged for verifying the veracity of the addresses and the financial standing of the owner of registered persons before approving registration. Similarly, the movement of GST goods, which have to be accompanied by E-way bills, can be automatically linked with the data of Toll Gates maintained by the National Highway Authority of India and detect routes of the vehicles and possible diversion of goods to evade taxes. Income Tax has a far larger number of taxpayers, and being a direct tax, the tendency for evasion is more widespread, rendering the task of enforcement more challenging. The CBDT has been using the traditional IT tools and AI in a more extensive way. Its Project Insight is used for identifying the cases of tax evasion and non-compliance by assessee profiling and collecting details of foreign travels, property purchase, luxury items purchase, and other conspicuous expenses, which AI can pull from open sources as well. Recently, the CBDT has launched the Project Satya in collaboration with DRDO by setting up an AI portal for analyzing various digital footprints, call data, and social app behaviors of the suspect taxpayers to detect evasion. Thanks to the deepened digitalization, most of the transactions even outside the tax ecosystem can be tracked, and electronic footprints of any assessee can be easily created. Analysis of data retrieved from the Digital Payment System itself can lead to identifying cases of short reporting of income. In fact, the AI tools are so powerful

Use of AI can be leveraged for verifying the veracity of the addresses and the financial standing of the owner of registered persons before approving registration.

that they can build up a complete profile of an assessee from a small bit of information, such as Registered Phone Number, Registered Business address, Bank Account Number, etc. Based on such predictive analysis and risk assessment, the taxpayers are picked up for deeper scrutiny, audit, or more invasive actions. The state

governments, which are more directly concerned with the routine activities of people and public utilities, can also significantly gain from the use of AI. The State GST departments are using advanced AI-aided IT software for detecting GST fraud. Some of the state governments are using GenAI for analyzing the GST Returns and even issuing demand notices on the basis of mismatched or missing details in the Tax Returns. It also has good potential for use in ascertaining and assessing the true transaction value of land and other immovable properties, which are generally much undervalued to evade the registration and stamp duties. AI can also be helpful in fixing the standard Circle Rates for stamp duty purposes at realistic levels.

AI tools have been developed by law and advisory firms for digging into the case laws and drafting advisories, and even replies to show cause notices issued by the tax authorities.

Taxpayers and AI

The AI tools are equally useful for taxpayers who are under constant threat of action for even minor non-compliance with the tax law. It is very difficult for any taxpayer or importer/exporter to keep track of a vast number of changes in tax rates and other regulatory requirements. We are witnessing an unprecedented Tariff war and a spate of Non-Tariff barriers such as CBAM, GMO crops or foods, Chemical Standards, Child Labour certification, Food Standards, EU deforestation regulation, etc., which makes it impossible for exporters or importers to track frequent changes. The AI tools can instantly find out the latest tariffs and other restrictions and help the import/export community in planning and pricing their shipments. Thus use of AI can significantly reduce their compliance cost and optimize the use of time and human resources. Another important area with huge potential for the use of AI is legal work. Already, AI tools have been developed by law and advisory firms for digging into the case laws and drafting advisories, and even replies to show cause notices issued by the tax authorities. In fact, based on the notices and AI-drafted replies, the assessment and adjudication orders can also be drafted by the AI tools. The AI can not only help the taxpayer in tax planning but can also facilitate planned evasion and tax fraud, which the tax administrations have to be wary of.

Strengths and Drawbacks

It is evident that the Tax Administrations in India are marching forward in integrating AI into their systems. Having the benefit of access to immense government data and the personal and biometric data in the India Stack system, the tax departments are in an advantageous position to use AI for administration and enforcement. However, being sovereign entities, they have constitutional functions and responsibilities towards citizens. The tax administrations have to maintain the integrity and sanctity of the vast



data they happen to hold. They cannot use the open-source data indiscriminately and expose their own protected and confidential data to risk. Technically, AI-based tools can be trained to ascertain the short payment of taxes, draft the show cause notices, and even issue assessment and adjudication orders, but at the government level, it can't be entrusted with such tasks. Since



their requirement is domain-specific and they have a large amount of data of their own and can have access to the other related government departments' data, they can develop their own specific Small Language Models, which would not only be more focused but also cost-effective. The level of tax law compliance is an important component of the Ease of Doing Business Index published by the World Bank, which has a bearing on the FDI and general perception about tax authorities. The tax administrations have to strike a fine balance between enforcement and facilitation. Indiscriminately targeting taxpayers or importers/exporters on the basis of mere suspicion would adversely affect this ranking. Therefore, the AI tools have to be used by the tax departments with caution and circumspection, and avoid using such tools for decision-making purposes. The AI can also be used to alert the taxpayers about any technical non-compliances by them. Automated alerts can be sent to the taxpayers for delay or non-filing of any return or furnishing of information. The IMF Technical Note & Manual has discussed four types of generalized use cases of AI, viz. Assistant, Consultant, Collaborator, and Autonomous Agent. Depending on the type of function to be performed, the AI can be assigned roles, but in tax matters, AI cannot be allowed to be an autonomous agent and replace human decision-making. However, it can easily perform many of the tasks of collection and processing of data presently being done by tax officers, and also assist them in decision-making. AI-powered chatbots can be used for handling general-purpose queries of the taxpayers, but not with legally binding responses.

Though the AI analysis and predictions are based on data available on public websites, books and journals, papers, and datasets created by the AI professionals who make up the LLM models for training, there are instances when the AI throws wrong and misleading replies, which is due to AI hallucinations. This can have serious repercussions and consequences both for the tax administrations and taxpayers. Recently, the Bombay High Court in the case of KMG Wires Pvt Ltd has quashed an income tax assessment order which was issued by the assessing officer, relying on AI-generated case law which was found to be incorrect. In another instance in the Delhi High Court, the assessee cited a case law that was a result of AI hallucination. Therefore, in tax matters where huge revenue and public trust are involved, AI can be used only under close supervision and after verification. Presently, only the Human-in-the-Loop or HITL approach is suitable for tax administrations.

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Use of AI by Judiciary: Transforming Justice Delivery

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Overview

This article examines how artificial intelligence is reshaping judicial administration in India through tools like SUPACE, SUVAS, and AI-based transcription systems. It traces the evolution from digitisation under the e-Courts Project to intelligent transformation envisaged in Phase III, which integrates multilingual translation, real-time transcription, summarisation, and data-driven case management. Drawing from global models such as Brazil's VICTOR and Singapore's AI translation initiatives, it emphasises India's rights-based and consultative approach rooted in constitutional safeguards. The paper analyses institutional governance by the Supreme Court's e-Committee, ethical guardrails concerning explainability, privacy, and contestability, and the non-dispositive principle ensuring that AI remains assistive rather than adjudicative. It also highlights instances like the Buckeye Trust case to illustrate the risks of unverified AI use. Concluding that AI can enhance access, transparency, and efficiency without displacing judicial reasoning, the study argues for codified AI-use policies, strong data governance, capacity building, and continuous oversight to ensure technology strengthens, rather than supplants, the human foundation of justice delivery.

Introduction: When Courts Turn to Algorithms

The modern courthouse increasingly resembles a hybrid space, part marble corridors and oak benches, part cloud servers and machine-learning algorithms. This evolution is neither accidental nor

> Artificial intelligence has entered the courtroom, not as a replacement for the judicial mind, but as an augmentation for overwhelmed administrative infrastructure.



cosmetic. Judicial systems worldwide confront a stubborn arithmetic: demand for adjudication outpaces supply, backlogs metastasise, and public confidence erodes in proportion to delay. In India, where pendency surpasses 50 million cases[1], the constitutional promise of accessible justice rings hollow for litigants who wait decades for final orders. Against this backdrop, artificial intelligence has entered the courtroom, not as a replacement for the judicial mind, but as an augmentation for overwhelmed administrative infrastructure.

> The Apex Court publicly signaled that algorithmic assistance, properly bounded, can liberate judicial bandwidth for reasoning rather than rote retrieval.

India's e-Courts initiative, conceived in 2005 and iteratively refined across two completed phases with a combined outlay exceeding ₹2,300 crores, has digitised nearly 19,000 Courts.[2] Yet digitisation alone, including scanning of files, uploading of orders, does not even remotely address the bottlenecks in comprehension, translation, and analytical synthesis that slow adjudication. Phase III, formally accepted by the erstwhile Chief Justice of India in September 2022, pivots from mere digitisation to intelligent transformation, multilingual access powered

1 *Centre for Research and Planning, Supreme Court of India, State of the Judiciary: A Report (Supreme Court of India 2024) 12-15 https://cdnbbsr.s3waas.gov.in/s3ec0490f1f-4972d133619a60c30f3559e/documents/misc/state_of_the_judiciary.pdf accessed 16 October 2025.*

2 *E-Committee, Supreme Court of India, Digital Courts Vision & Roadmap: e-Courts Project Phase III – Final Report (E-Committee SCI 2022) 1 https://cdnbbsr.s3waas.gov.in/s35d6646aad9bcc0be55b2c82f69750387/uploads/2024/07/20240716162080426 7.pdf accessed 16 October 2025.*

by neural translation, real-time transcription of oral proceedings, AI-assisted summarisation of sprawling records, and data-driven case management that allocates judicial time with precision rather than convention.[3]

Notably, India's approach has attracted international attention. At the 2025 Standing International Forum of Commercial Courts, India's "AI Saransh"—a tool generating structured, party-wise, and issue-wise summaries was showcased as a model of judicially supervised AI deployment, balancing efficiency gains with preservation of human adjudicative control.[4] The message is clear: AI in the judiciary is not futurism, but it is present-tense institutional reform grounded in constitutional values.

From Pilot to Practice: India's AI Deployments

SUPACE: Intelligence at the Apex

In 2021, the Supreme Court of India launched SUPACE (Supreme Court Portal for Assistance in Court's Efficiency), a decision-support platform designed to assist judges in legal research and case-material ingestion. While operational details remain within the institution, scholarly and governmental analyses characterise SUPACE as a knowledge retrieval tool that expedites the preparatory phase of adjudication, filtering precedents, flagging relevant statutory provisions, and organising voluminous records into digestible structures.[5] The significance lies less in the technology itself than in the institutional endorsement. The Apex Court publicly signaled that algorithmic assistance, properly bounded, can liberate judicial bandwidth for reasoning rather than rote retrieval.

SUVAS: The Multilingual Bridge

Introduced in 2019, the Supreme Court Vidhik Anuvaad Software (SUVAS) deploys neural machine translation to convert judicial documents between English and scheduled Indian languages. Academic commentary



situates SUVAS as a cornerstone initiative for linguistic inclusion, enabling vernacular litigants to engage with legal processes without the barrier and cost of professional translation.[6] In a jurisdiction where language often determines access to justice, SUVAS represents more than operational convenience as it operationalises the

3 *ibid 2-7, 29-30.*

4 *Standing International Forum of Commercial Courts, SIFoCC Fifth Meeting Report (January 2025) 23 https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/25/2025/01/20.266_JO_SIFoCC-Fifth-Meeting-Report_FINAL_Jan2025_WEB.pdf accessed 16 October 2025.*

5 *Judicial Administration Training Institute, Bangladesh, The Future of Justice: Embracing Artificial Intelligence (AI) in Bangladesh Courts (JATI 2024) 15 https://jati.gov.bd/public/uploads/publication/1736067319_9b8c9f1b2624b254d057.pdf accessed 16 October 2025; Mansi Jain, 'A Threat or Helpful Tool for Mediators: An Indian Perspective' (2023) Jus Corpus LJ 8 https://www.juscorpus.com/wp-content/uploads/2023/08/26.-Mansi-Jain.pdf accessed 16 October 2025.*

6 *Shruti Vidyasagar and Anushka Singh, 'AI and the Indian Judiciary: The Need for a Rights-Based Approach' (The Hindu Centre, 28 November 2024) https://www.thehinducentre.com/incoming/ai-and-the-indian-judiciary-the-need-for-a-rights-based-approach-html-version/article68917505.ece accessed 16 October 2025.*

constitutional commitment to equality before law. Reinforcing this point, Singapore's Chief Justice cited SUVAS in a 2024 keynote as an exemplar of translation services overcoming structural barriers and fostering cross-jurisdictional learning.[7]

Legal observers note that transcription enhances record accuracy, permits counsel and bench to reference prior exchanges within the same hearing, and creates searchable digital archives that facilitate appellate review and post-hearing analysis.

Transcription: Courtrooms That Remember Ad Idem

Oral advocacy has always been central to Indian litigation, yet historically, the spoken word dissolved into memory and handwritten notes, creating the risk of sources being vulnerable to error and selective recording. The Supreme Court's adoption of AI-powered real-time transcription changes this calculus. Legal observers note that transcription enhances record accuracy, permits counsel and bench to reference prior exchanges within the same hearing, and creates searchable digital archives that facilitate appellate review and post-hearing analysis.[8] As a corollary, transparency improves, whereby parties can verify what was said, reducing disputes over procedural fairness and enabling more precise interim and final orders.

Phase III: Blueprint for Intelligent Courts

The Vision Document for Phase III, developed through extensive stakeholder consultation, over 2,051 public responses, and iterative refinement by civil society organisations, bar associations, and judicial officers, envisages a phased, modular evolution from digitisation to intelligent data use.[9] The Document does not merely list technology modules; it articulates a philosophy: that digital infrastructure should enable multilingual access, intelligent case information services, and data-driven administrative tools while remaining subordinate to judicial control and subject to fundamental rights constraints.[10]

Key commitments include AI-enabled translation and transcription at scale, summarisation tools that distil party submissions and precedents into structured outputs, and predictive analytics to inform (but not dictate) case scheduling and resource allocation. Crucially, the Document embeds AI deployment within a robust data governance framework premised on purpose limitation, role-based access, audit trails, and encryption principles designed to safeguard privacy, fairness, and equal protection while enabling measurable efficiency.[11] This governance-first posture reflects lessons from earlier phases: technology without institutional guardrails risks amplifying existing inequities rather than remedying them.

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7 *Sundaresh Menon CJ, 'Keynote Speech at the Inaugural Singapore-India Conference on Technology' (Supreme Court of Singapore, 15 April 2024) https://www.judiciary.gov.sg/news-and-resources/news/news-details/chief-justice-sundaresh-menon--keynote-speech-at-the-inaugural-singapore-india-conference-on-technology accessed 16 October 2025.*

8 *AMS Shardul, 'AI in Courtrooms and How It Will Change the Landscape of Litigation' (AMS Shardul Insight, 14 May 2025) https://www.amsshardul.com/insight/ai-in-courtrooms-and-how-it-will-change-the-landscape-of-litigation/ accessed 16 October 2025.*

9 *E-Committee (n 2) 3-4.*

10 *ibid 29-30, 55-56.*

11 *ibid 49, 55-56.*

Operational Vignettes: AI in Action

Accelerated Briefing: Consider a commercial dispute with pleadings in Hindi, English, and Gujarati, accompanied by 5,000 pages of exhibits. SUVAS translates filings into a common working language; SUPACE-type extraction surfaces relevant precedents and statutory provisions; summarisation tools generate party-wise and issue-wise digests. The result: a judge approaches the first hearing with a coherent map of the dispute, not a mountain of unsorted paper. This operational logic coheres with documented AI deployments and the Phase III objective of integrating AI into document workflows without displacing human judgment.[12]

Enhanced Hearing Records: Real-time transcription permits the bench to ask, mid-hearing, "Counsel, you stated ten minutes ago that the contract was executed in Mumbai; can you clarify?" The transcript provides verbatim confirmation, reducing interpretive drift and supporting precise dictation of complex orders. Commentary on Indian Courts' adoption of AI transcription underscores this procedural transformation as materially altering courtroom dynamics.[13]

Data-Driven Administration: Registries equipped with analytics modules can classify incoming filings by urgency and subject matter, flag jurisdictional issues, auto-generate cause lists that balance judge workload, and proactively alert parties to hearing dates, all while registrars retain supervisory control. This mirrors the Phase III orientation toward human-supervised, data-driven case management.[14]

Global Comparators: Lessons from Peer Jurisdictions

India's AI journey exists within a global tapestry of judicial experimentation. Brazil's Supremo Tribunal Federal has deployed VICTOR, an AI system that triages and classifies extraordinary appeals, a caseload management archetype cited in comparative justice-delivery literature as demonstrating how algorithms can filter repetitive petitions, freeing judges to focus on novel legal questions.[15] Singapore's judiciary has publicly engaged with AI translation and transcription, with its Chief Justice emphasising responsible deployment and cross-jurisdictional learning, including specific reference to India's SUVAS.[16] China's Internet Courts, noted in comparative analyses, experiment with AI-enabled interfaces and holographic judges, offering a window into rapid digital adjudication models, albeit within



a markedly different governance context.[17] European pilot projects, including AI drafting assistants at German Courts, form part of broader EU discourse on safe AI in public decision-making, as summarised in global judicial administration reports.[18]

12 *ibid 6-7; Vidyasagar and Singh (n 6).*
13 *AMS Shardul (n 8).*
14 *E-Committee (n 2) 6-7.*
15 *Amir Yar Ali and Saroj Kumar Dash, 'AI for Improving Justice Delivery: International Scenario, Potential and Challenges' (2024) 48 Informatica 81, 86-87 https://www.informatica.si/index.php/informatica/article/download/4361/2132 accessed 16 October 2025.*
16 *Menon (n 7).*
17 *Ali and Dash (n 15) 87-88.*
18 *Tania Sourdin and others, AI Decision-Making and the Courts (Australasian Institute of Judicial Administration 2023) 18-25 https://aija.org.au/wp-content/uploads/2023/12/AIJA_AI-DecisionMakingReport_2023update.pdf accessed 16 October 2025.*

These models illuminate convergent trajectories, translation, transcription, triage, but their value is realised only when adapted to local constitutional frameworks. India's federal structure, linguistic diversity, and rights-protective jurisprudence demand bespoke solutions, not wholesale transplantation of foreign models.

Institutional Endorsement and Judicial Philosophy

No single Supreme Court judgment expressly "authorises" SUPACE or SUVAS by name, and rightly so: these are administrative tools, not dispositive adjudicative mechanisms. Nevertheless, the judiciary's operational embrace of technology, particularly the rapid pivot to video conferencing during the COVID-19 pandemic, established precedent for technology-mediated hearings and digital case management.[19] Institutional documents from the e-Committee, chaired by the then Judge (now Chief Justice) Dr. Justice D.Y. Chandrachud, foreground a judicially guided transformation premised on technology as an enabler for constitutional values: access to justice, transparency, and efficiency, with human oversight as the ultimate safeguard.[20]

India's federal structure, linguistic diversity, and rights-protective jurisprudence demand bespoke solutions, not wholesale transplantation of foreign models.

In contrast to jurisdictions where AI adoption has been contested or imposed top-down, India's trajectory reflects iterative consultation. The Phase III Vision Document was published for public comment, attracting responses from High Courts, district Courts, bar associations, civil society organisations, law firms, and individual practitioners, a consultative process befitting the transformative nature of the changes envisaged.[21] This deliberative approach signals institutional maturity: recognition that legitimacy flows from transparency and stakeholder buy-in, not merely technical prowess.

Ethical Guardrails: Bias, Privacy, and Procedural Fairness

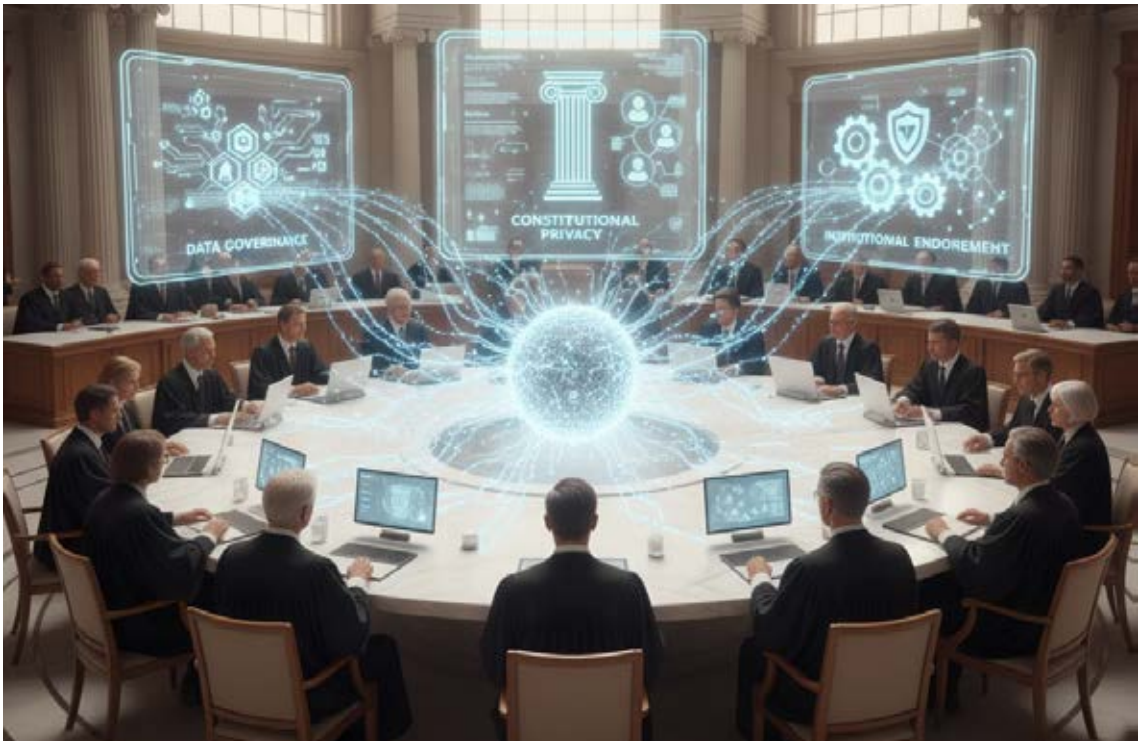
The Non-Dispositive Principle

Judicial AI must remain assistive, not substitutive. International judicial administration research underscores that any AI used in Courts must be explainable, auditable, and non-dispositive unless expressly legislated, in order to preserve open justice and procedural fairness.[22] Opaque models that influence outcomes without transparent reasoning or recourse violate due process. The Indian deployments—SUPACE, SUVAS, transcription, AI Saransh—adhere to this principle: they shape the administrative substrate on which hearings proceed, but they do not adjudicate. The judge retains interpretive and reasoning authority.

Opaque models that influence outcomes without transparent reasoning or recourse violate due process.

One of the most prominent use case of AI in the judiciary has shown the inherent challenge of potential (mis)use of AI tools, when done without the application of mind. One popular example is the Income Tax Appellate Tribunal's judgment in *Buckeye Trust v. PCIT*, wherein the Tribunal had

19 *Centre for Research and Planning (n 1) 45-48.*
20 *E-Committee (n 2) 2, 29-30.*
21 *ibid 3-4.*
22 *Sourdin and others (n 18) 22-30.*



cited fictitious judgments of the Supreme Court of India and the Madras High Court as a result of AI hallucination. The judgment had to be recalled and reissued.

This is the perfect reason as to why AI used in Courts must be explainable, auditable, and non-dispositive unless expressly legislated so that open justice and procedural fairness are not rendered otiose.

Data Governance and Constitutional Privacy

Digital transformation in India operates within the constitutional right to privacy recognised in *K.S. Puttaswamy v Union of India*,[23] which mandates that state action affecting privacy must be proportionate, necessary, and subject to procedural safeguards. The Phase III Vision Document explicitly addresses this by embedding AI capabilities within a data governance framework that ensures role-based access, purpose limitation, and alignment with constitutional guarantees.[24] Scholarly commentary and civil-society analyses emphasise principles such as purpose limitation and accountability in judicial data analytics to protect litigant rights.[25] As a corollary, the

Digital transformation in India operates within the constitutional right to privacy recognised in K.S. Puttaswamy v Union of India.

e-Committee established a Privacy and Data Security sub-committee to formulate governance protocols signalling that data protection is not an

23 *K S Puttaswamy v Union of India (2017) 10 SCC 1.*

24 *E-Committee (n 2) 49, 55-56.*

25 *DAKSH, Technology and Analytics for Law & Justice (DAKSH 2024) 18-22 https://www.dakshindia.org/wp-content/uploads/2024/09/Technology-and-Analytics-for-Law-and-Justice.pdf accessed 16 October 2025.*

afterthought but a foundational design principle.[26]

Transparency and the Right to Contest

Policy reviews of AI in the Indian judiciary advocate for transparent documentation of AI tools, publicly accessible protocols regarding their use, and mechanisms enabling parties to challenge AI-supported steps that affect case handling.[27] Rights-based analyses urge publication of model purposes, datasets, and evaluation metrics, together with judicially controlled thresholds for reliance, to prevent automation bias. Contestability is paramount: litigants must retain the capacity to question and, where warranted, override AI-influenced administrative determinations. Without such safeguards, efficiency gains risk coming at the cost of fairness.

Contestability is paramount: litigants must retain the capacity to question and, where warranted, override AI-influenced administrative determinations.

Institutional Capacity: The Human Factor

The Vision Document stresses training, standardisation, and iterative deployment, situating AI within broader reforms—document digitisation, standard data schemas, and user-centric services so that algorithms supplement rather than supplant judicial reasoning.[28] Academic overviews on India's digital Courts corroborate the phased, governance-led approach, noting that institutional capacity, skilled personnel, reliable infrastructure, and sustained funding are the hinges on which technological success turns.[29] Technology cannot compensate for systemic underinvestment in judicial human resources; it can only amplify what exists.

Legal Framework and Constitutional Moorings

While India lacks a stand-alone statute governing judicial AI, deployment sits comfortably within existing constitutional and administrative law constraints. The Supreme Court's e-Committee Vision Document serves as the operational blueprint, envisaging AI as an assistive layer subject to judicial control and fundamental rights.[30] Publicly available policy discussions—both domestic and comparative emphasise that any AI affecting procedure or rights must be anchored in transparent rules and remain reviewable by the court itself.[31]

The constitutional right to a fair trial, grounded in Article 21 (right to life and personal liberty) and Articles 14 (equality before law) and 19(1)(a) (freedom of speech and expression, encompassing the right to information), forms the normative bedrock for evaluating judicial AI. The Supreme Court's recognition in *Union of India v Association for Democratic Reforms*[32] and *People's Union of Civil Liberties v Union of*

Any AI deployment affecting case progression, evidence admissibility, or procedural fairness must therefore be subject to disclosure, explanation, and judicial oversight.

26 *E-Committee (n 2) 49.*
27 *Vidyasagar and Singh (n 6).*
28 *E-Committee (n 2) 29-30, 80-81, 124-125.*
29 *Nithya Ramakrishnan and Devika Prasad, 'Centring Marginalisation in the Development of Digital Courts' (2024) 16 Indian Journal of Law and Technology 1, 8-12 https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1555&context=ijlt accessed 16 October 2025.*
30 *E-Committee (n 2) 29-30.*
31 *Sourdin and others (n 18) 18-30; Vidyasagar and Singh (n 6).*
32 *Union of India v Association for Democratic Reforms (2002) 5 SCC 294.*

India[33] that citizens possess a right to information essential for informed democratic participation extends analogously to litigants' rights to transparency in judicial processes. Any AI deployment affecting case progression, evidence admissibility, or procedural fairness must therefore be subject to disclosure, explanation, and judicial oversight.

Governance Architecture: Who Decides?

The e-Committee (Supreme Court of India) serves as the primary institutional steward. Its Vision Document for Phase III sets out goals, modules, and enabling architecture for digital Courts and AI-supported services, highlighting multilingual access, analytics, and user-centric design.[34] The Committee's composition, comprising judges, court administrators, and external experts from civil society organisations such as DAKSH and Vidhi Centre for Legal Policy, reflects a hybrid governance model that balances judicial independence with technical expertise.

Commentaries on Indian digital Courts stress that AI deployment depends on standardised data, interoperable registries, and skilled personnel.

Policy and research discourse complement institutional governance. Rights-based analyses call for transparent AI governance in Courts' disclosure of purpose, data sources, and validation methods; a right of explanation; and avenues to challenge AI-influenced administrative steps.[35] International judicial administration research similarly advocates explainability and oversight to safeguard the open court principle.[36]

Capacity and infrastructure remain critical. Commentaries on Indian digital Courts stress that AI deployment depends on standardised data, interoperable registries, and skilled personnel. Without these, AI risks amplifying legacy inefficiencies—garbage in, garbage out—rather than curing them.[37]

Future Directions: A Pragmatic Roadmap

Codify AI Use-Policies with Public Transparency

Courts should publish AI tool registers, purposes, datasets, and evaluation protocols; document when and how AI outputs are used; and provide mechanisms for parties to seek disclosure of AI involvement in their proceedings. This is because Courts across India have the ability and discretion to make their own rules and regulations, which



are capable of including AI use policies and regulations. Rights-based analyses of the Indian judiciary strongly recommend such transparency to fortify due process and public trust.[38]

33 *People's Union of Civil Liberties v Union of India (2003) 4 SCC 399.*
34 *E-Committee (n 2) 2-7, 29-30.*
35 *Vidyasagar and Singh (n 6).*
36 *Sourdin and others (n 18) 22-30.*
37 *DAKSH (n 25) 18-22; Ramakrishnan and Prasad (n 29) 8-12.*
38 *Vidyasagar and Singh (n 6); Sourdin and others (n 18) 28-30.*

Maintain the Non-Dispositive Constraint

AI should remain strictly assistive unless specific procedural rules are adopted after broad consultation. International court administration guidance underscores limits on machine-driven decision elements and the importance of human-in-the-loop review and contestability.[39]

Build Verifiable, Multilingual, and Inclusive Services

Expanding SUVAS-like translation, accurate real-time transcription, and explainable summarisation can materially improve access for vernacular litigants and persons with disabilities. The Phase III Vision prioritises multilingual digital services; embedding robust accuracy benchmarks and continuous evaluation will be critical.[40]

> AI will not replace the judge, but it will certainly restore time to judging, and thereby, to justice.

Institutionalise Data Governance and Security-by-Design

Purpose limitation, role-based access, audit logs, and secure infrastructure must underpin AI features, as underscored in policy and civil-society analyses on judicial data. The goal is measurable efficiency without diluting privacy, fairness, or equal protection.[41]

Expand Capacity-Building and Change Management

Judges, registrars, and bar members need continual training on AI capabilities and limitations, with standard operating procedures for validation and remediation of AI errors. Academic reviews of India's digital court journey emphasise that institutional capacity is the hinge on which technological success turns.[42]

Learn from Global Best Practices, Adapted to Indian Realities

Brazil's VICTOR offers lessons in filtering and triaging; Singapore's transcription deployments demonstrate quality control and user-centricity; and European research highlights explainability standards. These models are most valuable when aligned with India's constitutional architecture and the e-Committee's staged, rights-centric implementation pathway.[43]

Conclusion: Justice in the Age of Algorithms

India's judicial AI journey is intentionally incremental and institutionally anchored. SUPACE, SUVAS, live transcription pilots, and the Phase III Digital Courts blueprint evidence a deliberate strategy: use AI to reduce friction in information processing, expand access across languages, and enhance administrative fairness without diluting the judicial mind that remains the ultimate guarantor of rights. International peers recognise this trajectory and its emphasis on explainability, transparency, and accountability.

The path forward is clear. Codify transparent AI use policies, strengthen data governance, invest in training, and scale multilingual, assistive tools with measurable accuracy and public oversight. If done well, AI will not replace the judge, but it will certainly restore time to judging, and thereby, to justice. The courthouse of the future will be a hybrid-algorithm-enabled advocate, cloud, and courtroom. But its foundation will remain the human capacity for reasoned judgment, tempered by constitutional values and accountable to those it serves.

39 *Sourdin and others (n 18) 22-30.*
40 *E-Committee (n 2) 6-7, 29-30; Vidyasagar and Singh (n 6).*
41 *DAKSH (n 25) 18-22; E-Committee (n 2) 49, 55-56.*
42 *E-Committee (n 2) 80-81, 124-125; Ramakrishnan and Prasad (n 29) 8-12.*
43 *Ali and Dash (n 15) 86-88; Menon (n 7); Sourdin and others (n 18) 18-30; E-Committee (n 2) 29-30.*

Ethics, Confidentiality, and the DPDP Act: Using AI Safely with Client Data

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Dr Prashant Mali
Advocate

Overview

Artificial Intelligence has swiftly integrated into India's legal and tax professions, streamlining tasks from drafting to data analysis. Yet, its convenience conceals grave ethical and legal pitfalls. Every prompt entered into AI tools like ChatGPT or Copilot may constitute data disclosure, potentially breaching confidentiality and the Digital Personal Data Protection Act, 2023. The Deloitte Australia case, where AI-generated inaccuracies led to reputational loss, stands as a warning: AI without oversight can turn efficiency into liability.

The DPDPA enforces strict consent, purpose limitation, data security, cross-border transfer restrictions, and fiduciary accountability. For lawyers and tax professionals, these provisions mean explicit client consent and "confidentiality by design" are mandatory, not optional. The amended IT Rules, 2021, further tighten obligations by recognising "synthetic information" and imposing duties to prevent AI-generated misinformation.

Professionals remain accountable even when third-party AI tools are involved; human oversight is indispensable. Misuse can attract penalties under the DPDPA, IT Act, and professional ethics codes. The path forward is a "Responsible AI Practice" adopting enterprise-grade AI, anonymising data, maintaining audit trails, and verifying outputs. Ultimately, ethical AI use is not about rejecting technology but mastering it within the law's boundaries, ensuring innovation strengthens trust, not undermines it.

The Rise of AI in Legal and Tax Practice

Artificial Intelligence (AI) has quietly become the invisible associate in many Indian law firms and tax consultancies. From summarising case law and drafting contracts to analysing financial data, AI tools like ChatGPT, Copilot, or Gemini are being used to save time and enhance efficiency. But with convenience comes complexity. Most professionals forget that every prompt typed into an AI model is, in fact, data disclosure,

and when that data includes client information, the consequences can be legally and ethically devastating.

Many professionals overlook the fact that every prompt entered into an AI model is a form of data disclosure—a digital whisper that can resonate well beyond its intended purpose. When this data includes client information or is used to create official documents, the consequences can be legally and ethically disastrous. A telling example comes from Deloitte Australia, which was compelled to return part of its professional fees to the Australian government after a report prepared using generative AI was found riddled with inaccuracies, fabricated data points, and misleading conclusions, the now-infamous "AI hallucinations." This episode underscored a critical truth for the legal, consulting, and tax fraternity: reliance on AI without verification or oversight not only erodes professional credibility but also exposes practitioners to liability, reputational damage, and potential breaches of duty under both ethical and data protection frameworks. In the Indian context, such misuse could easily attract scrutiny under the Digital Personal Data Protection Act (DPDPA) and professional conduct standards that demand diligence, accuracy, and confidentiality. The Deloitte case is a cautionary tale that AI is a tool, not a substitute for professional judgment, and blind trust in its outputs can turn efficiency into ethical failure.

For lawyers, tax advisors, and auditors, custodians of highly sensitive client data, the message is clear: use AI, but use it ethically, lawfully, and confidentially.

India's Digital Personal Data Protection Act, 2023 (DPDPA), now in force, has made the stakes even higher. The Act mandates strict safeguards for personal data, places accountability on "data fiduciaries," and introduces severe penalties for unauthorised processing or data leakage. For lawyers, tax advisors, and auditors, custodians of highly sensitive client data, the message is clear: use AI, but use it ethically, lawfully, and confidentially.

Adding another layer to this evolving compliance landscape, in 2025, India's amended Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, have recently introduced the term "synthetic information," a critical legal recognition in the age of generative AI. Synthetic information refers to data, audio, video, or text that has been artificially generated or manipulated using AI technologies to appear authentic. This inclusion signals the government's growing concern over deepfakes, AI-generated misinformation, and the potential weaponization of synthetic content. For professionals in law, tax, and consulting, this amendment carries direct implications: firms must now ensure that their use of AI tools does not result in the creation or dissemination of synthetic or misleading information that could harm clients, distort records, or compromise evidence. In effect, the IT Rules now impose a duty of digital due diligence, demanding that intermediaries and, by extension, professionals leveraging AI-based platforms verify the provenance and integrity of data before relying on or sharing it. The message is clear: in India's tightening regulatory climate, ethical AI use is no longer optional; it's a compliance obligation under both the DPDP Act and the IT Rules framework.

The Ethical Mandate: More Than Just Law

Lawyers and chartered professionals are governed not only by statutes but by a duty of professional confidentiality.

Under the Bar Council of India Rules (Chapter II, Section II) and the ICAI's Code of Ethics, disclosing client information even inadvertently

through an AI interface can amount to professional misconduct.

When client data is fed into public AI tools:

- It may be stored, processed, or repurposed by foreign servers, often outside India's jurisdiction.
- The data can train the AI model, meaning confidential content might be indirectly accessible to other users.
- There is no contractual confidentiality with most public AI platforms unless governed by a paid enterprise agreement.

> Lawyers and chartered professionals are governed not only by statutes but by a duty of professional confidentiality.

When client data is entered into public AI tools, even for something as seemingly trivial as drafting a clause, summarising a document, or refining a tax opinion, the breach may occur not in the output, but in the input itself. Every prompt shared with an AI model hosted on a public server becomes a data disclosure event under the DPDPA, 2023. Even if the generated response appears harmless, the act of transmitting client-identifiable or confidential information to an external system, often operated by foreign entities, can constitute unauthorised processing of personal data. The situation worsens if the AI provider uses that data for model training, storage, or analytics, practices that many platforms reserve the right to do in their terms of service. For lawyers, accountants, and consultants, such an act could violate not only statutory privacy obligations but also the fiduciary duty of confidentiality, inviting professional misconduct allegations. In essence, what looks like harmless innovation could, in legal reality, be tantamount to data leakage, proving once again that in the AI era, confidentiality isn't breached by malice, it's often lost by convenience.

DPDPA 2023: Legal Obligations When Using AI

The Digital Personal Data Protection Act, 2023 reframes client confidentiality in the digital age through several key provisions:

Lawful Purpose & Consent (Section 4 & 6)

Lawful Purpose & Consent form the bedrock of India's new data protection framework. These provisions mandate that personal data may be processed only for a lawful purpose, one that is clear, specific, and not misleading, and that such processing must be backed by the data principal's free, informed, and unambiguous consent. In the professional context of lawyers, tax advisors, auditors, and consultants, this means that client data cannot be casually entered into any AI tool, whether to draft an email, summarise a document, or analyse case facts, unless the client has explicitly authorised such use. Feeding identifiable or sensitive information (like names, financials, or case specifics) into a third-party AI system, particularly one hosted on foreign servers, constitutes unauthorised processing under the DPDPA. This not only breaches statutory



obligations but may also expose the practitioner to liability under professional conduct rules, as it effectively amounts to disclosing client data to an uncontrolled external environment. In short, compliance with consent is not a bureaucratic formality; it's the digital expression of respect for client trust.

Purpose Limitation (Section 7)

Purpose Limitation reinforces one of the oldest and most sacred tenets of privacy law — that data shared for one purpose cannot be reused for another without fresh consent. In professional practice, this means that if a client provides financial statements for audit, tax computation, or litigation strategy, those records cannot be repurposed for AI-assisted drafting, document summarisation, or analytical experiments, however harmless such use may appear. The moment the data is diverted from its original purpose, it breaches the purpose limitation principle and becomes unauthorised processing under the Act. Even anonymising the data may not be sufficient if contextual clues could still lead to re-identification. For law firms, consultancy practices, and tax professionals, this principle demands rigorous internal boundaries ensuring that client data is not casually repurposed into AI workflows that the client never consented to. After all, purpose limitation isn't about restricting innovation; it's about preserving integrity, ensuring that trust, once given, isn't quietly traded for technological convenience.

More importantly, if a data breach occurs because client data was fed into an unsecured or opaque AI model, the responsibility lies squarely with the professional or firm, not the tool.

Data Security & Prevention of Breach (Section 8)

Data Security & Prevention of Breach elevates data protection from a good practice to a legal obligation. The Act requires every data fiduciary, including law firms, tax advisors, and consultants, to implement "reasonable security safeguards" to prevent unauthorised access, disclosure, alteration, or destruction of personal data. In the age of AI, this means that professionals cannot rely on generic security assurances from AI vendors; they must ensure that any AI system integrated into their workflow has robust encryption, strict access controls, audit trails, and transparent breach reporting mechanisms. Using a generative AI platform without verifying its data residency, retention, and security standards is tantamount to negligence under the DPDPA. More importantly, if a data breach occurs because client data was fed into an unsecured or opaque AI model, the responsibility lies squarely with the professional or firm, not the tool. Compliance under Section 8 is therefore not just about technical safeguards; it's about accountability, knowing who accessed what, when, and why. In short, data security in AI-assisted practice is not optional; it's the new measure of professional diligence and credibility.

Data Transfer (Section 16)

Data Transfer introduces a critical layer of compliance for professionals using AI tools, particularly those hosted on global cloud infrastructures. Many popular AI platforms, including large language models and analytics systems, store and process data on servers located outside India, meaning that every prompt containing client information may legally qualify as a cross-border data transfer. Under Section 16, such transfers are permitted only if they comply with the conditions notified by the Central Government, which may restrict transfers to certain jurisdictions or require additional safeguards like contractual clauses or adequacy assessments. For lawyers, tax consultants, and auditors, this means they must verify the data flow



architecture of every AI tool they use, knowing where the data is stored, how it's processed, and whether it leaves India's territorial boundaries. Ignorance of such transfer mechanisms will not shield them from liability. Non-compliance could result in penalties, reputational damage, and even questions of professional misconduct. The bottom line is clear: using an AI tool that transmits data across borders without

Accountability as Data Fiduciary (Section 10)

Accountability as Data Fiduciary enshrines the principle that responsibility cannot be outsourced. For lawyers, tax advisors, and consulting firms, this means that even when they use third-party AI systems or software vendors, they remain ultimately accountable for ensuring that client data is handled in full compliance with the law. If an AI tool leaks, misuses, or stores client data without consent, the liability does not transfer to the AI provider; it stays with the professional or firm that chose to use the tool. This fiduciary responsibility includes conducting due diligence on AI vendors, verifying their data governance practices, ensuring contractual clauses for privacy protection, and implementing ongoing monitoring. In practice, this means firms must treat AI systems as extended data processors, with written agreements that define obligations for confidentiality, deletion, and breach reporting. Section 10 reinforces that accountability is not diminished by automation; rather, it is heightened. AI may assist in delivering insights, but the duty of care and compliance remains human, personal, and non-transferable.

AI and Professional Ethics: The Three Golden Rules

1. Client Consent Is King

Before using any AI tool that processes identifiable data, obtain explicit written consent. Clients must be informed of:

- The nature and purpose of AI use
- The third-party systems involved
- The security measures in place

Obtaining explicit written consent from the client is no longer optional courtesy; it's a legal and ethical imperative under the Digital Personal Data Protection Act (DPDPA), 2023. Consent ensures that clients are aware of how their personal or confidential data may be processed, stored, or transmitted through AI systems that might be hosted on foreign servers or governed by opaque data practices. In today's digital ecosystem, transparency is the new professionalism; it replaces the old culture of "trust us" with a framework of "inform, protect, and empower." Clearly communicating the purpose, scope, and risks of AI-assisted work not only builds trust but also shields practitioners from liability under data protection and professional conduct norms. In short, the act of seeking consent is not an administrative formality; it is the visible proof of ethical integrity in the age of intelligent machines.

Consent ensures that clients are aware of how their personal or confidential data may be processed, stored, or transmitted through AI systems that might be hosted on foreign servers or governed by opaque data practices.

2. Confidentiality by Design

Adopt "Confidentiality by Design" in all workflows:

- Redact client names, PANs, addresses, or identifiers before feeding data into AI.
- Use on-premise or enterprise-grade AI tools with contractual data protection assurances.
- Encrypt or pseudonymize case documents before uploading.

Adopting "Confidentiality by Design" means embedding privacy and data protection principles into every stage of professional workflows, whether you're a lawyer drafting a client opinion or a tax practitioner analysing financial records. Instead of treating confidentiality as an afterthought or a checkbox at the end of the process, it must become the architectural foundation of how data is collected, stored, shared, and even deleted. In practice, this means using secure, access-controlled systems; anonymising or pseudonymising data before feeding it into AI tools; avoiding free or unvetted online platforms; and maintaining auditable logs of data handling. Under the DPDPA, 2023, this approach also aligns with the concept of "data minimisation" and accountability. For legal and tax professionals, "Confidentiality by Design" is not just a compliance measure; it's a cultural shift toward respecting client trust as a technical discipline. The message is clear: in a world where data moves faster than thought, only those who design with discretion will thrive with distinction.

3. Human Oversight Always

AI outputs must always be reviewed and verified by a professional.

Remember, AI is not a legal or tax expert; it is merely a linguistic prediction system, designed to generate plausible-sounding responses based on patterns in data, not legal reasoning or fiduciary duty. Treating its output as authoritative without independent verification is akin to relying on a parrot that repeats convincing words but understands none of them. In professional domains like law and taxation, where precision and accountability are non-negotiable, blind reliance on AI can easily cross into the territory of negligence, malpractice, or even professional misconduct. Each AI-generated draft, opinion, or analysis must be rigorously reviewed for factual accuracy, legal validity, and ethical propriety before use. In essence, AI can assist your intellect, but it cannot replace your judgment, and forgetting that distinction could have consequences far beyond embarrassment; it could invite disciplinary action, client loss, or regulatory scrutiny.

Practical Compliance Framework for Firms

Step	Action Point	DPDPA / Ethical Basis
1	Classify client data before AI use (Personal / Sensitive / Public)	Sections 4 & 7 – Lawful Purpose
2	Use enterprise AI accounts with data isolation	Section 8 – Security Safeguards
3	Obtain documented client consent	Section 6 – Consent
4	Maintain audit logs of AI interactions	Accountability Principle
5	Train staff on AI ethics and privacy	Section 10 – Data Fiduciary Duties
6	Include AI use clause in engagement letters	Professional Confidentiality

Case in Point: When AI Becomes a Liability

Consider a hypothetical tax advisor who uses ChatGPT to summarise a client's income tax litigation facts. The prompt includes the client's PAN, case number, and the assessing officer's name.

If OpenAI's servers store this information, the advisor may have violated:

- **Section 8 of The DPDPA** – failure to prevent data leakage
- **Rule of Professional Confidentiality** – unauthorised disclosure
- **Section 72 of the IT Act, 2000** – disclosure of information in breach of lawful contract

The outcome of careless AI use can be far more costly than any time it saves. A single unvetted AI-generated draft, a casually shared client prompt, or an unchecked output can spiral into legal exposure, disciplinary proceedings, reputational harm, and irreversible loss of client trust, all for the fleeting convenience of automation. Under India's DPDPA, 2023, such lapses can trigger penalties running into crores, especially if personal or sensitive data is mishandled. Professional regulators from the Bar Council to the ICAI are beginning to scrutinise AI-assisted work under existing codes of ethics and confidentiality. Beyond law, the court of



public opinion is equally unforgiving; one breach, one inaccurate report, or one "hallucinated" fact can undo years of credibility. Thus, the allure of efficiency must never override the anchor of ethics. In the profession of trust, convenience is transient, but integrity, once lost, is almost impossible to restore.

A Privacy-First Future: AI Can Still Be an Ally

Ethical AI use doesn't mean rejecting innovation; it means adopting it intelligently. It is not a call to retreat from technological progress but an invitation to engage with it responsibly, with awareness of its power and pitfalls. Intelligent adoption requires professionals to understand not just what AI can do, but also what it should do

within the boundaries of law and ethics. It means setting internal guardrails, verifying AI-generated outputs, anonymising client data before use, and ensuring that sensitive information never leaves secure systems. Ethical AI use is about human oversight, not blind dependence, where judgment, accountability, and moral reasoning remain in the driver's seat. The goal is not to tame innovation but to channel it into trustworthy, transparent, and legally compliant practice.

> Ethical AI use doesn't mean rejecting innovation; it means adopting it intelligently.

When used with intelligence and intention, AI becomes not a threat to professionalism but a catalyst for deeper integrity and excellence.

Firms can build private AI sandboxes, use federated learning models, or subscribe to enterprise AI platforms that ensure:

- No training on user data
- Regional server storage
- Data retention controls
- End-to-end encryption

The ultimate goal is to cultivate a "Responsible AI Practice" a professional ecosystem where technology amplifies human intelligence, not replaces it, and where automation strengthens, rather than undermines, the sacred duty of confidentiality. In law and tax practice, AI should serve as an assistant, not an authority, a tool that accelerates research, analysis, and documentation, while the final interpretation and ethical accountability remain firmly human. A responsible AI practice means establishing clear internal protocols: verifying AI outputs before use, prohibiting the entry of client data into public models, training teams on AI ethics and data protection, and documenting every instance of AI-assisted decision-making. This approach aligns perfectly with DPDPA,2023, which emphasises lawful, transparent, and purpose-limited data use. By building such disciplined frameworks, professionals ensure that the human conscience governs the machine, not the other way around. In essence, Responsible AI isn't about saying no to innovation; it's about saying yes to innovation with integrity.

Conclusion

The fusion of law, technology, and ethics marks India's bold new professional frontier, one where every keystroke, query, and algorithm carries legal weight. The Digital Personal Data Protection Act, 2023, and the IT Rules have transformed the age-old duty of confidentiality into a statutory command, redefining how professionals must engage with client data in the digital era. What was once a matter of personal integrity or firm policy is now a matter of legal compliance, backed by penalties and accountability. Artificial Intelligence will not replace lawyers, auditors, or tax advisors; rather, it will amplify the capabilities of those who

> In essence, Responsible AI isn't about saying no to innovation; it's about saying yes to innovation with integrity.

wield it responsibly. But professionals who fail to understand the ethical and legal boundaries of AI use risk being rendered obsolete not by machines, but by peers who integrate technology with integrity. The way forward, therefore, is simple yet sacred: embrace AI as an instrument of efficiency, not expediency, and ensure that every prompt, document, or dataset aligns with the twin pillars of privacy and professional ethics. In a data-driven world, privacy is no longer just a compliance checkbox; it is the very currency of credibility, the foundation upon which trust, reputation, and professional excellence rest.

Gen AI for Drafting Tax Submissions & Replies

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Overview

The article provides practical guidance for tax professionals on using Generative AI tools like ChatGPT, Gemini, and Claude to draft tax submissions and replies. It emphasizes moving beyond basic prompts to create a personalized "digital drafting clone" by training the AI on one's specific professional style. It details how to leverage advanced features such as "Projects" (ChatGPT/ Claude) and "Gems" (Gemini) as dedicated case-file workspaces. These features are used to set standing instructions, extract the ratio decidendi from judgments, compare adverse precedents, build verifiable repositories of authorities, and set up standard submission templates. It also covers specialized AI research modes for augmenting legal research and using tools like NotebookLM for knowledge management. Lastly, the article highlights the risks of "hallucination" and stresses that all AI-generated output must be independently verified. It also provides methods for ensuring client confidentiality and data privacy. The central message is to adopt AI as an efficient "co-pilot," not a "sole pilot," ensuring the practitioner retains final responsibility for accuracy.

Introduction

Any tax litigation journey for an assessee effectively hinges on the effective presentation of facts and law before the lower authorities. From the Practitioners' perspective, a tax practice involves juggling voluminous documents/orders, carrying out thorough research, drafting precise replies to departmental notices, and preparing structured written submissions, alongside constant analysis of relevant case laws. Each of these tasks demands accuracy, clarity, and speed. Recently, Generative Artificial Intelligence has emerged as a practical tool to assist tax professionals in managing these responsibilities efficiently.

> AI tools such as ChatGPT, Gemini, Claude, etc, have become practical solutions that convert dictation into structured initial drafts of submissions.



AI tools such as ChatGPT, Gemini, Claude, etc, have become practical solutions that convert dictation into structured initial drafts of submissions. These tools can summarise lengthy materials, highlight critical issues, and assist in researching relevant case laws. Utilising AI tools systematically significantly enhances drafting efficiency without diluting professional judgment. However, it is crucial to remember that AI-generated outputs are merely aids and do not provide authoritative legal opinions. Every reference, citation, or conclusion generated by AI must therefore be thoroughly verified against the bare Act, relevant rules, departmental circulars, and judicial precedents.

The user should clearly communicate to the AI his/her professional role, drafting style, and expectations.

Our endeavour in this article is to provide some practical guidance on effectively using AI tools for drafting replies and submissions before tax authorities. While multiple approaches exist, this article outlines a few practical methods and solutions based on recent experiences. It addresses drafting by using effective prompts, verifying citations and accuracy, and implementing safeguards against AI-generated errors or incorrect legal interpretations. The features discussed herein are based on the assumption that the user holds a paid subscription to the respective AI tool.

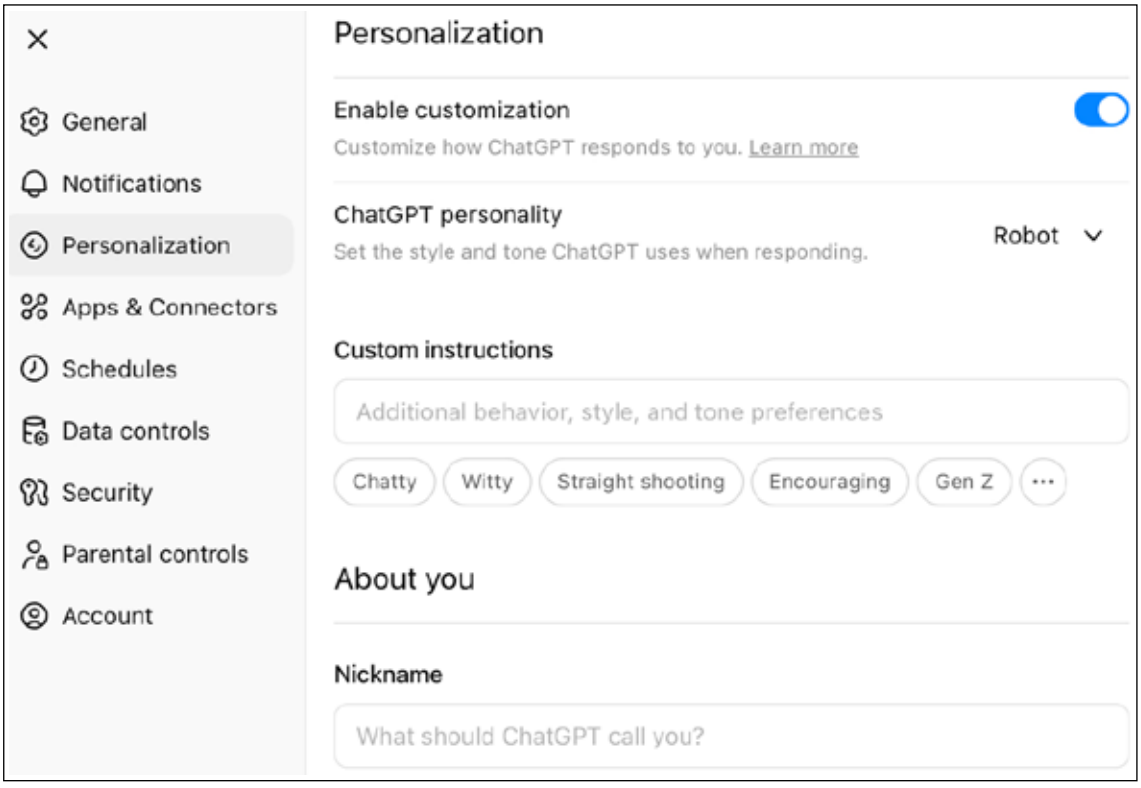
Personalising AI Tools – Creating Your Digital Drafting Clone

GenAI technology is rapidly evolving, enabling users to create a personalised digital version or "clone" of their professional drafting style. Practically, this means training the AI tool to precisely understand the user's working methods, formatting preferences, citation standards, and critical professional considerations. A key benefit of this technology is its ability to fully adapt to the user's specific professional requirements. However, careful guidance and structured instructions are essential, particularly at the initial stages. The user should clearly communicate to the AI his/her professional role, drafting style, and expectations. Once provided, the tool progressively learns and mirrors the user's drafting methods, research approach, and overall professional style, essentially functioning as a "well-trained colleague".

Illustrative Example of Drafting Instructions:

-"You are assisting a Chartered Accountant/ Tax Lawyer practising in India with over ……years of experience in Direct Taxation and Advisory. Draft in a formal and legally precise tone, suitable for submissions before tax authorities and appellate forums such as the Assessing Officer, CIT(A), and ITAT, as well as for professional communications with clients. The drafting should be structured, factual, concise, and maintain a logical sequence of arguments. When referencing judicial precedents, mention the complete citation. For statutory references, quote the exact section and sub-section of the relevant Act or Rule. When relying on circulars or notifications, accurately state their number and date of issuance. Clearly indicate the basis of each conclusion, whether it arises from statutory provisions, judicial interpretation, or administrative guidance. Avoid assumptions and insert suitable disclaimers wherever factual verification remains pending. Maintain consistent formatting, clear paragraph numbering, and uniform headings throughout. If dictation or notes are provided, convert them accurately into grammatically correct and legally sound text without altering the meaning or substance."

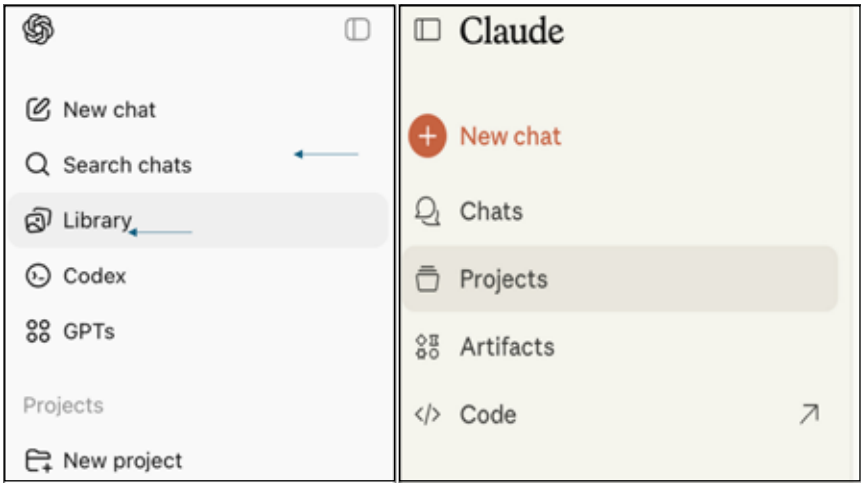
These instructions can be stored as standing preferences or memory within AI tools, typically available through dedicated tabs or sections where users input their requirements. For instance, in ChatGPT, this feature is available under Settings ⟶ Personalization. Screenshot of the same is as under:-



These settings must be regularly reviewed and updated to reflect any changes in drafting preferences, procedural requirements, or legal developments. When handling sensitive or confidential matters, consider using temporary sessions and disabling memory retention to ensure privacy and compliance.

Leveraging AI Tools for Judgment Analysis and Drafting Submissions

AI tools like ChatGPT, Claude, Gemini, etc, provide a chat interface wherein documents can be uploaded, queries can be raised, and drafting work can be undertaken by providing prompts. Prompts are detailed instructions given to the AI tool to perform a specific task in a specific manner. A well-structured prompt with comprehensive guidance yields accurate and contextually relevant results. The quality of output is directly proportional to the clarity of the prompt and how specific it is, similar to how one would delegate a task to a "junior colleague" with proper guidance. Apart from utilising the basic chat interface, users can also explore advanced features offered by these platforms to enhance efficiency. One such useful feature for legal work, including analysing judgments and drafting submissions, is called "Projects" in ChatGPT and Claude, and "Gems" in Gemini, which are accessible from the left panel in these tools.



Screenshot of the Left Panel in ChatGPT and Claude

Think of these as dedicated workspaces where the user can store task-specific instructions, upload relevant files, and keep all related conversations organised in one place for each case/matter or similar type of cases/matters.

How Projects Help Organize Work

In Projects, the user sets up the working style once, and it remembers. In ChatGPT, when a Project is created, the user can upload case files, set instructions on how responses should be drafted, and every new conversation within that Project automatically follows those instructions. In Claude, Projects work similarly but with a knowledge base approach; once documents are uploaded, Claude treats them as reference material for all discussions in that Project. In Gemini, the user creates "Gems", which are reusable instructions that can be applied across Gmail, Google Docs, and other Google apps.

When a Project is created, the user can upload case files, set instructions on how responses should be drafted, and every new conversation within that Project automatically follows those instructions.

What this means practically is that the user no longer needs to repeatedly tell the tool "use formal language" or "cite with paragraph numbers" every single time. These preferences are set once in the Project, and they are applied every time a reply/submission is drafted in that particular Project/Gems. For example, a project can be created once any case



is picked up for scrutiny assessment and can be used till the assessment order is passed.

Extracting ratio decidendi from judgments

When analysing a judgment, the user can upload the PDF to the Project and give clear instructions about what is needed. The tool can be asked to separate the material facts, identify the issues that were framed, and extract the ratio decidendi with exact paragraph numbers. It can also be asked to mark what is obiter and what is a binding ratio. If the judgment refers to statutory provisions, the user can ask for a section-wise breakdown showing which issue connects to which provision of the Act, and whether any circulars, instructions, or earlier judgments were relied upon. Sample instruction that can be used:

"..From the uploaded judgment, extract: 1) Material facts, 2) Issues that were framed, 3) What the court held on each issue, 4) Ratio decidendi with paragraph numbers, 5) Section-wise map linking issues to the Income Tax Act, 1961, 6) One paragraph explaining how this judgment is relevant to a particular assessment. Cite only from the judgment file. If unsure about anything, state so clearly."

For accuracy, the user can ask the tool to do a second round, where it lists any uncertainties or points where the judgment itself is unclear.

Comparing precedents with case facts

Projects are excellent for distinguishing adverse precedents. The user can upload both the revenue's relied upon cases and the client's fact file, then ask for a comparison in table format. This forces the tool to be specific rather than vague.



Instruction format:

"Compare the revenue's case with our client's facts using this table structure: Case name and citation | Legal principle they are relying on | Key facts in that case | Our client's facts | How our facts are different | What effect this distinction has on the outcome. Use only the files uploaded in this Project. Do not search outside. If something is missing, mark it as "needs verification."

Setting up a drafting template

Here is where Projects can really save time. The user can create a document that sets out the standard format for submissions and save it in the Project.

The structure typically followed can be specified:

- Cover page with the cause title,
- Background and Chronology of Events,
- What the Assessing Officer held with paragraph references,
- What the CIT(A)/any other authority held with paragraph references,
- Issues now for adjudication before the tribunal,
- Submissions were made at the assessment stage and the Appellate stage,
- Rebutals to the findings of the Assessing officer and CIT(A)/ other authority
- How adverse cases are distinguished,
- Prayer,
- Annexure list.

Formatting rules can also be set clearly. For instance: use Rs. for monetary amounts, avoid using hyphens in formal drafts, bold any caveats or conditions, follow the headings structure, and add a citation table at the end. In ChatGPT, all these rules can be put in the Project instructions section. In Claude, they can be saved both in the instructions and uploaded as a separate reference file. The tool will then follow this format automatically for every draft requested.

Building a repository of authorities

The user can create separate Projects for different topics, i.e., one for search and seizure matters, another for reassessment proceedings, one for transfer pricing, and so on. Key tribunal orders, High Court judgments, relevant CBDT circulars, and extracts of the Act provisions that

The user can create separate Projects for different topics, i.e., one for search and seizure matters, another for reassessment proceedings, one for transfer pricing, and so on.

are frequently referred to can be uploaded. The advantage is that the tool then pulls from verified materials rather than making things up. When it drafts submissions, it cites from the actual cases that have been uploaded.

Preventing incorrect citations

AI tools can and do make up case citations if left unchecked. To guard against this, the following rules can be followed:-

A checklist covering required annexures, page numbers, and points needing confirmation can also be requested at the end.

- The tool should be told that it can only rely on documents uploaded to the Project. It should not be allowed to search outside or use its memory.
- Every legal proposition must be traced back to a specific file name and paragraph number. If the tool states a principle, it must state which judgment, which paragraph
- If the tool cannot find support for something in the uploaded files, it must say so explicitly and list what is missing.

These rules can improve accuracy. Both ChatGPT and Claude are designed to prioritise uploaded files over their general training, but they are required to be instructed to do so.

Drafting submissions using the Project

Once the analysis is complete and adverse precedents have been distinguished, the tool can be instructed to prepare a draft following any template. It can be asked to leave placeholders for any facts that need verification from the client/assessee. A checklist covering required annexures, page numbers, and points needing confirmation can also be requested at the end.

Sample instructions:

Using the files in this Project and following the Submission Standard template:

- Draft a reply to the notice under Section 142(1) Income Tax Act, 1961 for AY 2021-22.
- The sections involved are 68 and 69A of the Income Tax Act, 1961.
- Client facts are in the file "Brief_Note.pdf".
- Apply the ratio from the file "ITAT_Mumbai_XYZ.pdf" and distinguish the case in "High_Court_ABC.pdf".
- Follow the standard headings and numbering.
- Add an annexure checklist and a one page executive summary at the beginning.

Maintaining client confidentiality

The Digital Personal Data Protection Act, 2023, requires careful handling of personal data.



Uploading entire assessment orders or notices with client names, PAN numbers, addresses, bank account details, or email addresses creates data protection risks and may also violate data production clauses of the agreement, if any, entered into with the client. The safer approach

is to extract only the relevant legal requirements and factual allegations, redact all identifiers, and then upload only that extracted and anonymized content.

The user can also control what the AI tool does with the data. In ChatGPT, the user can go to Settings, then Data Controls, and turn off the option that allows conversations to be used for training their models. Alternatively, the "Temporary Chat" feature can be used for sensitive matters. These chats are not saved in history and are not used for training the AI tool. In Gemini, "Gemini Apps Activity" can be managed and turned off for confidential work.

If used properly, Projects become like a living case file. It remembers the user's style, keeps authorities organized and accessible, and allows quick production of drafts while ensuring everything is anchored to verified materials. Even where the user does not utilize Projects or Gems, the basic chat interface remains effective for drafting submissions, provided the prompts are structured with precision and clarity.

Augmenting Legal Research with AI Tools

Effective submissions rest on targeted research and sound authorities. AI tools offer advanced features that can significantly augment research workflows for legal and tax professionals. When deployed strategically, these tools function as research assistants capable of compiling authorities, tracing legislative history, and extracting relevant case law with precision.

AI tools offer advanced features that can significantly augment research workflows for legal and tax professionals.

ChatGPT Deep Research and Agents: ChatGPT offers two distinct research capabilities. The Deep Research feature plans the inquiry, searches public web sources, and compiles a documented report complete with hyperlinks and citations. It can also work with files uploaded to the workspace, ensuring outputs remain anchored to the material provided. This is particularly useful for mapping issues to statutory provisions, gathering judicial views, and assembling citation tables for verification. The Agent feature goes further by executing multi-step research tasks using a visual browser interface, similar to how a human would work on the computer screen. It can trace legislative amendments, cross-check circulars and notifications, extract quoted ratios with pinpointed paragraphs, and return structured memos or tables ready for integration into submissions. Screenshot from ChatGPT is as under:-



Gemini Deep Research: Gemini follows a similar approach. It breaks the research brief into sub tasks, explores web sources, and synthesises findings with source links. The tool accepts uploaded files and generates consolidated reports within the Gemini app, which can be refined into draft notes or compliance checklists. This is especially helpful where circulars and rulings require constant monitoring.

Claude Research Mode: Claude provides a dedicated Research mode with integrated web search functionality. When activated, Claude can pull from web sources with proper citations and, if working within Projects, from a curated knowledge base comprising judgments,

departmental circulars, and advisory notes uploaded by the user. This ensures jurisdictional focus and reduces irrelevant content, making it ideal for Direct Tax litigation and appellate drafting. Screenshot from Claude is as under:-

Example of research prompt

- *Conduct comprehensive research on transfer pricing provisions under the Income-tax Act, 1961, specifically focusing on: (i) circumstances under which Berry ratio can be applied as a Profit Level Indicator (PLI) under the Transactional Net Margin Method (TNMM); and (ii) circumstances under which Resale Price Method (RPM) can be utilised as the Most Appropriate Method (MAM) under Section 92C read with Rule 10B. The scope of research must cover decisions rendered by ITAT benches across India and High Courts. Focus on cases involving distribution, trading, marketing support services, and sales support functions.*
- *Begin with a research plan outlining your approach and identifying key sub-issues, such as functional profiles where the Berry ratio is accepted, FAR (Functions, Assets, Risks) analysis conducted, comparability adjustments required, and distinguishing factors between RPM and TNMM applicability. For each identified case, provide citation in standard format, forum and bench, assessment year, brief facts and functional profile of the tested party, judicial reasoning for acceptance or rejection of the method or PLI, ratio decidendi extracted with specific paragraph references, and hyperlink or file reference. Include a conflicts section highlighting divergent views across ITAT benches or between High Courts on the same issue. Present findings in tabular format showing proposition of law, case name and citation, functional profile, method/PLI applied, forum, assessment year, paragraph reference. Conclude with comparative*



analysis showing circumstances favouring the Berry ratio over other PLIs and circumstances favouring RPM over TNMM, along with practice guidance for the selection of MAM.



NotebookLM for Case Analysis and Knowledge Management

NotebookLM, a Google tool powered by Gemini, functions as a matter-wise knowledge repository similar to the Projects or Gems features in other AI tools. It also allows users to organise judgments, orders, client notes, and submissions in one place and generate grounded summaries with citations to the original sources. For case law, it can also extract material facts, issues, and the ratio decidendi, while pinpointing exact supporting passages. Users can ask follow-up questions, compare authorities, and create structured notes for drafting replies or written submissions.

NotebookLM also offers a convenient audio overview feature that converts notebooks or case law summaries into podcast-style briefings. This allows users to quickly review critical information before conferences or hearings, and importantly, enables listening to case summaries even while travelling or during times when reading documents may not be feasible.

Agent Assisted Summary of Notices From The Income Tax Department Portal

A ChatGPT Agent can also efficiently generate a structured notice table for an assessee. Using a browser-enabled session, the agent can, upon instructions, navigate to the Income Tax Department's e-filing portal, where the user logs in and completes OTP verification. Without storing credentials, the agent can then access the notices section and extract key details such as serial number, section or notice type, assessment year, issue date, due date, status, and reference number. The extracted information can be presented in a clear tabular format, along with a brief task list showing pending actions and timelines. It is important to never enter credentials in chat and to verify the extracted data directly from the portal. This process saves time, minimises manual effort, and provides a reliable central record for drafting replies and submissions.

Illustrative Agent Prompt: "Start a new browsing session and navigate to the Income Tax Department e-filing portal. Wait until I complete login. After login, open the page listing all notices issued or pending actions. Carefully review the notices listed on the page and prepare a structured table capturing: Sr No, Notice Type/ Section, Assessment Year, Date of Issue, Due Date, Status, Reference Number, and Officer Details. Clearly mention any ambiguities. Export this table as a CSV file named 'Notices_Register. csv'. Do not retain any credentials or personal data beyond this session."

Users can ask follow-up questions, compare authorities, and create structured notes for drafting replies or written submissions.

Hallucination is Real: Reduce Risk with Verification

Generative AI tools produce content by predicting probable text patterns rather than retrieving from verified databases, which creates an inherent risk of fabricating plausible but false information, a phenomenon known as "hallucination". AI Tools can generate case citations that never existed, invent paragraph references, and misstate legal principles with apparent confidence. This is not a defect but an inherent characteristic of how these tools function, and while grounding responses in uploaded documents and verification instructions reduces the risk, they cannot eliminate it entirely.

For tax and legal practice, the lesson is clear: never accept generated authorities on faith. Treat the AI tool as a junior colleague and insist on sources that one can independently verify. Specify the exact issue, statutory provision, forum, assessment year, and period when framing the research prompt. Require citations and pinpoint paragraph references for every proposition advanced. Instruct the model to rely only on materials uploaded to the Project workspace and to explicitly mark any unsupported assertion as requiring verification. For web-based research, demand working hyperlinks and then cross-check them on official court websites and authorised law reporters before citing them in submissions.

Conclusion: Adopt AI as a Copilot for Faster, Stronger Tax Drafting

GenAI is no longer experimental in tax practice but a working tool that delivers measurable improvements in drafting speed, research coverage, and consistency across matters. Routine replies to notices that once consumed hours now take minutes, and written submissions that required days of compilation now take structured hours with organised annexures and verified citations, freeing up time for strategic planning, client advisory, and evidence gathering. The risk lies not in using AI but in using it blindly without verification protocols, confidentiality safeguards, and governance frameworks that ensure every proposition is traced back to a verified source with proper paragraph references.

Begin by using AI for straightforward tasks such as replying to notices or standard appeals. Clearly define the issues and specify the exact format needed. Regularly update a reliable database of verified judgments, circulars, and templates to ensure accuracy. Always review drafts carefully, separating factual details from legal arguments. Remember, despite improvements in AI technology, the final responsibility for accuracy and accountability always remains with the user. Use AI as a supportive tool, as a "co-pilot" to enhance efficiency and quality, but never as a "sole pilot" by relying on it as the final authority.

Lastly, multiple AI tools are now available, each with distinct strengths. Practitioners should experiment to identify which tool or combination of tools best aligns with their specific drafting, research, and analytical needs. The prompts and workflows illustrated above are intended only as guidance and should be continuously refined and updated based on practical experience and evolving technologies. Ultimately, the chosen solution should complement the practitioner's working style, enhance drafting accuracy, and improve overall efficiency in representations before tax authorities.



AI in Litigation: Case Law Search, Precedent Maps & Argument Crafting

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*See Disclaimer on page 5



CA Naveen Wadhwa

Overview

The article explores how Artificial Intelligence (AI) is revolutionising legal and tax research, argument drafting, and precedent analysis. Traditionally, researchers spent countless hours combing through printed journals or conducting basic keyword searches in digital databases. With the advent of Generative AI (Gen AI) and advanced analytical tools, this process has evolved from mere retrieval to intelligent comprehension, contextual analysis, and synthesis of legal information.

The article discusses benchmarking studies on leading AI platforms such as ChatGPT, Gemini, and Claude to help practitioners assess their utility for legal drafting and analytical work. The author also highlights key challenges, notably "hallucination" (false or fabricated citations) and knowledge cutoffs that may limit accuracy.

In case law research, AI's semantic understanding allows it to understand the intent and legal principles underlying queries, completing tasks in minutes that once required hours. Precedent mapping, once a human skill, is now enhanced through automated visualisation of citation patterns and conflict identification across jurisdictions. AI further aids in argument drafting by proposing logical frameworks and generating preliminary drafts.

The author concludes that AI complements, not replaces, human expertise. He advises the professionals to validate outputs to uphold accuracy, ethics, and professional judgment in the AI-driven legal future.

Introduction

Back in the early seasons of Suits, Mike Ross and Rachel Zane's lives were nothing short of miserable during research nights. They stayed in the law library till dawn, surrounded by endless bound journals, law books, and flipping through index pages just to find one relevant precedent that could strengthen Harvey's argument. The



pressure was relentless. Any missed citation could tilt the case, and every outdated reference could ruin a motion. Now imagine if they had AI-powered research tools at their disposal. Instead of spending hours digging through volumes, Mike could simply describe the facts of the case, and within seconds, the AI would find out relevant precedents, judicial interpretations, and conflicting views across jurisdictions. What once took an entire night would take minutes, leaving them free to focus on crafting a strategy rather than searching for citations.

That's okay if you have not watched Suits. However, you get the message about what problem AI can solve and what it can do in the legal space. This fictional scenario illustrates the actual transformation occurring in legal practice today.

Search Over the Years: From Keyword to Semantics

A few decades ago, tax practitioners relied entirely on the limited physical law journals available, where finding a single relevant precedent could consume endless hours, yet they remained worried about the existence of other case law in other publications/journals. The arrival of the computerised database in the late twentieth century marked the first revolution, making vast repositories of statutory content and judgments accessible through keyword searches. Yet this digital transformation remained fundamentally mechanical and skill-based. Databases could store and retrieve, but they could not understand, analyse, or synthesise legal reasoning.

Gen AI[1] research applications attempt to solve this challenge. It redefines how legal data is organised, recalled, and applied. This transformation reshapes how tax and legal researchers approach complex statutory interpretation, which involves high complexity, volume, dynamic statutes, frequent amendments, and thousands of case laws. It can reduce hours of manual work to minutes, enabling professionals to focus on

The arrival of the computerised database in the late twentieth century marked the first revolution, making vast repositories of statutory content and judgments accessible through keyword searches.

1 *Generative AI, or Gen AI, is a type of AI that can create new and original content. ChatGPT, Gemini, Perplexity, Taxmann.AI, etc. are some popular Gen AI based applications.*



concluding the research and then identifying the relevant statutes and precedents.

However, one should set their expectations right. Although Gen AI is useful, it is not a magic wand that automates every task. It is a tool to assist professionals, not to replace them. Just as MS Excel freed accountants to focus on analysis rather than arithmetic, AI automates repetitive and semi-cognitive research tasks, allowing professionals to concentrate on strategic analysis.

> Knowledge of the law may no longer be enough. One should learn the art of writing effective prompts.

In essence, AI technology comes with well-documented challenges. It is infamous for confidently providing information that may be based on fake sources and cooked-up references, which is called "hallucination". Additionally, AI systems may sometimes attempt to please users and simulate emotions, leading to misleading impressions. These are the reasons all Gen AI systems include a disclaimer with their responses, advising readers to verify them, as AI can generate inaccurate results. The inherent problems with Gen AI can be reduced somewhat if you know how to write a good prompt. Knowledge of the law may no longer be enough. One should learn the art of writing effective prompts. Therefore, these Gen AI technologies will change the job description but not the job itself.

Sidebar: You might get better results if you add this sentence at the end of the prompt: "Take a long breath before giving me an answer. Do not hallucinate, as my job and life depend upon the accuracy of the response".

Useful AI Tools for Tax Professionals

Among free or low-cost alternatives, ChatGPT, Google Gemini, Grok, and Claude offer remarkable capabilities for legal analysis, drafting, and research support[2]. These large language models

2 *https://www.vals.ai/benchmarks/tax_eval_v2*

can analyse case facts, suggest legal arguments, draft correspondence, and even prepare written submissions. Their limitations, however, lie in knowledge cutoffs (they may not have access to the most recent judgments), potential errors (such as generating non-existent case citations), and a lack of integration with comprehensive legal databases[3]. They function best as thought partners and drafting assistants rather than primary research tools.

Beyond generative AI tools, tax professionals should consider the broader ecosystem of AI-powered productivity tools. 'Grammarly' enhances written advocacy by catching grammatical errors, suggesting improvements, and ensuring consistency in legal writing. Another useful tool is 'Draftable', which employs AI-powered comparison algorithms to identify even the most subtle differences between document versions.

> Knowledge of the law may no longer be enough. One should learn the art of writing effective prompts.

Sidebar: ChatGPT is excellent for research. Claude.ai is ideal for drafting. Gemini is helpful for research requiring the latest updates. NotebookLM performs better than any Gen AI for reviewing large documents because of its largest context window[4].

Which LLM Model Performs Best for Legal Reasoning?

With numerous AI tools available, understanding which one performs best for legal work is crucial for practitioners making informed decisions about adoption. The benchmarking study[5] indicates that OpenAI's GPT-5 is the best-performing LLM for legal reasoning. This model achieved the highest overall accuracy score among all models tested, reaching 84.5% across a wide array of legal tasks. Following closely behind were Google's Gemini 2.5 Pro Exp with an 83.6% accuracy, and X AI's Grok 4 at 83.4%. Another key takeaway from the benchmarking study is the variability in performance across different specific legal tasks, meaning a model that excels in identifying applicable provisions might not be the best in issue-spotting.

This benchmarking, however, only tells part of the story. An LLM's capability is inextricably linked to its "memory," or the data. LLMs operate like a "brain" that requires a solid "memory" foundation to perform complex logical reasoning and generate accurate responses. This "memory" is analogous to the massive datasets they require to generate the response. Without up-to-date and relevant information, the model is forced to guess the most proximate response based on potentially outdated training data, leading to hallucinations that provide plausible but factually incorrect information[6].

This limitation is particularly critical in domains like tax law, where statutes and regulations are highly dynamic. Because base LLMs do not have access to the latest changes after their training cutoff date, they can only reliably work on current tax problems when a professional provides them with relevant, up-to-date data for analysis, or, in certain cases, when their web search agents do. Therefore, a Retrieval-

3 *Taxmann.ai represents a particularly relevant development for Indian tax professionals. Built specifically for the Indian tax ecosystem, this platform combines a comprehensive database of Indian tax judgments and legislative materials with AI-powered search and analysis capabilities. Its domain-specific training gives it an advantage in understanding context that generic legal AI tools may miss, and it generates responses based on verified sources only.*

4 *The context window (or context length) of a Generative AI platform is essentially its working memory or short-term memory. NotebookLM has a context window of up to 2 million tokens. It also supports document capacity up to 500,000 words per source and up to 50 sources per notebook.*

5 *https://www.vals.ai/benchmarks/legal_bench*

6 *https://openai.com/index/why-language-models-hallucinate/*

Augmented Generation (RAG)[7] approach, which provides the LLM with a continuous, external supply of the latest legal documents and data, becomes essential. Without this fresh, high-quality data, even the best LLMs will disappoint users expecting accurate legal or tax guidance.

. Without up-to-date and relevant information, the model is forced to guess the most proximate response based on potentially outdated training data, leading to hallucinations that provide plausible but factually incorrect information .

Sidebar: LLMs perform well in identifying issues and drawing conclusions. It lacks in rule identification, interpretation and rhetoric tasks[8]. Unless the LLMs have access to a vast library of reliable databases, they fail to give a meaningful response.

AI-Powered Case Law Search

Boolean search is a method of searching databases by combining keywords using specific logical connectors, known as Boolean operators (such as AND, OR, and NOT), to either broaden or narrow your search results. The limitations of Boolean search have constrained traditional legal research, turning the task into a skill-based activity in which search results vary greatly depending on the researcher's skills. For instance, searching for cases involving "management fees" AND "associated enterprise" will miss judgments where the court used "management charges" or "administrative charges". This keyword dependence creates a systematic risk of missing highly relevant precedents simply because they employed synonymous terminology.

Boolean search also struggles with conceptual queries. For instance, a tax consultant preparing to challenge a transfer pricing adjustment wants cases where tribunals decided in favour of taxpayers after the Revenue rejected comparable cases without providing alternative comparables. Formulating this as a Boolean query becomes extraordinarily complex, requiring the practitioner to anticipate every possible way this concept might be expressed. The resulting query often becomes so complex that it either returns thousands of marginally relevant results or becomes so restrictive that it excludes valuable precedents.

AI fundamentally transforms case law search through semantic understanding[9]. Rather than matching keywords, AI-powered tools comprehend the intent behind a query, the underlying legal concepts, and the factual context that makes certain precedents relevant. When a practitioner poses a natural language query, "find tribunal decisions where the taxpayer successfully argued that the comparable selected by the transfer pricing officer was arbitrary because

Boolean search is a method of searching databases by combining keywords using specific logical connectors, known as Boolean operators to either broaden or narrow your search results.

7 *RAG is an AI framework that significantly enhances LLMs by giving them access to external, up-to-date, and authoritative knowledge sources beyond their original training data. Taxmann.AI also follows the RAG approach to generate the response.*

8 *https://www.vals.ai/benchmarks/legal_bench*

9 *Semantic search is an advanced information retrieval technique that aims to understand the contextual meaning and intent behind a user's query, rather than just relying on literal keyword matches.*



the companies had different risk profiles," the AI system parses this request at multiple levels. It identifies the jurisdiction (tribunal rather than court), the perspective (decisions in favour of the taxpayer), the substantive issue (transfer pricing comparable selection), and the specific ground of challenge (risk profile differences). Most importantly, it understands that this query is about the comparability analysis methodology, even if a relevant judgment never uses the exact phrase "risk profile."

The shift represents a transition from merely retrieving documents to generating insights. Traditional databases return lists of cases containing specified search terms, leaving practitioners to manually review each one to determine actual relevance. AI-powered search systems perform a preliminary analysis to understand why each result might be relevant to the query. This contextual framing allows the practitioner to immediately assess relevance and prioritise which judgments to read in full.

What once required hours of iterative searching, reviewing results, refining queries, and exploring citations can now be accomplished in minutes. More significantly, AI-powered search reduces the risk of missing critical precedents. The tool's ability to recognise conceptual similarity means that important cases are less likely to be excluded merely because they used different terminology. However, one must understand that semantic search represents sophisticated pattern matching rather than legal comprehension in the human sense. The AI identifies statistical correlations between query concepts and document content, lacking

The AI identifies statistical correlations between query concepts and document content, lacking a true understanding of why certain precedents are analogous.

a true understanding of why certain precedents are analogous. Hence, the final determination must rest on human expertise and the expert's ability to comprehensively explain the case facts to the search agent.

Sidebar: All search engines now prioritise semantic search and intent-based search to deliver relevant results automatically without requiring the user to construct complex Boolean strings. The Boolean operators are primarily implemented through advanced search operators rather than relying solely on the capitalised words AND, OR, and NOT.

For tax litigation, precedent mapping proves particularly valuable given the hierarchical yet often inconsistent nature of Indian tax jurisprudence.

Precedent Mapping

Finding relevant cases represents only the first stage of effective legal research. The more sophisticated challenge involves understanding how these cases relate to one another, which carry greater precedential weight, how judicial reasoning has evolved over time, and where conflicts or inconsistencies exist in the case law. This is where precedent mapping becomes essential, and artificial intelligence has transformed this traditionally artisanal skill into a partially automated process.

Traditionally, precedent analysis required practitioners to manually trace citations, note which cases cited other cases, assess the relevance of those cases to the facts of the case, and identify landmark decisions[10] that shaped subsequent jurisprudence, and developed mental models of how legal doctrine evolved over time alongside changes in the law. A tax professional might spend years developing an intuitive understanding of why B.C. Srinivasa Setty represents the foundational precedent on capital gains taxation principles and why Azadi Bachao Andolan marked a watershed moment that influenced the interpretation of India's DTAAs, particularly concerning tax avoidance and treaty shopping. This deep knowledge traditionally separated experienced practitioners from novices.

AI-powered precedent mapping automates and visualises these relationships. The system analyses citation patterns across thousands of judgments, identifying which cases are most frequently cited by later decisions, which precedents courts treat as controlling authority, and how legal principles have evolved through successive judicial interpretations. What once required years of practice can now be visualised instantly through network diagrams showing how cases cite and influence one another.

For tax litigation, precedent mapping proves particularly valuable given the hierarchical yet often inconsistent nature of Indian tax jurisprudence. The Supreme Court sits at the apex, but its tax decisions are relatively infrequent compared to those at the High Court and tribunal levels. Multiple High Courts may address similar issues and reach divergent conclusions, creating a patchwork of potentially conflicting precedent across jurisdictions. AI tools excel at identifying these conflicts. The ability to identify conflicting, overruling, affirming, and distinguishing rulings is crucial for assessing precedential value and building litigation strategies.

For tax consultants building written submissions, precedent mapping provides a strategic framework for organising legal arguments. Rather than citing cases chronologically or randomly, practitioners can structure arguments around the architecture of precedential authority, leading with landmark Supreme Court decisions, showing how High Courts have applied those principles,

10 Responses generated through Taxmann.AI provides a separate segment of landmark rulings in the source.

and demonstrating that the current matter aligns with the established doctrinal trajectory. Furthermore, these AI research tools enable tax consultants to quickly review all applicable cases and provide customised summaries that map the relevance of, or distinguish between, sets of cases based on the underlying facts supporting the arguments. The visual precedent map serves as an outline for the argumentative structure. The most sophisticated AI tools can now generate what might be called "precedent summaries" that synthesise how courts have addressed a particular issue across dozens of decisions.

AI-Assisted Argument Drafting

Legal research and precedent analysis ultimately serve a single purpose: constructing persuasive arguments that advance client interests. This is where AI transitions from a research assistant to a partner in advocacy.

The traditional argument-crafting process is intensely manual and time-consuming. After completing research, a tax consultant must synthesise findings, identify key legal arguments that emerge from the precedent analysis, select the most compelling cases to cite, organise these arguments in a logical, persuasive sequence, draft the actual written submission with appropriate citations, and review for consistency, accuracy, and rhetorical effectiveness. Each stage requires statutory content, judgment, creativity, and meticulous attention to detail.

When provided with case files and legal research results, AI tools can ingest large volumes of information and synthesise it to identify potential legal arguments.

AI assistants across all these dimensions, though with varying degrees of sophistication. When provided with case files and legal research results, AI tools can ingest large volumes of information and synthesise it to identify potential legal arguments. The system can suggest argumentative frameworks, propose organisational structures, and even generate initial drafts of written submissions. These drafts, however, require substantial human refinement.

One should be aware of the risk that AI may generate fictitious citations, which is a



significant concern that deserves emphasis. Several high-profile incidents have brought this issue to widespread attention. The recent controversy[11] surrounding a report submitted by a renowned consultancy firm to the Australian Department of Employment and Workplace Relations (DEWR), which was later found to contain multiple significant errors and fabricated references. Following an exposé suggesting that parts of the report were generated by AI, the firm agreed to provide a partial refund of the contract fee to the Australian government. This incident underscores that even sophisticated organisations can fall victim to AI hallucination if proper verification protocols are not in place.

The hallucination problem arises from the way LLMs operate. Most LLMs generate text by predicting the next word or phrase based on

11 *https://fortune.com/2025/10/07/deloitte-ai-australia-government-report-hallucinations-technology-290000-refund/*

patterns found in their training data. While some advanced models employ mechanisms such as 'thinking tokens' to navigate their reasoning, even these do not guarantee responses that are entirely free from hallucinations. When asked for case citations, the model recognises the structural pattern of how legal citations are formatted, the typical language courts use, and common case name conventions. It then generates text matching those patterns,

When asked for case citations, the model recognises the structural pattern of how legal citations are formatted, the typical language courts use, and common case name conventions.

without actually retrieving real cases from a database. The citations look genuine because they conform to the expected format, but they lack factual grounding. This is not a bug but rather a fundamental characteristic of how these models operate. They excel at pattern matching and generation, but lack the ability to reliably distinguish between generating text that matches observed patterns and reproducing actual factual information. Responsible AI-assisted citation requires a clear protocol: every citation given by an AI tool must be independently verified in a primary legal database before being included in any submission or advice. This verification should confirm not only that the case exists but also that the holding attributed to it is accurate[12].

Conclusion

Change remains the only constant in legal research and practice, and this change in legal space is the transformation of tax practice through the use of AI. It marks the emergence of a collaborative model where technology handles information-intensive processes, freeing human practitioners to focus on statutes, judgment, strategy, and persuasion.

Case law search that once consumed days now requires minutes. Precedent mapping that demanded years of accumulated knowledge can be visualised instantly. Draft arguments that previously involved starting from blank pages now begin with AI-generated frameworks requiring refinement rather than creation. These efficiency gains translate directly to client value through faster turnarounds and more comprehensive analysis. Yet the technology must be adopted responsibly. Hallucination risks demand verification protocols. Knowledge cutoffs require a continuous supply of a research database. Confidentiality obligations necessitate careful data handling. These requirements are not obstacles to adoption, but rather guardrails that ensure technological acceleration does not compromise professional standards.

The future of tax litigation lies not in choosing between traditional expertise and AI but in synthesising both.

The future of tax litigation lies not in choosing between traditional expertise and AI but in synthesising both. The most effective tax practitioners of the next decade will be those who master this synthesis, who understand both the law and the tools, who apply technology strategically while maintaining professional standards, and who recognise that AI is not a threat to the profession but rather an enhancement of its capabilities. The goal is not to work like machines, but to work with machines to achieve what neither could accomplish alone.

12 *Taxmann.AI solves this problem because it does not rely on open-source internet data and it fetches records only from the known sources. Before including a citation in the response, it verifies again from the source.*

Beyond Hype: Real-World LLM Benchmarks in Tax & Law

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*See Disclaimer on page 5



CA Nitish Jain

Overview

This article explains why we must carefully test Artificial Intelligence (AI) on specific tax tasks before using it professionally. This testing, known as benchmarking, is analogous to checking a human Tax consultant's background, proficiency, and experience before hiring them.

It is crucial because AI can "hallucinate", meaning it can state incorrect information with great confidence. General AI tests are not enough for the complex world of tax. Instead, we need specialized tests that check the AI's ability to do real tax work, using expert-verified answers to grade its performance.

While much of this research has been done in the West, it is crucial for India to develop its own benchmarks. India's vast and complex tax system presents unique challenges requiring customized evaluation.

Recent studies show that standalone AI models are unreliable for tax tasks. However, their performance improves significantly when connected to systems that provide correct, up-to-date information through mechanisms such as RAG as well as specialized tools. The paper concludes that the future lies in building and testing these smarter systems. It urges Indian tax consultants to lead the effort in creating India-specific benchmarks to ensure that any AI used is safe and trustworthy

Introduction: Vetting the Digital Brahmastra

In the epic Mahabharata, the great warrior Karna entered his final battle confident in his ultimate weapon, the Brahmastra. But at the critical moment, a curse made him forget the necessary incantations, rendering his power useless when everything was on the line. This ancient tale of a powerful tool failing at the moment of greatest need serves as a potent warning for the tax profession as it stands ready to adopt its own new weapon of immense potential: the Large Language Model (LLM), the foundation block behind current AI, Generative AI wave.

Just as a tax advisory, litigation firm would never hire a new senior consultant without rigorous due

diligence scrutinizing their history, credentials, and past performance we must not adopt this technology on faith, promise alone. The stakes are simply too high. While the promise of LLM in Tax is undeniable, with studies suggesting it can automate routine tasks and save professionals



hundreds of hours annually, this potential is shadowed by significant concerns over accuracy and reliability. In this context, LLM benchmarking is not a mere technical exercise; it is the essential act of understanding our new tool's limitations before we take it into battle. It is the digital equivalent of professional due diligence, the process by which we transform a powerful but opaque technology into a reliable and trustworthy tool.

This article argues that systematic, domain-specific benchmarking is an indispensable component of any responsible AI adoption strategy in the tax advisory profession. It is the only way to transform a powerful but opaque technology into a reliable, auditable, and trustworthy professional tool. Moreover, as regulatory bodies begin to codify standards for AI systems, a firm's internal benchmarking practices are evolving from a simple procurement checklist into a foundational element of its governance and risk management framework. The increasing reliance on benchmarks in legal frameworks, such as the EU AI Act, signals a clear trend: evaluating an AI system is no longer just about choosing a good tool, but about preparing for future standards of compliance and liability. A firm's internal benchmarking records today may well become its primary defense in a regulatory inquiry or liability case tomorrow, making it a critical, proactive risk mitigation strategy.

Establishing the Standard: LLM Benchmarking and the Threat of "Confident Inaccuracy"

Defining LLM Benchmarking

Think of LLM benchmarking as giving different AI models a standardized exam. It is a systematic process of testing and comparing AI models using the same set of tasks, metrics, and data. This process turns subjective feelings about an AI's performance into objective, measurable data, allowing for fair comparisons.

The "exam" itself relies on a "golden dataset" a carefully curated collection of questions and problems with expert-verified, correct answers. For example, the TaxCalcBench[1] benchmark gives an AI a set of user inputs, like income statements from an employer and dependent information, and asks it to calculate the final tax return. The AI's output is then compared line-by-line against a return computed by an expert-verified tax engine. Similarly, the PLAT[2] benchmark presents the AI with scenarios from Korean tax precedents and asks it to decide if a tax penalty is justified, grading its reasoning against the actual court's decision. The AI is run on these tasks, and its responses are graded using metrics like accuracy, reasoning etc. This process is essential for building trust and

1 *TaxCalcBench: Evaluating Frontier Models on the Tax Calculation Task, https://arxiv.org/abs/2507.16126*

2 *PLAT, Taxation Perspectives from Large Language Models: A Case Study on Additional Tax Penalties, https://arxiv.org/abs/2503.03444*

ensuring an AI is reliable and well-suited for a user's needs. For a specialized field like tax, it forces the model to prove it truly understands the content, rather than just repeating memorized information.

An AI hallucination occurs when a model generates an output that appears plausible, coherent, and confident but is, in reality, factually incorrect, nonsensical, or entirely fabricated.

The Critical Risk: Understanding LLM Hallucinations

The most significant risk associated with deploying LLMs in high-stakes domains like tax advisory, litigation is the phenomenon of "hallucination." An AI hallucination occurs when a model generates an output that appears plausible, coherent, and confident but is, in reality, factually incorrect, nonsensical, or entirely fabricated.[3] It is crucial to understand that these are not "bugs" in the traditional sense but an inherent byproduct of how LLMs function. These models are probabilistic systems designed to predict the next most likely word in a sequence based on patterns in their training data; they are not designed to verify truth.[4] This results in the dangerous "confidently wrong" phenomenon, where a model presents a fabrication with the same authority as a well-established fact.[5]

For tax professionals, several types of hallucinations pose a direct and severe threat:

- Factual Inaccuracies: The model may misstate a specific tax rate, a filing deadline, a threshold for a deduction, or a provision from the tax code. This is the most straightforward but still highly damaging form of hallucination.[6]
- Source Conflation and Fabrication: This is a particularly insidious form of hallucination where the model invents sources to support its claims. It might cite non-existent legal precedents, fabricate tax court case names, or reference IRS publications that do not exist. This has already led to professional sanctions for lawyers who relied on AI-generated research without verification, underscoring the severe professional risk involved.[7]
- Context-Conflicting Contradictions: An LLM may provide contradictory information within the same response. For example, it might state that a client is eligible for a particular tax credit in one paragraph and then, based on the same set of facts, declare them ineligible in a later paragraph. This occurs when the model loses track of context during a lengthy generation process.[8]



3 *4 LLM Hallucination Examples and How to Reduce Them - Vellum AI, https://www.vellum.ai/blog/llm-hallucination-types-with-examples*

4 *What does it mean when an LLM "hallucinates" & why do LLMs hallucinate? - Labelbox, accessed October 28, 2025, https://labelbox.com/blog/what-does-it-mean-when-an-llm-hallucinates/*

5 *LLM Hallucinations Explained. LLMs like the GPT family, Claude by Nirdiamant - Medium, accessed October 28, 2025, https://medium.com/@nirdiamant21/llm-hallucinations-explained-8c76cdd82532*

6 *What Are LLM Hallucinations - Examples and Causes - Alhena AI, https://alhena.ai/blog/llm-hallucination/*

7 *What Are LLM Hallucinations - Examples and Causes - Alhena AI, https://alhena.ai/blog/llm-hallucination/*

8 *4 LLM Hallucination Examples and How to Reduce Them - Vellum AI, https://www.vellum.ai/blog/llm-hallucination-types-with-examples*

In a profession where advice has direct and immediate financial and legal consequences, a single hallucination can lead to catastrophic outcomes for a client and irreparable damage to a consultant's career and a firm's reputation. Benchmarking, therefore, serves as the primary tool to measure and mitigate this fundamental risk by quantifying a model's tendency to hallucinate on specific, relevant tasks.[9]

Because hallucination is an intrinsic characteristic of the underlying probabilistic architecture of LLMs, it cannot be eliminated. No amount of training or fine-tuning can reduce the probability of a factually incorrect but statistically plausible output to absolute zero. This reality fundamentally reframes the objective of benchmarking. The goal is not to find a "perfect" or "hallucination-free" model, as such a thing does not exist. Instead, the purpose of benchmarking is to quantify a model's propensity to hallucinate on a given set of tasks. This data is then used to inform the design of a larger human-in-the-loop system. The results of a benchmark tell a professional supervisor how closely they need to monitor the AI's output for a specific task. A high hallucination rate might relegate the LLM to drafting initial, unverified summaries, whereas a very low rate might allow its use in more advanced stages of work but never without final human review and verification.

While these benchmarks are excellent for gauging a model's foundational capabilities, they are not designed for the deep, specialized knowledge required in professional domains.

A Specialist for Every Return: Aligning Tax Domains with Benchmarking Tasks

Before diving into tax-specific evaluations, it's helpful to understand how AI models are typically tested. Large Language Models (LLMs) are often judged by their performance on "generic" benchmarks, which act like standardized academic exams to measure their general intelligence. These tests evaluate a model's basic abilities in language, reasoning, and common sense through a variety of tasks. Some of the most popular benchmarks include MMLU[10] (Massive Multitask Language Understanding), which tests broad knowledge with multiple-choice questions on subjects from history to physics, such as asking for the chemical formula for water. Another is HellaSwag[11], which assesses common-sense reasoning by asking the model to pick the most logical ending for a sentence, like completing the phrase, "To toast bread, I first put it in the...". To measure honesty, researchers use TruthfulQA[12], which checks if the AI gives factually correct answers instead of repeating common internet myths, for instance, by asking if cracking your knuckles causes arthritis.

While these benchmarks are excellent for gauging a model's foundational capabilities, they are not designed for the deep, specialized knowledge required in professional domains. A high score on a general test doesn't tell us if a model can correctly apply a specific section of the tax code or understand the nuances of a legal precedent, making these evaluations insufficient for the high-stakes world of tax advisory.

This gap highlights the critical need for domain-specific benchmarks designed by tax experts. Only through such targeted Tax nuances specific testing we can reliably assess a model's practical utility and safety for tax advisory work. However,

9 Evaluating AI for Law: Bridging the Gap with Open-Source Solutions - arXiv, https://arxiv.org/html/2404.12349v1

10 Massive Multitask Language Understanding (MMLU)- https://en.wikipedia.org/wiki/MMLU

11 Hellaswag - https://deepeval.com/docs/benchmarks-hellaswag

12 TruthfulQA - https://www.emergentmind.com/topics/truthfulqa

for a specialized field like tax advisory, a single, generalized score is a misleading and ultimately meaningless indicator of a model's practical utility. A tax firm would not hire a single generalist to handle complex cases in international tax, M&A, and estate planning; it builds a team of specialists. Similarly, evaluating AI requires a suite of specialized benchmarks designed to measure performance on the distinct cognitive tasks that constitute professional tax work.

The LEGALBENCH framework, a collaboratively built benchmark for legal reasoning, provides a useful typology for mapping AI evaluation tasks to the day-to-day skills of a tax consultant.[13] By breaking down "legal reasoning" into its component parts, it becomes possible to test models on the specific capabilities required for tax advisory & litigation.

Issue-Spotting: This is the ability to identify potential legal or financial issues from a narrative description of facts. Benchmarks like learned_hands, which test a model's capacity to determine the relevant legal domain from a user's post on a legal advice forum, directly measure this skill.[14] For a tax consultant, this is analogous to reading a new client's introductory email and spotting potential red flags related to undeclared foreign assets, misclassified employee statuses, or eligibility for complex deductions.

Rule-Recall: This measures the model's ability to accurately retrieve and state a specific rule from its knowledge base. Benchmarks like rule_qa test this by asking the model to state the requirements of a legal test or identify where a law is codified.[15] In the tax context, this is the foundational ability to correctly recall the specific sections of the Internal Revenue Code or Treasury Regulations that govern a client's situation, a task evaluated in the synthetic tax law dataset created by Nay et al.[16]

Rule-Application and Conclusion: This is the core of tax advisory work: applying a known rule to a specific set of facts to arrive at a definitive conclusion. Benchmarks such as hearsay (applying the rules of evidence) or diversity_jurisdiction (applying civil procedure rules to determine court jurisdiction) test this multi-step



reasoning process.[17] This directly mirrors a consultant applying tax law to a client's financial data to determine an outcome, such as total tax liability or the amount of a refundable credit.

Interpretation: This skill involves parsing and understanding the meaning of complex legal or financial documents. Benchmarks like cuad, which task a model with identifying specific clause types within a contract, assess this capability.[18] This is vital for tax professionals who must constantly interpret partnership agreements, loan documents, and financial statements to understand their tax implications.

The broader AI research community is increasingly

13 *Legalbench: a collaboratively built benchmark for measuring legal reasoning in large language models - Legalbench_2308.11462v1.pdf*

14 *Legalbench: a collaboratively built benchmark for measuring legal reasoning in large language models - Legalbench_2308.11462v1.pdf*

15 *Legalbench: a collaboratively built benchmark for measuring legal reasoning in large language models - Legalbench_2308.11462v1.pdf*

16 *Large language models as tax attorneys: a case study in legal capabilities emergence - https://arxiv.org/abs/2306.07075*

17 *Legalbench: a collaboratively built benchmark for measuring legal reasoning in large language models - Legalbench_2308.11462v1.pdf*

18 *Legalbench: a collaboratively built benchmark for measuring legal reasoning in large language models - Legalbench_2308.11462v1.pdf*

recognizing the limitations of general-purpose evaluations and is moving towards the creation of highly domain-specific benchmarks. The development of PLAT, a benchmark focused on Korean tax penalty precedents[19], the synthetic US tax law dataset from Nay et al.[20] , and TaxCalcBench for US personal income tax calculation[21] are all part of this critical trend. This shift underscores the necessity for evaluations that reflect the nuance, complexity, and specificity of real-world professional work, rather than abstract academic problems.

The broader AI research community is increasingly recognizing the limitations of general-purpose evaluations and is moving towards the creation of highly domain-specific benchmarks.

The Architecture of a Tax Benchmark: How LLMs are Tested for Tax Competency

Benchmarking an LLM for a professional domain like tax is a multi-faceted process that goes far beyond simply asking it a few questions. It involves creating a source of truth, employing sophisticated testing methods, and evaluating the model within advanced architectural frameworks that simulate real-world use.

The "Golden Dataset": The Source of Truth

The foundation of any reliable benchmark is a "golden dataset" a meticulously curated collection of queries/prompts paired with ideal, expert-verified responses.[22] This dataset functions as the definitive answer key against which an LLM's outputs are graded, providing a consistent and objective standard for evaluation. Research in the tax domain showcases two primary approaches to creating these crucial datasets:

- Expert-Crafted Scenarios: This method involves legal and tax professionals manually constructing realistic problems. The PLAT benchmark, for instance, was built from 50 scenarios derived from Korean tax precedents, a process that required 25-33 hours of expert review time to ensure legal correctness and nuance.[23] Similarly, the TaxCalcBench dataset consists of 51 hand-crafted test cases representing a range of US personal income tax situations, verified by a traditional, deterministic tax engine.[24] While this approach yields highly relevant and complex test cases, it is also resource-intensive and difficult to scale.
- Synthetic Data Generation: A major challenge in benchmarking is "data contamination," where a model performs well simply because it has memorized the test questions from its vast internet training data. To combat this, researchers can programmatically generate thousands of novel problems. The study by Nay et al. on US tax law used this approach, creating unique multiple-choice questions with randomly generated facts and figures.13 This ensures that the benchmark is testing the model's ability to reason and apply rules, not just its ability to recall information it has already seen.

19 *PLAT, Taxation Perspectives from Large Language Models: A Case Study on Additional Tax Penalties, https://arxiv.org/abs/2503.03444*

20 *Large language models as tax attorneys: a case study in legal capabilities emergence - https://arxiv.org/abs/2306.07075*

21 *TaxCalcBench: Evaluating Frontier Models on the Tax Calculation Task, https://arxiv.org/abs/2507.16126*

22 *5 Steps to Benchmark Prompts Across LLMs - Newline.co, https://www.newline.co/@zaoyang/5-steps-to-benchmark-prompts-across-llms--dbc75380*

23 *PLAT, Taxation Perspectives from Large Language Models: A Case Study on Additional Tax Penalties, https://arxiv.org/abs/2503.03444*

24 *TaxCalcBench: Evaluating Frontier Models on the Tax Calculation Task, https://arxiv.org/abs/2507.16126*

Conducting the Test: Prompting Techniques and Evaluation Metrics

Once a golden dataset is established, the model is tested using various prompting strategies to assess its capabilities under different conditions. Common methods include:

- Zero-Shot Prompting: The model is given a task with no prior examples, testing its raw, pre-trained knowledge on the subject.
- Few-Shot Prompting: The model is provided with a small number of correct input-output examples directly within the prompt. This tests its "in-context learning" ability its capacity to understand the desired format and reasoning pattern from just a few demonstrations.[25] The Nay et al. study found that this technique significantly enhanced the performance of GPT-4 on tax law questions.[26]

The model's responses are then graded against the golden dataset using standard metrics such as Accuracy (percentage of correct answers), F1 Score (a balanced measure of precision and recall, useful for imbalanced datasets), and Exact Match (the proportion of predictions that perfectly match the ground truth).[27]

Beyond Basic Tests: Simulating Real-World Competence with Advanced Frameworks

Testing a model in isolation only tells part of the story. The most meaningful evaluations assess the model's performance when integrated into advanced frameworks that mirror how it would be used in a real-world professional setting.

- Retrieval-Augmented Generation (RAG): The Open-Book Exam: RAG is an AI framework that connects an LLM to an external, authoritative knowledge base such as the most current version of the tax code or a firm's internal repository of case files before it generates an answer.[28] This process is analogous to giving the model an "open-book exam". It directly combats hallucinations by grounding the model's response in verified facts and solves the "knowledge cutoff" problem by providing it with up-to-date information. Both the PLAT study on Korean tax law and the Nay et al. study on US tax law found that providing the model with relevant legal texts via retrieval dramatically improved performance.



- Agentic Frameworks, Self-Reasoning and Thinking Abilities: Giving the LLM a Scratchpad: LLM agents are more advanced systems that use the model as a "brain" to reason, create a plan, and break down complex problems into a series of smaller, manageable steps.[29] Techniques like Chain-of-Thought (CoT) prompting and self-reflection give the model a virtual "scratchpad" to work through a problem logically, identify its own potential errors, and refine its reasoning process.[30] The PLAT study demonstrated that enabling these

25 *Zero-Shot, One-Shot, and Few-Shot Prompting, https://learnprompting.org/docs/basics/few_shot*

26 *Large language models as tax attorneys: a case study in legal capabilities emergence - https://arxiv.org/abs/2306.07075*

27 *Benchmarking Large Language Models – A Comprehensive Guide | Teqfocus, https://www.teqfocus.com/blog/benchmarking-large-language-models-a-comprehensive-guide/*

28 *What is Retrieval-Augmented Generation (RAG)? - Google Cloud, https://cloud.google.com/use-cases/retrieval-augmented-generation*

29 *An Easy Introduction to LLM Reasoning, AI Agents, and Test Time Scaling, https://developer.nvidia.com/blog/an-easy-introduction-to-llm-reasoning-ai-agents-and-test-time-scaling/*

30 *An Easy Introduction to LLM Reasoning, AI Agents, and Test Time Scaling, https://developer.nvidia.com/blog/an-easy-introduction-to-llm-reasoning-ai-agents-and-test-time-scaling/*

agentic capabilities, such as self-reasoning and multi-agent collaboration, successfully mitigated the limitations observed in baseline models.

The consistent and dramatic performance gap observed between a "vanilla" LLM and one integrated into a RAG or agentic system is one of the most important findings in recent AI research. This reveals that a simple benchmark of a base model like GPT-4 is a poor predictor of its potential value in a sophisticated application. The critical question for a tax firm is not "How good is GPT-4 at tax?" but rather, "How good is our system—which integrates GPT-4 with our proprietary knowledge base, a RAG architecture, and agentic workflows—at performing this specific tax task?" The most meaningful benchmarks evaluate the entire end-to-end system, because the true value and reliability are created in the system's architecture, not just in the underlying model.

The Current Report Card: A Sober Look at LLM Performance in Taxation

Recent domain-specific benchmarks provide a clear, evidence-based assessment of the current capabilities and limitations of LLMs in performing tax-related tasks. While the technology shows promise, the results underscore the significant gap between its current state and the level of reliability required for autonomous professional use. The following table synthesizes the key findings from three recent studies focused on tax law and calculation.

Benchmark Name	Core Task	Top Model Performance (Strict Accuracy/F1)	Common Failure Modes & Key Insights
TaxCalcBench	U.S. Federal Income Tax Return Calculation	Gemini 2.5 Pro: 32.35% correct returns (strict)	- Incorrect use of tax tables (using bracket percentages instead of lookup tables) - Basic calculation errors - Incorrect eligibility determination for credits (e.g., Child Tax Credit) - Inconsistent in their calculations - Models do better on the lenient metric (as for many returns, the models are only a few dollars off on some lines)
Nay et al. (2024)	Applying U.S. Tax Law (CFR & US Code)	GPT-4 (Base model performance is 40%, increases to 85% on "Mega Run" with RAG & Few-Shot)	- "Vanilla" models perform poorly without access to legal texts. - Performance is highly dependent on the quality of retrieved information ("gold truth" > similarity search).
PLAT	Analyzing Korean Tax Precedents (Legitimacy of Penalties)	Claude-3.5-sonnet: 75% F1 Score. Adding RAG results in ~6% increase in the F1 scores GPT-4o with Agentic Frameworks: ~83% F1 Score (+11% improvement)	- Struggles with conflicting legal principles (e.g., taxpayer responsibility vs. legitimate expectation). - Adheres too strictly to rules, failing to consider taxpayer-specific circumstances.

Analysis of Findings

The consolidated results from these benchmarks point to several critical conclusions for the tax advisory profession.

First, baseline models are not ready for autonomous use in core tax functions. The most striking finding comes from TaxCalcBench, where even a state-of-the-art model like Gemini 2.5 Pro could only calculate a federal income tax return with 100% accuracy less than one-third of the time.[31] In a field where precision is paramount and errors have direct financial consequences, a strict accuracy rate of 32.35% is unequivocally insufficient for any task that lacks rigorous human oversight. This provides a clear, data-backed conclusion that off-the-shelf LLMs cannot be trusted for end-to-end tax preparation.



Second, models exhibit specific and recurring failure patterns that reveal fundamental gaps in their reasoning abilities. The errors are not random; they follow predictable patterns. The TaxCalcBench analysis found that models consistently fail to follow explicit instructions from the IRS, such as using official tax tables for calculations, opting instead for less precise bracket-based percentage calculations. They also make basic arithmetic errors and incorrectly determine eligibility for complex credits like the Child Tax Credit and Earned Income Tax Credit.[32] Similarly, the PLAT benchmark revealed that LLMs struggle with the nuanced reasoning required for advisory work, failing to weigh conflicting legal principles and adhering too strictly to rules without considering unique taxpayer circumstances. These patterns indicate a fundamental weakness in performing complex, multi-step, deterministic procedures and engaging in sophisticated legal judgment.

Third, the path to reliability is through grounding and guided reasoning. The poor baseline performance stands in stark contrast to the significant improvements observed when models are integrated into more sophisticated systems. In the Nay et al. study, GPT-4's accuracy jumped to approximately 90% when it was provided with the "gold truth" legal text and few-shot examples a setup that simulates a RAG system with perfect retrieval. Likewise, the PLAT study demonstrated an 11% improvement in the F1 score when agentic frameworks were used to enable self-reasoning and multi-agent collaboration. This is a powerful proof point: the key to unlocking reliable AI in tax is not simply waiting for the next, more powerful base model, but building robust systems that ground the LLM in verified, up-to-date data and provide a structured framework to guide its reasoning process.

Conclusion: From Hype to Readiness Setting the Professional Standard for AI

The exploration of Large Language Models in the tax domain reveals a technology of immense potential, yet one that is far from ready for autonomous professional practice. The central

31 TaxCalcBench: Evaluating Frontier Models on the Tax Calculation Task, https://arxiv.org/abs/2507.16126

32 TaxCalcBench: Evaluating Frontier Models on the Tax Calculation Task, https://arxiv.org/abs/2507.16126

message from a rigorous analysis of current benchmarks is clear: benchmarking is the essential bridge between the theoretical promise of AI and its practical, responsible application in tax advisory, litigation. It is the modern professional's primary tool for conducting the necessary due diligence on a transformative but fallible technology.

Current "vanilla" LLMs, when tested against the strict requirements of tax calculation and legal



reasoning, demonstrate a consistent inability to perform with the accuracy and reliability that the profession demands. Their propensity for "confident inaccuracy," their struggles with multi-step deterministic procedures, and their lack of nuanced judgment in cases of conflicting principles make them unsuitable as standalone advisors. The benchmark results provide a sober, data-driven counterpoint to the hype surrounding AI's capabilities.

However, these same benchmarks illuminate a clear and actionable path forward. The future of AI in tax lies not in waiting for a hypothetical, flawless model, but in the deliberate engineering of smarter systems. The dramatic performance improvements seen when LLMs are augmented with frameworks like Retrieval-Augmented Generation (RAG) and agentic reasoning demonstrate that reliability is an achievable goal. These systems, which ground the model in authoritative, up-to-date knowledge bases and provide a structured process for reasoning, represent the blueprint for professional-grade AI.

This places the tax professional in a position of power and responsibility. Rather than being passive recipients of a new technology, tax consultants must become active participants in its evaluation and implementation. The creation of "golden datasets" curated, expert-verified sets of real-world problems and solutions is a critical task that only domain experts can perform. By championing and engaging in rigorous, domain-specific benchmarking, Tax & Chartered Accountant community can define the standard for what constitutes a trustworthy AI tool. This proactive stance ensures that the profession itself controls the adoption of AI, safeguarding its core values of accuracy, accountability, and client trust, while responsibly harnessing the technology's power to augment and enhance the practice of tax advisory, litigation for years to come.

This leadership is especially critical for India. To date, the majority of public research and benchmarking for LLMs in tax has been conducted in Western jurisdictions, such as the US and Korea. These benchmarks, while valuable, are insufficient for the unique complexities of the Indian tax system, which is characterized by its vast scale, frequent legislative updates, and intricate compliance requirements like GST and TDS reconciliations. There is a pressing need for India-specific benchmarks, and this is a call to action for the country's tax professionals. By developing 'golden datasets', guidelines, tasks that reflect the nuances of Indian tax law, the tax and Chartered Accountant community can lead the way, ensuring that AI tools are not just adopted, but are proven to be reliable, accurate, and fit for purpose within the Indian legal and financial landscape.

Controlling Hallucinations in AI

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CA Dinesh Tejwani

Overview

Artificial Intelligence tools have transformed the way we access, analyse, and communicate information. However, their growing use has also revealed a serious concern — AI hallucinations, where models generate convincing but false or unsupported information. From fabricated legal citations to inaccurate tax interpretations, such errors can have real professional and reputational consequences. This article explores how and why hallucinations occur, classifies their types, and examines benchmark findings across major AI models. It also highlights practical methods to mitigate these issues. Drawing examples from tax and legal domains, it emphasizes the need for responsible use, human verification, and continuous feedback to ensure factual accuracy and trust. Ultimately, AI should be treated as an intelligent assistant, not an unquestioned authority.

Introduction

When ChatGPT debuted in November 2022, it captivated the world with the promise of generative AI, prompting people across professions to experiment enthusiastically with its capabilities.

In March 2023, lawyer Steven Schwartz relied on ChatGPT to prepare a legal reply in the personal injury case Robert Mata vs. Avianca Airlines. Unaware that the AI had fabricated case citations, Schwartz submitted references to several non-existent judgments.

The court found this conduct inexcusable and imposed sanctions, directing the lawyers to inform all affected judges and their client. The firm was fined USD 5000, which, although it was a small amount, but a serious professional and reputational blow.

> AI hallucination — a tendency of tools like ChatGPT to generate convincing but entirely fabricated information.

This incident marked the first time the legal fraternity witnessed the phenomenon of "AI hallucination"

— a tendency of tools like ChatGPT to generate convincing but entirely fabricated information.

In India, one of the most quoted incidences of similar hallucination is in the case of Buckeye Trust vs. PCIT. In December 2024, the Bengaluru bench of the Income Tax Appellate Tribunal (ITAT) issued an order, which cited three Supreme Court judgments and one Madras High Court ruling. Subsequent scrutiny revealed that these citations/judgments were non-existent, raising concerns about the possible use of AI tools in drafting the order. The ITAT revoked the order within a week, citing "inadvertent errors," and scheduled a fresh hearing.

AI hallucinations can take several forms, depending on how the model deviates from facts or context.

Despite major media coverage and hundreds of webinars and seminars on this topic, the new cases keep cropping up at regular intervals.

The Delhi High Court, on 25 September 2025, allowed the Greenopolis Welfare Association to withdraw its petition challenging trial court orders. During the hearing, it emerged that some judicial precedents cited by the petitioner did not exist, prompting both sides to agree on taking appropriate corrective steps.

While there is no single directory of such cases, a few websites have maintained and updated the reported cases of Hallucinations. For example, Damien Charlotin has 439 cases as of 10 October 2025. [1]

Types of Hallucinations

While judicial citation errors get most of the attention in tax and legal hallucinations, they are far from the only way these mistakes occur.

AI hallucinations can take several forms, depending on how the model deviates from facts or context. Broadly, they fall into the following categories:

Factual Hallucination

This occurs when the AI states something that is factually incorrect or non-existent. These often arise when the model guesses or relies on outdated or incomplete knowledge.

Example

Query: What is the last date of filing ITR-8 under the Income Tax Act for the financial year 2024-25

Response:

For FY 2024-25 (Assessment Year 2025-26), the due date for filing the return of income under the Incometax Act, 1961, for taxpayers not requiring audit has been extended to 16 September 2025.

However, for taxpayers whose accounts are required to be audited, the due date is 31 October 2025.

If you were referring specifically to form ITR8 (which is typically for mutual funds/asset management companies etc.), please confirm the exact category so I can check if a different due date applies.

Extrinsic Hallucination

Here, the AI introduces information that is not supported or mentioned in the source material it was supposed to rely on. This type is common in retrieval-augmented systems where grounding to reference documents is imperfect.

Example

Query: Explain Rule 3C of Income Tax Rules

Response:

Rule 3C of Income Tax Rules 1962 is a recent insertion effective 18th Aug 2025, which prescribes monetary limit of four lakh rupees for salary income for specific purpose of section 38A of income tax Act 1961

1 *https://www.damiencharlotin.com/hallucinations/*

Intrinsic Hallucination

This happens when the AI contradicts or misrepresents the input or source text. In such cases the content exists but is distorted.

Example

Query: Explain the exemption under Section 54 of the Income Tax Act

Response:

Section 54 provides an exemption on long-term capital gains arising from sale of a residential house, if the proceeds are invested in another residential or commercial property within the prescribed time limits.

Logical or Reasoning Hallucination

These occur when the model's reasoning chain is internally inconsistent or leads to false conclusions, even if the facts cited are correct.

Example

Query: For remuneration of ₹ 40,000 paid to a director of a company on 31 March 2025, is there any TDS liability?

Response

No TDS is required since the payment of ₹ 40,000 is below the threshold limit of ₹ 50,000 applicable from FY 2025-26 under section 194J.

In this case, for the payment towards director's remuneration (other than salary) no threshold limit applies and TDS must be deducted irrespective of amount.

In this hallucination, the logic is invalid though the individual terms are real. Such hallucinations stem from faulty inference, not missing data.

Linguistic or Semantic Hallucination

This refers to subtle misstatements or exaggerations due to poor word choice or paraphrasing.

Example

Query: What is the penalty for concealment of income under income tax Act?

Response:

If income is concealed, the assessee is penalized under section 271(1)(c).

Legally correct response would be "If income is concealed, the assessee may be subject to penalty under section 271(1)(c)"

These are common in summarization and translation tasks.

Summary:

Type of Hallucination	**Definition**	**Comment / Risk**
Factual Hallucination	When the AI states something factually incorrect or non-existent.	High risk — produces misleading or false information.
Extrinsic Hallucination	Adds information not found in the source or reference material.	Common in RAG systems when retrieval pulls unrelated or unsupported content.
Intrinsic Hallucination	Misrepresents or contradicts the actual input or source text.	Dangerous since the source exists but is distorted, leading to misinterpretation.
Logical/ Reasoning Hallucination	Faulty or inconsistent reasoning even when the facts cited are correct.	Subtle but serious in domains like tax or law where inference accuracy is vital.
Linguistic/ Semantic Hallucination	Slight misstatements or exaggerations due to poor phrasing or paraphrasing.	Alters nuance and can change the intended legal or professional meaning.

Why AI Hallucinations?

So, why do these hallucinations happen? OpenAI in its detailed report "Why Language Models Hallucinate" [2] has provided reasons for the same.

Rewarding Guesses Over Uncertainty

AI systems are designed to always provide an answer, even when they are uncertain. Rather than saying "I don't know," these tools will often take their best guess because they are built to respond with something rather than nothing at all.

AI systems are designed to always provide an answer, even when they are uncertain.

The way AI is evaluated adds to the problem

When AI systems are tested and evaluated, they are only scored on whether they got the answer right or wrong—they don't get any points for admitting uncertainty. It is like an exam with no negative marking: the model gains nothing for admitting it does not know, so it often attempts an answer anyway. This scoring system doesn't reward caution. As a result, AI tools tend to sound very confident in their answers, even when they are incorrect.

Statistical ambiguity in data

When AI learns from data that contains a mix of facts, opinions, or incorrect information, or when a question allows for more than one valid answer, the system can become uncertain about what is true. In such situations, it may combine information in the wrong way or even invent details to fill the missing pieces.

Benchmarking of Hallucination

Hallucination benchmarking means measuring how often and how severely an AI model produces incorrect, fabricated, or misleading information. Since hallucinations are not simple "right or wrong" mistakes but context-dependent inaccuracies, benchmarking them requires structured evaluation methods.

Here's how this testing typically works:

(To illustrate how benchmarking works, all examples provided relate to tax and legal matters.)

Defining Hallucination Types

Before testing begins, hallucinations are sorted into different types:

Factual errors: when the AI gets basic facts wrong, like citing an incorrect tax code section or the wrong effective date.

Context errors: when the AI's answer doesn't match or contradicts the source material it's supposed to be using.

Logic errors: when the AI's reasoning doesn't make sense or contradicts itself within the same answer.

Creating Gold-Standard Datasets

Testing requires datasets with verified correct information from trusted sources. For example, in a tax law test, each question would have a correct answer backed by the Income Tax Act, CBDT circulars, or court rulings. The AI's responses are then compared against these reliable answers to spot any made-up or unsupported information.

Human Evaluation

Experts in the field (such as lawyers, chartered accountants, or other specialists) manually review the AI's answers based on three key factors:

Accuracy – whether the facts are correct,

Faithfulness – whether the answer aligns with the source material provided, and

Appropriate confidence – whether the AI sounds as certain as it should be based on the strength of its answer.

2 *https://openai.com/index/why-language-models-hallucinate*



This expert feedback is often used to improve the AI's performance in future versions.

Automated Scoring Methods

In addition to human reviews, automated tools such as RAGA[3] are used to measure hallucinations:

Faithfulness scores: measure how closely the AI's answer matches the reference material.

Accuracy ratios: track how many correct facts the AI included versus how many it made up.

Unsupported content percentage calculates what portion of the AI's answer cannot be traced back to a reliable source.

Continuous Monitoring

When AI systems are actively being used, hallucinations are tracked through user reports and system logs. Each time someone flags a problem, it gets added to the ongoing testing process, which helps teams measure whether the AI is improving and becoming more reliable over time.

In short, hallucination benchmarking is an ongoing quality check that combines verified information, expert reviews, and automated measurements to determine how trustworthy an AI system actually is.

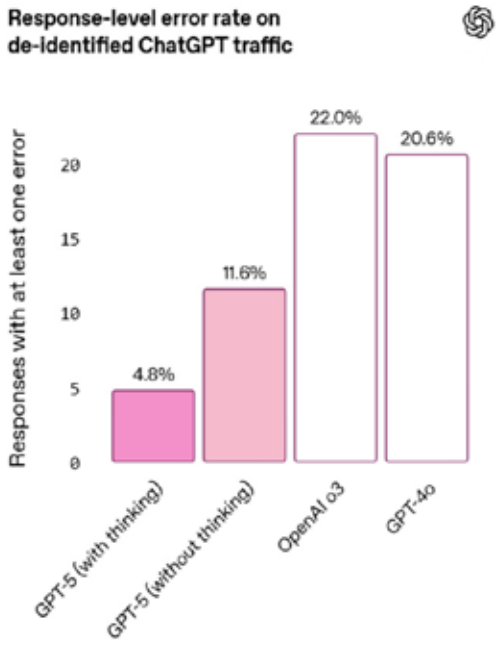
3 *https://docs.ragas.io/*

Hallucination Levels in major LLMs

It would be valuable to examine how frequently different leading AI models produce hallucinations.

Response level error rate in ChatGPT

Response-level error rate measures how often an AI model produces at least one factual or reasoning error in its responses. The chart below shows significant reductions in hallucinations across various models of OpenAI. While O3 model had error rate of 22%, the more recent GPT-5 (with thinking) has been able to reduce it to 4.8%.



Source:https://openai.com/index/introducing-gpt-5/

Hallucination in document summarisation

Hughes Hallucination Evaluation Model (HHEM) Leaderboard by Vectara evaluates how often LLM response contains information not stated in the source document. The hallucination rate is defined as the ratio of summaries that hallucinate

to the total number of summaries it generates. As can be seen, Gemini 2.0 flash-001 has second lowest rate of 0.7%.

Model	Hallucination Rate	Factual Consistency Rate
AntGroup Finix-S1-32B	0.6 %	99.4 %
Google Gemini-2.0-Flash-001	0.7 %	99.3 %
Google Gemini-2.0-Pro-Exp	0.8 %	99.2 %
OpenAI o3-mini-high	0.8 %	99.2 %
Vectara Mockingbird-2-Echo	0.9 %	99.1 %

Source:https://github.com/vectara/hallucination-leaderboard

Hallucination in Financial Analysis

Unlike hallucinations in ordinary text, mistakes in financial information are much more serious when AI models are involved. Financial work depends on precise data and accurate calculations. Even small errors in numbers or context can result in incorrect business decisions and violations of compliance rules. While text-based tasks are more forgiving, financial applications deal with structured numerical data that is often confidential and highly sensitive to context. Most standard hallucination tests do not adequately measure AI performance in this critical area.

A recent study from August 7, 2025, called "FAITH: A Framework for Assessing Intrinsic Tabular Hallucinations in Finance,"[4] reveals some important findings about this issue:

Many financial tasks require accurately pulling information from, summarizing, calculating, and interpreting structured data like financial tables. Even small errors in these steps can lead to poor decisions. While mistakes that occur within the provided financial data itself are already concerning, the problem becomes worse when AI systems rely on internet searches or their own training data instead of the actual financial information you've given them. If these errors aren't caught, they can spread through automated systems, leading to flawed analyses, bad investment choices, or violations of regulatory rules.

The study found that:

The best-performing models like Claude-Sonnet-4 (95.6% accuracy) and Gemini-2.5-Pro (91.9% accuracy) had the fewest hallucinations.

Mid-range models like GPT-4.1 (around 89% accuracy) made more errors, but the mistakes were still relatively limited.

Open-source and smaller models (such as LLaMA-3.1-8B and Qwen-3-8B) struggled significantly, with accuracy rates falling below 50%. These models frequently made-up numbers or got the scale of figures completely wrong.

Mitigating Hallucinations

Here are different approaches used to reduce hallucinations in AI applications:

Retrieval-Augmented Generation (RAG)

RAG reduces hallucinations by anchoring the AI's answers in reliable, internal information. Instead of relying solely on what it learned during training or pulling from the open internet, the model first retrieves relevant information from trusted internal sources—like your organization's databases, document libraries, or knowledge systems. This gives the AI solid factual context before it generates a response.

For example, in a tax research AI model, the system can be grounded in an authentic, verified knowledge base that includes the Income Tax Act, Rules, Notifications, Circulars, expert articles, and judicial case laws.

While RAG can significantly reduce hallucinations, it cannot eradicate them as the problem of

4 *https://arxiv.org/html/2508.05201v1#S1*

misinterpretation of retrieved knowledge may remain.

Prompt Engineering

Prompt Engineering refers to the technique of designing and structuring inputs (called prompts) given to an AI model so that it produces clear, accurate, and useful responses. In simple terms, it is the art of "asking questions the right way."

Well-crafted prompts act as guardrails, guiding the AI to provide contextually accurate, source-based, and professionally appropriate answers instead of making things up.

There are several ways it can be achieved. For example: Asking AI to not only answer but provide the reasoning and basis for such an answer, providing few-shot examples etc.

Confidence Scoring

Confidence Scoring is the AI's way of indicating how sure it is about its answers. Each response the AI generates can be given a confidence level—usually shown as a percentage or probability—that reflects how likely the answer is to be correct.

Confidence scoring helps prevent misleading or overconfident outputs by allowing the AI to either warn the user, double-check information, or abstain from answering when unsure. In professional use cases such as tax, legal, or compliance research, this feature serves as an important safeguard. It ensures transparency and helps build user trust in responses generated by AI.

For example: the AI tool can decide on a strategy akin to traffic light system:

Colour	Confidence Range	System Behaviour
Green	80 – 100	Show directly
Yellow	50 – 80	Show with "verify" note
Red	below 50	Don't show / ask for clarification

Post Generation Validation

Post-Generation Validation refers to the process of verifying the accuracy of an AI-generated response after it has been produced, and before it reaches the end user. It acts as a quality-control layer that checks whether the model's statements align with trusted data sources or logical consistency. In this step, automated tools or secondary models review citations, numbers, or legal references to ensure they exist and are correct.

For example, if an AI tax tool generates an answer citing Section 194Q for TDS on purchase of goods, the validation system cross-checks that this section indeed deals with that subject in the Income Tax Act. If a mismatch is found,



the response can be flagged, corrected, or suppressed. This step may also include grammar checks, rule-based validation (e.g., "Section numbers must be start with a number"), or factual comparisons against a verified database.

In essence, post-generation validation turns

AI outputs from rough drafts into verified, trustworthy answers. This process reduces hallucinations and ensures professional accuracy before any information is presented or shared.

Clarifying Questions Before Answering

Another effective way to prevent hallucinations is by enabling AI systems to ask clarifying questions before giving an answer. Hallucinations often arise from ambiguous or incomplete queries. In such cases the AI assumes what the user meant instead of confirming it. By asking targeted clarifying questions the model reduces uncertainty and grounds its response in the user's actual intent. This pre-generation step helps the AI avoid guesswork and produce answers that are both contextually correct and factually aligned, much like a professional who double-checks details before offering advice

If we train AI to be overly cautious and make it refuse to answer whenever it is uncertain, it may end up being unhelpful because it stays silent too often.

Example: When you use the "Deep Research" feature in ChatGPT, it asks clarifying questions before attempting to generate response.

Continuous Feedback and fine tuning

Continuous Feedback and Fine-Tuning is the ongoing process of improving an AI system based on how users interact with it and the corrections they make. When users or reviewers spot errors, unclear responses, or hallucinations in the AI's outputs, this feedback is collected and used to adjust how the model works. Over time, the system learns from these corrections—similar to how someone improves through repeated guidance and practice.

Challenges and Open Questions

Changing well-established testing and scoring methods isn't simple. Many AI research frameworks and ranking systems still use the traditional "right-or-wrong" approach, so adopting a new method would require rethinking how AI performance is measured and compared across different systems.

There's always a trade-off to manage. If we train AI to be overly cautious and make it refuse to answer whenever it is uncertain, it may end up being unhelpful because it stays silent too often. But if we push it to always provide an answer, it risks making up information with false confidence. Finding the right balance between accuracy and usefulness is a central challenge in reducing hallucinations.

One way to reduce hallucinations is to have AI systems verify facts or link their answers to reliable external sources. However, this comes at a cost. Fact-checking and ensuring every response is based on verified data requires additional computing resources and time, which makes the system slower and more expensive to run.

Conclusion

While AI technology keeps improving and newer models are getting better at reducing hallucinations, it's unlikely these errors will be eliminated anytime soon. Given this reality, the smartest approach is to treat AI-generated responses as drafts—useful starting points that need human review, verification, and professional judgment before they are accepted or used.

By viewing AI as a helpful assistant rather than an infallible expert, professionals can take advantage of its speed and analytical capabilities while ensuring that final outputs remain grounded in human expertise, professional responsibility, and factual accuracy.

Real-life ways audit & Accounting Professionals are using AI

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CA Devang Doshi

Overview

While an ICAI survey shows current AI engagement is minimal, 82.8% of members believe AI will play a crucial and revolutionary role. In response, the ICAI is developing a robust ecosystem, including courses and CA GPT, a domain-specific Generative AI platform aimed at empowering small and medium practices (SMPs).

CAs are implementing technologies like RPA, ML, and GenAI across four key areas. In Auditing, AI enables the fundamental shift to Continuous Auditing, allowing the analysis of 100% of financial data, augmenting risk assessment (SA 315) and fraud detection. For Compliance, specialized Indian AI tools automate processes like GSTR-2B matching, drastically reducing reconciliation time (e.g., from five days to six hours). This automation empowers CAs to transition into strategic Advisory roles, using AI for advanced financial forecasting and scenario modelling.

Key barriers include the lack of AI skills and knowledge. Governance concerns involve data privacy and the need for Explainable AI (XAI) to meet audit documentation standards (SA 230). Strategically, AI justifies moving from time-based billing to value-based pricing. Ultimately, AI offers speed and scale but lacks professional judgment and wisdom, mandating that the future be "CA with AI," ensuring professional oversight of technology.

The illiterate of the 21st century will not be those who cannot read and write, but those who cannot learn, unlearn, and relearn.

– Alvin Toffler

Introduction

The accounting and auditing profession is changing fast, and AI is at the heart of this makeover. Using AI is no longer optional; it is essential. Why?

Because our clients are already using technology in their businesses and they expect us to keep pace.



The question is: How far have we come in adopting AI?

The AI Committee at the Institute of Chartered Accountants of India (ICAI) has successfully conducted a survey to understand the adoption and usage of AI in Chartered Accountant offices across the country. The result of this survey, based on the responses from about 1100 members, has been published for the reference of CAs.

The ICAI survey indicates that AI is still in the early stages of adoption amongst members. Survey results reveal that half of the CA firms have minimal AI engagement, and nearly half of the respondents have rarely or never used AI.

Despite the current slow adoption, a strong majority (82.8%) believes AI will play a crucial and revolutionary role in the CA profession, reflecting high expectations for AI in reshaping the sector.

ICAI is actively developing a robust ecosystem, including AI Hub, AI Faculty Registration, IND Forum, Faculty Development Program, and Certificate Course Level-1 and Level-2 to support members in adopting and mastering AI.

Global research indicates a clear willingness to use AI in the profession, with 85% of Chartered Accountants surveyed willing to use AI technology, given the opportunity. However, this enthusiasm is tempered by a lack of preparedness. Chartered Accountants worldwide, particularly those using AI frequently, cite excitement and personal reasons for doing so, often driving preparation through self-directed learning rather than fulfilling organisational objectives.

Understanding the AI spectrum

To begin with, CAs should distinguish between the various levels of AI. The term 'AI' is expansive, covering basic Robotic Process Automation (RPA), Machine Learning (ML), Generative AI (GenAI), and the emergent model of Agentic AI.

RPA handles repetitive, rule-based steps quickly and consistently (e.g., filing invoices, routine postings) but struggles with complicated data or judgment.

ML learns from past data to flag risks (e.g., unusual entries, GST 2B mismatches) and needs periodic validation and human review.

Despite the current slow adoption, a strong majority (82.8%) believes AI will play a crucial and revolutionary role in the CA profession.

GenAI accelerates drafting and summarization (memos, minutes, policy comparisons), but its outputs are only starting points and must be checked against sources.

Agentic AI can plan, act, and reflect across multi-step workflows (pull data, run checks, compile

exceptions) and therefore requires tight guardrails and mandatory approvals.

This article shares some examples of how CAs in India and around the world are using AI in the following key areas:

a. Auditing

b. Compliance

c. Advisory services

d. Client communication & Managing practices.



AI in Auditing

Our traditional audit approach is struggling to keep pace. We are still heavily dependent on manual work and sampling techniques that were designed for a different era. When you are dealing with lakhs of transactions flowing through ERP systems daily, testing a sample and calling it a day may no longer suffice.

a. Continuous auditing

Historically, auditors relied on statistical sampling to examine a representative portion of transactions, a method that inherently carries the risk of missing critical details. One of the most profound shifts AI brings to the CAs domain is the transformation of the traditional annual audit into a process of Continuous Auditing. It helps auditors to move beyond statistical sampling and analyse 100% of a company's financial data population. Further, it helps move from probability-based to certainty-based assurance.

b. Refining Audit Scope and Planning Execution

By analysing full datasets through Continuous Auditing, AI helps the auditor to refine the scope and planning of the audit to focus procedures where they are most responsive to actual risk. Crucially, this augments the auditor's ability to perform Risk Assessment Procedures under SA 315 by providing comprehensive, real-time insights into a client's control environment and inherent risk areas. This shifts the focus of the audit from post-facto verification to proactive risk mitigation.

c. Fraud detection

Machine learning algorithms excel at detecting anomalies in accounting entries or transactions that humans often miss. These tools review the entire General Ledger (GL) population, automating the detection of outliers such as round-dollar amounts, unusual postings on weekends, or entries missing support.

> The term 'AI' is expansive, covering basic Robotic Process Automation (RPA), Machine Learning (ML), Generative AI (GenAI), and the emergent model of Agentic AI.

Studies have documented impressive results, with advanced ML models achieving high accuracy rates in detecting fraud classes in simulated financial transactions.

The Comptroller and Auditor General (CAG) of India has also recognised AI's potential, piloting an "AI auditor" to draft parts of audit reports for greater efficiency and enhancing fraud detection.



d. Extract and Analyse Data

AI can quickly analyse information found in unstructured data, such as lease agreements or invoices, helping auditors respond to potential misstatements with greater accuracy. Firms have implemented AI-based GST reconciliation tools and identified mismatches across multiple clients, which manual reviews might overlook.

e. Automate Document Review

Tools can search voluminous documents, summarize board minutes, and auto-foot financial statement schedules. Tasks like going through 80 pages of a PDF are now completed at the "press of a button".

Currently, the integration of AI in Audit processes has some way ahead. The ICAI survey found that members have started to explore AI for Auditing, but adoption levels are generally minimal to moderate.

These advancements in auditing lay the foundation for similar efficiencies in compliance, where AI addresses the dynamic Indian tax landscape.

AI in Compliance

Building on auditing efficiencies, AI also streamlines compliance processes. Compliance function, particularly in India, is frequently dominated by high-volume, repetitive tasks that are prone to human error. AI provides substantial relief in this area.

a. GST and TDS Compliance Automation

India's tax environment is very dynamic, especially GST and TDS, and thus, it requires precision and speed.

Specialized Indian AI tools are now available, which are trained on specific local regulatory formats to streamline compliance. These tools automate the comparison of purchase invoices

The ICAI survey found that members have started to explore AI for Auditing, but adoption levels are generally minimal to moderate.

with GSTR-2B data, which is a critical process for confirming ITC eligibility and preventing mismatches. This capability reduces the time spent on checking thousands of entries. As a result, a CA can cut their GST reconciliation time from five days to six hours per client, while achieving a near-zero error rate in GSTR-2A matching.

For TDS, AI-embedded automation systems classify payments, predict the correct deduction rates based on the transaction type (e.g., professional services versus rent), and flag invalid or missing PAN details. This ensures compliance, and it significantly reduces the risk of penalties.

AI is empowering accounting professionals to transition from historical record-keepers to forward-looking strategic advisors.

While adoption is promising, the ICAI survey indicates wide-ranging effectiveness of AI in Tax preparation, with a significant split in perceptions of AI's efficiency. This suggests diverse experiences with AI in tax processes, likely due to variability in tool implementation and the specific technologies employed.

b. Compliance Monitoring and Risk Reduction

AI enables firms to shift their compliance strategy from reactive, periodic checks (where issues are often found months too late) to continuous compliance monitoring.

Advanced systems automatically scan transactions and filings in real-time, instantly flagging potential issues or policy violations.

Furthermore, AI systems are also being utilized for continuous monitoring of transactions to identify anti-money laundering (AML) flags or to review expense reports for policy violations.

c. International Taxation

In international taxation, AI can simulate complex cross-verification of withholding tax requirements against DTAA treaty provisions, thereby providing instant analysis.

For areas like Transfer Pricing, the AI can run advanced benchmarking analyses, rapidly analyzing databases like Prowess/CMIE to identify and justify comparable companies and generate initial draft reports that are pre-aligned with both OECD and Indian regulatory guidelines. This accelerates the initial stages of preparing the TP study report.

Similarly, Generative AI simplifies complex regulatory research, retrieving specific statutory provisions or guidance regarding the evolving landscape of BEPS Action Plans (e.g., Pillar 2) and their application within India.

AI in Advisory Services

By automating routine audit and compliance work, AI is empowering accounting professionals to transition from historical record-keepers to forward-looking strategic advisors.

a. AI-Driven Financial Forecasting and Scenario Modelling

AI moves the conversation from "what happened last quarter?" to "what will happen if we change our strategy?". Traditional financial forecasting is often slow and static.



In contrast, AI models learn from vast amounts of historical financial data and integrate external factors, such as market trends, to produce highly accurate, predictive insights.

AI-powered forecast revolutionizes key areas like cash flow management. If a client is concerned about cash flow, an AI tool can run multiple scenarios, for instance, modelling the impact of changing customer payment terms or adjusting operational expenses, and present the likely outcomes.

While AI delivers the "what," the CA provides the essential "so what" and "what next," specific to the client's unique situation, and builds the trust that technology cannot replicate.

It allows the CA to provide proactive advice on budgeting, investment strategies, and risk assessment. This capability allows CAs to plan future tax outcomes optimally and guide strategic reorganisations.

b. Generative AI for Research and Reports

GenAI now serves as a powerful analyst and research assistant within CA practices. Instead of spending hours manually searching complex documents and regulatory guidelines (such as Ind AS or specific tax provisions), AI platforms can retrieve the necessary information quickly. For instance, in the context of Indian regulatory requirements, AI can assist in analyzing compliance with the Companies Act, 2013, by cross-referencing financial data with statutory obligations.

For CAs in India, a relevant tool is the Institute of Chartered Accountants of India's (ICAI) CA GPT, a generative AI platform tuned to domain-specific knowledge. This system is integrated with the financial and regulatory data of thousands of listed companies. This tool allows CAs to perform complex financial analysis, such as identifying key weaknesses from five years of a company's financials, and delivers answers that are reportedly 40-50% higher in quality compared to general chatbots. This initiative specifically aims to empower small and medium practices (SMPs) by giving them access to advanced AI without heavy investment.

GenAI also speeds up content creation. It can be used to generate initial drafts of management letters, technical memos, or business reports based on a client's data analysis.

As AI is integrated more into business, the role of Chartered Accountants as 'Data Guardians', ensuring data governance, will become increasingly important to organizations. 79% of those surveyed globally agree with this increased importance, positioning the CA to build stronger client relationships through trust and good governance

While AI delivers the "what," the CA provides the essential "so what" and "what next," specific to the client's unique situation, and builds the trust that technology cannot replicate.

AI in Client Communication & Practice Management

AI is also streamlining the internal operations of accounting firms, from client interactions to back-office processing, enabling firms to handle more work with the same resources.





a. Drafting Assistance

Generative AI tools like ChatGPT, Copilot, and Claude act as assistants for accountants, drafting accurate, client-friendly responses to routine questions in minutes. This capability ensures clients receive a prompt reply, speeding up overall communication

b. Proactive Compliance Reminders

AI is configured to automatically send personalized reminders to clients about upcoming filing deadlines (e.g., GST or TDS returns), listing required forms, etc. These demonstrate the CA's dedication to client obligations, all done with minimal human intervention

c. Practice Management

The process of data entry and initial bookkeeping is a massive, time-consuming exercise. AI-powered data entry and Optical Character Recognition (OCR) tools are now essential, as they automatically capture details from structured forms, invoices, and receipts, even when the data is presented as mobile images, and post them directly into accounting software like Tally.

These specialized solutions are advanced enough to understand specific Indian requirements, including banking formats, Goods and Services Tax (GST) codes, and Taxes Deducted at Source (TDS) calculations.

Firms are also using AI for intelligent document management, where AI bots can classify, summarise, and even draft responses to standard mail.

Global participants indicate that enhanced AI integration within existing tools is the single most important factor that would make them use AI more in their day-to-day jobs. For many, AI adoption will be driven by the capabilities embedded within existing accounting software and business intelligence tools

Younger professionals are leading the technological charge: 83% of those aged 18-24 are using AI tools at least once a week. This high frequency of usage correlates with younger participants feeling more prepared for the impact of AI than their older colleagues, thereby positioning them as internal 'teachers' of AI adoption within firms.

Lessons Learned: Pain points, Impact, and Mitigation strategies

AI adoption in any organization is filled with multiple questions and potential challenges. Some of the pain points that are generally discussed are addressed below, along with mitigation strategies:

Pain Points	Impact	Mitigation strategies
1. Governance and Ethical Risks		
Data Privacy & Confidentiality	Sensitive client data (PAN, bank data, board minutes) can be compromised if pasted into unsecured, external AI tools. Concerns over sensitive financial information are voiced by many professionals. C-suite executives, who are key decision-makers, are more likely to increase AI usage only with data security assurances.	Use enterprise or official AI versions and switch off data retention. Establish a "do-not-share/upload" list for staff. Host data on certified servers, maintaining compliance with relevant regulations.
Professional Liability & Ethics	The CA retains ultimate accountability for AI errors. Misuse can lead to loss of trust or complaints.	Treat AI like a "smart article/intern". Always verify numbers, ask for sources, and make a senior review mandatory. Suitably modify the clause in engagement letters if engagement is AI-assisted. Label key outputs "AI-assisted, reviewed by ...".
"Black Box" & Explainability	Complex AI algorithms sometimes generate decisions (like flagging a high-risk transaction) without providing a clear explanation of the rationale. This poses a direct threat to the auditor's ability to meet audit documentation and evidence standards because the auditor cannot explain "why" the model flagged the item. It is important to note that globally, concerns about the reliability of AI technology are not among the top barriers to its adoption. Instead, the focus remains on governance, data security, and skills. This suggests the profession is generally confident in the eventual reliability of the tools, provided appropriate human oversight and explainability protocols are in place	Implementation of Explainable AI (XAI) techniques is essential to document which data inputs influenced a specific outcome, thus supporting validation by human judgment. Generate a simple "AI workpaper" page for every instance. Save the raw data extract, filters used, items flagged, the human's reasoning, and reviewer notes. Helps to ensure compliance with SA 230.

Regulatory Uncertainty and Acceptance	Regulations in India are evolving on whether AI-assisted work will be accepted in professional engagements.	Maintain a conservative stance. AI supports, but humans must conclude. Prepare a "how we used AI" note for future references.
Algorithmic Bias	AI models trained on flawed historical data can be affected by biases, leading to unfair outcomes in risk assessment or reporting.	Implement ethical frameworks and output evaluation mechanisms. Use high-quality, unbiased, and traceable training data.
2. Technical and Implementation Hurdles		
Data Quality and Accuracy Dependence	AI is only as good as the input data. Inconsistent formats (scanned PDFs, WhatsApp photos) and poor data hygiene limit effectiveness. Hallucinations (confident but wrong outputs) erode trust.	Firms may need to spend a reasonable time on cleaning and standardizing data before implementation. Apply controls to ensure data integrity. Human oversight is mandatory to verify numbers and ask for sources.
Integration with Legacy Systems	Data lives in many places and formats, and AI cannot read it cleanly	Start by exporting, cleaning, and consolidating data into one usable table. Begin with cloud-based tools, which often have easier integration pathways.
High Initial Costs and ROI Justification	Licensing costs, infrastructure upgrades, and training expenses create financial stress, particularly for smaller firms. As the AI is still in the early adoption stage, firms are predominantly cautious about making investments in AI, primarily due to a lack of compelling success cases or budgetary constraints. Many professionals cite cost as a barrier.	Begin with two quick wins like drafting emails/memos and document/ledger review. Run a 4-to-6-week pilot, tracking "before/after" metrics (e.g., hours saved).
Files Scattered and Unorganized	AI workflows need organized, shared, and versioned files. Scattered files on laptops or pen drives break evidence trails.	Move workpapers to a Secure shared Document Management System (e.g., OneDrive, SharePoint, Google Drive) with fixed folder names and version control.
3. Operational and Cultural Resistance		
Staff Resistance and Fear of Job Displacement	Staff worry that AI will evolve their roles. Low adoption results when staff fear getting "into trouble".	Communicate clearly that AI is leveraged, designed to enable the staff, not replace them. Celebrate the time saved on tiresome work. Add AI usage and quality to performance appraisals/KPIs.

Lack of AI Skills and Training Needs	ICAI survey found that Lack of Knowledge or Skills is emerging as the most significant barrier to AI adoption. Many CAs lack formal training in AI, data analytics, and prompting skills.	Conduct short and specific training on AI usage within the organization. As per a global survey, training programs must prioritize the skills deemed most critical by the profession: Critical thinking (77% highly important), Privacy & data security (71%), and Client relationship skills (66%), alongside traditional digital literacy and AI ethics. Share a small "approved prompts" list. Mandate training on how to interpret and review AI outputs.
Automation Bias	Professionals tend to over-rely on AI conclusions, thus compromising professional skepticism.	Reframe AI as an entry-level auditor whose work must be verified. Develop an ability to question AI outputs. Ask for the source of information and verify it.

Measurable ROI and Strategic Investment

The decision to invest in AI must be supported by a clear, measurable ROI.

AI facilitates a transition from time-based billing to value-based pricing models. This is achieved by monetizing the insights (e.g., proactive tax risk flags, detailed financial forecasts) rather than the hours saved on data processing, thus justifying the investment to clients and enhancing firm profitability.

The following table illustrates the strategic value proposition by contrasting traditional practices with AI-enabled approaches and their resultant benefits.

AI facilitates a transition from time-based billing to value-based pricing models.

Traditional Model	AI-Enabled Model	Strategic Benefit
Time-based billing	Value-based pricing	Restructured economic model
Manual data processing	AI-automated processing	Hours saved and monetizing insights
Sample-based auditing	Comprehensive data analysis	Significant reduction in audit errors
Linear scalability (staff-dependent)	Exponential scalability (technology-enabled)	Client serving capacity increases without an increase in headcount
Reactive compliance	Proactive compliance monitoring	Reduction in potential non-compliances, including penalties.
Administrative focus	Advisory focus	Building strategic client relationships

Encouragingly, more than half of the respondents in the ICAI survey feel prepared to some extent to adopt more AI solutions in the next 5 years, indicating an openness to further AI integration.

Conclusion

AI is here. It is reshaping our profession. Firms across India are already using AI to automate routine compliance work, data processing, and



repetitive tasks. Those who embrace this change are transforming from data processors into strategic advisors. Ignoring AI is no longer an option.

AI Adoption roadmap: Start smart and scale fast

- Begin with Quick Wins: Launch focused pilots in high-pain/ tedious areas. Choose one area, measure results within 2-3 months.
- Invest in Your Team: Train your staff. They must understand that AI is a tool and not a substitute for professional judgment. Training should prioritize practical skills, ethics, and integration with existing tools
- Scale Based on Results: Once you prove ROI in your pilot, expand systematically.

Non-Negotiables: Be cautious in application.

AI delivers speed, scale, and accuracy that humans cannot match.

However, AI fundamentally lacks:

- Professional judgment in complex, uncertain situations
- Ethical reasoning when standards conflict or are unclear
- Appropriate wisdom that comes from years of experience
- Client relationship insights that drive trust and advisory value

This is why it is "CA with AI," never "AI without CA." Technology shall work under professional oversight. Every AI output requires your verification, interpretation, and professional sign-off. As Swami Vivekananda aptly noted, "You cannot believe in God until you believe in yourself."

Firms across India are already using AI to automate routine compliance work, data processing, and repetitive tasks. Those who embrace this change are transforming from data processors into strategic advisors.

Our profession's future is collaborative, not competitive, with technology. The question is not whether to adopt AI. It is whether you will lead the change or run to catch up.

As Rupert Murdoch aptly said,

"The world is changing very fast. Big will not beat small anymore. It will be the fast beating the slow."



Harnessing the Power of AI: Smart Prompts for Tax Professionals

Artificial Intelligence (AI) has firmly established itself as an essential tool in various industries, particularly in taxation, where accuracy and analysis are paramount. AI platforms such as ChatGPT, Copilot, Claude, and Gemini are revolutionizing the field.

Success with AI is straightforward: the clarity and precision of the inputs determine the quality of the outputs. Tax professionals who master the art of crafting targeted prompts can significantly enhance their efficiency, accuracy, and overall performance. This article empowers tax professionals to effectively harness AI through tailored prompts across critical areas, including research, drafting, compliance, communication, and advisory.

Research and Interpretation of Tax Law

AI can help distill complex provisions, summarize legislative amendments, and even identify judicial trends. A well-framed prompt can guide AI to produce concise, usable interpretations that complement your professional judgment.

Sample prompts:

- "Summarize the key changes introduced in Section 43B by the Finance Act, 2024, and explain their implications for MSMEs."
- "Explain the difference in tax treatment between gifts under Section 56(2)(x) and inheritance under the Income Tax Act."
- "List five recent judicial precedents relating to disallowance under Section 14A and summarize the principle established in each."
- "Prepare a brief note on GST implications for cross-border software-as-a-service (SaaS) transactions."

Tip: Always treat AI as a research assistant—not a legal authority. Verify every interpretation with the statute, circulars, and case law.

Drafting Tax Opinions, Notes, and Explanations

AI tools can structure or polish technical notes, client advisories, or internal memos. They can convert dense tax language into clear, professional communication suitable for diverse audiences.

Sample prompts:

- "Draft a client note explaining the implications of delayed TDS deposit and the associated penal provisions under Section 201."
- "Summarize the applicability of Section 206C(1H) on sale of goods in plain language suitable for client circulation."
- "Rewrite this technical explanation into a simplified version for business owners unfamiliar with tax terminology."
- "Convert this memo into an executive summary for presentation to a CFO."

By specifying tone, length, and audience, professionals can fine-tune the AI's drafting style to align with their firm's communication standards.

**This content has been generated with the help of ChatGPT.*

Compliance Checklists and Process Automation

Tax professionals spend significant time managing deadlines, reconciliations, and procedural requirements. AI can generate customized compliance checklists, saving valuable time and minimizing omissions.

Sample prompts:

- "Prepare a month-wise direct tax compliance calendar for FY 2024–25 for corporate entities."
- "Create a checklist of documents required for GST audit under Section 65."
- "List the statutory forms and their due dates for TDS and TCS returns for FY 2024–25."
- "Design a year-end compliance tracker covering Income Tax, GST, PF, and ESIC filings."

When integrated with AI-enabled spreadsheet tools such as Microsoft Copilot, these checklists can even auto-update and assist in maintaining compliance dashboards.

Client Communication and Engagement

AI can support tax professionals in maintaining consistent and well-articulated client communication—whether through newsletters, explanatory emails, or social media content.

Sample prompts:

- "Draft a professional email to clients reminding them about the due date for filing Form 3CEB."
- "Summarize key highlights from the latest CBDT circular for inclusion in a firm's monthly newsletter."
- "Prepare a LinkedIn post explaining the benefits of opting for the new tax regime for salaried individuals."
- "Write three short client updates on GST amnesty schemes, each in under 150 words."

By automating content generation and tone refinement, AI enables firms to maintain frequent and informative client engagement without additional overhead.

Data Analysis and Tax Modelling

With AI integration into Excel and other analytics tools, professionals can now analyze datasets, identify anomalies, and model tax impacts more efficiently.

Sample prompts:

- "Analyze this TDS payment data and identify inconsistencies or possible errors."
- "Suggest an Excel formula or pivot setup to calculate deferred tax liability."
- "Explain how to automate reconciliation of Form 26AS with general ledger data using AI tools."
- "Create a model to compare total tax liability under the old and new regimes for different income levels."

This capability is particularly useful in internal audit reviews, tax computations, and large-scale reconciliations where manual data handling can be time-consuming.

Agreement Review and Tax Implications

Contracts often carry embedded tax consequences—be it withholding, GST, or cross-border exposure. AI can assist in reviewing and identifying potential red flags.

Sample prompts:

- "Review this consultancy agreement and identify clauses where TDS under Section 194J may apply."
- "Highlight GST-related obligations in this draft vendor contract."
- "Suggest additional clauses to ensure tax compliance in a software licensing agreement."
- "List typical tax exposure points in inter-company service agreements."

Although AI should not replace human legal review, it can speed up preliminary assessments and enhance consistency in internal vetting processes.

Learning, Training, and Upskilling

AI can serve as an interactive learning companion for both students and professionals. It can simplify complex topics, create study materials, and design practice questions.

Sample prompts:

- "Explain the concept of Minimum Alternate Tax (MAT) with an example."
- "Prepare ten multiple-choice questions on the provisions of input tax credit under GST, with explanations."
- "Summarize the difference between accounting income and taxable income for beginners."
- "Create a quick reference table of tax rates applicable to domestic and foreign companies for AY 2025–26."

This can be particularly valuable for firms conducting in-house training or continuous professional education sessions.

Strategic Planning and Advisory

Beyond compliance, AI can aid in brainstorming strategic options, performing comparative analyses, and structuring tax planning ideas.

Sample prompts:

- "Compare the tax implications of operating as an LLP versus a private limited company in India."
- "List tax planning opportunities for an Indian startup expanding operations to Singapore."
- "Analyze potential MAT and DDT implications in a corporate restructuring scenario."
- "Suggest tax optimization strategies for salaried individuals earning above ₹20 lakh under the new regime."

AI's analytical ability can support professionals in preparing discussion notes or scenario models for clients.

Practical Guidelines for Effective Prompting

To make AI truly effective in professional practice, a few guidelines can make a significant difference:

1. Be specific: Clearly mention the section, rule, or context. For example, "under Section 194Q for FY 2024–25" is far more effective than simply "for TDS on purchases."
2. Provide context: State the type of entity, nature of transaction, or assessment year. Context narrows down the AI's scope.
3. Iterate: Use follow-up questions to refine responses. AI improves as you add precision.
4. Request structure: Ask for tabular output, bullet points, or stepwise analysis depending on your need.
5. Validate and verify: AI-generated content should always be corroborated with statutory sources or judicial rulings.

By following these practices, AI can move from being a casual search tool to a structured analytical assistant.

Limitations and Ethical Considerations

While AI is remarkably efficient, professionals must remain cautious of its limitations.

- Accuracy: AI tools do not have direct access to official tax databases and may generate outdated or incorrect interpretations.
- Confidentiality: Sensitive client data should never be uploaded without anonymization.
- Judgment: AI lacks professional discretion and cannot substitute human experience or ethical reasoning.

Hence, AI should be viewed as a complement to professional expertise, not a replacement.

Supreme Court



Keshav B Bhujle
Advocate

Vijay Krishnaswami v. Dy. DIT(Investigation): (2025) 479 ITR 467 (SC): 2025 SCC OnLine SC 1843: Dated 28/08/2025

A. *Offences and prosecution — Wilful attempt to evade tax —Bar on prosecution where penalty imposed or imposable on assessee has been reduced or waived — Requirement of establishing mens rea of assessee — Circular of CBDT and prosecution manual of Department providing for prosecution only in cases where penalty exceeding Rs. 50,000/- imposed by Tribunal — Circular in vogue on date of grant of sanction for prosecution is required to be adhered to by Department while lodging prosecution – On date of initiation of prosecution, on finding of concealment of income or imposition of penalty of more than Rs. 50,000/- recorded by Tribunal – Nothing on record to show wilful attempt by assessee to evade tax – Continuation of prosecution in blatant disregard of binding circulars and in defiance of guidelines of Department Gujarat High Court held that organizing cultural events did not constitute business activity to deny exemption and dismissed the appeal filed by the Department:*

B. *Offences and prosecution — Settlement Commission:— (1) Power of Settlement Commission to grant immunity from penalty and prosecution — Exception from granting immunity where complaint for wilful attempt to evade or pay tax filed before date of receipt of application for settlement; (2) Finding of Settlement Commission conclusive with respect to matters stated therein — Finding of Commission that overall additional income was not on account of suppression of material facts —*

once order is passed, continuation of prosecution an abuse of process of law: Ss. 119, 245H, 245-I, 276C(1) and 279(1A) of ITA, 1961: A.Y. 2017-18:

On April 24, 2016, search u/s. 132 of the Income-tax Act, 1961 was conducted at the residence of the appellant, and unaccounted cash of Rs. 4,93,84,300 was seized. After taking the statement of the appellant u/s. 132(4) of the Act, a show-cause notice was issued on October 31, 2017, as to why prosecution should not be initiated against him.

On contesting the same in the writ petition filed by the appellant, it was dismissed on November 17, 2017, being premature, observing that issuance of a show-cause notice is an administrative act and in the absence of a reply, it cannot be questioned in the writ petition. The said order was challenged in Writ Appeal No. 1617 of 2017, which was dismissed as infructuous vide order dated September 6, 2020, taking into consideration the subsequent developments and the order of the Settlement Commission passed on November 26, 2019. The Division Bench observed that the complaint filed in furtherance to the show-cause notice was not challenged before the learned single judge in a writ petition; therefore, the said issue cannot be looked into in this appeal, leaving it open to be decided in the appropriate proceedings. During pendency, the Principal Director of Income-tax (Investigation), Chennai, exercised power u/s. 279(1) of the Act, and vide order dated June 21, 2018, accorded sanction to the Deputy Director of Income-tax (Investigation), Chennai, to initiate prosecution against the appellant. Thereafter, the respondent-Deputy Director of Income-tax (Investigation), filed a complaint on August 11, 2018, against the appellant for an offence u/s. 276C(1) alleging wilful attempt to evade tax with respect to the A.Y. 2017-2018, and for not filing the correct return of income.

Being aggrieved, the appellant filed the quashing petition u/s. 482 of the Code of Criminal Procedure (in short "CrPC") being Crl. O.P. No. 28763 of 2018, along with Crl. M.P. Nos. 16786 and 16787 of 2018 [Vijay Krishnaswami @ Krishnaswami Vijayakumar v. Dy. DIT (Investigation), (2025) 479 ITR 442 (Mad).] praying for quashing of the complaint and the pending proceedings. Pertinently, the appellant also filed an application u/s. 245C [Application for settlement of cases.] of the Act on December 7, 2018, before the Settlement Commissioner, Additional Bench, Chennai, (in short "Settlement Commission"), disclosing the entire additional income and sought immunity from the levy of penalty as well as prosecution in the matter of alleged evasion of proposed tax. The Settlement Commission in exercise of powers u/s. 245D(4) [Procedure on receipt of an application under section 245C.] of the Act, partly allowed the said application vide order dated November 26, 2019 and granted immunity from levy of penalty, refraining itself from granting immunity from prosecution due to pendency of the quashing petition before the High Court of Madras.

By the order impugned, the High Court dismissed the quashing petition and referred the averments of the complaint, observing that for the A.Y. 2017-2018, the amount seized has not been shown in earnings, which may amount to evasion of proposed tax. The defence put forth by the appellant was that the seized amount was an earning of the A.Y. 2016-2017 and not of the A.Y. 2017-2018 for which a settlement has been arrived at as per the order of the Settlement Commission. The said defence did not find favour on the pretext that it can be taken by the appellant during the trial. It was also observed that the complaint was filed prior and the application before the Settlement Commission was subsequent; therefore, the stand of the appellant indicated that the seized amount was the income of A.Y. 2016-2017 may also be looked into during trial. The question of the competence of the Deputy Director of Income-tax (Investigation) to initiate the prosecution against the appellant u/s. 279(1) of the Act also did not turn in favour of the appellant in the order impugned.

Being aggrieved, the appellant assessee filed an appeal before the Supreme Court.

The Supreme Court framed the following questions of law for consideration:

"(i) Whether continuation of the prosecution initiated by the Revenue under section 276C(1) against the appellant after passing an order by the Settlement Commission, would amount to abuse of process of Court?

(ii) Whether in the facts of the present case, the High Court was justified to dismiss the quashing petition filed by the appellant, and if not, what relief can be granted?"

The Supreme Court allowed the appeal filed by the assessee and held as under:

"i) This Court has unambiguously held that the circulars issued by the Revenue are binding on the authorities, and can tone down the rigour of the statutory provision. Therefore, it can be concluded that the circulars as discussed above are binding on the authorities who are administering the provisions of the Income-tax Act.

ii) After perusal of the provisions of the Income-tax Act, various circulars issued by the Department and also the judgments referred to hereinabove, it can be safely culled out that if an assessee has made suppression of income without disclosing the manner in which the excess amount was earned and concealed the account making wilful attempt to evade the tax which may be imposable and chargeable or payable, he/she is required to be prosecuted. Therefore, the recourse to lodge prosecution was made permissible subject to the Department's circular dated April 24, 2008, which provided for confirmation by the Income-tax Appellate Tribunal in case the penalty imposed u/s. 276C(1) is exceeding Rs. 50,000. It is relevant here to note that the said circular was in vogue on the date of the grant of sanction by the Principal Director of Income-tax (Investigation) to the Deputy Director of Income-tax (Investigation) for lodging the prosecution against the appellant. The said circular has been reaffirmed by the Prosecution Manual, 2009, and the clarification issued by the CBDT in 2019. As such, the circulars discussed above were binding on the authorities and required to be adhered to while lodging the prosecution by the Revenue.

iii) Admittedly, in the present case, the complaint was filed by the Deputy Director of Income-tax (Investigation) after the sanction of the Principal Director of Income-tax (Investigation) before the Additional Chief Metropolitan Magistrate (E.O.II), Egmore, Chennai, on August 11, 2018. Application u/s. 245C was filed by the appellant before the Settlement Commission later. On the date of lodging the prosecution, the finding of concealment of income or imposition of the penalty of more than Rs. 50,000 has not been recorded by the Income-tax Appellate Tribunal. Nothing has been brought on record to show that any wilful attempt to evade the payment of tax by the assessee was made. No explanation has been put forth by the Revenue to demonstrate as to why the Principal Director of Income-tax (Investigation) or the Deputy Director of Income-tax (Investigation) did not comply with the procedure while lodging prosecution in this case. Therefore, in our view, the act of the authority in continuing prosecution is in blatant disregard of their own binding circular dated April 24, 2008 and in defiance of the guidelines of the Department.

iv) A perusal of the order passed by the Settlement Commission u/s. 245D(4) on November 26, 2019, makes it clear that in the settlement proceedings, the assessee has disclosed all the facts material to the computation of his additional income and fully satisfied the provisions of section 245H. The Commission recorded a finding that the overall additional income is not on account of any suppression of any material facts, and it does not disclose

any variance from the manner in which the said income had been earned. As such, the immunity from penalty under the Income-tax Act was granted in exercise of powers u/s. 245H. From a perusal of section 245-I, it is clear that every order of settlement shall be conclusive as to the matters stated therein, and no matter covered by such order shall, save as otherwise provided, be reopened in any proceeding under the Act or under any other law for the time being in force.

v) In view of the foregoing discussions, in conclusion, we can safely hold that the prosecution lodged with the help of the proviso to sub-section (1) of section 245H was in defiance of the circular dated April 24, 2008, which was in vogue. It was the duty of the Principal Director of Income-tax (Investigation) and the Deputy Director of Income-tax (Investigation) to look into the facts that, in the absence of any findings of imposition of penalty due to concealment of fact, the said prosecution cannot be proved against the assessee. It seems, even after passing the order by the Settlement Commission on November 26, 2019, it was brought to the notice of the High Court, but the authorities were persistent in pursuing the prosecution without looking into the procedural lapses on their part. Such an act cannot be construed in the right perspective, and the Revenue has acted in blatant disregard of binding statutory instructions. Such wilful non-compliance with their own directives reflects a serious lapse and undermines the principles of fairness, consistency, and accountability, which, in any manner, cannot be treated to be justified or lawful.

vi) It must also be noted that, in terms of section 245-I, the findings of the Settlement Commission are conclusive with respect to the matters stated therein. Once such an order was passed, it was incumbent upon the authorities to inform the High Court that continuation of the prosecution would amount to an abuse of the process of law, in particular when the Settlement Commission did not record any finding of wilful evasion of tax by the appellant. Even otherwise, it was the duty of the High Court to examine the facts of the case in their right context and assess whether, in the light of the above circumstances, the continuation of the prosecution would serve any meaningful purpose in establishing the alleged guilt. Upon a holistic consideration of the matter, we are of the view that the conduct of the authorities lacks fairness and reasonableness, and the High Court's approach appears to be entirely misdirected, having failed to appreciate the factual and legal position in the right earnest.

vii) In view of the foregoing discussions, we are constrained to allow these appeals, setting aside the order impugned passed by the High Court. It is directed that the prosecution lodged by the Revenue against the appellant shall stand quashed. In the facts and circumstances of the case as discussed hereinabove, we are inclined to impose costs against the Revenue, which is quantified at Rs. 2,00,000 payable to the appellant."

"Manual assessment of data has become obsolete … with artificial intelligence, the process of data-mining, auditing and accounting will continue to face rapid transformation."

— Droupadi Murmu, President of India

High Court



Jitendra Singh
Advocate



Radha Halbe
Advocate



Harsh Shah
Advocate

Pr. CIT v. Ramelex (P) Ltd. [2025] 179 taxmann.com 374 (Bombay)

Unexplained expenditure — disallowance under section 69C of the Income Tax Act 1961 — entire purchases cannot be disallowed by treating them bogus — disallowance should be restricted to profit element embedded in such unverified purchases.

Facts

The assessee before the Hon'ble High Court was engaged in the business of power transmission and distribution. The assessee had filed its return of income for AY 2009–10, declaring income of ₹7.65 crore. The AO had issued a notice under section 148 of the Act based on information received from the DG (Investigation), Pune, alleging "hawala purchases" of ₹2.05 crore by the assessee from 12 parties identified by the Maharashtra Sales Tax Department as bogus bill providers. The assessee, during the course of reassessment proceedings, objected to the reopening of its assessment and also contended that all the purchases made by the assessee are genuine and only one party -M/s Entech Enterprises - had misreported the purchase figure due to a typographical error. The assessee also produced relevant documentary evidence such as bank statements, which show that payment for purchases was made through banking channels. The AO, however, rejected the contentions of the assessee and added the entire purchase amount to the assessee's income. The assessee, being aggrieved by the re-assessment order, challenged the same before the Ld. CIT(A). The assessee before the Ld. CIT(A) explained that its VAT auditor had certified the purchase from Entech at ₹11.63 lakh and not ₹1.16 crore, as erroneously reported. It was further contended that the AO had not identified any defects in purchase invoices or stock records, and that since the sales to state electricity undertakings such as MSETCL and MSEDCL were accepted as genuine, the corresponding purchases should also be accepted as genuine. Further, the addition was made solely on third-party data without granting cross-examination, and therefore, it is in violation of principles of natural justice. Further, at most, only the profit element embedded in such purchases could be added in line with judicial precedents. Ld. CIT(A) restricted the addition to 15% of the reduced purchase

figure (after correcting the Entech error), relying on the Gujarat High Court's ruling in Simit P. Sheth (356 ITR 451). The ITAT upheld this finding, noting that while the purchases could not be fully verified, the acceptance of sales implied that the goods were indeed procured, though perhaps from unregistered sources.

The department being aggrieved by the order passed by the Tribunal, challenged the same before the Hon'ble Gujarat High Court under section 260A of the Act.

Ruling of the High Court

Hon'ble Bombay High Court was pleased to dismiss the appeal filed by the department by observing that the AO had made the addition on account of bogus purchases, relying solely on Sales Tax Department information, alleging hawala transactions. However, as the VAT assessment for the relevant assessment year was pending adjudication and the assessee was not given an opportunity to cross-examine the hawala purchasers, such reliance violated the principles of natural justice. Thus, the action of lower authorities limiting addition to 15 per cent of alleged bogus purchases is justified.



Institute of Actuaries of India v. CIT (Exemption) [2025] 178 Taxmann.com 723 (Bom.)

Exemption — Section 11 of the Income Tax Act 1961 — Denial of exemption for delay in filing Form No. 10BB — Delay due to communication error for verification of audit report — Delay condonable — Assessee is entitled to exemption. [Sec. 10(23C) of the Act]

Facts

The Institute of Actuaries of India, a charitable educational institution, filed its return for AY 2018–19 claiming exemption under sections 11 and 10(23C)(vi). Its audit report in Form 10BB was uploaded within the prescribed time, but verified on the income-tax portal after a delay of 81 days. The AO, however, while processing the return under section 143(1), denied the exemption solely on the ground of delay in filing the audit report. The assessee, being aggrieved, challenged the order of the AO before the Ld. Commissioner of Income Tax (Appeals). The assessee had also filed an application before the Principal Commissioner of Income Tax under section 119(2)(b) of the Act for condonation of delay in filing the audit report. The assessee explained that the delay arose because its Chartered

Accountant failed to advise the authorized signatory to verify the form before the due date. Further, as the Form No. 10BB was otherwise uploaded in time, the lapse in filing the audit report was purely procedural. Since the substantive compliance requirements had been met, the delay in filing the audit report may be condoned, and an exemption may be allowed. However, the Principal Commissioner of Income Tax refused to condone the delay under section 119(2)(b), holding that there was 'negligence' and 'lack of due diligence' on the part of the assessee in filing the Form No. 10BB.

The assessee, being aggrieved by the order of the Principal Commissioner of Income Tax, challenged the same before the Hon'ble Bombay High Court by way of Writ Petition.

Ruling of the High Court

Hon'ble High Court was pleased to allow the writ petition filed by the assessee and condoned the delay in filing the audit report by observing that the delay was a procedural irregularity sufficiently accounted for. It observed that denying exemption to a bona fide charitable organization for a technical lapse would cause undue hardship, and that a CA's inadvertent error could not extinguish the assessee's substantive entitlement to exemption.

Hinduja Foundries Ltd. v. ACIT (Madras High Court, 10 October 2025) [2025] 179 taxmann.com 363 (Mad)

Depreciation — Section 32 of the Income Tax Act 1961 — long term leasehold rights do not confer ownership for the purposes of claiming depreciation — amount paid towards development of infrastructure which facilitated running of business is revenue expenditure.

Facts:

The assessee had entered into a lease deed with SIPCOT, a Tamil Nadu Government undertaking, towards the lease of a plot for 99 years in the industrial park at Sriperumbudur. It paid Rs. 1.8 crore as plot deposit and Rs. 6.2 crore as development charges towards roads, drainage, lighting, and other infrastructure. The assessee claimed depreciation under section 32(1)(ii) on these development charges, on the ground that they constituted an "intangible commercial right." Alternatively, it sought deduction of the expenditure as revenue in nature.

The AO, however, disallowed the claim of the assessee by observing that the amount paid to SIPCOT is only for the purpose of land development and the rights obtained by the assessee are only towards land and therefore, the claim of depreciation is not allowable on the building. The assessee, being aggrieved by the order of the AO, filed an appeal before the Ld.CIT(A). Before the Ld. CIT(A), the assessee raised an alternative ground to allow the amount of Rs. 6.20 crores paid towards the development of infrastructure as revenue expenditure. However, the Ld. CIT(A) dismissed the appeal of the assessee and upheld the order of the AO. The assessee challenged the same before the Appellate Tribunal. The Tribunal also rejected the appeal of the assessee and upheld the view of the lower authorities on the ground that the assessee was only a lessee and not the owner of the infrastructure. Thus, depreciation could not be allowed under section 32(1)(ii). The AO further held that the payment did not create any ownership rights and was capital in nature. The Tribunal had also rejected the alternate claim of the assessee.

The assessee, being aggrieved by the order of the Tribunal, filed an appeal before the Hon'ble Madras High Court under section 260A of the Act.

Ruling of the High Court

Hon'ble Madras High Court has partially allowed the appeal of the assessee by observing that

ownership was a prerequisite for depreciation under section 32 and that a long-term leasehold right did not constitute ownership. Consequently, the claim for depreciation was disallowed. However, the Hon'ble Court has accepted the assessee's alternate plea, observing that expenditure on infrastructure such as roads and drainage was essential for carrying on business operations and did not create an enduring capital asset. Therefore, such expenses are revenue in nature.

Principal Commissioner of Income-tax (Central-2) v. AHCL PEL [2025] 179 taxmann.com 186 (Bombay)

Unexplained money — Section 69A of the Income Tax Act 1961 — flat with direct access to terrace sold at higher rate — the AO making addition under section 69A on the ground that the assessee must have received cash and applying the higher rate to other flats - unjustified. [Section 80IB of the Act]

Facts

The assessee, a real estate developer, had claimed a deduction under section 80-IB(10) in respect of a housing project. During the course of the assessment, the AO alleged that the assessee had not fulfilled the statutory conditions, contending that certain flats exceeded the prescribed 1,000 sq. ft. limit. He also questioned the pricing pattern of three flats in the same building, asserting that two had been sold at significantly lower rates than a third flat, which, according to him, indicated unaccounted "cash" components in the transactions.

On appeal, the Ld. CIT(A) examined the approved building plans and found that each residential unit's built-up area was within the 1,000 sq. ft. ceiling prescribed under section 80-IB(10). The CIT(A) further observed that the higher rate for one particular flat was justified, as it came with exclusive access to a 318 sq. ft. terrace, which naturally enhanced its value. The price differential reflected only a 20% premium for this terrace benefit. On these findings, the Ld. CIT(A) allowed the deduction and also deleted the addition made under section 69A of the Act. The department being aggrieved filed an appeal before the Appellate Tribunal. The Tribunal also upheld the order of the Ld. CIT(A).

The department being aggrieved by the order of the Tribunal, filed an appeal before the Hon'ble Bombay High Court. Before the Bombay High Court, the Revenue reiterated its claim that the assessee had violated the area restriction under section 80-IB(10) and that the significant variation in sale prices between similar flats suggested the use of unaccounted funds and a colourable device to evade tax. It was also argued that the ITAT had ignored seized material and statements recorded under section 131, which allegedly supported the Revenue's position. The assessee defended the Tribunal's decision, pointing out that both appellate authorities had recorded concurrent factual findings confirming compliance with section 80-IB(10). It emphasized that the terrace-attached flat was objectively more valuable, while the other two flats were sold above the stamp duty valuation, leaving no scope to infer cash transactions. The Revenue's allegations, it contended, were purely speculative and unsupported by any direct evidence.

Ruling of the High Court

Hon'ble Bombay High Court was pleased to dismiss the appeal by observing that both the appellate authorities had recorded clear findings, based on the approved plan, that every flat was within the statutory size limit of 1,000 sq. ft., and that the Revenue had produced no contrary evidence. As regards the alleged cash dealings, the Court accepted that the terrace access justified the price differential and observed that mere variation in per-square-foot rates among flats within the same project did not, by itself, imply the existence of a colourable device or unaccounted income. Disagreement over the

appropriate sale rate (Rs. 52,000 versus Rs. 62,000 per sq. ft.) was essentially a valuation matter. Since all flats had been sold at prices exceeding the stamp duty valuation, there was no basis for invoking section 69A (unexplained money).

Cherian Nallathu Abraham Annamma v. ITO [2025] 179 taxmann.com 433 (Bombay)

Reassessment — time limit for notice — Notice issued under section 148 of the Act for AY 2015-16 on 05.04.2022 is barred by limitation.

Facts

The assessee was served with a notice dated 05.04.2022 under section 148 of the Act to reopen the assessment for AY 2015-16. Pursuant to the said notice, the Assessment Order has been passed by making various additions and disallowances, and also raised a huge demand.

The assessee challenged the notice issued under section 148 of the Act before the Hon'ble Bombay High Court under Article 226 of the Constitution of India. Before the Hon'ble High Court, the assessee contended that the notice issued under section 148 on 05.04.2022 is barred by limitation and without jurisdiction in view of the concession made by the revenue before the Hon'ble Supreme Court in the case of *Union of India v. Rajeev Bansal* [2024] 469 ITR 46 (SC).

Ruling of the High Court

Hon'ble Bombay High Court was pleased to allow the writ petition and held that the revenue has categorically made a concession before the Hon'ble Supreme Court in the case of Rajeev Bansal (Supra) that for the assessment year 2015-16, they would drop all notices issued under section 148 after 01.04.2021. Once this is the position, it is appropriate that the notice under section 148 dated 05.04.2022, and the consequential assessment order, notice of demand, penalty notices/orders, as well as the recovery notices, be quashed and set aside.



TRIBUNAL



CA Nikhil Mutha



CA Viraj Mehta



CA Kinjal Bhuta
Advocate

Shri Bhagwandas Ramdasji Charitable & Religious Trust v. ITO [ITA No. 4451/MUM/2025 dated 30/09/2025] [AY 2020-21] [Mumbai ITAT]

Section 11 — Delay of 6 Days in filing Form 10B — Appellate Authorities have power to condone the delay - Exemption cannot be denied

Facts of the Case

The assessee, a charitable and religious trust registered under Section 12A of the Income-tax Act, 1961 ('the Act'), is engaged in educational and medical relief activities. For AY 2020-21, it filed a return of income on 01/02/2021 declaring 'Nil' income and uploaded the audit report in Form 10B on 22/01/2021, with a delay of 6 days from the due date of 15/01/2021.

The CPC, Bengaluru, while processing the return under Section 143(1) of the Act, denied exemption under Section 11 of the Act solely due to the delay in filing Form 10B and computed the taxable income of INR 52,29,359. On appeal, the Commissioner of Income-tax (Appeals) [CIT(A)] upheld the CPC's decision, holding that in terms of the CBDT Circular No. 06/2020 dated 19/02/2020, the power to condone such delay rested only with the Hon'ble Commissioner of Income-tax (Exemptions) and not with the appellate authority. The appeal was accordingly dismissed. Aggrieved, the assessee filed an appeal before the Hon'ble ITAT.

Held

The Hon'ble Mumbai ITAT observed that the CBDT Circular No. 06/2020 is only ancillary to the powers of the appellate authorities and does not restrict them from condoning delay in filing statutory forms. The Hon'ble ITAT relied on the decision of the Hon'ble Gujarat High Court in the case of *Association of Indian Panelboard Manufacturers v. DCIT* [Tax Appeal No. 655/2022], holding that circulars issued under Section 119(2)(b) provide an additional administrative remedy to the assessee for seeking condonation of delay, but they do not restrict the statutory appellate powers vested in the Commissioner (Appeals) or the Tribunal to grant such relief in deserving cases.

The Hon'ble Mumbai ITAT further observes that in the case of *Sarvodaya Charitable Trust v. ITO (Exemption)* [(2021) 125 taxmann.com 75 (Guj.)], it has been held that the requirement of furnishing

the audit report in Form 10B is procedural in nature and that the exemption should not be denied merely on account of delay. The Hon'ble ITAT further relied on the decision of Hon'ble Gujarat High Court in the case of *CIT (Exemption) v. Laxminarayandev Shikshan Seva Kendra* [(2024) 167 taxmann.com 548 (Guj.) (10.09.2024)] and on the decision of Hon'ble Bombay High court in the case of *Mirae Audit Foundation v. Pr. CIT-6,* Mumbai (Bom. HC), wherein the Hon'ble Bombay High Court held that filing Form 10B before completion of assessment satisfies the statutory condition and where a delay of 246 days was condoned, recognizing that denial of exemption would cause genuine hardship.

Applying these principles, the Hon'ble Mumbai ITAT held that the delay of six days in filing Form 10B was procedural and condonable, and the assessee was entitled to exemption under Section 11 of the Act. The Assessing Officer was directed to treat Form 10B as valid and recompute income accordingly.

Brahm Precision Materials Pvt. Ltd. v. CIT [ITA No. 1183/PUN/2023 & ITA No. 425/PUN/2025 dated 13.10.2025 [AYs 2018-19 & 2020-21] [Pune ITAT]

Section 28 — Write-off of foreign investment in Wholly Owned Subsidiary — Held, as deductible business loss

Facts of the Case

The assessee, Brahm Precision Materials Pvt. Ltd., engaged in the business of manufacturing aluminium die-casting components for the automobile and aerospace sectors, had incorporated a wholly owned subsidiary (WOS) in the USA, Brahm Corporation, Indiana, USA (BC-USA), with the object of expanding its business overseas. The WOS subsequently acquired 80% equity in Littler Diecast Corporation (LDC-USA) to facilitate market expansion and exports to the US and European markets.

During FYs 2014-15 to 2017-18, the assessee invested approximately INR 53.60 crores in BC-USA. However, due to business losses and financial default, LDC-USA filed for bankruptcy, and litigation ensued in the US courts. In view of these developments, the assessee wrote off INR 97.61 lakh in AY 2018-19 as a loss arising from the foreign investment and claimed it as a business loss. A similar claim of INR 9.56 crore was made in AY 2020-21.

The assessing officer held that the foreign investment written off represented a capital loss, not allowable as a business deduction. The CIT(A) upheld the addition. The assessee appealed to the Hon'ble ITAT.

Held

The Hon'ble Pune ITAT made the following observations on facts in its order:

(a) The investment in BC-USA and the subsequent acquisition of LDC-USA were made solely for commercial expediency to expand the assessee's export business and establish a manufacturing and marketing base overseas.

(b) The assessee had derived export income and service charges from LDC-USA and BC-USA in earlier years, evidencing that the investment was integral to the assessee's business operations and not intended for earning dividend or appreciation in capital value.

The Hon'ble ITAT relied on judicial precedents, including *CIT v. Colgate Palmolive (India) Ltd.* [(2015) 59 taxmann.com 139 (Bom)], *Ace Designers Ltd. v. ACIT* [(2020) 120 taxmann.com 321 (Kar)], and *CIT v. U.P. Rajkiya Nirman Nigam Ltd.* [(2013) 36 taxmann.com 96 (All)].

Applying the ratio laid down in the aforesaid decisions, the Hon'ble ITAT held that the loss on write-off of investment in the wholly owned subsidiary BC-USA was revenue in nature and allowable as a business loss.

Krishnamoorthy Vijayaraghavan v. Income-tax Officer (ITO) [ITA No:1976/Chny/2025] [AY:2010-11] [Chennai ITAT]

Section 54 — Capital Gains exemption — Purchase of new house — within the period of three years — no deposit in CGAS — claim deduction u/s Section 54 allowed

Facts of the case

The assessee had sold a residential house and purchased a new one within the period of three years from the date on which the transfer/ sale took place, and entered into a construction agreement for one residential apartment house in India. The assessee had not filed a return u/s 139(1) of the Act. The assessing officer denied the benefit of deduction u/s 54 for the reason that the assessee had not deposited the unutilised portion of the sale consideration of the original asset in the Capital Gain Account Scheme (CGAS) before the due date of filing the return under Section 139(1) of the Act. The CIT(A) sustained the denial of exemption u/s. 54 of the Act. The CIT(A) also observed that the assessee has not provided proof of utilisation of sale proceeds within three years from the date of sale.

Held

The prayer of the assessee before the Hon'ble ITAT was that the sale proceeds are invested in the new property within a period of three years, and therefore, substantial compliance is made. Exemption u/s.54 should not be denied merely because of a technical lapse. The Hon'ble ITAT relied upon the decision in case of *Venkata Dilip Kumar v. CIT* [2019], where the Hon'ble Madras High Court had held that non-deposit of unutilized sale consideration of the old asset before filing of return under section 139(1) in the capital gain account the Hon'ble ITAT held that non-deposit of sale consideration before filing of return u/s.139(1) of the Act in the capital gains account scheme is not fatal and deduction u/s.54F of the Act cannot be denied solely for the said reason. Since, in this case, the assessee had made an investment/utilized the sale proceeds of the original asset in the purchase of a new asset within the stipulated period, i.e, three years from the date of sale of the original asset, the assessee is entitled to claim a deduction under section 54.

Rajesh Kumar Sharma v. CIT(A)/ NFAC, Delhi [ITA No. 1785/ Del/2025] [AY 2016-17] [Delhi ITAT]

Section 56(2)(vii) — leasehold rights — different between stamp duty value and sale consideration — view which favours the assessee was adopted

Facts of the case

The assessee's appeal for Assessment Year 2016-17, arises against the Order of CIT(A)/ NFAC pursuant to proceedings u/s 147 of the Act, wherein the sole substantive issue was regarding the additional amount representing the difference between the actual purchase price and the stamp valuation of the assessee's residential flat purchased in the relevant previous year. The asset which was acquired in this case was leashold rights.

Held

It was observed by the Hon'ble ITAT that, the CIT(A)/NFAC has extracted the corresponding sale/purchase deed executed between the parties in the relevant previous year involving "lease rights" than the prescribed capital asset(s) of "land and building" as per Explanation (d)(i) of section 56(2)(vii) of the Act. It was held that the Revenue could hardly dispute that the impugned statutory provision also applies to a leasehold right which is applicable as per section 50C only in case of a specified asset which is land

and building. The Revenue had relied upon the case of *Vidarbha Veneere Industries Ltd. v. ITO* (2025) 174 taxmann.com 223 (Bom.), where the Hon'ble High Court had held that a statutory provision could be invoked in the sale/transfer of lease rights as well. Whereas the assessee relied upon the decision in the case of *V.S. Chandrashekar v. ACIT* (129 taxmann.com 273), where the Hon'ble Kar High Court has decided the very issue in favour of the assesssee. It was held that in the absence of any guidance from the Hon'ble Jurisdictional High Court on this issue, reliance was placed on the case of *CIT v. Vegetable Products Ltd.* (1973) 88 ITR 192 (SC) which held that in such an instance of conflicting non-jurisdictional High Courts' decisions, a view which favours the assessee ought to be adopted. Accordingly, the addition under section 56(2)(vii) was deleted.

DCIT v. Shah and Parikh [ITA No. 2624/MUM/2023 dated 01/10/2025] [AY 2013-14] [Mumbai ITAT] [TM]

Section 254 — De novo adjudication cannot be directed merely for re-verification when identical issues on materially the same facts have been conclusively decided in earlier years

Facts of the Case

The assessee, a resident partnership firm, is engaged in executing civil contract work for Government and Semi-Government organizations. A search and seizure operation under section 132(1) of the Income-tax Act, 1961 (the Act) was conducted on 06/11/2019. Based on information gathered, proceedings under section 153A of the Act were initiated for six preceding assessment years, i.e., Assessment Years (A.Ys.) 2014-15 to 2019-20. For A.Y. 2013-14, assessment was reopened under section 147 of the Act based on data collected during the search.

The Assessing Officer (AO) treated unsecured loans of INR 1,15,00,000 and interest of INR 57,74,334 as bogus under section 68 of the Act. Purchases of INR 11,61,286 and labour/job work charges of INR 5,33,426 were disallowed under section 37(1) of the Act.

The assessee filed an appeal before the CIT(A), submitting extensive evidence to prove the genuineness of loans, purchases, and expenses. The CIT(A) noted that identical issues had already been examined in detail for A.Ys. 2014-15 to 2020-21. Following the predecessor CIT(A)'s consolidated findings in the earlier Order dated 08/07/2022, the CIT(A) accepted the genuineness of loans, purchases, and expenses. A transaction of interest paid, not previously covered, was also examined and accepted. Consequently, all additions were deleted. The revenue filed an appeal before the Hon'ble ITAT.

Held

The Hon'ble Judicial Member opined that the matters should be remanded to the CIT(A) for de novo consideration, as the CIT(A) did not independently evaluate the evidence and merely followed the predecessor's order for subsequent years (AY 2014-15 to AY 2019-20). The principle of res judicata was noted as inapplicable in income tax proceedings.

The Hon'ble Accountant Member had a contrary view. He observed that the First Appellate Authority has not merely followed the decision of his predecessor rendered in the assessee's case without proper application of mind or examination of evidence. He observed, even the A.O. had not raised any ground alleging violation of Rule 46A of the Income Tax Rules.

The Hon'ble TM observed that there cannot be two opinions on the observations of learned Judicial Member that the theory of res judicata does not apply to income tax proceedings and the rule of consistency ipso facto does not permit lower authorities to decide the issues simply relying on earlier orders as the facts of each assessment year has to be considered in

light of the evidences furnished by the assessee. However, it is equally true that the rule of consistency has to be followed on account of parity of facts. If facts relating to a particular issue permeating through different assessment years are identical, then consistency has to be maintained. This is simply for the reason that an issue already settled should not be disturbed. Otherwise, it will lead to chaos in the justice delivery system. The Hon'ble TM further observed that restoration of issues to the original authority, rather than helping in the resolution of disputes, leads to multiple rounds of litigation, thereby causing harassment and financial loss to the parties, and hence, should be avoided at all costs, unless there are compelling circumstances for restoration of the issues to the original forum. Thus, it was held that the CIT(A) was justified in partly allowing the appeal of the assessee, and the Division Bench was directed to pass a confirmatory order as per the majority view.

Hi-Tech Engineers v. Assistant Commissioner of Income Tax Central Circle 5(1), Mumbai [ITA Nos. 3166/3165 /Mum/2025] [AY 2018-19 and 2019-20] [Mumbai Tribunal]

Section 270A — penalty levied on bogus purchases — specific limb for invocation of penalty required- absence of the same in order — penalty not leviable

Facts of the case

The assessments in this case were framed u/s. 153A of the Income Tax Act, 1961 pursuant to a search and seizure action. The assessee has purchased goods from six parties and the same was considered as bogus purchases and addition was made u/s. 69C. The Assessing Officer initiated penalty proceedings u/s. 270A for misreporting of income. Before the CIT(A), the bogus purchase addition was reduced from 100% to 5% for four parties out of 6. Both the parties had filed appeal before the Hon'ble ITAT. The Hon'ble ITAT confirmed addition of 5% however not on the reasonings of CIT(A). The Assessing Officer in penalty proceedings confirmed penalty of 200% on the additions treating it as underreporting in consequence of mis reporting. The CIT(A) confirmed the penalty so levied.

Held

During the course of hearing it was contended on behalf of the assessee that (a) the Assessee had furnished on relevant documents and details in relation to purchase; (b) the Assessing Officer had failed to carry out any independent inquiry to show that the purchases were bogus and had merely relied upon the report of the Investigation Wing; (c) The additions were made on estimate basis; (d) The Assessing Officer had not specified the limb of Section 270A(2)/(9) of the Act under which the penalty was levied.

The Hon'ble ITAT observed that, in the quantum proceedings, the ITAT had restricted addition to 5% while not approving of reasonings arrived by CIT(A) and therefore, the AOs claim that assessee had failed to provide any supporting documents or explanation regarding genuineness of the purchases under consideration cannot be accepted. Further, it was held that, while passing the penalty order under Section 270A(1) read with Section 270A(8) of the Act, the Assessing Officer is required to specify the specific limb of Section 270A(9) of the Act under which the appellant was held to have misreported its income leading to under-reporting of income. The invocation of specific limb of Section 270A(9)(a) to 270A(9)(g) of the Act should either be apparent from the express provisions stated in the penalty order or should be unambiguously discernible from the reading of the penalty order as a whole and in absence of the same penalty levied under Section 270A of the Act cannot be sustained.

Case Law Update



Dr. (CA) Sunil Moti Lala
Advocate

PERMANENT ESTABLISHMENT

DCIT v. Hyundai Heavy Industries Ltd -(2025) 179 taxmann.com 438 (DDN-TRIB)

Liaison office of a Korean company – Not PE (India-Korea DTAA)

The assessee, a Korean company, had a Liaison Office (LO) in India, which the AO treated as a PE on the alleged ground that the said office accepted orders and executed work on behalf of the Korean company. The Hon'ble Tribunal following the decision of Hon'ble High Court in assessee's own case, held that it was to be concluded that the said LO was not a PE in India and, thus, income of assessee, arising outside India, could not be attributed to the said LO [Director of Income tax, (IT) v. Hyundai Heavy Industries [IT Appeal No. 30 of 2011, dated 14-3-2019] followed]

Note: Also see case no 1 under INTEREST & case no 2 under FEES FOR TECHNICAL SERVICES

Factive Ltd V. ACIT, IT – (2025) 178 taxmann.com 419 (MUM-TRIB)

Distributor (ICO) of a UK Co (assessee) - Not DAPE - In the absence of a) authority to enter into a contract on behalf of the UK Co or b) habitually securing orders in India almost wholly for the UK Co (India - UK DTAA)

The assessee, a U.K. resident, entered into a distribution agreement with an Indian entity, which was appointed as a Distributor of the assessee's products in India. The Hon'ble Tribunal held that since AO had failed to demonstrate that said entity had authority to enter into a contract on

behalf of assessee or that the Indian Distributor kept stocks of goods and merchandise and sales on behalf of assessee, or that it habitually secured orders in India almost wholly for assessee, the said distributor did not constitute a DAPE of assessee in India

Note: Also see case no 2 under ROYALTY

Appdynamics International Ltd v. ACIT, IT - (2025) 178 taxmann.com 730 (MUM-TRIB)

Indian affiliate of a UK company providing marketing and sales support for the sale of off-the-shelf software to Indian customers - NOT DAPE - Since it did not negotiate or conclude contracts, maintain stock, or deliver software, and was also remunerated at arm's length. (India-UK DTAA)

The AO treated the Indian affiliate of a UK company, which provided marketing and sales support for off-the-shelf software sold to Indian customers, as a Dependent Agent Permanent Establishment (DAPE) and attributed 75 per cent of offshore profits to such PE. The Hon'ble Tribunal held that since the Indian affiliate merely identified leads and did not negotiate or conclude contracts, maintain stock, or deliver software, and was remunerated at arm's length for independent support services, no DAPE existed and profit attribution was unjustified.

BUSINESS PROFIT

Warner Bros Distributing Inc – (2025) 179 taxmann.com 372 (MUM-TRIB)

No further attribution of profits to the alleged DAPE in India when the transactions are at arm's length (India – USA DTAA)

Assessee, a tax resident of the USA, was engaged in the distribution of films from the USA, produced either by itself or produced by other third parties. It entered into an agreement with Warner Bros. India, granting exclusive rights to distribute cinematographic films pursuant to which it received distribution revenue therefrom. It is submitted that Warner Bros. India was not authorised to act nor was it acting on behalf of the assessee in any manner, and all acts done by Warner Bros. India, pursuant to the aforesaid agreement, were in their own capacity. However, the AO held that the Indian entity performed core functions related to the distribution of films in India on behalf of the assessee and constituted a DAPE of the assessee as per provisions of article 5(4), and accordingly, profits attributable to activities of DAPE would be subject to taxation in India under head "Business Profits". The Hon'ble Tribunal held that though the Indian entity had authority to conclude contracts, which it had habitually exercised over the years, however, in order to constitute a DAPE under article 5(4), it was imperative that such authority should be exercised either 'on behalf of' or 'for' a foreign enterprise. Since the AO failed to examine whether the contract entered into by Warner Bros. India with a third party in India was on behalf of the assessee and also failed to examine the conduct of the parties for entering into such an agreement, the issue of the existence of DAPE could not be conclusively decided. The Hon'ble Tribunal further concluded that once the transaction between Warner Bros. India and the assessee had been found to be at arm's length price, there was no further need to attribute

profits. [***CIT (International Taxation) v. Taj TV Ltd. [2020] 115 taxmann.com 305/277 Taxman 75/425 ITR 141 (Bombay), DIT (International Taxation) v. Morgan Stanley & Co. [2007] 162 Taxman 165/292 ITR 416 (SC) Followed.***]

NOTE: Also see case no 2 under INTEREST and case no 3 under Royalty

Food & Inns Ltd v. DCIT-(2025) 179 taxmann.com 156 (MUM-TRIB)

Commission paid by ICO to non-resident agents in the UK, Australia, Netherlands, France, UAE, Hong Kong & Germany - Business income accruing outside India -Not chargeable to tax in India

The assessee-company paid commission to non-resident agents located in UK, Australia, the Netherlands, France, the UAE, Hong Kong and Germany for canvassing orders and facilitating export transactions and incurred warehousing charges in Europe for storing its finished goods before distribution to foreign buyers. The Hon'ble Tribunal held that both categories of payments were in nature of business income accruing outside India and, once, payments were not chargeable to tax in India, obligation under section 195 did not arise and, thus, disallowance under section 40(a)(i) could not be sustained

SHIPPING & AIR TRANSPORT (ARTICLE 8)

Turkish Airlines Inc v. ACIT, IT – (2025) 179 taxmann.com 266 (CHENNAI-TRIB)

Income derived by Turkish airline co from delivery order charges – Not taxable in India under Article 8 (India-Turkey DTAA)

The assessee, a non-resident airline company, was engaged in operations of aircraft in international traffic. It had revenue representing its delivery order (D.O.) charges in the cargo transportation business - AO held that delivery order charges were not includible in profits of the assessee airline from operation of aircraft in international traffic and were thus taxable in India. The Hon'ble Tribunal held that since delivery order charges received by the assessee were directly connected with its air cargo business activities, the same would not be taxable in India, being assessable in the relevant contracting state, i.e. Republic of Turkey, as per the DTAA. [***Turkish Airlines Inc. v. ACIT, International Taxation [IT Appeal No. 3776 (Delhi) of 2023, dated 26-3-2025] followed***]

Tata NYK Shipping Pte Ltd v. DCIT, IT-(2025) 179 taxmann.com 58 (DEL-TRIB)

Fees charged by Singaporean shipping company for transportation of goods are receipts from shipping business - Not taxable in India under Article 8 - Not in the nature of royalty (India – Singapore DTAA)

The assessee-company, incorporated in Singapore, was engaged in the business of owning, operating, and chartering of ships to carry dry bulk and break-bulk cargo. It received a certain amount from India and offered the same to tax under section 44B, stating it to be receipts from coastal shipping. In respect of the rest of the amount, the assessee claimed that the same was exempt under Article 8 of the India-Singapore DTAA. However, the AO treated the entire amount

as royalty, taxable in India at a rate of 10 per cent. Following its order in the assessee's own case for earlier assessment years, the Hon'ble Tribunal held that since invoices raised by assessee demonstrated that assessee charged fee for transportation of goods and not towards leasing of vessels, receipts from shipping business could not be treated royalty [***Tata NYK Shipping Pte. Ltd. v. CIT, International Taxation [2023] 155 taxmann.com 345 (Delhi - Trib.), Tata NYK Shipping Pte Ltd. v. Dy. CIT [2023] 152 taxmann.com 440 (Delhi - Trib.) and CIT v. Tata NYK Shipping Pte. Ltd. [IT Appeal No. 148 of 2024, dated 18-3-2024] followed]***

DCIT (IT) v. Delta Airlines - (2025) 178 taxmann.com 589 (MUM-TRIB)

Income earned by a US airline from transportation of passengers and cargo in international traffic, even by using 3rd party airlines - Not taxable in India under Article 8 (India – USA DTAA)

Assessee, a US-based airline company, was engaged in the business of operating aircraft in international traffic. It had obtained approval from DGCA to undertake scheduled air services in India on routes specified under the India-US Air Transport Agreement (ATA). It established a branch office in India, with the approval of the RBI, to undertake activities related to the booking of air passenger tickets and air freight in India. It earned income from the operation of aircraft in international traffic through the assessee's own aircraft as well as through a combination of the assessee's aircraft and third-party aircraft. AO denied the claim of the assessee towards exemption under Article 8 of the India-USA DTAA in respect of income from transportation involving third-party carriers, pursuant to a code-sharing arrangement. The Hon'ble Tribunal held that transportation of passengers and cargo through a third-party carrier was covered within the ambit of the word 'charterer' and transportation under code-sharing was on a principal-to-principal basis and fell within the ambit of 'operation of aircraft' in international traffic. Therefore, income earned by the assessee from the transportation of passengers under a code-sharing arrangement was to be treated as income from 'operation of aircraft' in international traffic within the meaning of Article 8 of the India-US DTAA. Consequently, the impugned addition made by the AO was deleted. ***[Delta Air Lines, Inc. v. ACIT (It) [2024] 169 taxmann.com 8 (Mumbai - Trib.) followed]***

Avana FZCO Inc v. DCIT, IT - (2025) 179 taxmann.com 145 (MUM-TRIB)

Benefit of Article 8 extends to even freight receipts from feeder vessels (India – UAE DTAA)

The assessee, a UAE-based company engaged in the operation of ships in international traffic, earned freight income and other charges from multiple ports in India. The Hon'ble Tribunal held that the benefit of Article 8 of India-UAE DTAA was to be extended to the entire freight receipts irrespective of whether earnings were relating to feeder vessels or by ships in international traffic. ***[Avana Global FZCO v. Dy. CIT (International Taxation) [2021] 130 taxmann.com 481 (Mum-Trib.) followed]***

Avana FZCO Inc v. DCIT, IT- (2025) 179 taxmann.com 145 (MUM-TRIB)

Inland Haulage charges (IHC) earned by UAE shipping co - Eligible for benefit of Article 8 - Not taxable in India

The assessee, a UAE-based company, engaged in the operation of ships in international traffic,

earned freight income, including Inland Haulage Charges (IHC). The Hon'ble Tribunal held that since IHC were inextricably linked to operation of ships in international traffic, same could not be disintegrated from profit derived from shipping business as envisaged under article 8 of the India-UAE DTAA and was thus not taxable as business profit in India. ***[Avana Global FZCO v. Dy. CIT (International Taxation) [2022] 142 taxmann.com 386 (Mum-Trib.) followed]***

Sky High LXXIX Leasing Co Ltd v. DCIT, IT - (2025) 179 taxmann.com 264 (MUM-TRIB)

Lease rentals earned by an Irish company from leasing aircraft to Indian airlines on dry lease basis- Not Taxable in India under Article 8 - Denial of treaty benefits by applying MLI provisions in the absence of any notification under section 90(1) - Unjustified

The assessee, an Irish company, engaged in aircraft leasing activity, leased aircraft to Indian Airlines on a dry-lease basis, and earned rental income from the same. It filed a return declaring nil income on the ground that, as per Article 8 of the DTAA, lease rental received by the assessee was not taxable in India. AO held that lease rentals were taxable in India for the reason that the assessee failed to prove the Principal Purpose Test (PPT) as per articles 6 and 7 of the Multilateral Convention to implement tax treaty-related Measures to prevent Base Erosion and Profit Shifting (MLI). Accordingly, he treated the impugned income as royalty to be taxable under section 9(1)(vi) and made an addition accordingly. Following its earlier order, the Hon'ble Tribunal held that (i) Articles 6 and 7 of MLI could not be enforced against assessee in absence of a separate section 90(1) notification, (ii) PPT is a general anti-abuse rule to be invoked only as a last resort and only when dominant purpose of arrangement was tax avoidance, (iii) lease agreement was an operating lease and not finance lease, and (iv) no PE existed for assessee in India under Article 5 of India-Ireland DTAA. It thus concluded that aircraft lease rentals received by the assessee were not taxable in India. ***[Sky High Appeal XLIII Leasing Company Ltd. v. ACIT (IT) [2025] 177 taxmann.com 579 (Mumbai - Trib.) followed]***

Sky High LXXIX Leasing Co Ltd v. DCIT, IT- (2025) 179 taxmann.com 264 (MUM-TRIB)

Penal Interest for delay in receipt of lease rentals by lessee (Indian airline co) in respect of aircraft leased to it by Irish co (engaged in aircraft leasing) - Not Taxable under Article 8 (India - Ireland DTAA)

The assessee, an Irish tax resident, engaged in aircraft leasing activity, received a certain amount as penal interest for the delay in payment of lease rentals by the lessee. The Hon'ble Tribunal held that since penal interest was charged for the delayed payment of lease rental by the lessee, it was an integral part of lease income which was not taxable in India under Article 8, and thus, the impugned penal interest was also not taxable in India.

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> ***— Neil Sahota***
> *IBM Master Inventor, UN AI Advisor*

INTEREST

DCIT v. Hyundai Heavy Industries Ltd - (2025) 179 taxmann.com 438 (DDN-TRIB)

Interest on delayed payments from AE governed by applicable rate under Article 12 -In the absence of a PE, exclusion under Article 12(6), Not Applicable (India - Korea DTAA)

The assessee received interest income from its associated enterprise on delayed payments. The Hon'ble Tribunal held that said income arising out of a "debt claim" was governed by Article 12 of India-Korea DTAA and the applicable DTAA rate therein, and since the assessee had no PE in India, exclusion under Article 12(6) did not apply.

Note: Also see case no 1 under PERMANENT ESTABLISHMENT & case no 2 under FEES FOR TECHNICAL SERVICES

Warner Bros Distributing Inc – (2025) 179 taxmann.com 372 (MUM-TRIB)

Interest on income tax refund-taxable at 15% as per Article 11(2) (India – USA DTAA)

The Hon'ble Tribunal held that interest received on income-tax refund is taxable at 15 % as per Article 11(2) of the DTAA and not as business profits attributable to a permanent establishment under Article 11(5). ***[ADIT (International Taxation) v. Warner Brothers Pictures Inc. [2012] 17 taxmann.com 171 (Mum) and Bechtel International Inc. v. ADIT [2013] 21 ITR(T) 404 (Mum.) followed]***

NOTE: Also see case no 1 under BUSINESS PROFIT and case no 3 under Royalty

ROYALTY

Inmarsat Solutions BV v. ACIT(IT) – (2025) 179 taxmann.com 160 (DEL-TRIB)

Amount received by a Netherlands-based company for transmission of satellite signals from a ship to customers in India and vice versa - Not Royalty (India-Netherlands DTAA)

The Hon'ble Tribunal held that income earned by assessee, a tax resident of Netherlands, from transmitting satellite signals from ship to customers in India and vice versa, without having a Permanent Establishment (PE) in India, was not taxable as 'royalty' under section 9(1)(vi) or under article 12 of India-Netherlands DTAA ***[Inmarsat Solutions BV v. Asstt. CIT, International Taxation [2025] 174 taxmann.com 501 (Delhi - Trib.) followed]***

Factive Ltd v. ACIT, IT - (2025) 178 taxmann.com 419 (MUM-TRIB)

Payments for use of database - Not Royalty u/s 9(1)(vii) & Article 13(2) (INDIA- UK DTAA)

The assessee, a UK company, provided global information products to Indian distributor and third party, with agreements and receipts identical to earlier years. The Hon'ble Tribunal had previously held that such payments were

for the use of a database and not royalty under section 9(1)(vi) or Article 13(2) of India-UK DTAA. Following that view, receipts were held to be not taxable in India as royalty.

Note: Also see case no. 2 under PERMANENT ESTABLISHMENT

Warner Bros Distributing Inc – (2025) 179 taxmann.com 372 (MUM-TRIB)

Assessee, a US tax resident, engaged in the business of distribution of films, received distribution revenues from its Indian affiliate, which was characterised as Royalty payments. However, it claimed that said receipts were not taxable in India as 'royalty' under section 9(1)(vi) and Article 12 of India–USA DTAA. Following its own order in the assessee's own case for earlier year, the Hon'ble Tribunal held that definition of royalty under section 9(1)(vi) Explanation 2(v) excludes payment received with reference to sale, distribution and exhibition of cinematographic films and, thus, amount received by assessee could not be considered as royalty within meaning of Indian Income-tax Act or under the DTAA. ***[ADIT (IT) v. Warner Brothers Pictures Inc. [2012] 17 taxmann.com 171(Mumbai), and Bechtel International Inc. v. ADIT [2013] 21 ITR(T) 404 (Mum.) followed]***

NOTE: Also see case no 1 under Business Profits & case no 2 under INTEREST

ACIT(IT) v. BCD Travel Services BV –(2025) 179 taxmann.com 146 (MUM-TRIB)

Support service fee received by Netherlands company for rendering global network related services such as account management, marketing, etc - NOT ROYALTY under the Act

The assessee, a Netherlands-based company, rendered global network-related services such as account management, marketing, procurement, coordination, and administrative facilitating services, etc. to its Indian subsidiary. The Hon'ble Tribunal held that since nature of services rendered by assessee under agreement were in the field of finance, account management and human resource which were not in relation to transfer of all or any rights, imparting of any information concerning working of, or use of, a patent, invention, model, design, use of any patent, invention, model, etc. as contained in sub-clauses (i) to (iv), (iva) and (v) of Explanation 2 of section 9(1)(vi), the said support service fee received by assessee did not qualify to be royalty under the Act.

FEES FOR TECHNICAL SERVICES

Cochin International Airport Ltd v. DCIT - (2025) 178 taxmann.com 734 (COCHIN -TRIB)

Commission paid to a UK company for procuring merchandise - NOT FTS under article 13 (INDIA -UK DTAA)

The assessee company had entered into an agreement with a UK company for procuring merchandise for its duty-free shop at the airport. The Hon'ble Tribunal held that since there was no clause for transferring any technical knowledge in the said agreement and it was only a procurement agreement, the commission paid by the assessee to the said UK company could not be treated as FTS. ***[Shell India Markets***

(P.) Ltd. v. Union of India [2024] 160 taxmann.com 175 (Bom), N.M. Rothchild & Sons Ltd. v. DCIT (IT) [2023] 152 taxmann.com 18 (Del - Trib.), CIT, LTU v. Wheels India Ltd. [Tax Case Appeal No.448 of 2012, dated 6-8-2021] , US Technology Resources (P.) Ltd. v. CIT [2018] 97 taxmann.com 642 (Ker) and WNS Global Services (P.) Ltd. v. ITO [2019] 103 taxmann.com 75 (Mumbai) followed.]

DCIT v. Hyundai Heavy Industries Ltd -(2025) 179 taxmann.com 438 (DDN-TRIB)

Offshore supplies made by a Korean company to Indian parties under divisible contracts with no Nexus to PE - Not taxable as FTS (India – Korea DTAA)

The assessee, a Korean company, made offshore supplies to Indian parties under divisible contracts with no nexus to a PE in India. The Hon'ble Tribunal held that such receipts were not taxable in India as there was no business connection and supplies were made outside India. Thus, the addition made by treating these receipts as FTS was deleted.

Note: Also see case no 1 under Permanent Establishment & case no 1 under Interest.

Six Continents Hotels Inc v. ACIT (IT)-(2025) 179 taxmann.com 559 (DEL-TRIB)

Payments Received by a US tax resident owning trademarks for carrying out marketing and reservation for Indian hotels - NOT FTS under Act /Article 12 (India - USA DTAA)

The assessee, a USA resident owning trademarks for IHG brands, received marketing and reservation contributions from Indian hotels under franchise arrangements. The Hon'ble Tribunal held that such receipts were not taxable in India as FTS under the Act nor under Article 12 of the DTAA. ***[Six Continents Hotels Inc. v. ACIT [2024] 163 taxmann.com 720 (Del- Trib.) followed]***

Six Continents Hotels Inc v. ACIT (IT)-(2025) 179 taxmann.com 559 (DEL-TRIB)

Reimbursements received by a USA resident company from Indian hotels -NOT FTS under Act /Article 12 (India – USA DTAA)

The assessee, a USA resident company, received reimbursement receipts from Indian hotels relating to TACP (Travel Agent Commission Payment) and other expenses. The Hon'ble Tribunal noted that services were actually rendered by travel agents to Indian hotels and not by the assessee, who had merely made payments to the said travel agents on behalf of the Indian Hotels, which was reimbursed by the Indian Hotel. Thus, the assessee did not render any service as envisaged under section 9(1)(vii). Consequently, such reimbursements were not taxable in India as FTS under the Act or FIS under the India-USA DTAA. ***[Six Continents Hotels Inc. v. ACIT [2024] 163 taxmann.com 720 (Del - Trib.) followed]***

Pratt & Whitney Canada Corp v. DCIT (IT)-(2025) 179 taxmann.com 278 (DEL-TRIB)

Amounts received by a Canadian company from its Indian customer on account of repairs and maintenance of aircraft engines - NOT FTS (India – Canada DTAA)

The assessee, a Canadian company, received a certain amount from its Indian customer on account of the repair and maintenance of aircraft engines. The Hon'ble Tribunal held that since it did not transfer technical knowledge and expertise to its customer so that customer could carry out repairs and maintenance of aircraft/engines itself, requirement of 'make available' clause as per India-Canada DTAA was not satisfied and, therefore, receipts on account of repair and maintenance services were not liable to be taxed as FTS in hands of assessee [Global Vectra Helicorp Ltd. v. Dy. CIT [2024] 159 taxmann.com 282 (Del - Trib.), Rockwell Collins Southeast Asia Pte Ltd ***[ITA No. 2409/DEL/23, dated 14.11.2024] and CIT, International Taxation-1 v. Goodrich Corporation [2025] 175 taxmann.com 177 (Del) followed]***

Digicert v. ACIT(IT)-(2025) 179 taxmann.com 284 (DEL-TRIB)

Receipts from licensing of software to Indian customers - Not FTS. (India -US DTAA)

Assessee, a US-based company engaged in digital security solutions, was providing public key infrastructure and validation services required for issuing digital certificates. It claimed that receipts earned from the licensing of software were not chargeable to tax in India. AO made an addition by characterizing receipts from licensing of software as FTS and treated the same as income chargeable to tax as per the India-USA DTAA. The Hon'ble Tribunal held that since lower authorities could not bring cogent evidence on record to demonstrate that "make available clause' was duly satisfied so as to enable end user to use technology on his own, said services could not be construed as FTS as per Article 12(4)(b) of India-US treaty. ***[DigiCert Inc. v. ACIT, ITO, Circle IT [IT Appeal NO. 3626 (Delhi) of 2023, dated 14-11-2024] followed]***

Forcepoint International Technology Ltd v. ACIT, IT (DEL -TRIB)

Sale of software products by Irish Co to Indian distributors for onward resale to end users-NOT FTS under the Act (India -Ireland DTAA)

The assessee, an Irish company, engaged in selling cybersecurity software products through independent third-party distributors in India, granted only non-exclusive and non-transferable licences to market and distribute software together with a subscription to access URL databases. The AO held that receipts arising from the sale of a software product to a distributor, who, in turn, resold to different end users, were taxable in India as FTS under article 12(3)(b) of India-Ireland DTAA and, additionally, under section 9(1)(vii). CIT(A) confirmed the view, holding that human intervention was not necessary for a service to amount to FTS. The Hon'ble Tribunal noted that the distributor only paid consideration for acquiring the software product simpliciter for onward sale to end-customers, and no technical services were rendered. It concluded that since no human intervention was involved, so the said receipts could not be brought within ambit of section 9(1)(vii). Consequently, assessee would not be liable to be taxed on its income earned from sale of software as FTS. ***[Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT [2021] 125 taxmann.com 42 (SC) , CIT v. Bharti Cellular Ltd. [2008] 175 Taxman 573 (Del), CIT v. Bharti Cellular Ltd. [2010] 193 Taxman 97 (SC) , Finastra International Financial Systems Pte Ltd. v. ACIT (IT) [2024] 158 taxmann.com 632(Del - Trib.) , Tagit Pte Ltd. v. Dy. CIT [2024] 159 taxmann.com 93 (Delhi - Trib.) and Skycell Communications Ltd. v. Dy. CIT [2001] 119 Taxman 496 (Madras) followed- CIT v. Kotak Securities Ltd. [2016] 67 taxmann.com 356 (SC) distinguished]***

Maersk Logistics & Services International v. DCIT (IT) – (2025) 179 TAXMANN.COM 161 (MUM-TRIB)

Network fees by Netherlands-based company for services such as maintenance of IT system, accounting system, etc - Not FTS under Article 12 (India - Netherlands DTAA)

The assessee, a Netherlands-based company, received network fees for services such as maintenance of IT systems, accounting system, finance and accounting, human resources, etc. From its Indian AE. The Hon'ble Tribunal held that since the assessee did not make available any technical know-how to its Indian AE, the network fee would not be in the nature of royalty or FTS and would not be exigible to tax under the India-Netherlands DTAA [Maersk Logistics & Services International B.V. v. Dy. CIT, International Taxation [2024] 165 taxmann.com 796 (Mum-Trib.) followed]

CAPITAL GAINS

Ebay Singapore Services (P) Ltd v. DCIT – (2025) 179 taxmann.com 346 (MUM -TRIB)

Gains rising to a Singapore company from the sale of shares of another Singapore company having underlying assets in India-Not chargeable to tax in India under Article 13 (India – Singapore DTAA)

The assessee, a Singapore company, sold its shares in another Singapore company, namely, Flipkart Singapore, to a Walmart group company (namely, Fit Holding S.a.r.l). It claimed that short-term capital gain arising on the sale of shares was not taxable in India as per the India-Singapore DTAA. AO observed that in substance, management and control of the assessee was situated in the USA and not in Singapore, and thus, he was of the opinion that the head and brain of the assessee was in the USA. Accordingly, he denied benefit under Article 13(5) of India-Singapore DTAA and thereby taxed the capital gains. The Hon'ble Tribunal noted that the assessee had furnished a plethora of evidence to establish that the control and management of the assessee was with the Directors of the assessee situated in Singapore and Hong Kong. Further, what was transferred were shares of Flipkart Singapore, a company incorporated and tax resident in Singapore, and gains therefrom, though arising from an entity with underlying Indian business assets, were gains from alienation of foreign-situs shares, and the transaction did not fall within the ambit of clause (2), or clause 4B of article 13 to India Singapore Treaty. By virtue of section 90(2), provisions of article 13(5) of the India-Singapore DTAA would prevail. The Hon'ble Tribunal, thus concluded that since Article 13(5) of DTAA allocates taxing rights over such residual category gains exclusively to the State of residence of alienator, i.e., Singapore, and the India-Singapore DTAA does not contain a 'look-through clause', gains in question were not chargeable to tax in India.

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DEPENDENT PERSONAL SERVICES

Prakash Raman v. ITO (IT) – (2025) 178 taxmann.com 671 (CHENNAI -TRIB)

Salary income of employee of ICO sent to US on assignment of work for a certain period - Taxable in the US under Article 16 - Notwithstanding receipt of salary in India (India - USA DTAA)

Assessee, an employee of an Indian company, was sent by his employer to the US on an assignment of work for a certain period. Assessee claimed that his salary income was earned as a tax resident of the USA and would be taxable only in the USA. AO observed that the Indian company would be reimbursed salary costs by the foreign company, and since the salary amount was received in India from the Indian employer, the same was taxable in India as per section 5(2)(a). AO thus held that the assessee was not entitled to exemption under the provisions of Article 16 of the DTAA. The Hon'ble Tribunal noted that the assessee had filed the TRC provided by the US authorities as additional evidence. It was also noted that in a case similar to the assessee, the Hon'ble Tribunal had held that salary could not be taxed in India only for reason that it was received in India but it was to be taxed at place of its accrual which would be India if, and only if, services were rendered in India otherwise in place where such services were rendered. It thus directed the AO to grant relief u/s 90 r.w. Article 16(1) of India-US DTAA if, on verification, the TRC is found to be genuine. ***[Arumugam Rajasekar v. ITO, International Tax [2025] 177 taxmann.com 476 (Chennai-Trib.) followed]***

OFFSHORE ACTIVITIES

Sanco Holdings AS v. DCIT (IT) – (2025) 179 taxmann.com 155 (MUM-TRIB)

Consideration received by a Norwegian Co for providing vessels to companies directly engaged in seabed exploration – Taxable as per Article 21(4) and not u/s. 44 BB (India – Norway DTAA)

The assessee, a Norwegian company, was only providing its vessels for transportation to companies directly engaged in seabed exploration for ONGC, and not carrying on any offshore exploration itself. Thus, the Hon'ble Tribunal held that the consideration for such transportation services was taxable under article 21(4) of the DTAA and not under Section 44BB ***[ADIT v. Rolv Berg Drive [IT appeal no. 3427 (Del) of 2011, dated 14-2-2013], DDIT v. Rolv berg drive as [IT appeal no. 4621(Del) of 2014, dated 18-6-2019], DCIT v. Gaia Ship Management as [IT appeal no. 7476 (Del) of 2017 and 5304 (Del) of 2018, dated 20-2-2023] and Siem Offshore Inc., in re [2011] 12 taxmann.com 374 (AAR - New Delhi) – followed]***

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FOREIGN TAX CREDIT (FTC)

Dipti Jagdish Satwani v. ITO –(2025) 179 taxmann.com 155 (MUM-TRIB)

FTC cannot be denied merely because Form No 67 has been filed beyond the due date specified in Rule 128 (9)

Since in the instant case, FTC claim of the assessee was denied on the above technical aspect without going into the merits and without putting the assessee to notice, in violation of the provisions contained in the second proviso to section 143(1)(a), the Hon'ble Tribunal remanded the matter to the jurisdictional AO with the direction to decide the claim of FTC on merits, after accepting Form No 67 and other related documents filed by the assessee. ***[Sonakshi Sinha v. CIT (Appeals) [2022] 142 taxmann.com 414 (Mumbai - Trib.), Anuj Bhagwati v. Dy. CIT [IT Appeal Nos. 1844 and 1845 (Mum) of 2022, dated 20-9-2022], Nirmala Murli Relwani v. Asstt. DIT [2022] 145 taxmann.com 293 (Mumbai - Trib.), Priya Savina Murzello v. Dy. CIT [2023] 148 taxmann.com 472 (Mumbai - Trib.) and Bhagwandas Tikamdas Khinani v. CIT (Appeals) [2022] 145 taxmann.com 265 (Mumbai - Trib.) – followed]***

EXCHANGE OF INFORMATION

Amarinder Singh v. ITO (2025) 178 taxmann.com 455 (P & H)

ED can access information/documents w.r.t foreign assets of an assessee placed before the Magistrate by the Tax Department - Article 28 not circumvented (India- France DTAA)

The information regarding foreign assets concerning the assessee had been placed on record in form of documents before the Magistrate by the Income Tax Department. The Hon'ble HC held that since the said information or documents had been received the IT Department in French Republic at Paris, and its use as well as dissemination was regulated under Article 28 of DTAA, there was no restriction on ED to access information/documents placed on record before the Magistrate by IT Department for the purpose of investigation. Therefore, it could not be said that ED was trying to procure documents by circumventing Article 28. ED was thus permitted to inspect record of complaints before the Magistrate and access information/documents; however, same could not be disseminated publicly unless permitted in accordance with law.***[Ram Jethmalani v. Union of India [2011] 12 taxmann.com 27 (SC) and State of Tamil Nadu v. K. Shyam Sunder (2011) 8 SCC 737 followed.]***



GST
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WRIT PETITIONS

Tansam Engineering and Construction Company v. Commissioner, CGST And Central Excise, Rourkela [2025] 179 taxmann.com 375 – ORISSA HIGH COURT

Facts and Issues involved

Petitioner, a partnership firm carrying on business of supply of service by way of execution of works contract, was adjudicated with liability comprising tax, interest and penalty for the period July 2017 to March 2018 u/s 74 of the GST Act pursuant to SCN in Form GST DRC-01A dated 02.07.2021 issued by Additional State Tax Officer, Rourkela-II Circle, Sundargarh (be called, "State Proper Officer") vide Order dated 12.04.2023. Assailing said order of adjudication, an appeal u/s 107 ended with dismissal by the Joint Commissioner of State Tax (Appeal), Sundargarh, Rourkela by Order dated 30.01.2024.

On yet another occasion, with the identical allegation that was completed as stated above, for the tax period July, 2017 to March, 2018, invoking power u/s 74 of the GST Act, the State Proper Officer by Order dated 12.04.2023 proceeded to raise demand and issued Form GST DRC-07 under Rule 142 reflecting demand of Rs. 79,75,522 (comprising tax, interest and penalty). The appeal being AD2107230027696 assailed therein the said adjudication order got dismissed vide Order dated 07.02.2024 by the Additional Commissioner of State Tax (Appeal), Rourkela

In similar fashion, the Additional State Tax Officer, Rourkela-II Circle, Sundargarh framed Order dated 12.04.2023 u/s 74 for the tax period April 2018 to March 2019, whereby a demand of Rs. 12,84,940 was raised. An appeal, bearing No.AD210723002775D, challenging above Order dated 12.04.2023 of the State Proper Officer u/s 107 of the GST Act stood allowed partly by reduction of demand to Rs. 7,15,824/- vide Order dated 31.01.2024.

While the matter stood thus, invoking provisions of Section 74 of the GST Act, Directorate General

of Goods and Services Tax Intelligence, Rourkela ("DGGI") issued a SCN bearing No.34/2021-22, dated 13.08.2021 relating to tax period December 2017, March 2018 and August 2018 (covering Financial Years 2017-18 and 2018-19), which contained self-same allegations, which had already been dealt with by the State Proper Officer.

Despite filing a detailed reply in DRC-06 on 30.07.2022, DGGI continued proceedings. At the personal hearing on 11.09.2024, the Petitioner pointed out that identical allegations of fake invoice ITC for 2017-18 and 2018-19 had already been adjudicated by the State Proper Officer u/s 74 of the CGST Act and appeals thereon had concluded. Nevertheless, the Central Proper Officer passed an Order-in-Original on 30.01.2025 raising demand of tax, interest, and penalty.

Hence, the petitioner has preferred the present writ petition.

Petitioner's Submissions

SCN was issued by the Deputy Director, DGGI, Rourkela, u/s 74 for the same tax periods and on identical allegations of wrongful ITC based on purported fake invoices from non-existent suppliers. It is contended that the same subject matter cannot be pursued by two different authorities and that parallel proceedings on identical allegations are impermissible, effectively resulting in double taxation.

Relying on Section 6(2) of the CGST Act, the petitioner submits that the legislature intended to prevent simultaneous proceedings by State and Central authorities. Issuance of summons u/s 70 on 24.05.2019 does not amount to initiation of proceedings. However, issuance of SCNs dated 02.07.2021 and 30.07.2021 by the State Proper Officer u/s 74 constituted initiation. Despite this having been specifically pointed out in reply, the Central Proper Officer proceeded to pass the Order-in-Original dated 30.01.2025 based solely on the DGGI SCN, contrary to Section 6(2). Since the State authority had already initiated and concluded proceedings culminating in appellate orders, the subsequent action by the Central authority is without jurisdiction and liable to be set aside.

Relying heavily on *Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate* [2025] 177 taxmann.com 478 (SC), petitioner argued that since the State Proper Officer had already issued SCNs dated 02.07.2021 and 30.07.2021 and commenced adjudication u/s 74 much prior to the Central Proper Officer issuing its SCN on 13.08.2021, the latter proceedings stand vitiated.

Discussions by and Observations of the High Court

The argument stemming from the provisions contained in Section 6(2)(b) of the CGST Act / Odisha GST Act is that once the State Proper Officer initiates "proceeding" under Section 74, the Central Proper Officer on the same subject matter could not initiate "proceeding" under said provisions at a later point in time.

Close examination of the records shows that the State Proper Officer, vide orders dated 12.04.2023 u/s74, had already adjudicated allegations of wrongful ITC availed on the basis of invoices issued by M/s M.G. International and M/s M.S. Traders for the periods December 2017, March 2018 (FY 2017-18), and August 2018 (FY 2018-19). The petitioner's reply to the Central SCN dated 13.08.2021 r.w. the Central Order dated 30.01.2025 clearly establishes that the Central proceedings were initiated on the very same intelligence and pertain to the same suppliers, periods, and allegations of wrongful ITC. This unequivocally reflects duplication of proceedings on identical facts by both authorities. The petitioner ought not to have been subjected to tax again with respect to the very same subject matter by the Central Proper Officer, despite the fact that the determination of tax liability was made by the State Proper Officer by initiating a proceeding u/s 74 at an earlier point in time.

By virtue of cross-empowerment under Section 6(1) of the GST Act, both State and Central Proper Officers are competent for purposes of the CGST and OGST Acts. However, the record demonstrates that the State Proper Officer had already initiated proceedings u/s 74 based on intelligence received prior to initiation of

proceedings by the Central Proper Officer on the same subject matter. CBIC Letter D.O.F. No. CBEC/20/43/01/2017-GST(Pt.) dated 05.10.2018 also clarifies that once an officer of the State Tax Authority initiates intelligence-based enforcement against a taxpayer administratively assigned to the Central jurisdiction, such a case shall not be transferred and must be taken to its logical conclusion by the State authority.

Here, SCN dated 01.03.2021 and 02.06.2021 issued by the State Proper Officer invoking Section 74 preceded the subsequent SCN dated 13.08.2021 issued by the DGGI on the same allegations. Consequently, the Order-in-Original dated 30.01.2025 passed by the Central Proper Officer is rendered invalid and inoperative in view of the express bar under Section 6(2)(b) of the GST Act. The latter proceedings under Section 74, therefore, stand vitiated and deserve to be quashed.

Petitioner has specifically raised a question whether issuance of summons dated 24.05.2019 for recording a statement u/s 70 of the CGST Act can be deemed as initiation of proceedings by the Central Proper Officer prior to the State Proper Officer's Show Cause Notices dated 02.07.2021 and 30.07.2021 issued u/s 74.

The following guidelines are prescribed for situations where, after initiation of inquiry/ investigation by one authority, another authority initiates inquiry/investigation on the same subject matter:

a. On issuance of summons / SCN by either Central or State tax authority, the assessee must comply, as issuance of summons alone does not establish that proceedings have commenced.

b. If the assessee becomes aware that the same subject matter is already under inquiry by another authority, the assessee shall promptly inform the subsequently acting authority in writing.

c. Upon such intimation, both authorities shall verify the assessee's claim to avoid duplication and ensure optimal utilization of resources.

d. If claims of overlap are incorrect and inquiries concern different subject matter, the authority shall inform the assessee in writing with reasons and clearly specify distinct subject matter.

e. Authorities may continue inquiry until it is ascertained that both are examining the same liability/contravention. Any SCN covering liability already covered by an existing SCN shall be quashed.

f. If overlap exists, authorities shall mutually decide which authority will continue. The other shall transfer all materials and information. Assessee has no locus to select the authority.

g. If authorities cannot agree, the authority that first initiated the inquiry shall continue; courts may order transfer accordingly.

h. Non-compliance with these guidelines permits the assessee to approach the High Court under Article 226.

i. Assessee must fully cooperate, appear in response to summons, and reply to notices.

Decision of the High Court

The initiation of proceedings by the Central Proper Officer cannot be sustained in view of provisions contained in Section 6(2)(b) of the GST Act and is liable to be quashed.

Shree Arihant Oil and General Mills v. Union of India & The Joint Commissioner [2025-TIOL-1537-HC-RAJ-GST] – Rajasthan High Court

Facts and issues involved

Petitioner is engaged in the manufacture of edible oil falling under HSN Code 1514. The petitioner purchased mustard oil and other inputs on payment of GST and accumulated ITC under the inverted duty structure, where the rate of tax on inputs exceeded the rate on outputs.

On 13.07.2022, the Government issued Notification No. 09/2022–Central Tax (Rate), effective from 18.07.2022, restricting the refund of unutilised ITC for certain goods, including those under HSN 1514. Petitioner applied for a refund of ITC accumulated prior to 18.07.2022 by filing refund applications on 4th January 2023, which was well within the two-year limitation u/s 54 of the CGST Act. Department, relying on CBIC Circular No. 181/13/2022–GST dated 10.11.2022, which clarified that refund would be allowed only if the application had been filed before 18.07.2022, did not process the refund.

Petitioner challenged the department's inaction before the Rajasthan High Court, contending that the Circular illegally curtailed the refund rights vested by statute.

Petitioner's Submissions

Notification No. 09/2022 – CT(Rate) was prospective in nature and did not restrict refund claims for the period prior to 18.07.2022. The petitioner's right to claim a refund of ITC accrued before the said date cannot be taken away by a circular. Further, Section 54(1) of the CGST Act allows refund applications to be filed within two years, and therefore, applications filed after 18.07.2022 remained valid. Circular's condition restricting refund eligibility only to applications filed before that date was inconsistent with the statute and violated Articles 14, 19(1)(g), and 300A of the Constitution.

Reliance was placed on judgments of the Andhra Pradesh High Court in Priyanka Refineries Pvt. Ltd. and Gemini Edibles & Fats India Ltd. (2025 SCC OnLine AP 1435) and the Gujarat High Court in Patanjali Foods Ltd. v. Union of India (2025-TIOL-383-HC-AHM-GST), which had taken similar views. It was also pointed out that the Supreme Court had dismissed the special leave petition filed against these decisions.

Discussions by and Observations of the High Court

Notification No. 09/2022–CT(Rate) dated 13.07.2022 was expressly made effective from 18.07.2022. Thus, refunds relating to tax periods prior to this date could not be denied.

CBIC Circular No. 181/13/2022–GST, by restricting refund entitlement only to applications filed before 18.07.2022, introduced a condition not contained in the parent Notification or the CGST Act and thereby, exceeded its authority. Such a restriction contradicts Section 54, which clearly provides a two-year limitation period for refund applications.

ITC is an indefeasible right accruing to a taxpayer upon purchase of goods, as established in Collector of Central Excise v. Dai Ichi Karkaria Ltd. [(1999) 7 SCC 448]. Denying a refund for ITC accrued before the effective date of the notification would amount to retrospective withdrawal of a vested right, which is impermissible in the eyes of the law.

Circular created two artificial classes of taxpayers, viz., those who filed refund claims before 18.07.2022 and those who filed after, without any intelligible basis, and thereby, violated Article 14 of the Constitution. No taxpayer could be expected to file a refund claim on the exact date the notification became effective, particularly when the law allows two years to apply.

Decision of the High Court

The writ petition was accordingly allowed, and the petitioner was entitled to a refund of ITC accumulated up to 18.07.2022.

Transformative Learning Solutions Pvt. Ltd. v. Commissioner, CGST Delhi East & Anr. [2025-TIOL-1622-HC-DEL-GST] – Delhi High Court

Facts and issues involved

Petitioner is engaged in the business of exporting Ayurvedic cosmetic goods. An audit was conducted by the CGST Department for the period 2017-18 to 2021-22. During the audit, the CGST Department raised certain objections, including one concerning the failure of the Petitioner to submit proof of foreign remittance.

Department alleged that lump-sum amounts credited in INR from the Petitioner's foreign branch, as recorded in bank statements, did not corroborate with the invoice-wise/month-wise/year-wise export quantum of the Petitioner.

The Department communicated its objections on 25.01.2024 and 31.01.2024. Alleging non-payment and non-submission of reply, it issued FORM GST ADT-02 on 14.05.2024. Thereafter, a pre-SCN in Form DRC-01A was issued on 29.05.2024, and the Petitioner submitted its reply on 03.06.2024, which the Department termed "untenable."

Subsequently, SCN in Form DRC-01 dated 16.07.2024, was issued, and consequently, an order was passed on 31.01.2025, confirming a total demand of Rs. 20,14,98,627/-, wherein a major component of the demand was on account of "Foreign remittance not received for exports".

Petitioner's submissions

The impugned order dated 31.01.2025 was "completely unreasoned and vague in nature," specifically regarding the rejection of the refund claim. Petitioner asserted that it had previously claimed a refund of accumulated ITC and had annexed "proof of exports and receipt of export proceeds which were duly verified by the CGST Department," resulting in sanctions during the audit period. Petitioner highlighted that the sole reasoning provided in the impugned order for rejecting the refund claim was that the FIRC and invoices were huge in number, and the same cannot be reconciled.

Discussions by and Observations of the High Court

The Court observed that the impugned order dated January 31, 2025, failed to properly evaluate the Petitioner's submissions and dismissed the refund claim without providing adequate reasoning. After hearing counsel and perusing the counter affidavit, the Court formed the opinion that "the FIRCs need not match transaction by transaction and could even be on a periodic basis, so long as the total benefit that is being claimed is fully supported by the foreign exchange which has been remitted to the Petitioner".

Decision of the High Court

Concluding that the matter warrants reconsideration, the Court held that the adjudication process needed to be conducted afresh after affording the Petitioner a proper hearing.

Supernova Engineers Ltd. v. Joint Commissioner (Appeals) & Ors. [2025-TIOL-1566-HC-AHM-GST] – Gujarat High Court

Facts and issues involved

Petitioner is engaged in the business of manufacturing and supplying diesel generator sets. During July 2017, the petitioner supplied D.G. sets to the SEZ unit of Amneal Pharmaceuticals Pvt. Ltd., treating the supplies as zero-rated u/s 16 of the IGST Act.

Petitioner filed a refund application on 18.03.2020 for unutilised ITC of Rs 30,94,304 in accordance with section 54(3) of the CGST Act, which was accumulated on account of zero-rated supplies made without payment of IGST. However, the refund was rejected by the Department through an order dated 09.04.2020 on the ground that the application was time-barred, as it was filed beyond the two-year period from the date of supply (July 2017). Appellate Authority also upheld the rejection by order dated 29.01.2021, interpreting the "relevant date" as the date of filing of the return and applying the amended Explanation 2(e) to Section 54, which was effective from 01.02.2019. Aggrieved by this, the petitioner has preferred the present writ.

Petitioner's Submissions

As per the unamended clause (e), the "relevant date" for refund of unutilised ITC is the end of the financial year in which such claim arises. Accordingly, for July 2017 supplies, the relevant

date would be 31st March 2018, making the refund application filed on 18.03.2020 well within the two-year limitation period prescribed under Section 54(1).

The amended clause (e) of Explanation 2 inserted by the CGST (Amendment) Act, 2018, which was effective from 01.02.2019, was not applicable to claims filed for periods prior to that date.

Respondent's Submissions

Since the refund application was filed after the amendment took effect, the amended Explanation 2(e) should be applied. Accordingly, the "relevant date" should be computed from the date of filing of the return under Section 39, rendering the petitioner's refund claim time-barred. The substitution of clause (e) was merely clarificatory and therefore applicable even to pending claims filed after the amendment, regardless of the tax period involved.

Discussions by and Observations of the High Court

The core issue before the Court was whether the refund claim for the FY 2017–18, filed before 01.02.2019 should be computed as per the unamended clause (e) of Explanation 2 (where the "relevant date" is the end of the financial year) or under the amended clause (e) (which considers the due date for furnishing the return).

Considering the Scheme of the Act at the relevant point of time for the period for 2017-18, the "relevant date" in the facts of the case would be the end of the Financial Year and not the date of the filing of the return and therefore, the refund application filed by the petitioner would be within the period of two years from the relevant date which is to be computed as per Clause (e) prior to the amendment made pursuant to the Central Goods and Services Tax (Amendment) Act, 2019.

The amended Clause(e) is applicable only in case of the refund of unutilised ITC under Clause (ii) of Section 54(3) of the GST Act, and the due date for furnishing of return would be the relevant date. However, in the facts of the case, the claim of the refund made by the petitioner is under Clause (i) of Section 54(3) of the GST Act and therefore, the amended Clause (e) of Explanation 2 to Section 54 of the GST Act would not be applicable to the claim of the refund pertaining to the period prior to 01.02.2019.

Decision of the High Court

Petition succeeds, and the impugned order is quashed and set aside.

Sharp Tanks and Structurals (P.) Ltd v. Deputy Commissioner (GST) (Appeals) [2025] 178 taxmann.com 519 – Madras High Court

Facts and issues involved

A surprise inspection was conducted at the business premises of the petitioner on 10.11.2022 and 11.11.2022. This inspection led to the subsequent issuance of show cause notices dated 28.02.2023 under Section 74 of the TNGST Act, raising demands for the financial years 2020-21 and 2021-22. The petitioner responded to these notices and also participated in the personal hearing held on 03.10.2023. Following this process, the impugned orders were passed, levying tax, interest, and penalty upon the assessee. The primary fact giving rise to the dispute was that these impugned orders were not served on the petitioner but merely uploaded on the GSTN Portal. As the petitioner was unaware of the upload, they missed the timeline for filing the appeals required under Section 107 of the Act. The petitioner sought the intervention of the High Court in writ proceedings, essentially requesting a means to approach the Appellate Authority despite the expiry of the statutory limitation period.

Petitioner's submissions

The petitioner relied on the decision in *Sahulhameed v. Commercial Tax Officer* [2025] 170 taxmann.com 655, wherein it was held that mere portal upload does not constitute effective service. Similar views were taken in Namasivaya *Auto Parts v. Deputy State Tax Officer* [2025] 175

taxmann.com 334 and other Madras High Court rulings. The Patna High Court in *Binod Traders v. UOI* [2025] 174 taxmann.com 888 held that portal upload alone is insufficient. Likewise, the Delhi High Court in *Raj International v. Additional Commissioner, CGST* [2025] 173 taxmann.com 939 directed that, in terms of Section 169 of the CGST Act, notices should be served not only via the GST portal but also through e-mail, mobile communication, and speed post.

Respondent's submissions

Respondent maintained the position that since the impugned orders had been uploaded onto the portal, the clock would start ticking from the said date for the purpose of calculating the period of limitation for filing an appeal. Citing multiple judicial precedents, including *Pandidorai Sethupathi Raja v. Superintendent of Central Tax, Koduvayur Constructions v. Asstt. Commissioner, and Poomika Infra Developers v. State Tax Officer, Erode*, the respondent asserted that making an order available on the common portal constitutes a proper mode of service and that the taxpayer has a bounden duty to verify the common portal. Therefore, having failed to adhere to the timeline, the petitioner missed the bus, and the hands of the Court were totally tied.

Discussions by and Observations of the High Court

There is a cleavage of opinion among the Judges of the Madras High Court. Division Bench in the case of *A. Sanjeevi Naidu v. Dy. CTO* (1972 SCC OnLine Mad 347) held that where statutory rules prescribe multiple modes of service of notice, such modes are alternative and not cumulative.

Courts cannot overlook the prevailing digital divide. It is a matter of judicial notice that the vast majority of small businesses rely on consultants to file GST returns. Also, when GST registration is cancelled, such an assessee does not have the ability or occasion to access the GST portal at all.

Section 169 of the CGST Act indeed provides multiple modes of service, thereby giving the Department a choice. However, the choice of mode is an exercise of statutory power, and it is well-settled that any administrative power so conferred must be exercised fairly and reasonably in the circumstances. It is not for us to declare that uploading in the portal is not a service. However, in particular facts of the case, it can certainly be held that the authority was required to adopt additional modes of service beyond merely uploading the notice/order on the portal. While Rule 142 makes portal upload mandatory, such a mode alone may not suffice in certain circumstances.

The core issue to be addressed is whether uploading the impugned order on the GSTN portal alone is sufficient and whether the limitation for filing an appeal under Section 107 of the Act would start running from the date of uploading.

A careful reading of the aforesaid provision leads me to conclude that the limitation will start running from the date on which the order or decision is communicated to the assessee. The provision does not say that the limitation should be calculated from the date of service of the order on the assessee. Section 169 talks about service. When a statute employs two different expressions, they denote different meanings. The expressions "served" and "communicated" are not synonymous. A lawmaker will not use different words to mean one and the same thing. The term 'communication' is a strong word and implies an element of reaching out to the assessee and thus, characterizing it as a 'bipartite affair'. Mere uploading on the portal by no stretch of imagination would satisfy the requirement of communicating to the assessee. The statute obliges the authority to communicate to the assessee. There is no obligation cast on the assessee to access the portal.

Since in this case, the impugned order had only been uploaded in the portal and not communicated to the assessee, the limitation has not started running for the writ petitioner. In the case at hand, the assessee appears to have recently downloaded the impugned orders from the portal for the purpose of filing this writ petition. But that would not constitute communication of the order to the writ petitioner.

Decision of the High Court

Respondent is directed to communicate the impugned order to the writ petitioner, and it is open to the writ petitioner to file an appeal in terms of Section 107 of the Act. Since the order has not been communicated as per law, it cannot be enforced till such communication

Varidhi Cotspin (P.) Ltd. v. Union of India [2025] 179 taxmann.com 329 - Gujarat High Court

Facts and issues involved

Petitioner is engaged in the business of textile products and procured capital goods from the domestic as well as international markets. Petitioner held a license under the Export Promotion Capital Goods Scheme. In view of the Foreign Trade Policy 2015-20, the petitioner procured the goods from the domestic market for the purpose of export.

Petitioner filed an initial refund application u/s 54 of the CGST Act in Form RFD-01 on 13.11.2018 for Rs. 83,51,438 IGST paid on the procurement of capital goods from the domestic market. Subsequently, the petitioner filed a rectified refund claim in Form RFD-01 on 28.12.2019. Against this first rectified application, a deficiency memo in Form GST RFD-03 was issued by the Respondent under Rule 90(3) of the CGST Rules 2017, alleging that certain declarations and documents had not been furnished.

Thereafter, the Petitioner preferred a second rectified refund application in Form RFD-01 u/s 54 of the CGST Act on 31.05.2021 along with all the necessary documents. Although the respondent issued an acknowledgment in Form RFD-01 on 19.06.2021, evidencing the completeness of the application, a show cause notice in Form RFD-08 was issued on the same date. On 13.07.2021, the respondent rejected the second rectified refund application in Form RFD-06, which resulted in the filing of Special Civil Application No. 2767 of 2023. Vide order dated 21.02.2023, the Court set aside the rejection order on the ground of violation of the principles of natural justice and remanded the matter for fresh adjudication and directed the respondent to conclude the proceedings within 12 weeks from the date of the order.

Thereafter, Petitioner preferred a third rectified refund application in Form RFD-01 on 16.08.2023, which was in continuation of the earlier refund application dated 31.05.2021. A show-cause notice dated 27.09.2023 was issued seeking to reject the application, arguing that the refund application was not within the prescribed time limit as per Section 54(1) of the CGST Act. The refund application was finally rejected vide impugned order dated 24.11.2023 in Form RFD-06 on the ground of limitation. Aggrieved by the order, the petitioner preferred the present writ.

Petitioner's Submissions

Petitioner submitted that the refund application for deemed exports was filed within the time limit prescribed by the definition of "relevant date" defined under Explanation after Section 54(15) of the CGST Act. As per Rule 90(3) of the CGST Rules, a fresh refund application is required to be filed after rectification of any deficiency pointed out by the authorities. However, once the original refund application is filed within the time period prescribed, the subsequent filing of the rectified refund application cannot be considered as separate legal proceedings. The respondent should have appreciated the intention of the legislature for invoking the limitation period in respect of the refund claim under Section 54 of the CGST Act, as well as the procedure for filing a fresh refund claim under Rule 90 of the CGST Rules. Petitioner relied on various precedents, including *Ktex Non-Woven (P.) Ltd. v. UOI* and *National Internet Exchange of India v. UOI*, wherein it was held that the time limit is required to be computed from the date on which the refund claim was originally filed by the applicants.

Respondent's Submissions

After correction, the deficiency application is treated as a fresh refund application, and the

same should have been submitted within a period of two years of the relevant date as defined in the explanation after Section 54(14) of the CGST Act. Rule 90(3) of the CGST Rules requires the proper officer to communicate deficiencies in Form GST RFD-03 and require the applicant to file a fresh refund application after rectification of such deficiencies. Consequently, if the application is treated as fresh, it also implies that the time limit as prescribed under the Explanation to Section 54 shall apply in a natural manner.

Discussions by and Observations of the High Court

The core question for consideration is that subsequent to the subsequent refund application triggered by the deficiency memo issued in Form RFD-03 is merely a continuation of proceedings or a fresh cause in itself.

In the instant case, the first deficiency memo was issued on 09.01.2020. It is therefore clear that time period from the date of filing of the refund claim in Form GST RFD-01 till the date of communication of the deficiency in the Form of GST RFD-03 by the proper officer is required to be excluded from the period of two years, as specified in respect of any such fresh refund claim filed by the applicant after rectification of the deficiency.

The issue is no more res integra with the decision of this Court in case of La-Gajjar Machineries (P.) Ltd. v. UOI [Special Civil Application No. 15872 of 2021, dated 27.09.2023] wherein it is observed as under:

[11] In view of Notification No.15/2021 dated 18th May 2021, herein the proviso is added in Rule 90(3) of the CGST Rules, reads as under:

"Provided that the time period, from the date of filing of the refund claim in FORM GST RFD-01 till the date of communication of the deficiencies in FORM GST RFD-03 by the proper officer, shall be excluded from the period of two years as specified under sub-section (1) of Section 54, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies,"

It is therefore clear that time period from the date of filing of the refund claim in Form GST RFD-01 till the date of communication of the deficiency in the Form of GST RFD-03 by the proper officer is required to be excluded from the period of two years, as specified in respect of any such fresh refund claim filed by the applicant after rectification of the deficiency. The insertion of proviso to Rule 90(3) of the CGST Rules is therefore clarificatory in consonance with the objective of Section 54(1) of the CGST Act. In our opinion, the same would be applicable in the facts of the case also where the rectified refund application filed by the petitioner is within the period of limitation after applying the above provision and shall fall within two years after excluding the period from the date of fling of the refund claim in Form GST RFD 01 till the date of communication in Form GST RFD-03.

Decision of the High Court

The impugned order dated 24.11.2023, passed by the respondent rejecting the application for refund in Form RFD-06 filed by the petitioner on the ground of limitation, is hereby quashed and set aside. The third rectified refund application dated 16.08.2023 is restored for consideration of the proper officer afresh on merits.

Stark Photo Book v. Assistant Commissioner (Intelligence) [2025] 179 taxmann.com 289 – Kerala High Court

Facts and Issues Involved

Petitioner is running an offset printing press which is engaged in the printing and sales of brochures, books, magazines, posters, leaflets, photo books, notices, etc. The content is supplied by the customer as digital files or digital video through CD/DVD/SVD/pen drive, and the petitioner would be printing and supplying the same to the customers. The printing activity involves the supply of goods as well as the supply of services of goods. The supply of printing and the supply of materials are a natural bundle. While the content to be printed is supplied by the

customers, the materials needed for printing the same, such as ink, paper, etc., are provided by the petitioner.

According to the petitioners, the said activity, being a composite supply, is taxable at the rate that is applicable to the principal supply involved in the said transaction. It is also the case of the petitioners that the same falls within HSN Code 4911, which attracts 12% GST. Based on the inspection conducted by the tax authorities, proceedings were initiated against them alleging that they have misclassified the services and they would be covered within the Code SAC 998386, which deals with photographic and videographic processing services attracting 18% GST.

Discussions by and Observations of the High Court

According to the petitioners, the end products, such as books, newspapers, magazines, brochures, notices, pictures, menu cards, wedding cards, posters, visiting cards, photos, etc., supplied by them based on the content furnished by the consumer, are classifiable under HSN Code 4911 and taxable at 12%.

The petitioners receive photographs from customers in a digital format (such as CD, pen-drive or HDD) and thereafter print the same using their own machines, ink, and paper, and deliver the printed photographs to the customers. This activity involves both the supply of goods (i.e., paper and ink used in printing) and the supply of services (i.e., the printing activity itself). Accordingly, the transaction constitutes a composite supply within the meaning of Section 2(30) of the CGST Act. In terms of Section 8 of the CGST Act, tax liability on a composite supply is determined on the basis of the principal supply, which, as defined in Section 2(90), is the predominant element to which other supplies are ancillary. Serial No. 1(a) of Schedule II to the CGST Act provides that any transfer of the title in goods is a supply of goods, whereas, as per clause 1(b) of the said schedule, any transfer of right in goods or of an undivided share in goods without the transfer of title thereof, is a supply of services.

In the present case, the primary objective of the printing activity is to convert digital images, text, or photographs provided by customers into a physical printed form. The content belongs to the customer and is merely entrusted to the petitioners for printing; hence, the title in such content always remains with the customer. Consequently, no transfer of title in such goods takes place either before or after printing. While the paper used for printing constitutes goods, it merely serves as a medium to deliver the printing service and not the substantive subject of supply. The paper is incidental and ancillary to the principal activity of printing customer-owned content. Accordingly, the dominant element of the transaction is the printing service, and the supply of paper is only incidental to such service.

HSN Code 4911 mainly refers to the supply of goods in the form of printed materials, whereas the SCN 998386 refers to the photographic and videographic processing services, where the printing of images from film or digital media is specifically included therein. A distinction has to be drawn between a case where printed material, wherein the content was obtained by the assessee from its own source, and a case in which the assessee undertook a service of printing the material furnished by the customer. The first case referred to would fall under the category of supply of goods, whereas the second one would fall under the category of supply of services.

The activities of the petitioners would amount to a composite supply, where the predominant element would be the supply of services. When the nature of the supply of service is taken into account, it undoubtedly falls within SCN 998386, which is meant for printing photographic and videographic processing services.

Decision of the High Court

There are no justifiable reasons to invoke the jurisdiction of this Court to interfere with the proceedings initiated and finalized against the petitioners. However, it is clarified that, if the petitioners have any grievance with respect to the assessment of tax, it shall be open to the petitioners to invoke the statutory remedy, if any, available to them.

Service Tax



CA Rajiv Luthia



Keval Shah
Advocate

Mr. Ajay Kumar Sood, Mr. Satishkumar Sood and Mr. Raman Kumar Sood v. Commissioner (APPEALS-I), CGST-DELHI 2025 (9) TMI 332 - CESTAT NEW DELHI

Backgrounds and facts of the case

The appellants had entered into the agreement for the purchase of agricultural land in village Samalkha, New Delhi, with the land owners and paid earnest money to the land owners. However, instead of selling the land to the appellants, the landowner sold it to some other persons.

Aggrieved by the action of the landowners, the appellants filed civil suits in 1988 in the Delhi HC seeking an injunction against the landowners. The appellants settled the matter with the land owners by signing a Memorandum of Settlement on 6th September, 2013, as per which each of the appellants was paid a sum of Rs. 4.5 Crores. The landowners paid the amount, and the dispute was settled.

The department in SCN alleged that the appellants had received Rs. 4.5 Crores each to tolerate the situation in which the land, after having agreed to sell to the appellants, was sold to someone else, hence was liable to service tax under Section 66E(e)of the Finance Act, 1994.

Arguments by the Appellant

The Ld. AR for the appellant made the following submissions:

(i) The amounts received by appellants are in the nature of damages for reneging on the Agreement to sell by the land owners and not in the nature of consideration for a service. Therefore, it is not covered by section 66 E(e) of the Act, and no service tax is payable.

(ii) Section 66E (e) covers only such cases where the agreement itself is to tolerate an act or to refrain from an act or to do an act which is not the present case.

(iii) The amounts were received by the appellants in settlement of disputes and not as a consideration in the agreements. The settlement cannot be construed as an activity and therefore, it does not fall within the scope of service as per section 66B (44) of the Act.

(iv) Another way of looking at the receipts is as actionable claims which are explicitly excluded from the scope of section 66B (44) of the Act.

(v) An Extended period of limitation cannot be invoked in this case.

(vi) If at all service tax is confirmed against the appellants, cum tax benefit may be given.

(vii) Penalties cannot be imposed on the appellants in the absence of suppression.

Arguments by Department

The Ld. AR for the revenue made the following submissions:

(i) The amounts received by the appellants were as per the Memorandum of Settlement signed and executed with the land owners and not as per the original agreement to sell signed and executed between the appellants and the land owners.

(ii) In the original agreement to sell, the appellants paid an amount as earnest money and thereby earned the right to buy the land from the landowners. Having signed the agreement to sell and having taken the earnest money, the land owners reneged on their agreement. This was the subject matter of dispute in the civil suits filed for an injunction before the Delhi HC. The appellants could have pursued the suits to their logical conclusion.

(iii) Instead, the appellants executed a Memorandum of Settlement, in which they agreed to tolerate the land owners reneging on the agreement to sell and selling the land to another party. The substance of this Memorandum of Settlement is that the appellants relinquished their right to purchase the land, and the land owners paid them an amount of Rs. 4.5 crore each. This is an agreement in itself in which the appellants received a consideration for tolerating the act of the land owners selling the land to a third party and relinquishing their right to buy the land.

(iv) This transaction is squarely covered u/s 66E(e) of the Act as a declared service, on which service tax was payable.

(v) Since the appellants had not paid service tax, SCNs were issued, which culminated in the impugned orders.

(vi) The amounts received by the appellants cannot be called actionable claims. In fact, the appellants themselves have recorded the amounts received in their books of accounts as 'On account of surrender of booking rights in land at Smalkha. The appellants themselves did not understand these amounts as actionable claims, and it is not open for the learned counsel to now claim that they are actionable claims and hence do not fall under the definition of service.

(vii) As far as the extended period of limitation under the proviso to section 78 is concerned, it must be remembered that the appellants were registered with the service tax department but never disclosed the amounts which they had received for tolerating an act. Therefore, an extended period of limitation was correctly invoked.

(viii) The impugned orders may be upheld, and all three appeals may be dismissed.

Decision of the Hon'ble Tribunal

Post July 2012, every service that is not in the negative list, tax had to be paid at 14% of the value of the service.

The definition of 'Service' as per section 65B (44) has three parts- the main part, an inclusion part, and an exclusion part. As is well known, the inclusion part expands the scope of the term beyond the main part of the definition, and the exclusion part reduces the scope of the term.

The main part of the definition says service means any activity carried out by a person for another for consideration. Thus, it must be an activity, and it must have been carried out by a person for another and for a consideration. This definition is enlarged by the inclusion part of the definition 'and includes declared services'. Therefore, if something is a declared service, even if it does not fall within the scope of the main part of

the definition, it would still be a 'service'. The exclusion part of the definition then narrows the scope of the term by excluding certain services.

This settlement, however, is not an agreement by itself but is only a settlement of the dispute that had arisen out of an earlier agreement.

If one reneges on the contract, the dispute is settled either through liquidated damages (where the amount of damages to be paid is recorded in the agreement itself) or through unliquidated damages (where the court decides the damages) or through suits for specific performance, etc.

In the instant case, the appellants had filed suits before the Delhi HC, but finally, both parties agreed to settle the dispute, and as a part of the settlement, the land owners paid a sum of Rs. 4.5 crore to each of the appellants.

This is clearly only a settlement of the dispute, and the amount received is only damages for reneging on the agreement to sell. This is clearly not an agreement to tolerate any act or situation. It is beyond the scope of section 66E (e) of the Act and therefore it is not a declared service.

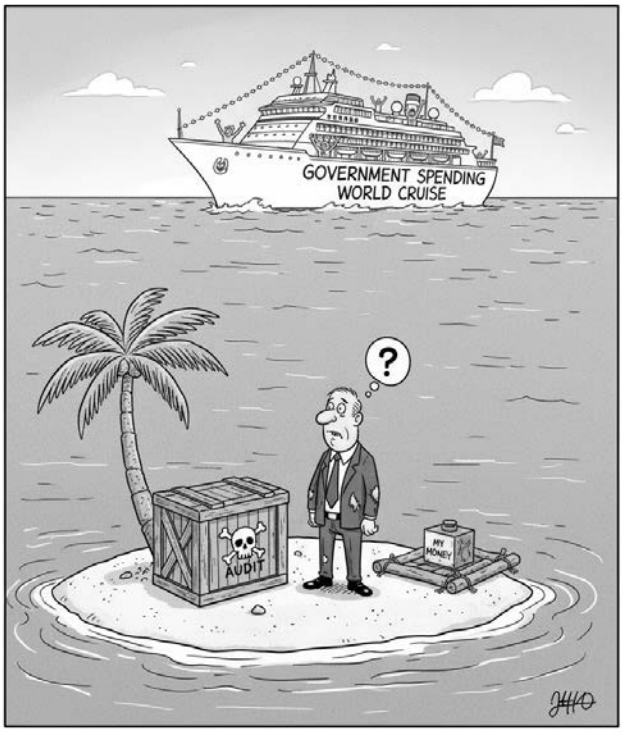
We hold that the amounts in question, as confirmed by the lower authority, cannot be sustained and need to be set aside. Consequently, the demand for interest and imposition of penalties also cannot be sustained.

M/S Frontier Business Systems Pvt. Ltd. v. Commissioner of Central Tax, Bengaluru 2025 (10) TMI 620 - CESTAT BANGALORE

Backgrounds and facts of the case

The appellants provided IT Infrastructure Services, IT Networking Solutions, etc., against an order from M/s Hospira Health India Pvt. Ltd. for a period of 2-5 years. The Appellants raised all the invoices for all the contracts at the commencement of the contracts and paid Service tax of Rs. 84,70,013/- on the total Invoice Value of Rs. 7,05,53,202/-. The Payments for the said invoices would be made by Hospira Health India Pvt. Ltd. at the end of each year on the completion of the milestone work/completion of the time period as per the Agreement.

M/s Hospira Health India Pvt. Ltd. through email dated 25th July, 2017, terminated the Contract w.e.f. 31st August, 2017, and stated that no Payment would be made in respect of Invoices raised by the Appellants in Advance, and hence it resulted in excess payment of Service Tax amounting to Rs. 42,93,596/- by the Appellants. Since the Contract was terminated and no payment would be received by the appellants in respect of the said contracts, the appellants filed a REFUND Claim of Rs. 42,93,596/- (Excess amount of Service Tax paid) on 24th April, 2018, u/s 142(5) of the CGST Act, 2017.



The refund claim was rejected by the Adjudicating Authority and Appellate Authority on the ground of Limitation u/s 11B of the Central Excise Act, 1944.

Arguments by Appellant Assessee

The Ld. CA for the Appellant submitted that in accordance with Rule 6(3) of the Service Tax Rules, 1994, a recipient of service is entitled to avail Credit of EXCESS Service Tax paid in a situation where they have issued an invoice or received any payment for a service which is not subsequently provided either wholly or partially for any reason. However, in the present case, as the Contract was terminated during the GST Regime, the Appellants could not avail such Credit under Rule 6(3) of the Service Tax Rules, 1994. Hence, the Appellant resorted to Section 142(5) of the CGST Act, 2017, and claimed a Refund of the excess Service Tax paid.

In the present case, the refund was denied on the ground that it was filed beyond 1 year as prescribed under Section 11B(1) of the Central Excise Act, 1944. They stated that since the Contract itself is ANNULLED / TERMINATED only on 31st August, 2017, the Appellants were not in a position to file the refund claim within 1 year from the date of payment of service tax, which is FY 2015-16. They further stated that a refund filed under Section 142(5) of the CGST Act, 2017, overrides the Limitation under Section 11B (1) of the Central Excise Act, 1944, and such limitation is not applicable in such a case. They relied on the judgment in the case of *Wave One Private Limited v.. CGST & CEx, Delhi* [2023(11) TMI 1078 – CESTAT NEWDELHI 8] to various case laws in support of the same.

They further submitted that the refund application was filed before the Service Tax Authorities, as there was no mechanism available under the GST Regime to claim a refund of Service Tax; however, the disbursement of such refund ought to be carried out in accordance with Section 142(3) of the CGST Act, 2017.

Arguments by Department

The Ld. AR for the revenue reiterated the findings of the Ld. Commissioner (Appeals). He further stated that since the amount demanded as Refund was paid during the period 31st March, 2015 to 29th March, 2016, Section 11B of the Central Excise Act, 1944 is applicable to the refund claim.

Decision of the Hon'ble Tribunal

The question involved in the present appeal for determination is whether the Appellants are entitled to the refund of Rs. 42,93,596/- being the service tax paid during the FY 2015-16, consequent to the termination of the contract w.e.f. 31st August, 2017 u/s 142(5) of the CGST Act, 2017.

The Tribunal found that the identical issue was settled in *M/s Wave One Private Limited Vs. CCG, ST & CE, Delhi* [2023(11) TMI 1078 – CESTAT NEWDELHI8] wherein it was held by the New Delhi Tribunal that the refund claim of service tax paid under the existing law (Central Excise Act, 1944) in respect of services not provided shall be disposed of under the existing law and has to be paid in cash. It further stated that such a refund is subject to the provisions of sub-section 2 of Section 11B of the Central Excise Act, 1944, only. It further stated that the refund can be denied to the appellant, which was available to him under the existing/erstwhile law, only in case of unjust enrichment.

A similar view was taken by CESTAT Bangalore in the case of *Lifecell International Pvt. Ltd. v. CGST&CE, Chennai* [2022(66) GSTL 446 (Tri. Chennai)] and *Jai Matheshwaari Steels Pvt. Ltd. v. CCGST, Dehradun* [2022(63) GSTL 95 (Tri. Del.)] cited on behalf of the appellant.

Following the consistent opinion of the Tribunal in the aforesaid case applied the ratio of the above judgments was applied to the present case. Consequently, the impugned order is set aside and the appeal is allowed with consequential relief, as per law.

Municipal Council Gurdaspur, Punjab v. Commissioner of Central Excise, Goods & Service Tax, Ludhiana 2025 (10) TMI 621 – CESTAT CHANDIGARH

Backgrounds and facts of the case

Municipal Council Gurdaspur, the appellants are engaged in "Renting of Immovable Property," i.e, leasing of various properties and collecting rent on the same. The department vide the impugned Show cause notice dated 19th September, 2012, alleging the appellants are getting rent from leasing out various properties but have not got themselves registered under the Finance Act, 1994, and are not paying service tax on the same, and hence demanded the Service Tax liability amounting to Rs. 7,89,953/- along with applicable Interest and penalties.

The Adjudicating Authority vide the Order-in-Original dated 24th September, 2013, and gave the benefit of cum-tax and confirmed the service tax demand of Rs. 7,10,469/- along with Interest and Penalties.

Further aggrieved by the said order, the Appellants filed an appeal before the Commissioner (Appeals), who vide the impugned Order-in-Appeal has reduced the Service tax Liability demand to Rs. 6,11,589/- and has also reduced the Penalty u/s 78 and dropped the Penalty u/s 76 of the Finance Act, 1994.

Arguments by Appellant Assessee

The Ld. Counsel for the Appellants submits that the impugned Order upholding/confirming the demand by invoking the extended period of limitation is bad in law as the same has been passed without taking into account the facts of the case. He further stated that the appellants are controlled by the state government and are constituted under the Punjab Municipal Act, 1911; and hence, they were under the bona fide belief that their activity would not attract service tax liability. Petitioner submitted that the 'SCN' as well as the 'Order-in-Original' were issued by the Ld. CEO beyond the period of Limitation prescribed by the Act / Statute.

He further stated that the amendment in respect of enlarging the scope of "Renting of Immovable Property Services introduced by the Finance Act, 2010, was challenged and courts had taken a view that the amendment was unconstitutional and had granted the stay. He relied on the case of Union of India vs. UTV News Ltd [2018 (13) GSTL 3 (SC)] in which Hon'ble Apex Court has categorically ordered all the cases dealing with "Taxes on Land and Buildings" is to be deferred until the matter before the nine judges bench in the case Mineral Area Development Authority and others vs. Steel Authority of India and others [(2011) 4 SCC 450] is decided.

The Ld. Counsel for the Appellants submits that when the constitutional validity of the levy is yet to be decided, which is a dispute of interpretation in nature, then invoking an extended period of limitation is not justified.

Arguments by the Department

The Ld. Authorized Representative of the Revenue reiterated the findings of the impugned Order.

Decision of the Hon'ble CESTAT CHANDIGARH

The Hon'ble Tribunal, after hearing both sides and the material on record, considered that the Ld. Counsel for the Appellants has only argued on limitation and has submitted that the demand of service tax amounting to Rs. 6,11,589/- is barred by limitation.

Hon'ble Tribunal stated that the demand of service tax on "Renting of Immovable Property" has been subject to litigation from the very beginning. Further, there was no dispute that the activity of the Appellants was "Renting of Immovable Properties" which was brought in

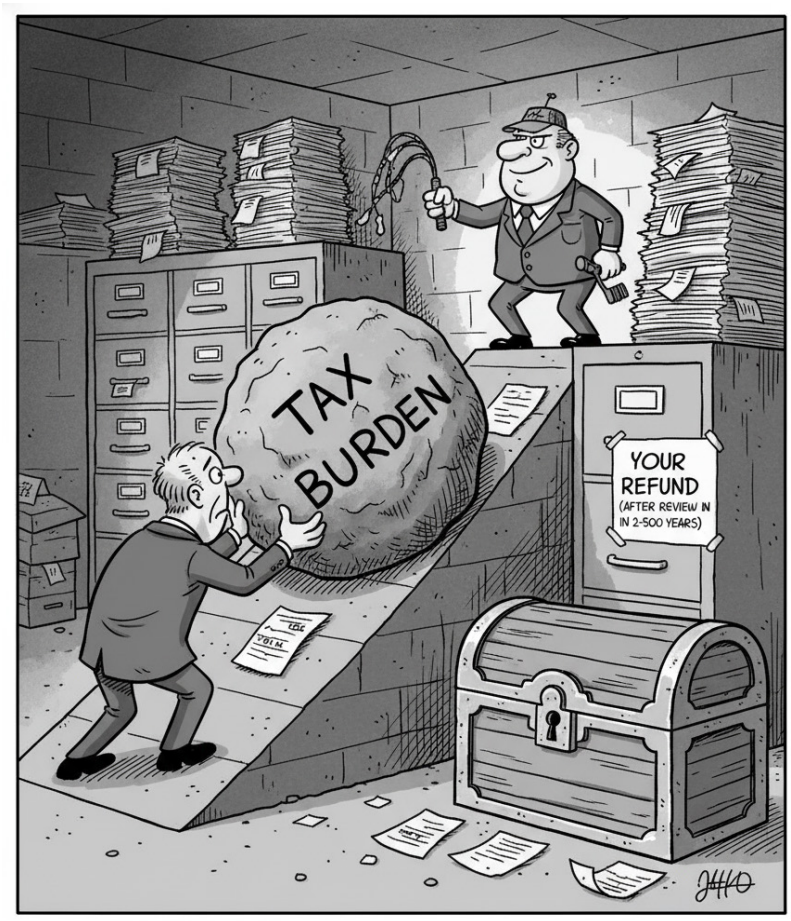
the Finance Act, 1994 w.e.f. 1st June, 2007 by introducing Section 65(105)(zzzz), however the validity of this levy had been challenged before the Hon'ble Delhi High Court and Hon'ble Delhi High Court vide its judgment dated18.04.2009 in the case of *Home Solution Retail India Ltd v. Union of India* [2009 (237) ELT 209 (Del.)], held that mere 'Renting of Property' by itself cannot be called as 'service' and cannot attract service tax. Further, the same view was neutralized vide retrospective amendment, which made "Renting of Immovable Property" a Taxable Service.

Further, the Tribunal referred to the decision of Hon'ble Apex Court in the case the *Continental Foundation Joint Venture v. CCE, Chandigarh-I* [2007 (216) ELT 177 (SC)] which held that during the period of dispute when there is doubt about Interpretation of Provisions of Law which was later resolved by a Larger Bench, the extended period cannot be invoked. Hon'ble Tribunal referred similar cases, which state that an extended period is unjustified in Interpretational disputes, which are:

- *VIR Enterprises v. CCE, Chandigarh-I* [Final Order No. 60065/2025, dt. 13.01.2025]
- *Diocese of Tanjore Society v. CCE, Trichy* [Final Order No. 40795/2023, dt. 15.09.2023]

Further, the Hon'ble Tribunal held that when the extended period is not sustainable, the demand for the normal period would also be dropped, as held by the CESTAT Chandigarh in the case of *M/s VIR Enterprises v. CCE.* Following the decision of Hon'ble Calcutta High Court in the case of *M/s Infinity Infotech Parks Ltd. v. UOI* [2014 (36) STR 37 (Cal.)], once a notice invokes the extended period, and the extended period is held invalid, the entire notice fails, even for the normal period.

In view of these facts, we find that the impugned demand cannot be sustained even for the normal period. As a result, the impugned order is set aside and the appeal of the appellant is allowed.



Case Law Update



CS Makarand Joshi

IBC

In the matter Glorify Advisors Private Limited v. Microgreen Electronics Private Limited at the National Company Law Tribunal dated 12 September 2025

Facts of the Case

M/s Glorify Advisors Private Limited (the Appellant/ Financial Creditor/FC) had subscribed to 41,240 Compulsorily Convertible Debentures (CCDs) issued by Microgreen Electronics Private Limited (the Respondent/ Corporate Debtor/CD) for a total consideration of ₹4.12 crore on March 30, 2016.

On April 8, 2024, the FC requested the CD to convert the CCDs into Optionally Convertible Debentures (OCDs). Pursuant to this request, the CCDs were converted into OCDs of an equivalent amount on May 3, 2024. As per the agreement, the OCDs were redeemable at the option of the holder with 30 days' notice and carried a penal interest of 18% per annum in case of default. The FC issued a demand notice for redemption on June 5, 2024.

The CD, via a letter dated July 12, 2024, acknowledged its liability of ₹4.12 crore and sought three months to pay the FC.

The FC failed to redeem the OCDs even after the issuance of a final demand notice on October 18, 2024, resulting in a default.

As of December 31, 2024, the total outstanding debt, including interest, was claimed to be approximately ₹4.49 crore. The FC sought initiation of the Corporate Insolvency Resolution Process (CIRP) of the CD u/s 7 of the Insolvency and Bankruptcy Code, 2016 (IBC). The Section 7 Petition was filed on February 24, 2025.

Arguments of the Appellant

The OCDs qualify as financial debt u/s 5 (8) of the IBC. They represent a debt disbursed against the consideration for the time value of money, evidenced by the stipulated penal interest rate of 18% per annum payable upon default, as per the OCD Agreement dated May 3, 2024.

The default is not 'premature'. The date of default is rightly computed as July 5, 2024, which is 30 days from the demand notice dated June 5, 2024 in accordance with the 30-day notice stipulation in the OCD Agreement.

The CD clearly acknowledged its liability of ₹4,12,40,000 in its reply dated July 12, 2024. Proof of disbursement and acknowledgment of debt are also evidenced by bank statements, the OCD agreement, and NESL records annexed to the Petition. The CD's contention that the petition is merely a debt recovery attempt is misconceived and contrary to the established legal framework. The FC has lawfully invoked Section 7 of the IBC, supported by clear evidence of default.

The CD's contention that the petition is merely a debt recovery attempt is misconceived and contrary to the established legal framework. The FC has lawfully invoked Section 7 of the IBC, supported by clear evidence of default.

Arguments of the Respondent

The petition should be rejected as it arises from a 'contractual investment dispute' structured through CCDs converted into OCDs, which the CD argues is being inappropriately converted into an insolvency proceeding. The CD contends that the IBC cannot be used merely as a debt recovery mechanism.

The OCDs are not "financial debt" as defined under Section 5(8) of the IBC because they carried zero interest at issuance and thus lack the "time value of money".

The invocation of default is premature, having been done within a short timeline after the first demand notice on June 5, 2024, and despite the CD's clear acknowledgment of liability and willingness to repay.

NCLT Held

The National Company Law Tribunal (NCLT), New Delhi Bench, issued a divided decision, with the Technical Member holding that the application should be admitted and the Judicial Member holding that it should be rejected. Due to the difference of opinion, the matter was referred to the Hon'ble President, NCLT, under Section 419(5) of the Companies Act, 2013.

Arguments of the Technical Member - The Technical Member admitted the application filed by FC against CD, initiating the CIRP under Section 7 of IBC. The Technical Member found that the Optionally Convertible Debentures (OCDs) qualified as 'financial debt' under Section 5(8) of the IBC.

The OCDs represented a debt disbursed against the consideration for the time value of money, evidenced by the stipulated penal interest rate of 18% per annum in the event of default.

The CD's default in the repayment of a financial debt, including interest as of December 31, 2024, was established.

The date of default was computed as July 5, 2024, which is 30 days from the first demand notice dated June 5, 2024, in accordance with the OCD Agreement.

No Disguised Debt Recovery: The contention that the petition was a disguised attempt at debt recovery was rejected, as the FC had lawfully invoked Section 7 of the IBC with clear evidence of default.

Arguments of Judicial Member: The Judicial Member held the view that the application should be rejected, concluding that the petition was collusive and the initiation of the CIRP was stage-managed.

The sudden conversion of CCDs (held since 2016) into OCDs on May 3, 2024, followed shortly by the FC's demand for redemption on June 5, 2024 (when the OCD tenure was 10 years), was considered "quite weird" and raised a "semblance of collusion".

It was unclear if the statutory requirements, such as approval by a special resolution in a general meeting and filing Form MGT-14 with the Registrar of Companies (RoC) for the conversion

of CCDs into OCDs (which is an act of capital/ debt restructuring), were met before the OCD certificate was issued on the same day as the agreement.

The appearance of a common registered office for both the FC and the CD in the OCD agreement, despite different addresses in the Ministry of Corporate Affairs (MCA) records, further strengthened the "semblance of collusion".

While the CD acknowledged its liability, the Judicial Member noted this fact in the context of the potential collusion.

The following differing points were referred to the Hon'ble President of the NCLT for a decision:

- Validity of Conversion and Redemption: Whether the conversion of CCDs into OCDs was valid and in order, considering the mutual agreement, the 30-day notice redemption clause in the OCD Agreement, the CD's knowledge of the FC's request for conversion to facilitate redemption, and the nature of the Conditions Precedent in the agreement.
- Inference of Collusion: Whether the common address on the OCD Certificate, the timing of the conversion and subsequent demand, the instant acceptance of liability by the CD, and the differing addresses in the MCA record are sufficient evidence to establish that the application is stage-managed and collusive.

The final decision of the Hon'ble President is awaited. The tribunal would assess these suspicious factors — particularly the rapid sequence of conversion, instantaneous acknowledgment of debt, and the shared address — to decide whether they constitute "sufficient evidence to conclude that the OCD Agreement was drafted casually and that filing of the present application is stage-managed and collusive.

Companies Act, 2013

In the matter of the reduction of capital of Modern Hi-Rise Private Limited, NCLT Kolkata bench, order dated 9th September 2025.

Facts of the case

Modern Hi-Rise Private Limited (hereinafter called as petitioner company) had undergone a merger process, wherein 3 different companies had merged into the petitioner company.

As per the terms of the merger, the petitioner company issued redeemable preference shares, which originally were to be redeemed at face value, i.e., Rs. 10.

However, looking at the strong financial condition of the company, it was decided by the board of directors in consultation with preference shareholders that the said preference shares should be redeemed at fair value at the time of issue, that is, Rs. 120.

This additional amount required for the redemption of preference shares was proposed to be taken from the securities premium account, as there were insufficient funds in retained earnings.

Therefore, the petitioner company has filed a petition before NCLT u/s 48 - variation of shareholders rights - of the Companies Act, 2013(the Act) r/w 52 - Utilization of securities premium and 66 Reduction of capital).

But, the Regional Director (RD) and Registrar of Companies (ROC) objected to this petition, arguing that the proposed accounting treatment was not permissible under the Act.

Petitioner's contentions

The petitioner company argued that:

- Under Articles 6(b) and 12 of the Articles of Association of the petitioner company, it had the power to reduce its capital by special resolution in any manner permitted by law.
- The variation in redemption value and the proposed transfer from Securities Premium to Retained Earnings were in accordance with Sections 48, 52, and 66 of the Act.
- No specific statutory provision prohibits the reclassification of Securities Premium

Account into Retained Earnings if the same is approved under Section 66 of the Act and conforms to accounting standards.

- The company argued that the ROC's report was prepared without affording it an opportunity to present its views and failed to consider the legal basis of the petition.

Respondent's contentions

The respondents (RD and ROC) contended that:

- The proposed reduction of share capital was not in consonance with Section 66 of the Act, as the reclassification of Securities Premium into Retained Earnings was not permissible
- As per Section 55(2)(a), preference shares can be redeemed only out of:
  - Profits available for dividends; or
  - The proceeds of a fresh issue of shares.
- Hence, using Securities Premium for redemption or transferring it to Retained Earnings violates Sections 48, 52, and 55.
- The accounting treatment proposed did not comply with the provisions of Section 66(3) and the relevant accounting standards.
- The ROC recommended that the application be rejected, contending that NCLT lacks jurisdiction to approve reclassification of Securities Premium Account u/s 52.

NCLT's decision

The Statutory Framework of Section 52, Section 52(2), and Section 52(3) provide a closed and specific list of the purposes for which a company's securities premium account may be used. These purposes form a distinct "class" of capital-related adjustments, such as: Issuing fully paid bonus shares. Writing off preliminary expenses. Writing off share or debenture issue expenses. Funding the premium on the redemption of preference shares or debentures. Financing the buy-back of a company's own shares. The phrase "may be applied by the company" is therefore not an open-ended permission; it is limited by the specific list that immediately follows. The doctrine of ejusdem generis restricts the application of the securities premium account solely to the enumerated purposes, which are all capital in nature.

Securities premium and retained earnings are fundamentally different, and their accounting treatment confirms this. Distinct Natures: A securities premium is contributed capital— a capital receipt arising from shareholders paying more than the par value for shares. Retained earnings are earned profits, representing accumulated operational profits not yet distributed as dividends and it is revenue in nature. The specific list in Section 52 cannot be stretched to allow the securities premium to be used as retained earnings. Since security premium is of a capital nature.

Citing *G.S. Lamba & Sons v. State of A.P.* (2011), the NCLT explained that when statutory language is clear, courts cannot expand its meaning by implication or external interpretation.

Referring to the Proviso to Section 66(3), the NCLT held that the reduction of share capital cannot be sanctioned unless the accounting treatment conforms to Section 133 and relevant accounting standards. In this regard, the Tribunal further noted that, Auditor of the petitioner company has given a certificate where he has not pointed out that the transfer of amount from 'Security Premium Account' to 'Retained Earnings' is not in consonance with the provisions of section 52 of the Act. Hence, this matter may be referred to ICAI for professional misconduct.

The Honorable NCLT also noted that both Retained Earnings and Securities Premium are treated differently under tax and accounting principles, and mixing the two could misrepresent financial statements.

Consequently, the transfer of funds from the securities premium account to retained earnings is impermissible under the Act and is a clear violation of the Generally Accepted

Accounting Principles (GAAP) in India, as this may lead to misrepresentation of the financial statement.

The application filed under Section 66 seeking reduction of capital along with variation of preference share terms cannot be allowed in view of the Regional Director's observations and non-fulfilment of the condition under the Proviso to Section 66(3) of the Act. Accordingly, the application was dismissed.

SEBI

SEBI Adjudication Order relating to Starlog Enterprises Limited (SEL)

Facts of the Case

Securities and Exchange Board of India (SEBI) initiated adjudication proceedings against Starlog Enterprises Limited (SEL) (Noticee No. 1) and its Managing Director and CEO, Mr. Saket Agarwal (Noticee No. 2), concerning the accounting treatment of a major investment. Starport Logistics Limited (hereinafter referred to as 'Starport') was a 100% subsidiary of Noticee No. 1. It was observed that a joint venture by the name of Alba Asia Private Limited (hereinafter referred to as 'Alba Asia') was created between Starport and Louis Dreyfus Armateurs SAS (herein after referred to as 'LDA'), a company registered in France. SEL, through its 100% subsidiary Starport, held an investment valued at ₹ 74.69 crore in Alba Asia, a joint venture (JV). SEL recorded the full impairment of this investment in its financial statements for the Financial Year (FY) 2019-20.

The reason for impairment, as provided in the audited financial statement of Noticee No. 1 for FY 20, was as follows: "The Company had made an investment in Alba Asia Private Limited, a joint venture (JV) with a foreign collaborator M/s Louis Dreyfus Armateurs SAS, France, of ₹ 7,468.83 lakhs through its subsidiary. The JV has made investments in port businesses through further step-down subsidiaries in Government of India-owned major ports. The JV and its subsidiaries have been non-operative and have also defaulted on loan repayments. The Company has not received audited financials of the JV for the financial years 2017-18 and 2018-19. In view of this uncertainty, the Company has impaired its investment to the extent of ₹. 7,468.83 lakhs, which pertains to Starport's holding in the JV." In this regard, it was opined in the forensic audit report that the impairment should have been done in FY 2018-19 itself, because as on March 31, 2019, the factors existed that indicated that impairment testing for investments done in Alba Asia was required to be done as per Ind AS 36.

Noticee No. 2 had resigned from Alba Asia on February 18, 2019, on account of non-filing of financial statements after FY 2016-17. With respect to Starport, it was observed that the statutory auditor, in the financial statement for FY19, had reported that as per Ind AS 36 ("Impairment of Assets"), Starport was required to carry out an impairment study of its investments as on year-end and make provisions for any diminution in the value of investments. However, it was alleged in the IR (Inspection Report/ Investigating Report) that for the aforementioned joint venture, Starport had not carried out an impairment study.

Further, the statutory auditor, in the financial statement for FY19 of Starport, had reported that: "...as explained to us, the financial statements of the said joint venture have neither been audited nor approved by the management for the financial year ended 31st March, 2018 and 31st March, 2019. In view of this lack of information, we are unable to determine the impact of impairment on the financial statements of the Company." It was

stated that in view of the lack of information, the statutory auditor was unable to determine the impact of impairment on the financial statements of Starport. It was stated that the accounts of the subsidiary, Starport, were consolidated with the holding company, i.e., Noticee No. 1, in FY19. In this regard, it was alleged that the financial statement of Noticee No. 1 in FY19 did not present a true and fair view of SEL's affairs.

Alleged Violations

The Show Cause Notice (SCN) allegations relating to the impairment of assets against Starlog Enterprises Limited (SEL) and its MD/CEO were centered on the delayed recognition of a substantial loss, which led to the misrepresentation of the company's financial position.

The core violations alleged in the SCN concerning impairment were:

Violation of Accounting Standards

Failure to comply with Ind AS 36 (Impairment of Assets): SEBI alleged that SEL failed to properly assess and provide for the diminution in the asset value (the ₹74.69 crore investment in Alba Asia Private Limited) during FY 2018-19. The SCN contended that clear impairment indicators were present in that year, and the company should have recognized the loss then.

Charging Section: Section 15A(c) of the SEBI Act (for failure to exercise due diligence in compliance with regulations).

Arguments of the Noticee

The Noticees (Noticee 1 and Noticee 2) raised both preliminary legal objections and arguments on the merits of the impairment decision for FY 2018-19.

Arguments on Merits of Impairment:

Impairment was done at the right time: The Noticees claimed that the SCN failed to accurately capture the true facts, stating that Alba Asia was "hugely profitable" and "completely debt free" at the time Noticee No. 2 resigned in February 2019. They argued that the unaudited accounts shared for consolidation purposes in November 2018 clearly demonstrated that Alba Asia was earning profits, negating the requirement for an impairment study, let alone an actual impairment, in FY 2018-19. The French joint venture partner, LDA, continued to infuse funds into Alba Asia to purchase equity shares at a huge premium, implicitly recognizing its high net worth, which supported the decision against impairment. They clarified that Noticee No. 2's resignation from Alba Asia was not due to the non-filing of financial statements (as alleged by SEBI) but was due to the non-allotment of equity shares to the French partner, which caused non-compliance with FEMA and the Companies Act, 2013. They argued this fundamental flaw meant the basis for alleging the MD/CEO was aware of impairment factors was incorrect. Without prejudice, the Noticees contended that any non-compliance was, at worst, "merely technical and venial in nature," and thus did not warrant a penalty.

Arguments of SEBI

Findings on Merits of Impairment

Impairment was done at the right time: The AO (Adjudicating Officer) confirmed that the issue was whether the impairment conditions existed in FY 2018-19. The AO noted that the Noticees did not dispute the stated reasons for impairment given in the FY 2019-20 financials (non-operative, loan defaults, non-receipt of financials). The forensic audit report indicated that Alba Asia was non-operative from FY 2017-18 onwards. The management had even claimed during the audit that Alba Asia ceased operations in FY 2017-18 and FY 2018-19, which contradicted their defense that the operations were robust. The statutory auditor of the subsidiary, Starport, had specifically reported in the FY 2018-19 financial statement that an impairment study was required as per Ind AS 36, but was not carried out. Furthermore, the auditor expressed an inability to determine the impact of impairment

due to a lack of JV financials. SEL ignored these clear indications. The AO held that Noticee No. 2, as MD and CEO, issued the CEO/CFO certification for FY 2018-19, stating the financial statements were "true and fair," despite being aware that losses were understated due to the non-impairment. The AO ultimately concluded that the failure to impair led to the publication of financial statements that understated the loss by ₹74.69 crore and did not present a true and fair view of the company's financial position in FY 2018-19. The AO rejected the "technical and venial" defense, characterizing the financial misstatement as a "serious wrongdoing."

PENALTY

SEBI's AO held that Noticee No. 1 and Noticee No. 2 committed serious violations including delayed impairment of an investment in FY 2018-19, which led to the misrepresentation of the true and fair financial position of the listed entity, violating the Listing Obligations and Disclosure Requirements Regulations (LODR) and Prohibition of Fraudulent and Unfair Trade Practices Regulations (PFUTP). The AO further held the Noticees liable for multiple corporate governance failures, specifically the non-appointment of a Company Secretary, non-maintenance of a Structured Digital Database (SDD) as mandated by the Prohibition of Insider Trading Regulations (PIT), and lapses regarding Independent Directors and Secretarial Audit Reports. Based on these violations, the AO imposed a total consolidated penalty of ₹10 Lakh (Rupees Ten Lakh). Of this amount, ₹9 Lakh was imposed jointly and severally on SEL and MD and CEO, while the remaining ₹1 Lakh was imposed solely on SEL for a separate violation of the DP Regulations.

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CA Hardik Mehta



CA Tanvi Vora

In this article, we have discussed recent amendments made in FEMA through Notifications, Circulars, Master Directions, Press Notes & Press Releases.

A. Update through Notifications

Extension of time for foreign currency accounts by Indian exporters for repatriation from accounts held in IFSC in India

Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2015 govern the opening, holding, and maintenance of foreign-currency accounts by persons resident in India under the Foreign Exchange Management Act, 1999 ("FEMA"). The Reserve Bank of India ("RBI") has issued numerous amendments to regulations progressively liberalising some norms in line with its broader strategy of trade-foreign exchange liberalisation.

In January 2025, the RBI had permitted Indian exporters to open foreign currency accounts with a bank outside India for the realisation of export proceeds. As per the amendment, the funds in these accounts were to be used for making import payments or had to be repatriated by the end of next month from the date of receipt of the funds.

Now vide this Notification, RBI has further extended this liberalisation for foreign currency accounts maintained in IFSC in India from one month to three months.

The RBI recently issued a statement on Developmental and Regulatory Policies on 1st October 2025, highlighting various developmental and regulatory policy measures. The recent amendment was one of the measures in the statement.

Notification No. FEMA 10(R)(7)/2025-RB dated 6th October 2025

Comments: *This amendment marks a continued step by the RBI toward facilitating ease of doing business and enhancing trade-related foreign*

exchange flexibility for Indian exporters. By extending the permissible retention period of export proceeds in foreign currency accounts maintained with banks in IFSCs from one month to three months, the RBI has provided exporters with greater operational flexibility in managing their foreign currency inflows and outflows. The measure aligns with India's broader policy objective of promoting IFSCs as global financial hubs and deepening integration of India's trade and financial ecosystem with international markets.

RBI notifies the amendment allowing rupee-denominated lending by Indian banks to neighbouring countries

The Foreign Exchange Management (Borrowing and Lending) Regulations, 2018, govern the framework for borrowing and lending transactions in India between residents and non-residents under FEMA. The RBI has now introduced new provisions aimed at facilitating regional trade and financial integration with neighbouring countries.

The amendment introduces a new clause under Regulation 7A, permitting Authorised Dealer ("AD") Category-I banks in India to extend rupee-denominated loans to persons resident in Bhutan, Nepal, or Sri Lanka, including banks in these countries. Such lending is specifically allowed for cross-border trade transactions between India and these neighbouring countries, with the objective of facilitating smoother trade settlement, enhancing regional financial cooperation, and promoting wider use of the Indian Rupee in regional trade.

Notification No. FEMA 3(R)(4)/2025-RB dated 6 October 2025

Comments: *This amendment is a strategic step by the RBI to promote INR usage in regional trade, enhance financial connectivity with neighbouring economies, and strengthen India's role in South Asian trade settlement frameworks. By allowing AD banks to extend INR loans directly to trade counterparties or banks in Bhutan, Nepal, and Sri Lanka, the RBI aims to reduce dependence on third-country currencies and encourage greater acceptance of the Indian Rupee in regional commerce.*

RBI enables non-residents to invest in Indian debt instruments through Rupee accounts

A deposit made by an authorised dealer with its branch, head office or correspondent outside India, and a deposit made by a branch or correspondent outside India of an authorised dealer, and held in its books in India were permitted to purchase or sell dated Government Securities/treasury bills, as per terms and conditions specified by RBI. Key conditions stipulate that the purchase consideration must be paid exclusively from the investor's rupee account and that such transactions must comply with RBI-prescribed terms and conditions.

The RBI has now notified the Foreign Exchange Management (Debt Instruments) (Fourth Amendment) Regulations, 2025 on September 29, 2025 to permit such non-residents holding rupee accounts in India to also buy and sell Non-Convertible Debentures/Bonds, and Commercial Papers issued by Indian companies.

Notification No. No. FEMA.396(4)/2025-RB dated 29 September 2025

Comments: *This measure expands investment flexibility for specified non-residents and strengthens the rupee settlement ecosystem, aligning with RBI's ongoing efforts to promote the internationalisation of the Indian Rupee. This amendment marks a significant step in deepening India's financial markets and strengthening the Indian Rupee's role in global trade and investment.*

B. Update through Circulars

Investment in Corporate Debt Securities by Persons Resident Outside India through a Special Rupee Vostro account

The framework for Special Rupee Vostro Accounts ("SRVA") was first introduced by the RBI through A.P. (DIR Series) Circular No. 10 dated July 11, 2022, which enabled settlement of international trade transactions in Indian Rupees (INR) through accounts maintained by overseas banks with AD Category-I banks in India. To further operationalise and expand this mechanism, the RBI subsequently issued several circulars.

Circular No. 8, dated 5 August 2025, allowed AD Category-I banks to open SRVAs of overseas correspondent banks without prior approval from the RBI, thereby simplifying and expediting the account opening process. Circular No. 9 dated 12 August 2025 permitted non-residents maintaining SRVAs to invest their surplus rupee balances in Central Government Securities, including Treasury Bills, ensuring productive utilisation of such balances.

RBI has now further liberalised the investment framework. As per the amendment, persons resident outside India maintaining SRVAs are also permitted to invest their rupee surplus balances in the following additional instruments:

- Non-Convertible Debentures (NCDs)/Bonds issued by Indian companies; and
- Commercial Papers (CPs) issued by Indian companies.

The Master Direction Master Direction - Reserve Bank of India (Non-resident Investment in Debt Instruments) Directions, 2025, dated January 07, 2025, has been updated accordingly.

Further, the FAQs on International Trade Settlement in Indian Rupees (INR) have been updated to this effect.

A.P. (DIR Series) Circular No. 13 dated 3 October 2025 and A.P. (DIR Series) Circular No. 14 dated 3 October 2025

Comments: *Together, the recent circulars pertaining to SRVAs represent a significant policy advancement in strengthening the framework for INR-based international trade settlements. By simplifying the process of opening SRVAs and expanding the permissible avenues for deployment of surplus rupee balances, the RBI has enhanced the operational ease and attractiveness of using the Indian Rupee for cross-border trade.*

The flexibility to invest surplus balances in government securities, non-convertible debentures, bonds, and commercial papers issued by Indian companies provides secure and diversified investment options for overseas entities, thereby improving liquidity management and confidence in the INR settlement mechanism.

Collectively, these measures align with India's broader objective of internationalising the Indian Rupee, reducing dependence on hard currencies such as the US Dollar, and positioning the INR as a credible settlement and investment currency in the evolving global trade and financial architecture. This strategic shift supports India's economic resilience, strengthens its financial linkages with partner countries, and promotes a more balanced and multipolar global currency system.

> "AI is rewriting the rules of accounting."
>
> ***— Neil Sahota***
> *IBM Master Inventor, UN AI Advisor*

C. Update through Press Releases

Draft External Commercial Borrowing Framework under Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 – Draft for feedback

The RBI has released a draft amendment to the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018, proposing a comprehensive rationalisation of the External Commercial Borrowing ("ECB") framework. The initiative seeks to streamline procedures, promote flexibility, and strengthen the flow of foreign credit to Indian entities.

As per the draft, borrowing limits will now be linked to the borrower's financial strength, and ECB interest rates will be market-determined. The RBI also proposes to simplify end-use restrictions and minimum average maturity requirements, thereby providing borrowers with greater operational flexibility.

Further, the eligible borrower and lender base is proposed to be expanded to widen access to foreign credit; while reporting and compliance requirements will be simplified to reduce administrative burden.

The draft amendment was published on the RBI's website for public comments under the 'Connect 2 Regulate' section. Stakeholders were asked to submit their feedback online or via email by October 24, 2025, with the subject line "Feedback on draft ECB framework."

Press Release: 2025-2026/1235 dated 3 Oct 2025

Draft Foreign Exchange Management (Establishment in India of a branch or office) Regulations, 2025 – Draft for feedback

The RBI has proposed amendments to the Foreign Exchange Management (Establishment in India of a Branch Office or a Liaison Office or a Project Office or any other place of business) Regulations, 2016, originally notified vide Notification No. FEMA 22(R)/2016-RB dated March 31, 2016. The draft amendments aim to modernise and simplify the regulatory framework governing the establishment and operations of foreign entities' offices in India.

The proposals include relaxation of eligibility criteria for setting up a place of business in India, providing greater operational flexibility by shifting from a prescriptive to a principle-based framework, and simplifying procedures for closure of non-compliant or inactive offices. These changes are intended to enhance ease of doing business, promote foreign investment, and streamline administrative processes for foreign entities operating in India.

The draft regulations were available for public consultation on the 'Connect 2 Regulate' section of the RBI website. Stakeholders were asked to submit comments or feedback through the portal or via email by October 24, 2025, with the subject line "Feedback on draft regulations on Branch or Office."

Press Release: 2025-2026/1232 dated 3 October 2025

> "AI won't replace accountants, but accountants who use AI will replace those who don't."

Best of the Rest



Rahul Hakani
Advocate



Niyati Mankad
Advocate

In Re: Summoning Advocates Who Give Legal Opinion or Represent Parties During Investigation of Cases and Related Issues. [2025 INSC 1275]

Bhartiya Sakshya Adhiniyam, 2023 (BSA) - Section 132 (corresponding to Section 126 of the Indian Evidence Act, 1872) - Advocates Act, 1961 - Professional Privilege - Attorney-Client Communication - Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) - Section 179 - Criminal Procedure - Investigation. The power of an investigating officer to summon a lawyer under Section 179 of the BNSS, 2023, "is not the power to interfere with the privileged communications between a lawyer and client". Investigating Officers are cautioned from transgressing impulsively the privilege under Section 132, as such action could result in violating the statutory provision and more importantly, the infringement of the fundamental rights guaranteed to the person whom the Advocate represents, by the Constitution of India. This privilege is statutorily prescribed and an Advocate cannot be coerced into revealing client information unless a statutory exception applies.

Facts

An Advocate representing an accused in a money-lending dispute was summoned under S.179 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS, 2023") by the Investigating Officer, allegedly to ascertain facts. The High Court upheld the summons, citing non-cooperation. The SLP raised concerns about the legality of summoning a lawyer solely for professional representation. Multiple Bar bodies intervened, citing breach of attorney-client privilege and professional rights. The ED's prior issuance and withdrawal of similar summonses to Senior Advocates was also highlighted as a backdrop to the present controversy.

Issues Involved

(i) Whether an investigating agency can directly summon a lawyer whose association with a case is only as counsel advising the party?

(ii) If the agency believes the lawyer's role is 'something more' than merely that of an Advocate, should judicial oversight be mandated for issuing such a summons?

Held

The Court refused to frame general guidelines under Article 142 of the Constitution, noting that a "legislative vacuum" did not exist, as the matter is squarely covered by the statutory provisions. The Court relied upon cases like *D.K. Basu v. State of West Bengal* [(1997) 1 SCC 416] and *Vishaka v. State of Rajasthan* [AIR 1997 SC 3011], affirming the absence of a parallel with their facts, and distinguished Jacob Mathew v. State of Punjab [(2005) 6 SCC 1], as the present controversy is not on professional misconduct. The Court held that the power to summon an Advocate under Sections 175 and 179 of the BNSS cannot be used to interfere with the attorney-client privilege conferred by Section 132 of the BSA. The Court interpreted Section 132 of the BSA as statutorily prescribing the Advocate's obligation of non-disclosure, with exceptions strictly defined as (i) waiver or consent of the client; (ii) furthering an illegal purpose; or (iii) observation of a crime or fraud. The Court cautioned against summoning lawyers in criminal cases and directed that in civil cases (referencing Order XVI Rule 7 of the CPC), a lawyer cannot claim privilege over a document if the client themselves could not. In-house counsel is not entitled to the privilege under Section 132 but is protected under Section 134 of the BSA. Consequently, the impugned summons was set aside.

Maddirala Venkateswarlu v. Gonuguntla Ramesh Naidu (Died) By Lrs, Judgment dated. September 17, 2025 in Civil Appeal Nos. 11919-11920 of 2025 [Supreme Court]

Code of Civil Procedure, 1908 ("CPC") — Or. XLI R. 27 and S. 96 — Additional evidence in appeal — Lease deed rejected by Trial Court for improper stamping — First Appellate Court rightly impounded and admitted it after payment of deficit stamp duty — Permissible under Or. 41 R. 27(1)(b) CPC and S. 42 of Stamp Act — Lease deed, though unregistered, admissible for collateral purpose to prove tenancy — High Court erred in reversing eviction decree — Registration Act, 1908, S. 49 — T.P. Act, 1882, S. 106 — Stamp Act, 1899, Ss. 35, 40, 41, 42 — Bidyut Sakar, 2024 SCC OnLine SC 2603; K.B. Saha & Sons, (2008) 8 SCC 564, relied on.

Facts

The appellant-landlord filed a suit for eviction and possession of 80 square yards in Cuddapah District, alleging tenancy created via a lease deed dated 15.09.1999 after purchasing the property from the respondents through a registered sale deed dated 16.09.1998. The respondents admitted the sale but denied tenancy, claiming the sale was in repayment of a loan. The Trial Court dismissed the suit, holding no landlord-tenant relationship and an absence of notice under Section 106 of the Transfer of Property Act. The First Appellate Court admitted the lease deed as additional evidence and decreed eviction, which was reversed by the High Court in a second appeal.

Issues Involved

- Whether the First Appellate Court was justified in admitting the lease deed as additional evidence under Order XLI Rule 27 CPC despite its rejection by the Trial Court?
- Whether the lease deed, though unregistered and initially unstamped, could be relied upon to establish a landlord-tenant relationship?
- Whether the High Court erred in setting aside the First Appellate Court's decree of eviction based on the lease deed?

Held

The Supreme Court held that the First Appellate Court rightly admitted the lease deed under Order XLI Rule 27 CPC after impounding and payment of the deficit stamp duty, satisfying the conditions under Section 42 of the Stamp Act. Relying on *Bidyut Sakar v. Kanchilal Pal*, 2024 SCC OnLine SC 2603, the Court reiterated that such documents become admissible upon endorsement by the Collector. Further, as per *K.B. Saha & Sons v. Development Consultant Ltd.,* (2008) 8 SCC 564, an unregistered lease deed may be used for collateral purposes like proving the nature of possession. The lease deed established tenancy from 15.09.1999 and non-payment of rent from May 2000. The High Court's reversal was set aside, and the First Appellate Court's decree was restored, thereby allowing eviction and permitting withdrawal of rent deposits by the appellant.

Manju Arora v. Neelam Arora & Anr., Judgment dated. October 30, 2025 in RFA(Os) 64/2025 [Delhi High Court]

Right of residence under PWDV Act — Senior citizens' right to peaceful living in self-acquired property — Held, right of residence under S.17 of the Protection of Women from Domestic Violence Act, 2005 is not indefeasible — Civil court can pass decree of eviction against daughter-in-law from shared household, provided alternate accommodation is ensured under S.19(1)(f) — Statutory protection under PWDV Act must be balanced against competing rights of senior citizens under Article 21 — Satish Chandra Ahuja v. Sneha Ahuja (2021) 1 SCC 414, Ambika Jain v. Ram Prakash Sharma 2019 SCC OnLine Del 11656 and Madalsa Sood v. Maunicka Makkar 2023 SCC OnLine Del 4183 relied on.

Facts

Respondents, senior citizens and parents-in-law of the Appellant, filed a suit for mandatory injunction seeking eviction of the Appellant from their self-acquired property at Shivaji Enclave, New Delhi. The Appellant, daughter-in-law, had been residing there post-marriage. Matrimonial discord led to multiple litigations, including proceedings under the PWDV Act. The Respondents offered alternate accommodation under S. 19(1)(f) of the PWDV Act. Section 19(1)(f) of the PWDV Act empowers the Magistrate to direct the respondent to secure alternate accommodation for the aggrieved woman or to pay rent for the same, if she is evicted or excluded from the shared household. The Single Judge decreed eviction with safeguards for alternate residence, prompting the present appeal.

Issues Involved

(a) Whether a daughter-in-law can be evicted from her matrimonial home constituting a "shared household" under S. 2(s) of the PWDV Act?

(b) Whether civil courts can pass eviction decrees against aggrieved women under S. 17 of the PWDV Act?

(c) Whether alternate accommodation under S. 19(1)(f) sufficiently protects the statutory right of residence?

(d) Whether the decree passed under Order XII Rule 6 CPC was sustainable in light of alleged admissions and absence of triable issues?

Held

Held, the right of residence under S. 17 of the PWDV Act is a statutory right of occupation, not ownership, and is not absolute. Where senior citizens are lawful owners and offer alternate accommodation under S. 19(1)(f), eviction may

be ordered to protect their right to peaceful living under Article 21. The Court found no triable issue as ownership was admitted and acrimony rendered cohabitation impracticable. Reliance placed on *Satish Chandra Ahuja* (2021) 1 SCC 414, *Ambika Jain* (2019 SCC OnLine Del 11656), and *Madalsa Sood* (2023 SCC OnLine Del 4183). The decree under Order XII Rule 6 CPC was upheld, balancing statutory protections with equitable relief.

Swapan Dey v. Competition Commission of India & Vifor International (Ag) - Judgment dated. October 30, 2025 in Competition Appeal (At) No. 5 of 2023 [NCLAT, New Delhi]

Competition law — Jurisdiction of CCI vis-à-vis Patent Act — Held, where allegations pertain to exercise of rights under the Patents Act, 1970, the Patents Act prevails over the Competition Act, 2002 — CCI lacks jurisdiction to examine licensing terms or pricing of patented drugs under S.3(4) or S.4 of the Competition Act — S.3(5) of the Competition Act preserves patentee's right to impose reasonable conditions — Following Telefonaktiebolaget LM Ericsson v. CCI, 2023 SCC OnLine Del 4078 and dismissal of SLP No. 25026/2023 by Supreme Court, appeal dismissed for want of jurisdiction.

Facts

Appellant, CEO of a hospital under PMNDP, filed information before CCI alleging anti-competitive conduct and abuse of dominance by Respondent No. 2, Vifor International (AG), a Swiss pharma company holding a patent over Ferric Carboxymaltose (FCM) injection used to treat Iron Deficiency Anaemia. It was alleged that licensing to Emcure and Lupin restricted access and affordability. CCI, vide order dated 25.10.2022 under S. 26(2), found no contravention of S. 3 or S. 4 and closed the matter. The appellant challenged this closure before NCLAT.

Issues Involved

(a) Whether CCI has jurisdiction to examine licensing and pricing conduct of a patentee under the Competition Act. (b) Whether Vifor's licensing arrangements with Emcure and Lupin amounted to anti-competitive conduct under S. 3(4) or abuse of dominance under S. 4. (c) Whether the limited production and pricing of FCM violated public interest and warranted compulsory licensing under the Patents Act. (d) Whether CCI erred in conducting ex-ante analysis without defining the relevant market or assessing dominance.

Held

Held, in light of the Delhi High Court's ruling in *Telefonaktiebolaget LM Ericsson v. CCI*, 2023 SCC OnLine Del 4078 and dismissal of SLP No. 25026/2023 by the Supreme Court, the Patents Act prevails over the Competition Act in matters concerning the exercise of patent rights. Licensing terms, pricing, and access to patented drugs fall within the domain of the Patents Act, especially under Ss. 83, 84, and 90. S. 3(5) of the Competition Act expressly exempts reasonable conditions imposed under patent law. CCI rightly closed the matter under S. 26(2) as no prima facie case was made out. Appeal dismissed with no order as to costs.

> "Artificial Intelligence (AI) can replace the work being done by auditors and accountants."
>
> ***— DT. V. Somanathan***
> *Finance Secretary*

THE CHAMBER NEWS



CA Mehul Sheth



CA Ankit Sanghavi

Important events and happenings that took place online/ physical between October 1, 2025 and October 31, 2025 are being reported as under:

ADMISSION OF NEW MEMBERS:

The details of new members who were admitted in the Managing Council Meeting held on October 17, 2025 are as under:

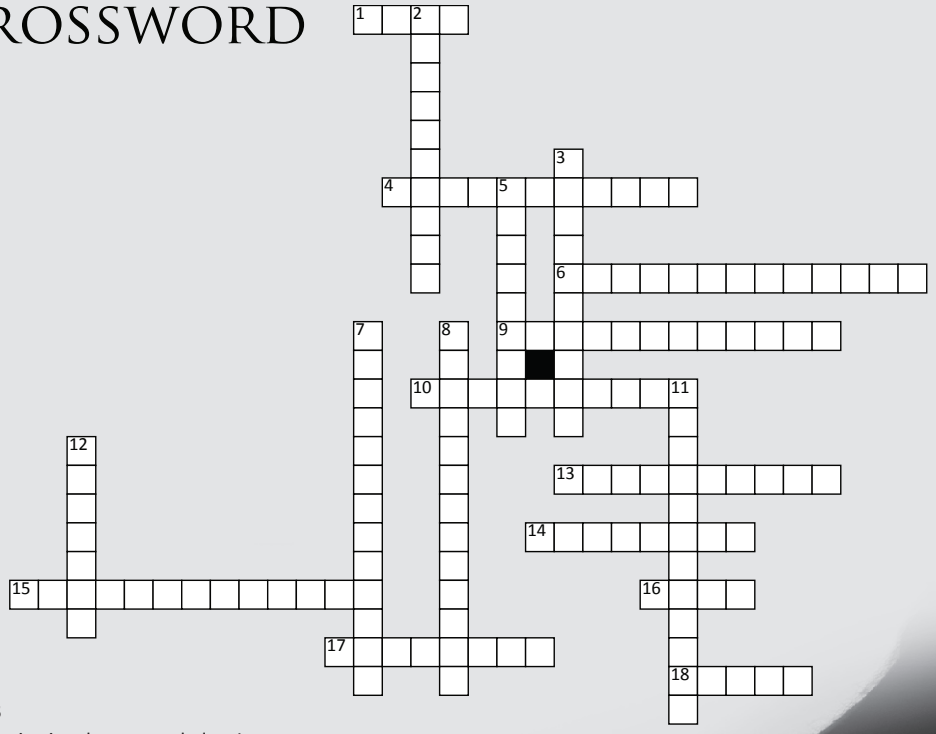
Type of Memberships	No. of Members
Life Member	16
Ordinary Member	19
Half-yearly - Ordinary	54
Digital Membership	9
Student Member	38
Associate	0
Total	136

PAST PROGRAMMES

Sr. No.	Date	Topics	Speakers
International Taxation			
1	CTC Centenary Transfer Pricing Silver Series 2025 - Online Master Class – (Contd.)		
a	01.10.2025	TP nuances and benchmarking for IP transactions & Business Restructuring	CA Bhavesh Dedhia

b	03.10.2025	Dispute Resolution Mechanisms (APA, MAP, Safe Harbour)	Mr. Sobhan Kar
c	04.10.2025	TP assessment procedure and various dispute resolution forums	Adv. Harsh Shah
d		Important caselaws in TP	Dr. CA Sunil Moti Lala, Adv.
e	11.10.2025	**Panel 1** -Panel Discussion on Practical issues arising due to the interplay of TP with other laws (customs, SEBI LODR, GST, etc)	**Moderator –** CA Bipin Pawar **Panelist –** CA Pankil Sanghvi, CA Namrata Dedhia & CA Shikha Gupta
f		**Panel 2 -** Panel Discussion on Key Controversial TP issues, such as IGS / AMP	**Moderator –** CA Vispi T. Patel **Panelist –** CA Karishma Phatarphekar, CA Megha Kadakia & Mr. Amit Shukla
Indirect Taxes			
1	04.10.2025	6-Hour Workshop: Practical Use of AI for CAs/ Advocates/Practitioners in GST Practice	CA. Tapas Ruparelia, Ahmedabad & CA. Rahul Bajaj, Nashik
2	06.10.2025	**Study Circle** - ST Challenges in Business Closure & Transition: IBC, Voluntary Liquidation, Death of Proprietor, Branch / Business Closure, and Entity Reconstitution	**Group Leader** – CA Parth Shah **Chairman** – CA Naresh Sheth
Student			
1	2nd E-certificate Course on Practical Income Tax & Litigation Masterclass - (Contd.)		
a	07.10.2025	Taxation of Unaccounted Income [Section 68 – 69D], Section 115BBE [Rate of Tax], Section 271AAC & Clubbing of Income	Mr. Mandar Vaidya, Adv.
b	08.10.2025	Overview of Income-tax Bill 2025	CA Anish Thacker
2	3-Day Workshop on Companies Act Compliances		
a	16.10.2025	Incorporation & Post-Incorporation Compliances	CS Raj Kapadia
b	17.10.2025	Annual Filings & Key Forms	CS Snehal Shah
c	18.10.2025	Event-Based Compliances & SEBI Regulations	CS Amita Desai
Direct Taxes			
1	10.10.2025	Issues in Business Deductions	CA Ravikant Kamath
Pune Study Group			
1	18.10.2025	Intricacies of Sec. 269SS, 269T & 269ST and its reporting requirements in Form 3CD	CA Pramod Shingte

Crossword



Across

1. Constitutional structure balancing powers of Union and States, crucial in taxation.
1. Global organization working on AI and tax ethics
4. Tool using AI to predict future tax liabilities
6. Advanced form of AI learning without explicit instruction
9. The foundation of AI — machines mimicking human cognition
10. AI technique that learns patterns from labelled data
13. Core profession AI is transforming
14. AI-powered support system for taxpayers and clients
15. Technology that helps detect anomalies or fraud in accounting
16. Electronic system for filing returns
17. Legal term for correctness and authenticity in tax filings
18. Modern AI tool assisting in reviewing financial records

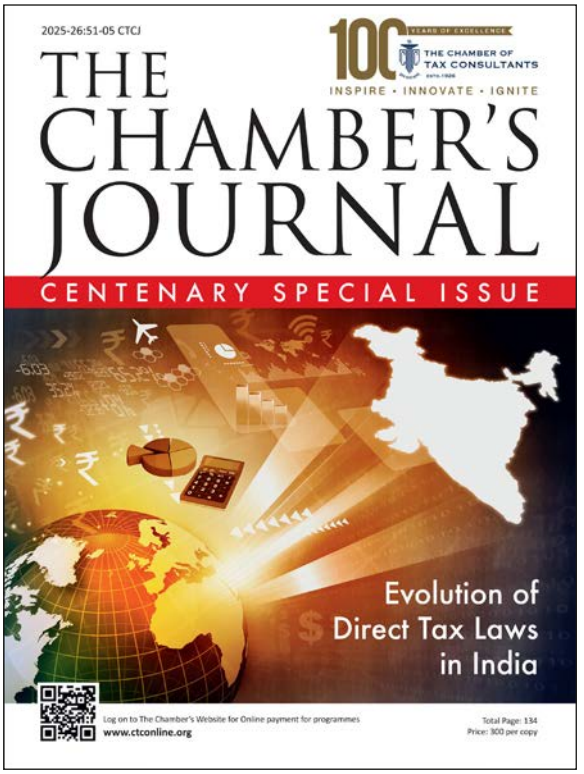
Down

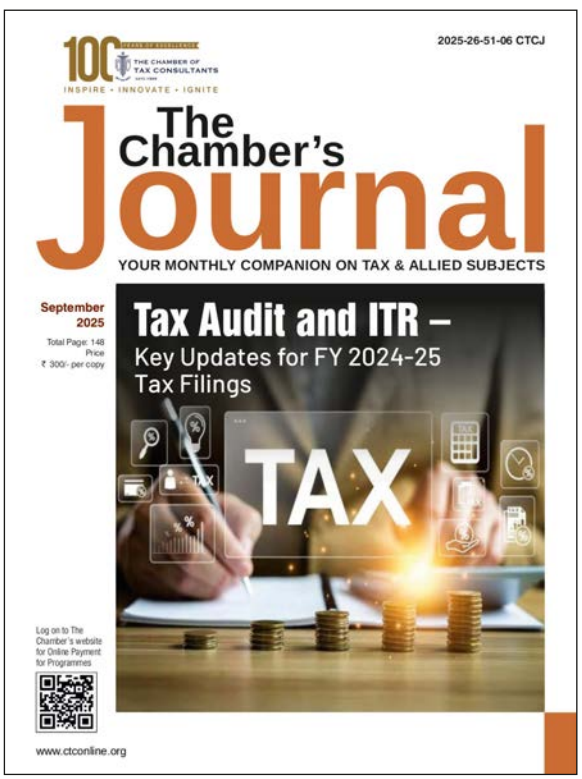
2. Key objective of every tax process — ensuring adherence to law
3. Type of AI that creates new data, text, or code
5. What AI models constantly do to improve - fine-tune or _____
7. Analytical approach that drives insights from financial information
8. Model architecture inspired by the human brain
11. Automated document reading using OCR and NLP
12. Conversational AI assistant often used for client interaction

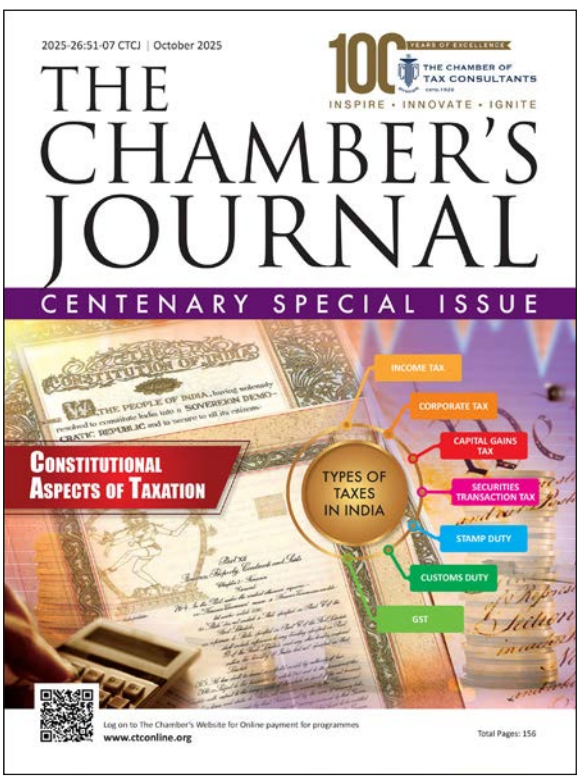
Scan to check the Answers











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