

Tax Assemblage

January – March 2017



Sr. No	Particulars	Citation/Source	Sent on
1	<u>India signs the third Protocol with Singapore to amend India-Singapore tax treaty</u>	Protocol to the India-Singapore tax treaty –Taxesutra.com	2 January 2017
2	<u>Employees' Enrolment Campaign, 2017 starts from 1 January 2017 to 31 March 2017 under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952</u>	Notification No. S.O. 4250 (E) , G.S.R. 1190 (E), G.S.R. 1191 (E), G.S.R. 1192 (E) dated 30 December 2016	3 January 2017
3	<u>KPMG Tax Assemblage - 2016</u>	-----	3 January 2017
4	<u>Employees' Provident Fund Organisation issues FAQs on Employees' Enrolment Campaign, 2017</u>	http://www.epfindia.com/site_docs/PDFs/Circulars/Y2016-2017/Coord_FAQ_EEC_04012017.pdf	5 January 2017
5	<u>Salary received by a non-resident for services rendered abroad accrues outside India. Not chargeable to tax in India</u>	Utanka Roy v. DIT (W.P. No. 369 of 2014) (Cal)	6 January 2017
6	<u>Extension of deadline for conversion of Person of Indian Origin (PIO) card into Overseas Citizen of India (OCI) card</u>	www.mha.nic.in	6 January 2017
7	<u>Claim of depreciation on goodwill is allowed without filing revised return of income</u>	DCIT (OSD) v. Zyduz Wellness Ltd. [2016] 162 ITD 604 (Ahd)	9 January 2017
8	<u>KPMG India Tax Konnect – January 2017</u>	-----	10 January 2017
9	<u>KPMG Tax Highlights - 2016</u>	-----	10 January 2017
10	<u>CBDT notification – amendment to rules with respect PAN and reporting of cash transaction</u>	CBDT Notification No. 2/2017, dated 6 January 2017	13 January 2017
11	<u>Foreign tax credit allowed on the basis of 'gross receipts'</u>	Elitecore Technologies Private Limited v. DCIT [2017] 77 taxmann.com 149 (Ahd)	13 January 2017
12	<u>Tax sparing credit under India-Cyprus tax treaty. Payment for clinical trials not taxable as FTS under India-USA tax treaty. Post-merger, weighted deduction on scientific research expenditure allowed to the merged entity</u>	Dr. Reddy's Laboratories Ltd. v. ACIT [2017] 53 ITR(T) 285 (Hyd)	16 January 2017
13	<u>Validity of penalty proceedings under Section 271(1)(c) of the Income-tax Act</u>	Sri Nilaya AR Projects v. ITO (ITA No. 1572/Hyd/2013) – www.itatonline.org	17 January 2017
14	<u>Export commission is not taxable in India in the absence of specific FTS article in the respective tax treaties</u>	DCIT v. Welspun Corporation Limited [2017] 183 TTJ 697 (Ahd)	17 January 2017
15	<u>Dismantling and seaworthy packing of machinery is 'contract of work' and not</u>	ITO v. Emami Paper Mills Ltd. [2017] 163 ITD 212 (Kol)	17 January 2017

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	<u>'contract of service' and therefore such services are not taxable as fees for technical services</u>		
16	<u>GST Council takes key decisions on contentious issues of dual control and effective date of implementation</u>	-----	18 January 2017
17	<u>'De Facto' or 'De Jure' participation in the management, capital or control by itself is not relevant in establishing associated enterprise relationship in terms of Section 92A of the Income-tax Act</u>	ACIT v. Veer Gems [2017] 77 taxmann.com 127 (Ahd)	19 January 2017
18	<u>Consistent loss making companies cannot be rejected unless functional profile is different; allows comparability adjustments including capacity adjustment, volume adjustment and warranty cost adjustment</u>	Erhardt+Leimer (India) Private Limited v. ACIT [2017] 78 taxmann.com 258 (Ahd)	19 January 2017
19	<u>CBDT issues FAQs on the taxation and investment regime for Pradhan Mantri Garib Kalyan Yojana, 2016</u>	CBDT Circular No. 2/2017, dated 18 January 2017	19 January 2017
20	<u>Amendments to the Modified Special Incentive Package Scheme</u>	http://pib.nic.in/newsite/mbErel.aspx?relid=157445 ; dated 18 January 2017	19 January 2017
21	<u>Expenditure on Freebies are allowed as Business expenditure since MCI Regulations are not applicable to Pharma Companies</u>	DCIT v. PHL Pharma P Ltd. [2017] 163 ITD 10 (Mum)	20 January 2017
22	<u>Supreme Court grants immunity from prosecution on payment of the sum specified in the settlement order, even after the time granted by the Settlement Commission</u>	Sandeep Singh v. Union Of India and Ors [2017] 245 Taxman 336 (SC)	24 January 2017
23	<u>CBDT issues guiding principles for determination of the Place of Effective Management of a company</u>	CBDT Circular No. 06/2017, dated 24 January 2017	24 January 2017
24	<u>Writ petition is maintainable against initiation of reassessment proceedings – Supreme Court</u>	Jeans Knit Private Limited v. DCIT [2017] 390 ITR 10 (SC)	25 January 2017
25	<u>CBDT clarifications on implementation of General Anti-Avoidance Rules under the Income-tax Act</u>	CBDT Circular No. 7 of 2017, dated 27 January 2017	28 January 2017
26	<u>Section 206AA of the Income-tax Act cannot override the beneficial provisions of a tax treaty</u>	Quick Flight Ltd. v. ITO (ITA No. 1204/Ahd/2014) – www.taxindiainternational.com	30 January 2017
27	<u>India Economic Survey 2016-17 – Key Highlights</u>	www.indiabudget.nic.in	31 January 2017
28	<u>Surcharge and education cess cannot be levied on the tax deducted at source based on Section 206AA of the Act</u>	Computer Sciences Corporation India (P.) Ltd. v. ITO [2017] 163 ITD 151(Del)	1 February 2017
29	<u>Union Budget 2017</u>	www.indiabudget.nic.in	2 February 2017
30	<u>Budget 2017: Transfer Pricing proposals</u>	www.indiabudget.nic.in	3 February 2017
31	<u>Union Budget 2017 - Building, Construction and Real Estate</u>	www.indiabudget.nic.in	9 February 2017
32	<u>Union Budget 2017 - Consumer Markets</u>	www.indiabudget.nic.in	9 February 2017
33	<u>Union Budget 2017 - Education</u>	www.indiabudget.nic.in	9 February 2017
34	<u>Union Budget 2017 - Energy and Natural Resources</u>	www.indiabudget.nic.in	9 February 2017

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35	<u>Union Budget 2017 - Financial Services</u>	www.indiabudget.nic.in	9 February 2017
36	<u>Union Budget 2017 - Healthcare</u>	www.indiabudget.nic.in	9 February 2017
37	<u>Union Budget 2017 - Industrial Manufacturing</u>	www.indiabudget.nic.in	9 February 2017
38	<u>Union Budget 2017 - Life Sciences</u>	www.indiabudget.nic.in	9 February 2017
39	<u>Union Budget 2017 - Private Equity</u>	www.indiabudget.nic.in	9 February 2017
40	<u>Union Budget 2017 – Technology</u>	www.indiabudget.nic.in	9 February 2017
41	<u>Union Budget 2017 - Tourism and Hospitality</u>	www.indiabudget.nic.in	9 February 2017
42	<u>Union Budget 2017 - Transport and Logistics</u>	www.indiabudget.nic.in	9 February 2017
43	<u>Provident Fund Office directs its field offices to expedite exemption applications under Employees' Deposit-Linked Insurance Scheme, 1976</u>	PFO Circular dated 6 February 2017 - Letter No. EDLI/5(1) Exemption/Extention/17/29967	13 February 2017
44	<u>Payment for international private leased circuit and connectivity charges for use of private bandwidth in underwater sea cable are not taxable as royalty or FTS</u>	Geo Connect Ltd. v. DCIT (ITA Nos. 1927/Del/2008 & 127/Del/2011) – Taxesutra.com	13 February 2017
45	<u>KPMG India Tax Konnect – February 2017</u>	-----	14 February 2017
46	<u>Indian subsidiary of group holding company of Netherland entity does not constitute permanent establishment in India</u>	NetApp B. V. v. DDIT [2017] 78 taxmann.com 97 (Del)	15 February 2017
47	<u>If a tax officer finds the claim of expenditure incurred in relation to exempt income is incorrect, Rule 8D can be invoked even if the incorrect claim or disallowable expenditure is not quantified</u>	Punjab Tractors Ltd. v. CIT [2017] 293 CTR 50 (P&H)	16 February 2017
48	<u>Since the securities are held as stock-in-trade, no disallowance of expenditure is to be made under Section 14A of the Income-tax Act</u>	Pr. CIT v. State Bank of Patiala [2017] 391 ITR 218 (P&H) CIT v. G K K Capital Markets [2017] 78 taxmann.com 341 (Cal)	17 February 2017
49	<u>Technology services provided in the form of data centre, infrastructure, connectivity and application technology are neither taxable as royalty nor as fees for technical services under the Income-tax Act</u>	Atos Information Technology HK Ltd. v. DCIT [2017] 79 taxmann.com 26 (Mum)	20 February 2017
50	<u>GST Compensation Bill receives final nod from the GST Council; the Council to meet on 4-5 March 2017 to discuss GST laws</u>	-----	22 February 2017
51	<u>Government notifies protocol to the India-Israel tax treaty</u>	Government notifies protocol to the India-Israel tax treaty vide Notification No. 10/2017 F. No. 500/14/2004-FTD-II	22 February 2017
52	<u>Resale Price Method considered as most appropriate method for distributors engaged in buying and reselling of goods without any value addition to such goods</u>	Swarovski India (P.) Ltd. v. ACIT [2017] 78 taxmann.com 325 (Del)	23 February 2017
53	<u>By applying Rule 10 of the Income-tax Rules, 30 per cent of profits have been attributed to branch for conducting marketing activities relatable to direct sales made by head office in India</u>	DDIT v. Nipro Asia Pte Ltd. [2017] 79 Taxmann.com 154 (Del)	23 February 2017

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54	<u>Even in the absence of a PAN, lower tax rate prescribed under the tax treaty will apply</u>	Nagarjuna Fertilizers and Chemicals Ltd. v. ACIT [2017] 78 taxmann.com 264 (Hyd)	24 February 2017
55	<u>CBDT issues a standard operating procedure for assessing officers while verifying cash transactions relating to demonetisation</u>	CBDT Instruction No. 03/2017, dated 21 February 2017	25 February 2017
56	<u>Liaison office of overseas group entity constitutes fixed place PE and Indian subsidiary constitutes agency PE under the India-USA tax treaty</u>	GE Energy Parts Inc. v. ADIT [2017] 78 taxmann.com 2 (Del)	1 March 2017
57	<u>OECD releases Economic Survey of India</u>	http://www.oecd.org/eco/surveys/INDIA-2017-OECD-economic-survey-overview.pdf	3 March 2017
58	<u>India's Social Security Agreement with Portugal to come into effect from 8 May 2017</u>	MEA's Press Release http://mea.gov.in/pressreleases.htm?dtl/28078/India_Portugal_Social_Security_Agreement Accessed on 3 March 2017	3 March 2017
59	<u>Capital surplus on account of waiver of loan is neither taxable nor can be included in computation of book profit under the provisions of MAT</u>	JSW Steel Limited v. ACIT (ITA No. 923/Bang/2009) – Taxsutra.com	6 March 2017
60	<u>CGST Bill and IGST Bill receives final nod from the GST Council; the Council to meet on 16 March 2017 to discuss SGST Bill and UTGST Bill</u>	GOI, Press Information Bureau http://www.pib.nic.in/newsite/PrintRelease.aspx Accessed on 4 March 2017	7 March 2017
61	<u>KPMG India Tax Konnect – March 2017</u>	-----	7 March 2017
62	<u>Foreign Direct Investment in Limited Liability Partnership – Revised guidelines</u>	RBI Notification No. FEMA.385/ 2017-RB, dated 3 March 2017	8 March 2017
63	<u>Payments for global telecommunication facility by Indian agents are in the nature of reimbursement and not fees for technical services</u>	www.taxsutra.com	8 March 2017
64	<u>Payments to foreign entities are not taxable as fees for technical services in view of MFN clause under India-Belgium tax treaty</u>	ITO v. Cadila Health Care Ltd [2017] 78 taxmann.com 330 (Ahd)	9 March 2017
65	<u>Retention money cannot be regarded as income till the contractual obligation is fulfilled. Therefore, it cannot be regarded as income for computing MAT</u>	DCIT v. McNally Bharat Engg.Co.Ltd (ITA No. 100/Kol/2011) – Taxsutra.com	9 March 2017
66	<u>Penalty for concealment of income is to be deleted even though adjustment made by the TPO is accepted by the taxpayer</u>	Pr.CIT v. Mitsui Prime Advanced Composites India Pvt. Ltd. (ITA 913/2016, CM APPL.46519/2016) – Delhi High Court	14 March 2017
67	<u>Where tax is deducted on the basis of a tax treaty, higher tax rate under Section 206AA of the Income-tax Act cannot apply</u>	Uniphos Environtronic (P.) Ltd. v. DCIT [2017] 79 taxmann.com 75 (Ahd)	15 March 2017
68	<u>Sales to two customers which constitutes more than 20 per cent of total sales of the taxpayer shall constitute 'dominant influence'; AE relationship upheld</u>	Hospira Healthcare India Private Limited v. DCIT[2017] 78 taxmann.com 308 (Chny)	15 March 2017
69	<u>Long term capital loss on off-market sale of listed shares is allowed to be set-off against long term capital gain on sale of unlisted shares</u>	Asara Sales and Investments Private Limited v. ITO [2017] 79 taxmann.com 170 (Pune)	20 March 2017
70	<u>KPMG in India releases report on employee</u>	https://home.kpmg.com/in/en/home/insi	20 March 2017

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	<u>pensions in India at FICCI's conference on pension sector</u>	<u>ghs/2017/03/pension-pf-nps.html?cid=ext-eml_scb_2017_tl-in_pension_in_all&utm_medium=eml&utm_source=ext-scb&utm_content=in-all&utm_campaign=2017-tl-in-pension</u> <i>Accessed on 20 March 2017</i>	
71	<u>India and Brazil sign Social Security Agreement</u>	<u>http://mea.gov.in/press-releases.htm?dtl/28182/Social_Security_Agreement_between_India_and_Brazil</u> <i>Accessed on 20 March 2017</i>	20 March 2017
72	<u>The Government of India issues notification on reducing the administrative charges under Employees' Provident Funds and Miscellaneous Provisions Act, 1952</u>	<u>http://egazette.nic.in/WriteReadData/2015/162820.pdf</u> <u>http://egazette.nic.in/WriteReadData/2017/174782.pdf</u> <i>Accessed on 21 March 2017</i>	21 March 2017
73	<u>Proposed amendments to the Finance Bill, 2017</u>	www.taxsutra.com	22 March 2017
74	<u>CBDT issues FAQs on Income Computation and Disclosure Standards</u>	CBDT Circular No. 10/2017, dated 23 March 2017	24 March 2017
75	<u>Government issues guidelines for waiver of interest charged for default in deduction and payment of tax under the Income-tax Act</u>	CBDT Circular No. 11/2017, dated 24 March 2017	27 March 2017
76	<u>Since lessee is not the owner of the asset, depreciation is not allowed in the hands of lessee – Supreme Court</u>	Mother Hospital Pvt. Ltd. v. CIT (Civil Appeal No. 3360 of 2006) (Supreme Court) – www.itatonline.org	27 March 2017
77	<u>Employees' Provident Fund Organisation directs its field offices to pay Provident Fund and Pension withdrawal benefit to eligible International Workers in their Indian bank accounts on the date of leaving service in India</u>	EPFO Circular - <u>http://www.epfindia.com/site_docs/PDFs/Circulars/Y2016-2017/IWU7_PaymentPFwithdrawlbenefit_Pen_34140.pdf</u> <i>Accessed on 28 March 2017</i>	28 March 2017
78	<u>India signs five unilateral APAs on management cross charges</u>	www.taxsutra.com	30 March 2017
79	<u>The Government of India extends the time line of Employees' Enrolment Campaign, 2017 till 30 June 2017 under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952</u>	The Gazette of India <u>http://egazette.nic.in/WriteReadData/2017/175058.pdf</u>	30 March 2017
80	<u>Payment for advertising and publicity, with or without the use of marks, identification or logo of non-resident entity is not taxable as royalty or FTS under the Income-tax Act</u>	Reebok India Company v. DCIT (ITA No. 954/Del/2016) – Taxsutra.com	30 March 2017
81	<u>Amortisation of certain preliminary expenses cannot be claimed on the basis of share premium since it is not capital employed in the business of the company - Supreme Court</u>	Berger Paints India Ltd. v. CIT [2017] 79 taxmann.com 450 (SC)	31 March 2017

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