

Tax Assemblage 2016

April – June 2016

Sr. No	Particulars	Citation/Source	Sent on
1	<u>KPMG Tax Assemblage – January to March 2016</u>	-----	4 April 2016
2	<u>KPMG India Tax Konnect – April 2016</u>	-----	6 April 2016
3	<u>No rebate on stamp duty paid in the State of Maharashtra on the order of the High Court sanctioning the scheme of compromise or arrangement for stamp duty paid in another state</u>	The Chief Controlling Revenue Authority v. Reliance Industries Limited (Writ Petition No. 1293 of 2007, dated 31 March 2016)	11 April 2016
4	<u>Turnover filter considered at 10 times; Comparables with RPTs up to 15 percent accepted; standard deduction of +/- 5 percent benefit under the erstwhile provisions of Income-tax Act confirmed</u>	ACIT v. McAfee Software (India) Pvt. Ltd. [2016] 68 taxman.com 293 (Bang)	11 April 2016
5	<u>Payment for the use of virtual voice network is neither fees for technical services nor royalty under the India-UK tax treaty</u>	Interoute Communications Limited v. DDIT [2016] 68 taxman.com 160 (Mum)	13 April 2016
6	<u>Web-hosting services provided by a foreign company are not taxable as royalty in India</u>	DDIT v. Savvis Communication Corporation [2016] 69 taxman.com 106 (Mum)	14 April 2016
7	<u>Upfront payment for acquisition of leasehold rights over an immovable property for 99 years is not rental income hence not liable for deduction of tax at source under Section 194-I of the Income-tax Act</u>	Foxconn India Developer (P) Ltd. v. ITO [2016] 68 taxman.com 95 (Mad)	14 April 2016
8	<u>Tested party shall be selected with reference to the entity which has undertaken the transaction. Market determined interest rate applicable to currency in which loan has to be repaid shall be considered at arm's length</u>	India Debt Management Pvt Ltd v. DCIT [2016] 69 taxman.com 125 (Mum)	14 April 2016
9	<u>Mere technical error in the return of income would not defeat the claim of tax treaty benefit</u>	Pramerica ASPF II Cyprus Holding Limited v. DCIT [2016] 157 ITD 1177 (Mum)	15 April 2016
10	<u>Section 94A of the Income-tax Act notifying Cyprus as a notified jurisdiction is constitutionally valid</u>	T.Rajkumar, K.Dhanakumar and T.K.Dhanashekar v UOI [2016] 383 ITR 385 (Mad)	15 April 2016
11	<u>CBDT notifies new income-tax return forms for Assessment Year 2016-17</u>	CBDT Notification No. 24/2016, dated 30 March 2016	15 April 2016
12	<u>Revision in framework for issuance of rupee denominated bonds</u>	www.rbi.org.in	15 April 2016

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13	<u>Enactment of Maharashtra Tax Laws (Levy, Amendment, and Validation) Bill 2016</u>	http://lj.maharashtra.gov.in	18 April 2016
14	<u>CBDT issues draft rules on Foreign Tax Credit</u>	CBDT F. No. 142/24/2015-TPL, dated 18 April 2016	18 April 2016
15	<u>Deferred consideration on transfer of shares dependent upon contingency is not taxable in the year of transfer since it has not accrued</u>	CIT v. Mrs. Hemal Raju Shete [2016] 239 Taxman 176 (Bom)	21 April 2016
16	<u>Government of India withdraws the restrictions on early provident fund withdrawals</u>	www.epfindia.com	21 April 2016
17	<u>Foreign Investments in units of Real Estate Investment Trusts, Alternative Investment Fund, Infrastructure Investment Trust</u>	www.rbi.org.in	25 April 2016
18	<u>Conversion of firm into company under part IX of the Companies Act, 1956 does not amount to transfer and not subject to capital gains tax</u>	DCIT v. R.L. Kalathia & Co. [2016] 381 ITR 180 (Guj)	27 April 2016
19	<u>Overseas AEs selected as tested parties in light of the APA concluded for later year</u>	Ranbaxy Laboratories Limited v. ACIT [2016] 68 taxman.com 322 (Del)	27 April 2016
20	<u>Tips collected by hotel from customers and paid to employees is not taxable as salary, and hence, tax withholding provisions are not applicable</u>	ITC Ltd v. CIT [2016] 68 taxman.com 323 (SC)	27 April 2016
21	<u>CBDT circular clarifying on payment of interest on refund under Section 244A of the Income-tax Act of excess TDS deposited under the provisions of the Income-tax Act</u>	CBDT Circular No. 11/2016, dated 26 April 2016	28 April 2016
22	<u>CBDT clarifies on taxability of income from the transfer of unlisted shares</u>	CBDT Clarification F. No. 225/12/2016/ITA.II, dated 2 May 2016	3 May 2016
23	<u>Taxpayer is a beneficial owner of royalty and interest income and therefore eligible for beneficial tax rate under the India-Singapore tax treaty</u>	Imerys Asia Pacific Pvt. Ltd., v. DDIT [2016] 69 taxman.com 454 (Pune)	3 May 2016
24	<u>The Government of India amends Employees' Pension Scheme allowing members to contribute till 60 years of age</u>	GOI Notification F. No. R-15011/3/2016-SS-II, dated 25 April 2016	3 May 2016
25	<u>Waiver of loan availed for acquiring capital asset is taxable as business income</u>	CIT v. Ramaniyam Homes (P.) Ltd. [2016] 68 taxmann.com 289 (Mad)	3 May 2016
26	<u>CBDT Clarification - Income from unlisted share transfers taxable as 'capital gains', holding period irrelevant</u>	Letter F.No.225/12/2016/ITA.II, dated 2 May 2016	3 May 2016
27	<u>CBDT amends TDS and TCS related certain rules</u>	CBDT Notification No. 30/2016, dated 29 April 2016	4 May 2016
28	<u>CBDT amends rules and forms with respect to expenditure on scientific research under Section 35 of the Income-tax Act</u>	CBDT Notification No. 29/2016, dated 28 April 2016	5 May 2016
29	<u>Proposed amendments to the Finance Bill, 2016</u>	www.indiabudget.nic.in	6 May 2016
30	<u>Agreement between taxpayer and its AE and proof that the AMP expenditure is not for the taxpayers business in India are prerequisite for treating the AMP</u>	L'Oreal India Private Limited v. DCIT [2016] 69 taxmann.com 419 (Mum)	10 May 2016

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	<u>expenditure as an international transaction</u>		
31	<u>CBDT issues press release on Protocol amending the India-Mauritius tax treaty</u>	CBDT Press Release dated 10 May 2016	10 May 2016
32	<u>Income accrues or arises only when a right to receive the amount is vested in the taxpayer - Supreme Court</u>	P.G. & W. Sawoo (P.) Ltd. v. ACIT [2016] 69 taxmann.com 188 (SC)	11 May 2016
33	<u>Residential status is relevant while exercising the option and not during the vesting period for taxability of Stock Appreciation Rights</u>	Shri Soundarrajan Parthasarathy v. DCIT [2016] 70 taxmann.com 27 (Chen)	12 May 2016
34	<u>KPMG India Tax Konnect – May 2016</u>	-----	12 May 2016
35	<u>Protocol amending the India-Mauritius tax treaty</u>	http://mof.gov.in.org	13 May 2016
36	<u>Revised warehousing guidelines and procedures in relation to imported goods</u>	CBEC Notification No 66/2016-Customs (NT) to 72/ 2016-Customs (NT) dated 14 May 2016 and Circular No 17/ 2016-Customs and Circular No 18/2016 – Cus, dated 14 May 2016	17 May 2016
37	<u>Payment of administrative fees to foreign company is not liable for disallowance under Section 40(a)(i) of the Income-tax Act for non-deduction of tax at source in view of non-discrimination clause under the India-USA tax treaty</u>	CIT v. Herbalife International India Pvt Ltd. [2016] 69 taxmann.com 205 (Del)	17 May 2016
38	<u>RBI invites Comments by 25 May 2016 on allowing FPIs in Unlisted Debt Securities and Securitised Debt Instruments</u>	RBI Press Release: 2015-2016/2673 Source: www.rbi.org.in	17 May 2016
39	<u>Transferor company held taxable even in respect of part sale consideration directly received by its shareholders under a scheme of arrangement for transfer of business</u>	CIT v. Salora International Ltd. [2016] 70 taxmann.com 92 (Del)	19 May 2016
40	<u>SEBI tightens the norms for issuance of Offshore Derivative Instruments (ODIs) - Identification of Beneficial Owners / Transferability</u>	http://www.sebi.gov.in	19 May 2016
41	<u>Royalty received from franchisee remitted to an overseas AE without value-addition to be treated as a 'pass-through' cost for computation of operating profit margin</u>	Mc Donald's India (P) Ltd v. DCIT [2016] 70 taxmann.com 84 (Del)	20 May 2016
42	<u>RBI permits Foreign Portfolio Investors to invest in Credit Information Companies</u>	www.rbi.org.in	20 May 2016
43	<u>Payment received by a UK company under the management and administration services agreement is taxable as royalty under the Income-tax Act as well as the India-UK tax treaty</u>	TNT Express Worldwide (UK) Ltd. v. DDIT [2016] 70 taxmann.com 129 (Bang)	23 May 2016
44	<u>CBDT issues draft rules for computation of fair market value and reporting requirement in relation to indirect transfer provisions</u>	CBDT Draft Rule No. F. No. 142/26/2015-TPL dated 23 May 2016	24 May 2016
45	<u>Government of India declares 8.8 per cent interest rate on Employees' Provident Fund Scheme</u>	www.epfindia.com	27 May 2016
46	<u>Whenever the provision of an opportunity for hearing is actually turned into an empty</u>	Sutherland Global Services Pvt. Ltd. v. UOI [2016] 69 taxmann.com	27 May 2016

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	<u>formality by the Officer, the opportunity provided by the show cause notices become meaningless opportunities</u>	16 (Mad)	
47	<u>Transfer of shares on deferred basis</u>	Notification No. FEMA 368/2016-RB, dated 20 May 2016	30 May 2016
48	<u>The Central Board of Direct Taxes notifies Equalisation Levy Rules, 2016</u>	CBDT Notification No. 37 and 38/2016, dated 27 May 2016	30 May 2016
49	<u>Enabling provisions relating to 'Krishi Kalyan Cess' introduced</u>	CBEC Notification No. 27/2016-Service Tax to 31/2016-Service Tax and Notification No. 28/2016-Central Excise (N.T.), dated 26 May 2016	31 May 2016
50	<u>Pegging perquisite valuation to SBI-rate for bank employees' concessional loans, no 'hardship'</u>	All India Union Bank Officers Federation v. UOI [2016] 69 taxmann.com 371 (Mad)	1 June 2016
51	<u>Foreign exchange fluctuation loss on outstanding foreign currency loans is allowed as business expenditure under the Income-tax Act</u>	Cooper Corporation Pvt. Ltd. v. DCIT [2016] 69 taxmann.com 244 (Pune)	3 June 2016
52	<u>Tax deduction at source is not applicable to reasonable per diem allowances paid to employees for overseas trips</u>	CIT v. Symphony Marketing Solutions India Pvt. Ltd., (TS-5207-HC-2016) - Kar - Taxsutra.com	6 June 2016
53	<u>Home loan interest not eligible for double deduction while computing capital gains</u>	Captain B. L. Lingaraju v. ACIT (ITA No. 906/Bang/2014) – Bang - Taxsutra.com	6 June 2016
54	<u>Indian subsidiary of a US company does not constitute a PE in India as it does not satisfy any of the tests of PE Article of the India-USA tax treaty</u>	Adobe Systems Incorporated v. ADIT [2016] 69 taxmann.com 228 (Del)	7 June 2016
55	<u>Krishi Kalyan Cess: Point of taxation for liability under reverse charge mechanism</u>	CBEC Notification No. 35/2016-Service Tax, dated 23 June 2016.	10 June 2016
56	<u>CBDT issues FAQs on newly introduced TCS provisions</u>	CBDT Circular No 22/2016, dated 8 June 2016	10 June 2016
57	<u>35 per cent of net global profits are attributed to Indian PE of a Chinese company in respect of both hardware and software supplied to Indian customers – Delhi Tribunal</u>	ZTE Corporation v. ADIT [2016] 70 taxmann.com 1 (Del)	10 June 2016
58	<u>Consideration from offshore construction contract for installation of 'Single Point Mooring' is not taxable as royalty as well as FTS in India</u>	Technip Singapore Pte. Ltd. v. DIT [2016] 70 taxmann.com 233 (Del)	10 June 2016
59	<u>Notional interest on security deposit paid to landlord not to be considered in perquisite valuation of rent-free accommodation provided by employer</u>	Vikas Chimakurty v. DCIT [2016] 70 taxmann.com 96 (Mum)	13 June 2016
60	<u>The Government of India enhances benefits under the Employees' Deposit-Linked Insurance Scheme, 1976</u>	www.epfindia.com	14 June 2016
61	<u>SEBI tightens the norms for issuance of Offshore Derivative Instruments (ODIs) - Identification of Beneficial Owners / Transferability</u>	http://www.sebi.gov.in	15 June 2016
62	<u>Initial assessment year under Section 80B(11A) is the assessment year in which the taxpayer commenced its business and not the assessment year when the said section has been amended</u>	Anand Food and Dairy Products v. ITO (TAX APPEAL No. 174-176 of 2016) - Guj - Taxsutra.com	15 June 2015

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63	<u>Salary income earned outside India is exempt from tax in India under tax treaty based on split residency position</u>	Raman Chopra v. DCIT, [2016] 69 taxmann.com 452 (Del)	16 June 2015
64	<u>Salary received by a non-resident in India is taxable in India on receipt basis</u>	Tapas Kr. Bandopadhyay v. DDIT [2016] 70 taxmann.com 50 (Kol)	16 June 2016
65	<u>Allotment of bonus shares cannot be considered as received for an inadequate consideration, and therefore, it is not taxable as income from other sources</u>	DCIT v. Dr. Rajan Pai [ITA.1290/Bang/2015, (Assessment Year: 2012-13)] – Bang – Taxsutra.com	16 June 2016
66	<u>Contribution of land to AOP for joint development is not transfer of capital asset and therefore not taxable as capital gain</u>	Ashok Gordhandas Kirpalani v. ITO (ITA No.1647/PN/2014) – Pune - Taxsutra.com	16 June 2016
67	<u>Taxpayer considered as BPO in subsequent years, cannot be considered as KPO in earlier year for providing same services</u>	SNL Financial (India) Pvt. Ltd. v. DCIT [2016] 70 taxmann.com 146 (Kol)	17 June 2016
68	<u>Clarifications issued to streamline speedy disbursal of pending refund claims of exporters of services</u>	CBEC Circular No. 195/05/2016, dated 15 June 2016	17 June 2016
69	<u>Government of India releases the model Goods and Service Tax Law</u>	www.finmin.nic.in	17 June 2016
70	<u>Changes in Foreign Direct Investment Policy</u>	dipp.nic.in – Press Note No. 5/2016 (Series) dated 24 June 2016	20 June 2016
71	<u>Payment to toll collecting agencies is liable for TDS under Section 194C and not under Section 194H of the Income-tax Act</u>	DCIT v. Project Director, NHAI (ITA No.69 & CO No. 60/Vizag/2013) – Vizag - Taxsutra.com	21 June 2016
72	<u>Transfer pricing adjustment on free of charge corporate guarantee and letter of comfort deleted, adjustment for interest-free advances upheld</u>	TVS Logistics Services Ltd. v. DCIT (ITA No.458/Mds/2016) – Chen - Taxsutra.com	22 June 2016
73	<u>SEBI releases consultation paper seeking public comments for enabling framework for registration of Fund Managers to manage Investment Funds</u>	www.sebi.gov.in	22 June 2016
74	<u>Draft revised Authorised Economic Operator Scheme guidelines notified</u>	www.cbec.gov.in	23 June 2016
75	<u>Review of the framework of position limits for currency derivatives contracts</u>	http://www.sebi.gov.in	23 June 2016
76	<u>Exemption from levy of Krishi Kalyan Cess provided to the invoices issued and services completed prior to 1 June 2016</u>	MOF Notification No. 35/2016-Service Tax dated 23 June 2016	24 June 2016
77	<u>CBDT amends General Anti-Avoidance Rules</u>	CBDT Notification No. 49/2016, dated 22 June 2016	24 June 2016
78	<u>Once the approval by DSIR is granted, the AO cannot verify the prescribed conditions to deny the deduction under Section 80-IB(8A) of the Income-tax Act</u>	Principal Commissioner of Income Tax v. B.A. Research India Ltd [(TS-337-HC-2016(GUJ)] - Guj - Taxsutra.com	24 June 2016
79	<u>Even though in earlier years, the taxpayer itself had accepted the department's stand in MAP proceedings, this should not be considered as a consent of the taxpayer for the adjustment proposed by the department in earlier years</u>	ACIT v. Turner International India Pvt. Ltd. (ITA No. 3080/Del/2011-AY 2005-06), (ITA No. 5981/Del/2010- AY 2006-07), Cross Obj. No. 246/Del/2011 (ITA No. 3080/Del/2011) - AY 2005-06	27 June 2016
80	<u>Section 206AA of the Income-tax Act does not override the beneficial provisions of the tax treaty</u>	DCIT v. Pricol Ltd (ITA No. 56 & 57/Mads/2014) – Chen - Taxsutra.com	27 June 2016
81	<u> CBDT notify amendments to Rule 8D of Income-tax Rules</u>	CBDT Notification No. 43/2016, dated 2 June 2016	27 June 2016

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82	<u>Since the payment made by the taxpayer is in kind, the provisions of Section 194J of the Income-tax Act are not applicable for deduction of tax at source</u>	Red Chillies Entertainment Pvt. Ltd. v. ACIT (ITA No. 1577/Mum/2013 – AY 2009-10) – Mum – Taxsutra.com	28 June 2016
83	<u>CBDT notifies rules with respect to non-furnishing of PAN by non-residents and furnishing of alternative</u>	CBDT Notification No. 53/2016, dated 24 June 2016	29 June 2016
84	<u>Stamp duty payment is allowed as revenue expenditure</u>	Prithvi Associates v. ACIT (Tax Appeal No. 414 of 2007) - Guj – Taxsutra.com	30 June 2016
85	<u>CBDT notifies Foreign Tax Credit rules</u>	CBDT Notification No. 54/2016, dated 27 June 2016	30 June 2016
86	<u>CBDT notifies rules for computation of fair market value and reporting requirements in relation to indirect transfer provisions</u>	CBDT Notification 55/2016, dated 28 June 2016	30 June 2016

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