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FIN-O-SCOPE

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CBDT Notification No. 154/2025 – India–Qatar DTAA & Protocol Notified by CBDT

Date: 24 October 2025 | Issued by: Central Board of Direct Taxes (CBDT)

The Central Board of Direct Taxes (CBDT), vide Notification No. 154/2025 dated 24th October 2025, has notified the Agreement and Protocol between the Republic of India and the State of Qatar for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. The Agreement was signed on 18 February 2025 in New Delhi and entered into force on 10 September 2025.

As per Article 30(3), the provisions of the new DTAA shall apply in respect of income arising on or after 1 April 2026, i.e., the fiscal year immediately following the calendar year in which the Agreement entered into force.

Top Trends

- India's GDP growth for Q1 FY26 is around 7.8%.
- FY26 GDP forecast stands near 6.8%.
- Domestic consumption remains the biggest growth driver.
- Inflation continues to ease, giving RBI space for rate cuts.
- Fiscal deficit remains under control with steady government capex.

Top Trends

- Strong private investment momentum in infrastructure and manufacturing.
- India emerging as the fastest-growing large economy globally.
- Savings pattern shifting from physical to financial assets.
- MSME sector gaining policy and credit push.
- Employment creation improving due to formalisation and gig-economy rise.
- Corporate earnings downgrades seem to have bottomed out.
- Nifty and Sensex near lifetime highs amid robust domestic flows.
- Retail participation in markets at record levels.
- Mutual-fund SIP inflows keep breaking monthly records.
- Small-town investors dominate new mutual fund accounts.
- ETFs and index funds gaining traction over active funds.

The newly notified India–Qatar DTAA seeks to promote cross-border economic cooperation while preventing opportunities for double non-taxation or treaty shopping. The treaty provides for:

- Permanent Establishment (PE) thresholds, including a six-month period for construction or installation projects and a 90-day threshold for furnishing of services;
- 10% tax rate on interest, royalties, and fees for technical services;
- 5% / 10% dividend withholding rates, depending on shareholding;
- Exclusive taxation of shipping and air transport profits in the country of residence;
- Comprehensive exchange of information and assistance in tax collection provisions aligned with international transparency standards; and
- A Principal Purpose Test (PPT) under Article 28 to curb treaty abuse and ensure benefits are granted only for bona fide transactions.
- The Protocol to the Agreement clarifies that, for the purpose of Article 11(3) (interest), the term "State" includes:
- For India – the Reserve Bank of India and the Export-Import Bank of India; and
- For Qatar – the Qatar Investment Authority and Qatar Holding LLC.

This DTAA replaces the earlier 1999 India–Qatar tax treaty, providing a modernized framework consistent with the OECD and UN Model Conventions and India's evolving treaty policy.

Official notice: Central Board of Direct Taxes (CBDT)

CBDT Notification No. 155/2025 – Concurrent Powers to CPC, Bengaluru

Date: 27 October 2025 | Issued by: Central Board of Direct Taxes (CBDT)

The Central Board of Direct Taxes (CBDT) has issued Notification No. 155/2025 dated 27th October 2025, empowering the Commissioner of Income Tax, Centralized Processing Centre (CPC), Bengaluru to exercise concurrent powers under the Income-tax Act, 1961. The notification authorizes the CIT (CPC) to rectify mistakes apparent from record under Section 154, including errors in computation of tax or refund, non-consideration of prepaid taxes such as TDS, TCS or advance tax, omission of eligible reliefs, and incorrect calculation of interest under Section 244A.

The Commissioner is also empowered to issue notices of demand under Section 156 in connection with such rectifications. Further, the notification allows the CIT (CPC) to delegate these powers to Additional or Joint Commissioners, who may in turn authorize Assessing Officers for implementation within their jurisdiction. This measure aims to streamline the rectification and refund adjustment process, enhance operational efficiency at the CPC, and ensure quicker resolution of taxpayer grievances. The notification shall come into effect from the date of its publication in the Official Gazette.

Official notice: Central Board of Direct Taxes (CBDT)

Licence Fee for Use of Goodwill Held as Allowable Business Expenditure u/s 37

Case Law: Pr. Commissioner of Income Tax v. Remfry & Sagar | Delhi High Court, 2025 | ITA Nos. 525–531 of 2025, decided on 15 October 2025

In a significant ruling, the Delhi High Court in Pr. Commissioner of Income Tax v. Remfry & Sagar (ITA Nos. 525–531 of 2025, decided on 15 October 2025) upheld the order of the Income Tax Appellate Tribunal (ITAT) allowing intellectual property law firm Remfry & Sagar to claim deduction of licence fees paid for the use of goodwill as a business expenditure under Section 37 of the Income Tax Act, 1961.

The dispute pertained to whether the payment made by the firm to Remfry & Sagar Consultants Pvt. Ltd. (RSCPL)—a company owned by the founder's family—for the licence to use goodwill, constituted a genuine business expense or a colourable device to divert income. The Assessing Officer had disallowed the claim, holding that the arrangement was a ruse to benefit Dr. V. Sagar's children, who were shareholders in RSCPL and not legal practitioners.

A Division Bench of Justices V. Kameswar Rao and Vinod Kumar, however, rejected the Department's contention and affirmed that the licence arrangement was a bona fide commercial transaction. The Court observed that Dr. V. Sagar, who had earlier acquired all assets and goodwill of the British firm Remfry & Sons and subsequently founded Remfry & Sagar, had lawfully gifted the goodwill to RSCPL. When the law firm was later constituted as a partnership, it executed a Licence Agreement for Use of Goodwill with RSCPL on a revenue-linked basis, enabling it to benefit from the established goodwill associated with the firm's name.

Top Trends

- Mid-cap and small-cap valuations remain stretched but inflows continue.
- FPI outflows persist but are being offset by domestic buying.
- IPO market thriving with strong VC/PE-backed listings.
- Sector rotation visible — banks, autos, and consumption leading.
- Credit growth steady but personal loan expansion slowing down.
- Banks shifting focus to secured and high-value loans.
- NPAs remain under control with improved asset quality.
- Private banks continue to outpace PSBs in profitability.
- NBFCs expanding into digital and retail lending aggressively.
- Fintech-NBFC partnerships becoming mainstream.
- RBI tightening norms for unsecured lending and digital credit.

Top Trends

- Credit card and BNPL adoption surging among youth.
- Rural and semi-urban credit demand improving steadily.
- Large corporates deleveraging to strengthen balance sheets.
- RBI's Financial Inclusion Index up 4.3% to 67.0 in FY25.
- New bank nomination rules effective 1 Nov 2025.
- SEBI focusing on ESG and disclosure-based governance.
- GST rationalisation discussions back on the table.
- Government pushing for deeper bond-market reforms.
- RBI expected to begin gradual rate-cut cycle by early 2026.
- Policy shift toward sustainable and green-finance frameworks.
- Financial sector reforms to attract foreign investors underway.

The High Court held that such payment could not be construed as revenue-sharing prohibited under the Bar Council of India Rules, nor could it be treated as an expenditure incurred for a purpose "prohibited by law" under the Explanation to Section 37. Applying the "purpose test", the Court emphasized that the expenditure was incurred wholly and exclusively for business purposes — namely, to utilise and derive commercial advantage from the firm's goodwill — and hence qualified for deduction.

Rejecting the Department's argument that the transaction was a ruse for tax avoidance, the Court noted that the use of goodwill for consideration is a legitimate commercial practice, and the agreement could not be viewed as a sham. Finding no substantial question of law, the Court dismissed the Department's appeals.

This decision reinforces the principle that legitimate business expenditures made for genuine commercial benefit are allowable under Section 37, even when they involve related parties, so long as they are not designed for tax evasion or prohibited by law.

Penalty under Section 43 of the Black Money Act Held Discretionary, Not Mandatory

Case Law: Vinil Venugopal & Ranjeeta Vinil v. DDIT (Inv.), FAIU-4(1), Mumbai
[ITAT Special Bench, Mumbai | Order dated 14 October 2025 | BMA Nos. 33 & 34/MUM/2024]

In a landmark decision, the Special Bench of the Income Tax Appellate Tribunal (ITAT), Mumbai has clarified that the imposition of penalty under Section 43 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ("Black Money Act") is not mandatory and rests within the discretion of the Assessing Officer (AO). The Bench, comprising Justice (Retd.) C.V. Bhadang (President), Shri Saktijit Dey (Vice President), and Smt. Renu Jauhri (Accountant Member), was constituted to resolve conflicting views among coordinate benches on whether the term "may" in Section 43 should be interpreted as "shall".

The case involved Mr. Vinil Venugopal and Mrs. Ranjeeta Vinil, a married couple, against whom the DDIT (Inv.), Mumbai had levied a penalty of ₹10 lakh each under Section 43 of the Act for non-disclosure of foreign investments in Avestar Global Opportunities SPC (Cayman Islands) in Schedule FA of their Income Tax Returns for Assessment Year 2020–21. The appellants contended that the omission was inadvertent, as the investment had been made through the Liberalised Remittance Scheme (LRS) from tax-paid funds, and was duly disclosed in subsequent returns before the issue of notice.

The Department argued that once non-disclosure is established, penalty must automatically follow, emphasizing that the Black Money Act was enacted to ensure full disclosure of foreign assets. The Revenue's stance was that the penalty under Section 43 is a strict liability and the AO had no discretion once default is proved.

The Special Bench, however, rejected this contention. It held that the word "may" in Section 43 must be given its plain and ordinary meaning, signifying discretion and not compulsion. The Bench observed that Section 46(3) of the Act, which requires that the assessee be given an opportunity of being heard before penalty is imposed, would become redundant if the imposition were automatic. It further noted that the legislature's simultaneous use of both "may" (for deciding imposition) and "shall" (for quantifying penalty amount) indicates deliberate legislative intent to make the penalty discretionary, though fixed in quantum once imposed.

Relying on judicial precedents such as Hindustan Steel Ltd. v. State of Orissa (83 ITR 26, SC) and CIT v. Ask Enterprises (230 ITR 48, Bom.), the Tribunal reiterated that even where the statute prescribes a minimum penalty, authorities must exercise discretion and may refrain from imposing penalty in cases of bona fide or technical breaches.
Accordingly, the ITAT held that the Assessing Officer retains discretion to impose or waive penalty depending on the facts and circumstances of each case — for instance, where non-disclosure is a result of oversight or inadvertent error, and not deliberate concealment. The Special Bench therefore answered the reference in favour of the assessees, concluding that the imposition of penalty under Section 43 of the Black Money Act is not automatic.

The appeals have now been remitted to the Division Bench for adjudication on merits in light of this interpretation.

This ruling marks a significant development in the interpretation of the Black Money Act, introducing judicial clarity that penalty for non-reporting of foreign assets is not absolute, but rather subject to the AO's discretionary and judicious evaluation of intent and circumstances.

Top Trends

- Emphasis on financial literacy and investor education programs.
- Budget 2025 focuses on infrastructure, tax relief, and consumption.
- Premium housing (> ₹1 cr) forms 62% of total home sales in 2025.
- Affordable housing demand slowing due to high input costs.
- Tier-2 & 3 cities witnessing strong real-estate growth.
- Luxury and gated community projects in high demand.
- Real-estate financing increasingly tied to green-building norms.
- Rental yields improving in major metros like Bengaluru and Pune.
- Housing loan rates expected to ease once RBI cuts rates.
- Developers reducing unsold inventory through aggressive launches.
- Real-estate investment trusts (REITs) gaining investor traction.

Top Trends

- Foreign funds shifting toward co-investment with Indian partners.
- RBI brought home 64 tonnes of gold reserves in 2025.
- Global funds viewing India as a key investment hub post-China slowdown.
- FDI inflows remain robust in manufacturing and renewables.
- Rupee volatility persists amid global interest-rate uncertainty.
- India's CAD remains comfortable around 1% of GDP.
- Capital inflows shifting from short-term to long-term investments.
- Domestic mutual funds cushioning volatility from FPI exits.
- US rate-cut expectations could boost Indian equity inflows.
- India emerging as a preferred destination for "China-plus-one" investors.
- Geopolitical gold buying seen as a hedge by central banks worldwide.

Employees of AE Cannot Be Counted for Determining PE Threshold under India–Korea DTAA

Eleentec Co. Ltd. v. DDIT (2025) 178 taxmann.com 20 (Delhi-Trib.)

The Delhi Income Tax Appellate Tribunal held that while determining the existence of a Supervisory or Installation Permanent Establishment (PE) under Article 5(3)(b) of the India–Korea DTAA, only the stay of the assessee's own employees in India is relevant. The stay of employees of an Associated Enterprise (AE) cannot be included for computing the 182-day threshold period.

In this case, the assessee, a Korean company, was engaged in providing technical services and had also entered into a Purchase and Sale Agreement for offshore supply of raw materials. Although some employees of the assessee had visited India, their stay was limited to 137 days. The Assessing Officer (AO) included the stay of two employees of its AE—whose stay exceeded 183 days—on the ground that the assessee reimbursed their travel cost, and consequently held that a PE was constituted.

The Tribunal rejected the AO's conclusion, holding that the two employees were not on the payroll of the assessee but of its AE, and their presence could not be attributed to the assessee for computing the PE threshold. As the assessee's stay was below 182 days, no supervisory or installation PE was created. Accordingly, the profits from offshore supply of raw materials were held non-taxable in India.

Guarantee Commission Taxable Over Guarantee Tenure, Not Upfront

Sunflower Aircraft Leasing Ltd. v. ACIT (2025) 177 taxmann.com 728 (Mum-Trib.)

The Mumbai ITAT held that guarantee commission income accrues progressively over the life of the guarantee and cannot be taxed in full at the time of issuance. The assessee, a Japanese bank, had issued guarantees on behalf of its clients and received commission therefor. It followed a consistent accounting policy by recognising income proportionately over the guarantee period and treating the unexpired portion as unearned income.

The Assessing Officer, however, taxed the entire commission upfront, reasoning that the right to receive arose immediately upon issuing the guarantee. The Tribunal disagreed, relying on the Calcutta High Court's ruling in CIT v. Bank of Tokyo Ltd. (1993) 71 Taxman 85 (Cal), which held that such commission accrues only as the guarantee obligation runs its course. It observed that since the assessee followed a consistent and accepted accounting method, the Revenue could not compel an upfront recognition. The decision reinforces the principle that income should be recognised in proportion to services rendered or risks undertaken, not merely upon initial receipt.

Sunflower Aircraft Leasing Ltd. v. ACIT (Ireland–India DTAA)

Aircraft Dry Leased to IndiGo Does Not Constitute a PE in India

In this case, the assessee, an Irish company, had entered into dry operating lease agreements with Indian airline IndiGo for leasing aircraft. The company claimed that the lease rentals were not taxable in India, as it had no Permanent Establishment (PE) under the India–Ireland DTAA. The Assessing Officer disagreed, holding that the aircraft were at the assessee's disposal and therefore constituted a fixed place PE.

The Dispute Resolution Panel (DRP) upheld the AO's view regarding the existence of PE but rejected the alternative argument of the Revenue that the income was "royalty." On appeal, the Tribunal held that the assessee's rights were confined to routine lessor protections — such as inspection, ensuring maintenance, and repossession in default — which did not amount to operational control or business presence in India. The operational control was exclusively with IndiGo, and no personnel of the assessee were stationed in India.

Accordingly, the Tribunal concluded that the aircraft did not constitute a fixed place PE under Article 5 of the DTAA, and the lease income was not taxable in India. The decision reiterates that protective ownership rights do not equate to a business presence under treaty law.

Top Trends

- Digital payments via UPI at record highs every month.
- Rise in small-ticket SIPs (₹500–₹1000 range).
- Growing female participation in investment and insurance products.
- Surge in demand for health and term-insurance policies post-COVID.
- Wealth-management platforms targeting young professionals.
- Fin-literacy drives improving awareness about SIPs and debt funds.
- Pension and retirement products witnessing renewed investor interest.
- ESG and sustainable investing gaining traction among millennials.
- Financial influencers (finfluencers) shaping retail investment trends.
- Shift from gold & real estate to equities & mutual funds for wealth creation.

Top Trends

- Government likely to maintain fiscal deficit below 5% of GDP for FY26.
- Tax collections (GST + direct taxes) hitting all-time highs, supporting fiscal health.
- Export growth improving in pharma, electronics, and defense sectors.
- Private CapEx cycle gaining momentum in renewables and infrastructure.
- Consumption-led recovery visible across rural and urban segments.
- Corporate India increasingly adopting share buybacks to boost valuations.
- Dividend payouts rising, indicating strong corporate cash flows.
- Energy transition themes (solar, EV, green hydrogen) driving investor interest.
- Indian startups witnessing a rebound in VC funding after a dull 2023-24.
- AI-driven automation reshaping finance, banking, and investment analytics.

Shipping Income of Singapore Entity Taxable Only in Singapore under Article 8

Jaldhi Overseas (P) Ltd. v. ACIT (2025) 177 taxmann.com 753 (Chennai-Trib.)

The Chennai ITAT held that income derived by a Singapore-based shipping company from the operation of ships in international traffic is taxable exclusively in Singapore under Article 8 of the India–Singapore DTAA, and the limitation of relief under Article 24 cannot be invoked. The Assessing Officer had denied the treaty benefit by invoking Article 24, arguing that only income actually received in Singapore could enjoy exemption.

The Tribunal rejected this view, holding that Article 8 is an enabling provision granting exclusive taxing rights to the residence country (Singapore) and not an exemption clause. Once India has relinquished its right to tax such income under Article 8, the relief cannot be restricted by Article 24. The decision reaffirms that shipping income is taxable only in the country of residence, provided the same is taxed there, even if on an accrual basis.

Management Services Not Taxable as FTS under India–Singapore DTAA

Keller Asia Pacific Ltd. v. ACIT (2025) 178 taxmann.com 141 (Delhi-Trib.)

The Delhi ITAT ruled that payments received by a Singapore-based company from its Indian subsidiary, Keller India, for management, legal, engineering, and human capital support services do not constitute Fees for Technical Services (FTS) under Article 12(4) of the India–Singapore DTAA, as no “technical knowledge, skill, or know-how” was made available.

The Tribunal noted that the services were routine in nature, and there was no evidence that Keller Asia Pacific had transferred or made available any technical expertise that enabled Keller India to perform the same functions independently. Since the “make available” clause was not satisfied, the payments were not taxable as FTS in India. The decision underscores that management or consultancy services attract FTS characterisation only when accompanied by transfer of technical capability.

Group Support Services Rendered by Finnish Company Taxable as FTS

Metso OYJ v. ACIT (2025) 177 taxmann.com 741 (Kol-Trib.)

In contrast to Keller, the Kolkata ITAT held that centralised group services provided by a Finland-based company, Metso OYJ, to its Indian subsidiaries — covering global communication, marketing, HR, treasury, finance, and tax support — were taxable as FTS under Article 12 of the India–Finland DTAA. The Tribunal observed that these services involved sharing of organisational know-how and expertise developed at the group level, which amounted to technical and managerial assistance. Relying on its earlier orders in the assessee's own case, the Tribunal confirmed that the payments constituted FTS.

Simultaneous Claim of Treaty Exemption and Carry Forward of Losses Allowed under India–Mauritius DTAA

Atyant Capital India Fund-I v. ADIT (2025) 178 taxmann.com 19 (Mum-Trib.)

The Mumbai ITAT held that a Mauritius-based investment fund could simultaneously (i) claim treaty exemption on long-term capital gains from shares acquired before 1 April 2017 (grandfathered), and (ii) carry forward long-term capital losses from shares acquired after that date under the domestic law. The Revenue had disallowed the claim, arguing that the taxpayer must choose either the DTAA or the Act for the entire stream of capital gains.

The Tribunal disagreed, holding that different transactions constitute distinct sources of income, and the taxpayer may invoke Section 90(2) separately for each source. Thus, it allowed both the treaty exemption and the loss carry forward, following Indium IV (Mauritius) Holdings Ltd. and Montgomery Emerging Markets Fund.

Top Trends

- PSU banks focusing on digitalisation and AI-based risk monitoring.
- New “digital banks” and small-finance banks competing for retail deposits.
- Co-lending models between banks and NBFCs expanding in MSME finance.
- RBI introducing stricter norms for fintech data privacy and lending transparency.
- Payment banks exploring transition into small-finance banks.
- Surge in credit-card spends during festivals and e-commerce sales.
- Financial advisors seeing higher demand for retirement and tax planning.
- Millennials prioritising financial freedom and goal-based investing.
- Increased participation in corporate bond and debt mutual funds.
- Ultra-high-net-worth investors diversifying into global equities and alternative assets.

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Top Trends

- US Federal Reserve hints at rate cuts in early 2026 — positive for emerging markets.
- Crude oil prices remain volatile amid geopolitical tensions in the Middle East.
- Global investors showing renewed interest in Indian sovereign bonds post inclusion in global indices.
- Weak Chinese growth boosting India's position as an alternative investment hub.
- Gold prices touching record highs due to global uncertainty and currency weakness.
- Corporate debt restructuring and insolvency resolutions improving under IBC reforms.
- FMCG and auto sectors seeing margin recovery due to lower input costs.

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