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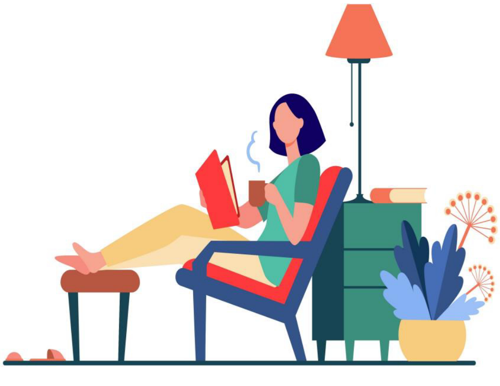
WINDFALL

THE GOVERNMENT'S ROBINHOOD ACT



Windfall tax – The Government's Robinhood act, its impact and the ethicality of the move

Background

The government has imposed a windfall tax on domestic oil producers. Oil producers have recorded steep revenues in recent months amid record-high international crude oil prices. Tarun Bajaj, Revenue Secretary, has said that the windfall tax will be re-evaluated on a fortnight basis, based on foreign currency rates and international oil prices. The windfall tax is set to increase the government's earnings and will set off its burden of excise duty cuts on fuel. While the name 'Windfall' is pretty cool for a tax regime, the ethicality of the same has been debated amongst experts for years. Let's understand what is windfall tax and how it works.

What is a Windfall Tax?

A windfall tax is a tax levied by governments against certain industries when such industries experience above-average profits owing to economic conditions. It is a one-off tax on companies who have seen extraordinary profits, not because of any clever investment decision they've taken or due to an increase in efficiency or innovation, but simply because of favourable market conditions.

The tax primarily targets companies that benefit from the economic windfall. While windfall taxes are usually levied on companies, taxes on individuals such as inheritance tax or taxes on lottery or game show winnings are also considered windfall tax. The aim is simple – redistributing the excess profits made by one sect of the society, amongst the others, for the greater social good – literally, Robinhood!

Why did the Government impose Windfall Tax?

Windfall tax is levied on windfall profits – the profits that

Windfall tax is levied on windfall profits – the profits that a company makes from something that they are not responsible for. Domestic oil producers and refiners earned huge from the crude oil selling at a record USD 114 per barrel in the international market when the Ukraine-Russia war broke out this year. Currently, the three Indian upstream oil companies — ONGC, Oil India and GAIL have all declared an all-time high net profit in the FY 2021-22. ONGC announced a net profit of 258% higher than the preceding year, to reach INR 40,306 crore; Oil India 123% higher profit, with a net profit of INR 3,887 crore; and GAIL has reported a 112% higher profit, with a net profit of INR 10,364 crores. This surge in profit occurred because crude oil and gas prices shot up following the Russia-Ukraine conflict.

Domestic crude oil producers were selling oil to domestic refinery companies at international prices when the fuel costs were rising, thus, they were making huge gains. Meanwhile, Indian refiners were also making profits by importing discounted crude oil from Russia and selling them outside the country. The domestic refiners earned far more by selling their oil overseas where they fetched better prices than selling in the domestic markets. Therefore, the government has now slapped a charge of INR 23,250 per tonne on crude oil as a windfall tax. An export tax of INR 6 per litre tax on petrol and ATF, and INR 13 per litre on diesel has also been introduced. Therefore, the move will also ensure that the fuel companies prioritise the domestic market over the international market.

How will Windfall tax help?

After the beginning of the Ukraine-Russia war, the cost of fuel had hit record highs. The cascading impact pushed up the prices of food and other daily needs and thereby, triggering high inflation. Therefore, on May 23, the Government announced an excise duty cut of INR 8 and INR 6 per litre on petrol and diesel respectively. Nirmala Sitharaman, Union Finance Minister, had then announced that the relief for the public will affect the tax revenue of about INR 1 lakh crore per year. To compensate for this hit in its revenue, due to the cut in Central Excise Duty, the Government has introduced a windfall tax, a smart way to handle the situation. According to estimates, the export tax on fuel and the windfall tax will help the government raise INR 52,000 crore for the remaining nine months of this financial year. Thus, the windfall tax will give the government more room to spend on critical sectors and also help to close India's current account gap. The move may also, in turn, reduce domestic prices, if the benefits of cheaper oil from Russia are passed on to domestic customers.

Who else has imposed Windfall tax?

Italy and the United Kingdom are the two other major economies that have levied windfall taxes. Early in May, Italy announced that it will tax the profits of energy companies at 25% to fund the support package for the consumers and businesses hit by the soaring energy costs. Meanwhile, on May 26, the United Kingdom also announced a new tax, increasing the tax rate to 65% from 40% for the oil and gas companies. This tax would apply only to profits arising on or after May 26, 2022. The UK Government has also announced that the same is temporary and will be phased out when prices return to normal levels.

Are Windfall taxes ethical?

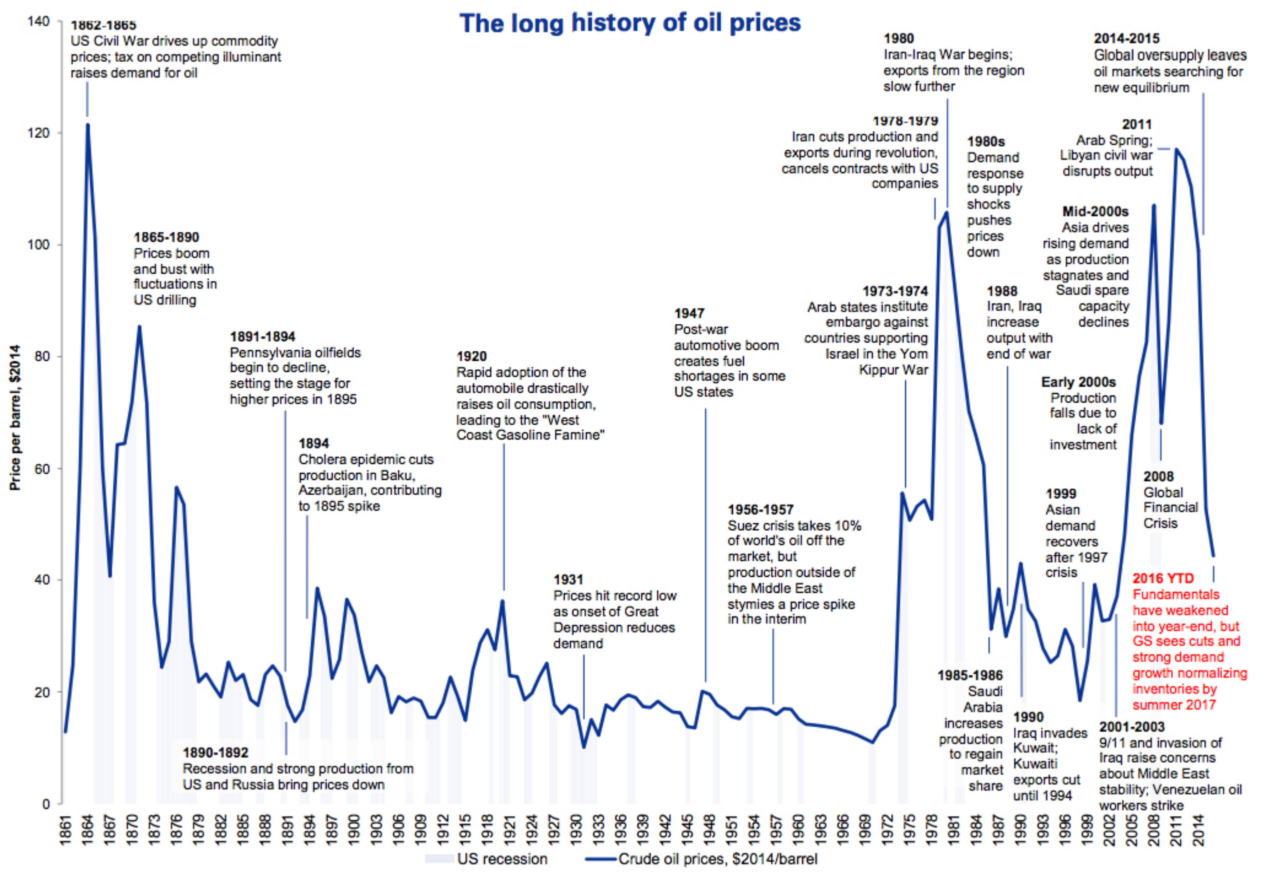
While windfall tax is an economically efficient way to tax companies who have struck gold, it has been despised by the industry. Such taxes have always been a contentious issue between the shareholders of the companies and the rest of society. The proceeds of windfall taxes are directly used by the governments to fund social programs. This is the biggest benefit of the windfall tax. While windfall profits encourage the companies to lower prices for the benefit of society, it also reduces the investment of such companies.

Experts claim that they reduce corporate initiatives to seek out profits. Profits are expected to be reinvested by companies to promote innovation which can in turn benefit society over the long term. Windfall taxes are also unfair to companies who have made investment decisions based on the existing tax system and then are retrospectively expected to pay up more, bringing uncertainty that discourages investment.

Businesses often run into losses in some years, and profits in others, because of business decisions and economic conditions. Therefore, taxing the profitable years is considered unfair to the investors.

Why do Energy Cos face the brunt?

Energy companies are paying windfall taxes due to their war-fueled profits in many countries. But what about tech firms like Apple and Amazon who benefited massively from pandemic-induced lockdowns? Amazon, the e-commerce behemoth, experienced an increase of more than 80% in 2020 when lockdowns closed the brick and mortar shops. Apple also benefited from the record sales during the pandemic as people used its devices and services during the pandemic.The companies experienced unusual economic success while the Government incurred large costs to support society. Vaccine makers like Pfizer and BioNTech and also medical equipment producers also made enormous profits during the pandemic. However, Governments around the world have usually chosen energy companies to pay the windfall taxes, probably because their profits are more tangible and visible to the public than the profits made by the others.



Section 194R – A brief analysis of the new TDS compliance

By Amit Chandak, Associate Director, Greenvissage

Introduction

Many companies often transfer benefits arising out of sales or services directly to their agents. It is a common practice for many corporates to gift cars, trips, laptops, mobiles etc. to their stakeholders for achieving targets or as incentives. These people may be selling agents, sales personnel, contractors, marketing companies, etc. These gifts over INR 50,000 per year are taxable under section 56 of the Income Tax Act, 1961. However, these transactions are often skipped or not reported in the income tax return. As there is no source of information for the income tax department, such income escapes from the clutches of the income tax department. Often businesses use this loophole to circumvent the law and the taxes to be paid, providing a tax-free incentive to the party involved. Therefore, to plug this loophole, the Government has brought a new section 194R. From July 1, 2022, section 194R has become effective whereby tax needs to be deducted at source (TDS) on benefits or perquisites given by a business entity.

What are the legal provisions under section 194R?

Section 194R has been inserted to provide that any person responsible for providing, any benefit or perquisite, arising from business or profession, should ensure that tax has been deducted in respect of such benefit or perquisite.

Applicability – This new section will be effective from July 1 onwards.

Nature of benefit – The benefit or perquisite can be in any form. It can be in cash, in-kind, or partly in cash and kind. The tax has to be deducted, whether or not, the same is convertible into money.

Valuation of benefit – If the payer of benefit has purchased the benefit/perquisite before providing it to the recipient then the purchase price of such benefit or perquisite shall be considered as the value of benefit/perquisite under section 194R. If such benefit/perquisite is manufactured by the company then the price that it charges to its customers for such items will be considered as the value of such benefit/perquisite. In other cases, the fair market value of the benefit or perquisite shall be considered for reporting under section 194R.

Type of payers – The provisions apply to all persons involved in business or profession. The provisions shall not be applicable in the case of individuals or HUF with turnovers less than 1 Crore in case of business and 50 lakh in case of the profession.

Type of payee – Such other person must be a resident Indian. If such person is a Non-resident then the provisions of section 195 shall apply.

Rate of tax – The rate of such tax deduction shall be 10% of the value of such benefit or perquisite.

Monetary threshold – Such deduction will not be required if the value of benefits does not exceed INR 20,000 during any financial year. However, for the financial year 2022-23, this threshold shall be considered from April 1, 2022, onwards, while the deduction shall be applicable on benefit value exceeding the limit, and given after the effective date.

How to deduct tax under 194R?

If the benefit is provided in cash, the procedure is similar to tax deduction under any other section. The person responsible for tax deduction has to retain 10% of the total benefit to be given and pay the rest amount while making the payment. However, when the benefit is provided in kind, there are difficulties that a person must be aware of. The recipient in such cases is expected to pay the tax in the form of advance tax and provide a declaration along with a copy of the advance tax payment to the payer. Alternatively, the payer can deduct and pay TDS out of his pocket or collect it from the receiver in cash. A similar process needs to be followed when the benefit is provided partly in cash and partly in kind. Where the cash component is sufficient to cover the 10% TDS, the same may be retained by the payer and the balance can be paid out. However, where cash payment is not sufficient to cover the TDS amount, any of the above-mentioned two options can be followed.

It is important to note that the TDS when paid by the benefits payer out of their pockets, the same also becomes a perquisite and therefore, tax needs to be paid on the amount of TDS as well, on an inclusive basis i.e. by grossing up the total amount. For example, if the value of the benefit is INR 1,00,000 and TDS is being borne by the payer then the TDS needs to be calculated as follows: INR 1,00,000 divided by 90% which equals INR 1,11,111 being the value perquisite to be reported. The TDS thereon would be INR 1,11,111 multiplied by 10% which equals INR 11,111.

Special scenarios

1. Section 194R doesn't distinguish between capital assets and non-capital assets. Therefore, it is applicable on benefit/perquisite irrespective of the same being capital or non-capital asset.
2. Sales discount/Cash discount/Rebates are also by nature, a benefit provided to the recipient and satisfies the conditions of section 194R. This has been clarified through a circular that TDS under section 194R will not be required to be deducted on the aforementioned benefits like the discount. However, if the same is provided in-kind or by way of gift, TDS under section 194R will be applicable.

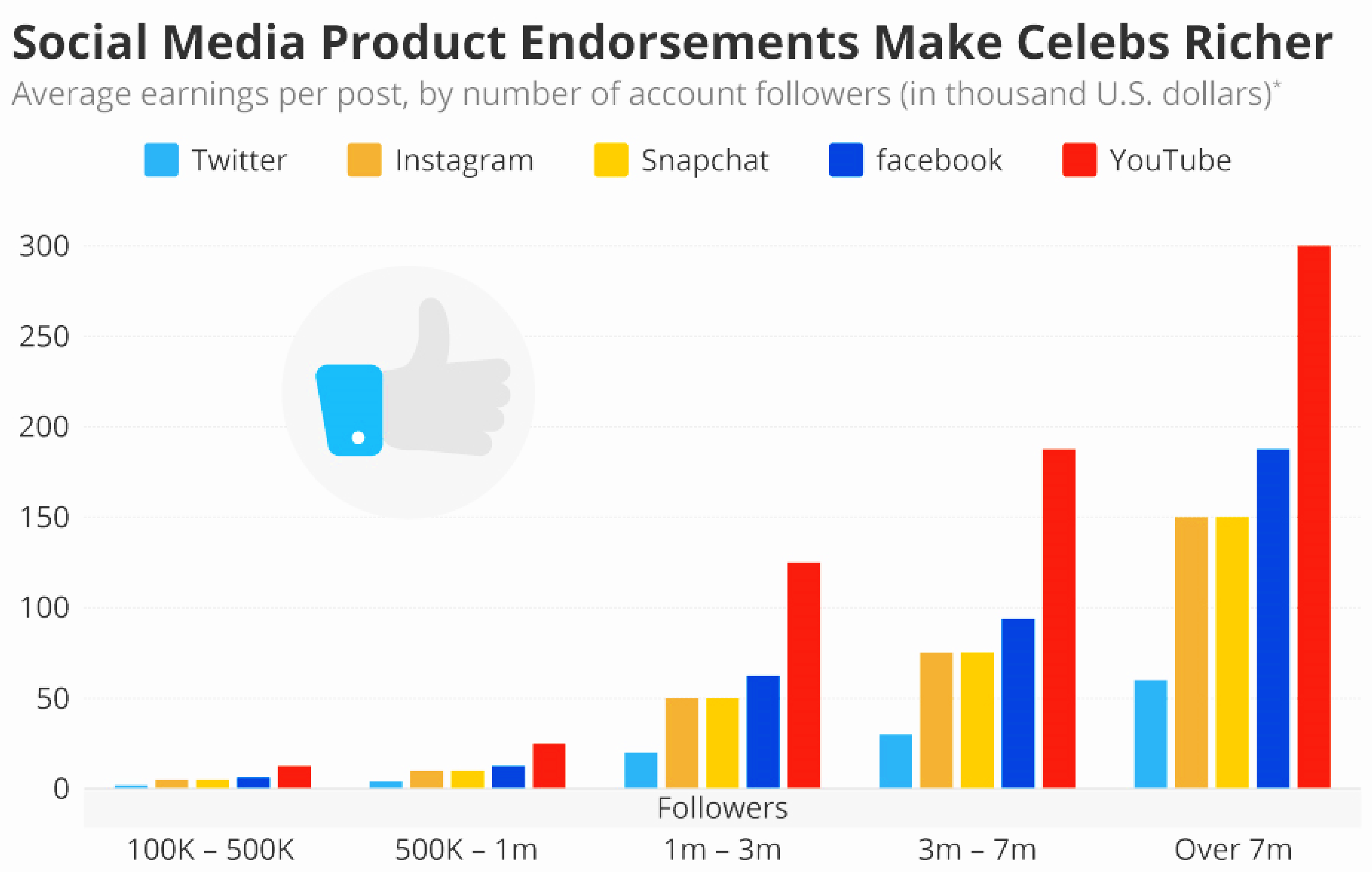
3. The recipient in the case of section 194R does not include the employee/director, as the benefits or perquisites provided to them are already covered under section 192 and TDS has to be deducted according to the provisions of that section.

4. In the case of social media influencers who receive products for marketing, TDS under section 194R would be required to be deducted, if the product is not returned to the company. Thus, social media influencers who often received free products for marketing will now have to pay tax on such products, as TDS will be deducted and reported to income tax.

5. In case of reimbursement of expenses, section 194R will not be applicable if the same is a pure reimbursement i.e. the expenses incurred are billed at par and the invoices are in the name of the reimburser. If these conditions are not satisfied, TDS under section 194R will be required to be deducted.

Conclusion

Section 194R has widespread effect in many areas of taxation. Therefore, experts and accountants will now have to keep a special eye on the provisions of this section while evaluating any transaction from a tax perspective.



Why are corporate borrowings becoming a concern amid inflation?

According to the CareEdge report, bank credit has increased by INR 14.1 lakh crore over the past 12 months. The outstanding liquidity surplus has fallen from INR 4.3 lakh crore to INR 3.3 lakh crore in merely two weeks, from June 3 to June 17. Several prominent business houses of India have taken a considerable amount of debt including Tata Group with a total debt of INR 2.89 lakh crore, Reliance Industries with INR 2.66 lakh crore, Aditya Birla Group with INR 2.29 lakh crore, L&T with INR 1.62 lakh crore, Mahindra Group INR 0.74 lakh crore, and Bajaj Group INR 0.61 lakh crore. Meanwhile, inflation in India has remained above the Reserve Bank of India (RBI)'s tolerance level for five straight months now. In May, retail inflation went up to 7.05%, 75% higher than RBI's medium-term target of 4%. The surge in inflation had forced the central bank to raise the interest rates twice from 4% to 4.9%. Now, to meet the working capital requirements, Indian companies are heavily borrowing more than before. These borrowings have increased even when the interest rates are moving upward. Working capital borrowings are short-term and already attract higher interest rates than long-term borrowings.

Why experts are trusting auto and finance sector amid global uncertainty?

Indian stock markets are facing their worst burnt, amid global uncertainty, inflation woes, rising bond yields, supply chain constraints, and rising interest rates in the US. The stock markets have tumbled in the past weeks and many see a further downside to the same. However, analysts are bullish on two sectors for investors to bet on - finance and automobiles. The finance sector has experienced a major correction while the auto index is outperforming the benchmark Nifty 50 index. Rising interest rates bode well for finance companies as their main source of income is the interest they earn on loans and advances. Borrowers are paying their dues on time, and the demand for loans is surging in the last two with the increase in federal rates. Moody's report has predicted the banking sector to improve its fundamentals led by a decline in loan-loss provisions and increases in net interest margins. Meanwhile, the auto sector's growth is expected to be fueled by Kharif output leading to an increase in tractor sales. The expected resolution of the chip shortage will also help top original equipment manufacturers (OEMs) to raise their production.

What is LEI code and who needs to apply for it?

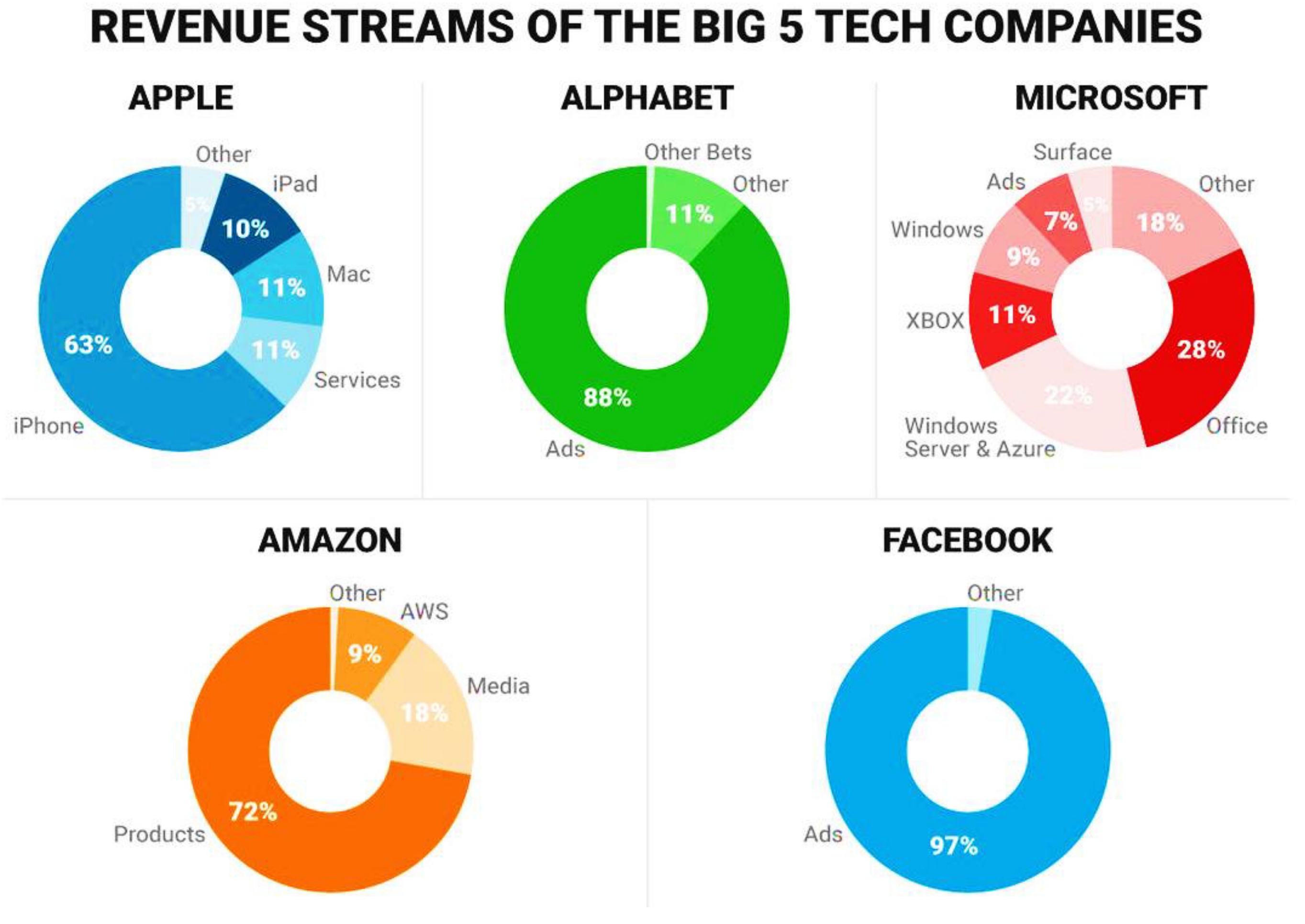
The Legal Entity Identifier (LEI) code is a key measure to improve the financial data systems for risk management. LEI code is designed to identify and link parties to financial transactions. The goal is to improve compliance with regulatory reporting requirements. The Global LEI System (GLEIS) was set up to address the global financial crisis. The LEI code is a 20-digit unique code to identify parties to financial transactions and consists of a long alphanumeric code based on the ISO 17442 standard. According to the Reserve Bank of India (RBI), an LEI code is required for all payment transactions (NEFT, RTGS or such other mode) of value INR 50 crore and above. These can be foreign exchange payments, money market payments, vendor payments, intercompany payments, or any other type of payment. An entity seeking an LEI code will be required to register as a user on the LEI website i.e. www.ccilindia-lei.co.in. The LEI is valid for one year from the date of issuance, or the last renewal date. LEI is issued within 3 - 5 working days. Any person who acts in their natural capacity is not required to obtain the LEI code, the compliance applies only to corporates. The LEI retains its validity even if a company moves into another country.

What is Vauld's business model and why is it in trouble?

Vauld is a Singapore-headquartered crypto company that announced fixed deposits against cryptocurrencies, just the last year. However, now the company has released a statement that it is suspending all withdrawals, deposits, and trading in cryptocurrencies for its users. In October 2021, Vauld advertised automatic crypto investments through fixed deposits with a super-high 12.68% interest rate. The company had used television advertisements and financial influencers on social media to promote its products. The company asked for bitcoins as deposits from its customers for a fixed period and in return, it provided interest on the same. The company then converted the cryptocurrencies into cash and lend them to borrowers at high rates of returns. As collateral they would again accept cryptocurrencies of higher value, such as 150% of the loan value, to ensure the collateral covers the value even if the value of the asset deteriorated significantly. In case the borrower fails to repay the money, the collateral assets would be liquidated i.e. sold and the proceeds would be used to repay the depositors. This is similar to how the bank operates, except that Vauld used cryptocurrencies as collateral assets and as a mode of deposit and lending. However, as expected, the value of cryptocurrencies which dipped significantly last month has led to a collapse of the company's model and its operations.

Why is Google pouring money into Indian telecom?

Since 2020, Google has poured USD 4.5 billion into Reliance's Jio Platforms and USD 1 billion into India's second-largest telecom provider Bharti Airtel as part of its USD 10 billion India Digitization fund. The outpour of money into Indian telecom companies comes as a surprise, however, Google has its motives to do so. India is the second-largest smartphone market in the world, however, the smartphone penetration still stands at 40%. This is where Google, which already holds 95% of India's mobile phone market through the Android OS, sees a bigger market and new opportunities to seize. Partnering with the telecom players allows Google to lead users to Google-led platforms. Google has already launched a 4G smartphone called JioPhone Next with Reliance, and the company is looking to strike a similar deal with Airtel. The telecom investments also allow the company to leverage India's growing public cloud market where Google Cloud is looking to expand its existing 10% market share. Google is also looking to tap the 58 million MSMEs in the country to undergo a digital transformation.



COMPLIANCE UPDATES

Signal :
Positive
Negative
Mixed

Government policies

Government issues notice to EV manufacturers The Central Government has sent show-cause notices to Ola Electric, Okinawa Autotech, and Pure EV, amongst others, to know why the Government should not legally proceed against these companies for delivering faulty electric two-wheelers to the public. The manufacturers have been given time till July end to give a detailed response. The move comes after the government probe into the EV fire incidents which revealed that the vehicles lacked even basic safety systems. According to the expert panel, the EVs lacked a venting mechanism for overheated cells and had seriously deficient battery management systems. Union Minister for Road Transport Nitin Gadkari has also warned strict action against EV makers if found negligent.

NPPA fixed retail prices of 84 drugs The National Pharmaceutical Pricing Authority (NPPA), the apex body for drugs pricing, under the Ministry of Chemicals and Fertilisers (MoCF) has fixed the retail price of 84 drug formulations. These medicines include the anti-type 2 diabetic drug metformin, painkillers ibuprofen and diclofenac, and antibiotics Amoxycillin and cefixime, amongst others. The prices apply only to the individual manufacturer or marketer mentioned in the notification. These include Sun Pharma, Alkem, Zydus Healthcare, Akums Drugs and Pharmaceuticals, Glenmark Pharmaceutical, Torrent, Hetero, Micro Labs, and others. If this pricing is not complied with by the pharma companies or their marketing companies, the defaulters shall be liable to deposit the overcharged amount along with interest to the authority.

Goods and services tax

Government to set up GST dispute redressal bench The Ministry of Finance (MoF) is working on a detailed mechanism to resolve goods and services tax (GST) disputes raised by states while avoiding distortions in the tax regime. The mechanism is expected to be discussed with the states in the next GST Council meeting. The Dispute Redressal Bench will have representation from states, the centre, and independent law and tax experts well versed in legal and economic implications.

GST on transfer fees paid while exiting housing society The Authority for Advance Rulings (AAR), Maharashtra, in the case of a housing society in Mumbai, has held that the gratuitous voluntary payment while exiting a housing society would be subject to GST. It is common for co-operative housing societies to seek transfer fees on the sale of a flat, however, a higher transfer fee which is set aside for future use, such as for carrying out major repairs later is uncommon and therefore, GST shall apply on the transfer fees at 18%.

CBIC issues detailed procedure for refund claims The Central Board of Indirect Taxes and Customs (CBIC) has issued a detailed procedure for the sanction, post-audit, and review of refund claims under Goods and Services tax. This is based on reports that different practices were being followed by the officers, creating confusion for taxpayers. CBIC has clarified that while passing the refund sanction order, the proper officer is required to upload a detailed speaking order along with the refund sanction order in Form GST RFD-06.

Composition scheme for e-commerce sellers Parliamentary committee report submitted in Rajya Sabha, on the promotion and regulation of e-commerce in India, has opined multiple steps for the government to boost MSMEs' e-commerce participation. Among the key suggestions was to extend the Goods and Services Taxes (GST) Composition Scheme to online sellers subject to the turnover threshold of INR 1.5 crore to incentivise MSMEs toward e-commerce adoption. Currently, small businesses opting for the scheme, are required to pay 1% tax on their annual turnover, instead of calculating GST liability monthly and are permitted to make only intra-state supplies. This scheme can be opted for by any taxpayer whose turnover is less than INR 1.5 crore, however, section 10(2)(d) of the CGST Act, 2017 restricts businesses or individuals registered under the scheme to sell through e-commerce platforms.

GST council to allow amendment in GSTR-3B The Goods and Services Tax Council is discussing a slew of law changes and one such amendment includes allowing changes to GSTR-3B returns filed. The Council is also looking to allow the using National Informatics Centre (NIC) as another platform to register e-invoices.

Tour operators to get relief from GST To reduce the tax incidence in the hospitality sector, the fitment committee of the Goods and Service Tax (GST) Council has suggested levying tax on the margins made by tour operators at a suitable rate. Currently, a 5% GST is levied on gross tour costs without the facility of the input tax credit. Given the adverse impact on the tourism sector due to the pandemic, the panel has suggested a 'margin scheme' for tour operators under which GST has to be paid on value arrived at on a deemed value basis, as a certain percentage of the gross tour cost representing fair competitive margin.

GST council to make e-way bill mandatory for gold and precious stones The GST Council is considering an e-way bill mandatory for intra-state movement of gold or precious stones worth INR 2 lakh and above. It is also e-invoicing mandatory for certain B2B transactions. The council is considering the feasibility of implementing of e-way bill requirement for the movement of gold and precious stones for those with an annual aggregate turnover above INR 20 crore.

GST council to make GSTR-3B non-editable The GST Council is considering making changes to the monthly GSTR-3B return. It is considering auto-population of outward supplies from sales return and non-editable tax payment table. The move would help curb the menace of fake billing whereby sellers show higher sales in GSTR-1 to enable purchasers to claim an input tax credit (ITC), but report suppressed sales in GSTR-3B to lower GST liability. Currently, GSTR-3B of a taxpayer includes auto-drafted input tax credit (ITC) statements based on inward and outward B2B supplies and also red flags any mismatch between GSTR-1 and 3B.

(For queries or more information relating to GST, contact our colleague Ashish Gandhi at ashish.gandhi@greenvissage.com)

Income tax

Income tax department asks Infosys to resolve glitches The Income Tax department has directed its website vendor Infosys to address the fresh technical glitches on the tax department's e-filing portal. Taxpayers and consultants have been complaining about the new e-filing portal since it was launched in June 2021. With technical problems affecting taxpayer services eight days after the launch, the glitches persisted for a long time now.

CBDT clarifies TDS rate on VDAs The Central Board of Direct Taxes (CBDT) has issued a circular to clarify that the rate of TDS on Virtual Digital Assets will be 1 per cent, debunking all media speculations that the rate of TDS would be reduced to 0.1%. The new TDS compliance is set to be applicable starting July 1 and has been the key reason for a drastic drop in volumes on Indian crypto exchanges.

Gift cards, vouchers, mileage points, reward points, and loyalty cards have been excluded from the definition of virtual digital assets (VDAs).

Income tax department looking to set up APA or DRP The Income Tax Department is considering setting up a ruling authority like the Advance Pricing Agreement (APA) or Dispute Resolution Panel (DRP) to ascertain tax liabilities and settle tax disputes. The direct tax claims locked in litigation are about INR 5 trillion. This will allow the tax department and taxpayers to sit together and resolve disputes, and agree on the tax to be paid.

CBDT issues guidelines on TDS under section 194R The Central Board of Direct Taxes (CBDT) has issued guidelines to address likely issues emanating from the newly introduced section 194R for withholding 10% TDS on benefits or perquisites from non-salary sources. The new provision part of the Finance Act 2022 will become effective from July 1. Under the new section, allotment of shares to directors, providing cars, and sponsored business trips or conferences by the company will also attract 10% tax deducted at source (TDS) from July 1. Even loans waived by the banks are being interpreted as 'benefits' that lenders are passing on to borrowers under the new provisions.

New CBDT Chairman appointed Indian Revenue Services (IRS) officer Nitin Gupta has been appointed as the new CBDT chairman. Nitin Gupta is an Indian Revenue Service (IRS) officer of the 1986 batch and is serving as the Member (investigation) on the board. He is scheduled to retire in September next year.

CII for FY 2022-23 notified The Income Tax Department has notified the Cost Inflation Index (CII) for the current financial year to calculate long-term capital gains arising from the sale of immovable property, securities and jewellery. The CII for FY 2022-23 is 331. The CII is used by a taxpayer to compute gains arising out of the sale of capital assets after adjusting for inflation.

Direct tax collection statistics The net direct tax collections have reached INR 2.58 lakh crore as of June 14 in the financial year 2022-23 as against INR 1.86 lakh crore year on year.

(For queries and more information relating to Income Tax, contact our colleague Sneha Halder at sneha.halder@greenvissage.com)

Customs and foreign trade

DGFT to release new FTP by September The Directorate General of Foreign Trade (DGFT) under the Ministry of Commerce has announced that it is working on releasing the new five-year Foreign Trade Policy (FTP) before September this year. 'Districts as e-port hubs' scheme is expected to be a part of this policy which aims to promote exports and foster job opportunities. The aim is to initially focus on 50 districts that have scalable products and huge export potential. The current foreign trade policy (2015-20) is in force till September 2022 as the Government had extended the same twice due to the COVID-19 outbreak.

DGFT to regulate the wheat export As per the notification from the Directorate General of Foreign Trade (DGFT) issued on July 6, the Central Government has made it mandatory for all exporters to seek prior permission from the ministerial committee on wheat export before undertaking any exports. The new arrangement will come into force from July 12. Items such as maida, semolina etc. have also been included in the export curb as per the DGFT notification.

(For queries and more information relating to Foreign Trade, contact our colleague Adnan Ginwala at adnan.ginwala@greenvissage.com)

Corporate laws

Amendments to the removal of company name rules The Ministry of Corporate Affairs through a notification dated June 9 has notified Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 which come into force from the same date. As per new rules, only two resubmissions are allowed in Form STK-2 within 15 days of raising the query. The ministry has also revised MCA e-Forms - Form STK 1, STK-5 / 5A.

Amendments to appointment and qualification of directors rules The Ministry of Corporate Affairs (MCA) through its notification dated June 1 has notified Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2022 which come into force with immediate effect. As per new rules, restoration fees of INR 1,000/- shall be applicable and the time allowed to complete the online proficiency for Independent Directors has been kept at one year.

NFRA prescribes penalties for contravention Under the National Financial Reporting Authority, Rules, 2022 fines have been rationalized to INR 5,000 and in case of a continuing contravention, a further fine of INR 500 per day has been defined. The rules have been further amended to drop the reference to section 450 of the Companies Act which specifies a threshold of INR 2 lakhs in the case of a company and INR 50,000 for an officer in default or any other person for offences that persist. Last year, NFRA disclosed the names of over a thousand statutory auditors who have not filed their annual returns.

SEBI amends listing disclosure requirements Regulation 31 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations), deals with the disclosure of shareholding patterns and the manner of maintaining shareholding in dematerialized format. SEBI through its circular dated November 30, 2015, had prescribed formats for disclosure of holding of specified securities and shareholding patterns under Annexure-I to the Circular. To provide clarity and transparency in the disclosure to the investors, the circular has been partially modified to prescribe a format for disclosure of foreign ownership limits. Further, the formats of Table III and Table IV i.e. statements showing a shareholding pattern of the Public shareholder & Non Promoter – Non-Public shareholder have also been modified.

IBBI amendments rules concerning IBC application The Insolvency and Bankruptcy Board of India (IBBI) has introduced amendments to the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017 through a notification dated June 14, to improve the availability of information. The amendments come into force immediately. Key amendments as per the notification are as follows: (1) Before applying to initiate Corporate Insolvency Resolution Process (CIRP), a creditor will have to file the information of default. The information utility shall process the said information for issuing a record of default. (2) Previously creditors were required to submit their claims to the resolution professional only, however, now the corporate debtor is also required to submit such information to the resolution professional. (3) Operational creditors will have to furnish the extracts of the e-way bill, Form GSTR-1 and Form GSTR-3B along with their application. (4) The creditors of the corporate debtor will also have to share information with the resolution professional concerning assets, liabilities, latest financial statements and other financial information, as available to them. (5) Details of PAN and email ID are now mandatory while applying.

(For queries and more information on Corporate Laws, contact our colleague Adnan Ginwala at adnan.ginwala@greenvissage.com)

Banking and finance

RBI clarifies on soiled and mutilated notes The Reserve Bank of India (RBI) has clarified that soiled, mutilated or imperfect currency notes are not useless. However, notes on which religious or political slogans are written cease to be legal tender and are not exchangeable. Eligible notes can be exchanged by any bank branch or Reserve Bank of India (RBI) issue office on the condition that they are not fake. Branches of co-operative banks and regional rural banks (RRBs) are not eligible to exchange mutilated notes. Soiled notes are currency note that gets stained because of continuous usage and two-piece tape-pasted currency note that has all essential features intact. Such note becomes soiled and crumpled due to gradual deterioration resulting in decolouration, holes, yellowing, and normal wear and tear.

RBI revises policy rates The Reserve Bank of India (RBI) has announced that the Monetary Policy Committee (MPC) has voted unanimously to hike the benchmark interest rate by 50 basis points with immediate effect. The RBI has also left its FY23 GDP growth forecast unchanged at 7.2%. The policy repo rate now stands at 4.90%, still below its pre-pandemic level. Standing Deposit Facility (SDF) and Marginal Standing Facility (MSF) rates have been raised by 50 basis points. SDF rate stands adjusted to 4.65%, MSF rate adjusted to 5.15%. On the inflation front, the RBI revised its projection to 6.7% from the earlier estimate of 5.7% as the protracted nature of the Russia-Ukraine war puts pressure on commodity prices globally.

RRA suggests periodic review of RBI's regulations RBI's Regulations Review Authority (RRA 2.0) has suggested all regulations of the central bank should underline the rationale and be reviewed periodically to align them with evolving industry practices and financial landscape. Regulations Review Authority (RRA 2.0) was set up by the Reserve Bank of India (RBI) in April 2021 intending to reduce the compliance burden on regulated entities by streamlining the regulatory instructions and rationalising reporting requirements.

(For queries and more information on banking and finance, contact our colleague Kethaan Parakh at ksparakh@greenvissage.com)

Accounting and auditing

In Focus: Audit Trail

1. The audit trail refers to the record of all activities related to a specific transaction. The audit trail is very relevant and acceptable on a conceptual and regulatory level. The purpose of an audit trail is to track all financial activities with transparency, enable the detection of fraud, and prevent management's misuse of electronic records.
2. The Ministry of Corporate Affairs (MCA) has mandated the use of accounting software that has an audit trail (edit log) feature to record all transactions and track any changes. Auditors are tasked to review and control the same. According to the latest notification, the audit trail rule will be implemented from April 1, 2023.
3. As per requirements, the audit trail feature should create an edit log for any changes made on transactions. The same should record the date of each change being made. The accounting software must be reconfigured such that the audit trails cannot be disabled.
4. The auditor must check whether the company is subject to audit maintaining the audit trail or editing log for its accounting software throughout the entire financial year. Such log should not have been tampered with, while the audit trail must be backed up and retrievable as per the company law.

(For queries and more information relating to Accounting, contact our colleague Rahul Mundada at rahul.mundada@greenvissage.com)

Payroll and investments

Crypto trading declines with new TDS rules CoinDCX, WazirX and Zebpay, the crypto exchanges in India, have witnessed a 70% decline on July 3 compared to June 30, as the new Tax Deduction at Source (TDS) rule become applicable from July 1. As per new rules, a TDS of 1% is applicable on the sale and transfer of virtual digital assets, if the amount exceeds INR 10,000. This has made day-trading unfeasible in the Indian exchange. While it is too early to assess the actual impact of the TDS rule, experts believe trading will face pressure after the new rules. Global bear markets and backout by liquidity providers have further worsened the situation.

In Focus: Floating Rate Fixed Deposits

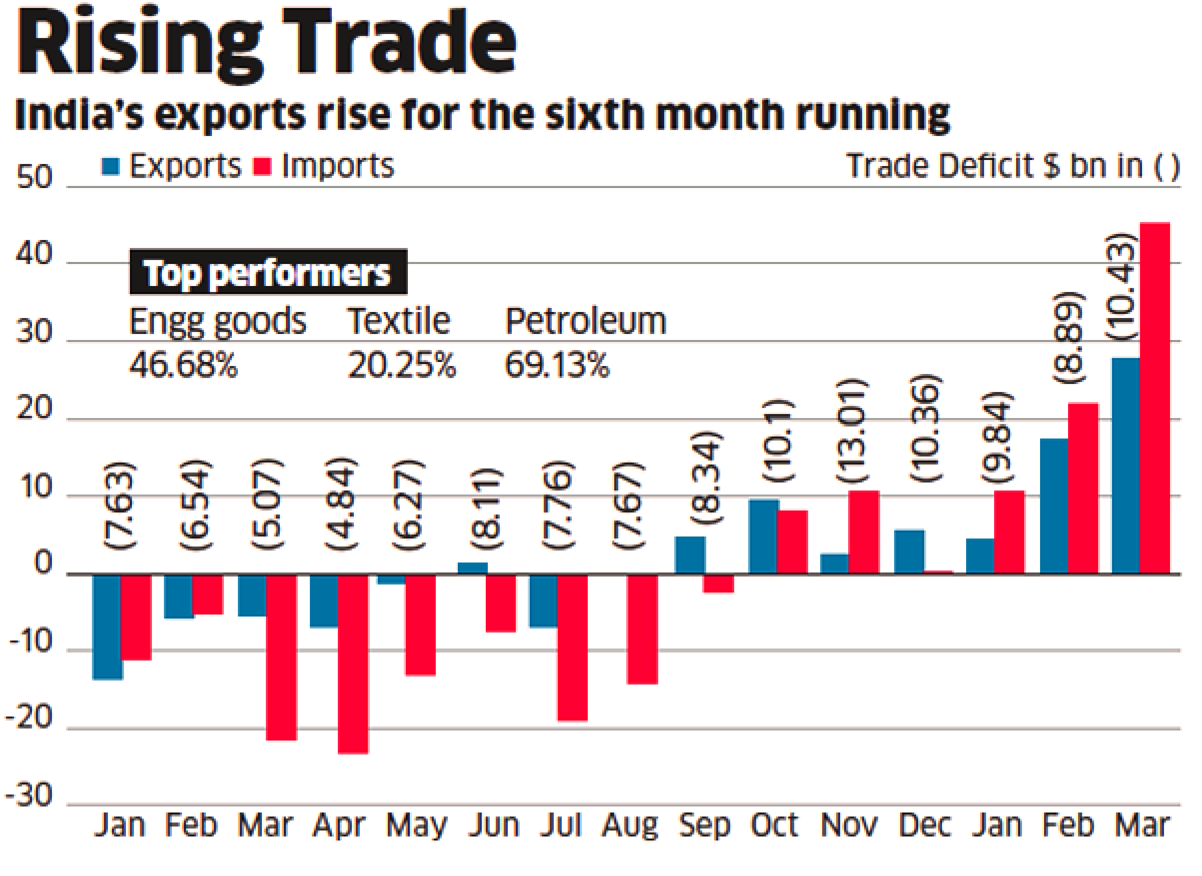
- Yes Bank has launched a new unique product with dynamic returns - a fixed deposit linked to the repo rate. Typically, fixed deposits carry a fixed interest rate for the tenure of the deposit, say 5% to 7% per annum. This is fixed for the entire tenure till maturity irrespective of the changes in the market.
- Yes Bank is deviating from this norm and offering a new fixed deposit that will carry a floating interest rate that will change with a change in central bank repo rates.
- Currently, the repo rates stand at 4.9% and get marked up by 1-2% for fixed deposits with a tenure of 12 to 18 months. This means depositors earn interest of 6-7% annually on such deposits. Usually, despite the rise in repo rates, banks don't increase the lending rates as quickly. However, Yes Bank's new fixed deposit would automatically increase the fixed deposit rate, not just for new deposits but also for existing depositors.
- It is believed that the repo rates could rise by 0.75% by the end of the financial year and therefore, the repo rate-linked fixed deposit will benefit the depositors. Currently, the bank is offering the floating fixed deposit for 1-3 years tenure, with a steep 3% penalty

for premature withdrawal. For those looking to save their short-term savings through fixed deposits, this is a good option. However, one needs to ensure that the money invested is not prematurely withdrawn, else the returns earned would be eroded due to the steep penalty.

(For queries and more information relating to Payroll, contact our colleague Kumari Snigdha at kumari.snigdha@greenvissage.com)

Markets and economies

India's trade deficit hits a new high India's merchandise trade deficit reached a new high of USD 25.63 billion in June, as imports surged 51% to USD 63.6 billion, significantly outpacing the increase in exports which stood at 16.8%. While exports have increased to almost USD 38 billion, overseas purchases of goods, including coal and gold, have increased the imports significantly. Coal imports have tripled, while imports of gold increased to over 169% to reach USD 2.6 billion. Meanwhile, Petroleum imports have increased by 94.2%. Non-petroleum imports stood at USD 42.84 billion in June, reflecting a growth of 36.4%, while non-oil and non-gold, silver and precious metals imports rose 31.7% to USD 36.7 billion.



Key Economic Indicators

Indicator	As on	Current	Prior
GDP Growth (%)	Mar-22	4.1	5.4
Inflation (%)	May-22	7.04	7.79
Unemployment (%)	Apr-22	7.8	7.6
Trade Balance ($m)	Jun-22	−25.64	−24.29
GOI Bond 10yr (%)	Jun-22	7.45	7.42
Manufacturing PMI	Jun-22	53.9	54.6
Services PMI	Jun-22	59.2	58.9

Global Indices

Equity Index	Country	%
NIFTY 50	India	−7.86
BSE SENSEX	India	−7.82
INDIA VIX	India	+26.32
NIFTY BANK	India	−3.38
DOW JONES	USA	−14.42
NASDAQ	USA	−28.87
S&P 500	USA	−19.74
FSTE 100	UK	−2.06
NIKKEI 225	Japan	−82.50
SHANGHAI COM	China	+4.77
MOEX	Russia	−41.79
CAC 40	France	−16.75
DAX	Germany	−19.59
ASX 200	Australia	−10.64
BOVESPA	Brazil	−10.51
KOSPI	South Korea	−21.56
HANG SENG	Hong Kong	−6.48

Commodities Future

Commodity	Expiry	Price	%
Gold	Aug 5	52,240	+2.50
Silver	Aug 5	58,870	−3.96
Crude Oil	Jul 19	8,720	−7.77
Natural Gas	Jul 26	462	−32.66
Aluminum	Jul 29	210	−9.76
Copper	Jul 29	675	−14.27
Cotton	Jul 29	41,030	−11.44

Currency Exchange Rates

Currency Pair	Current	Prior	%
INR/1 USD	78.29	77.56	−0.95
INR/1 GBP	96.08	97.62	+1.58
INR/1 EUR	82.67	83.08	+0.50
INR/100 YEN	57.95	60.01	+3.43

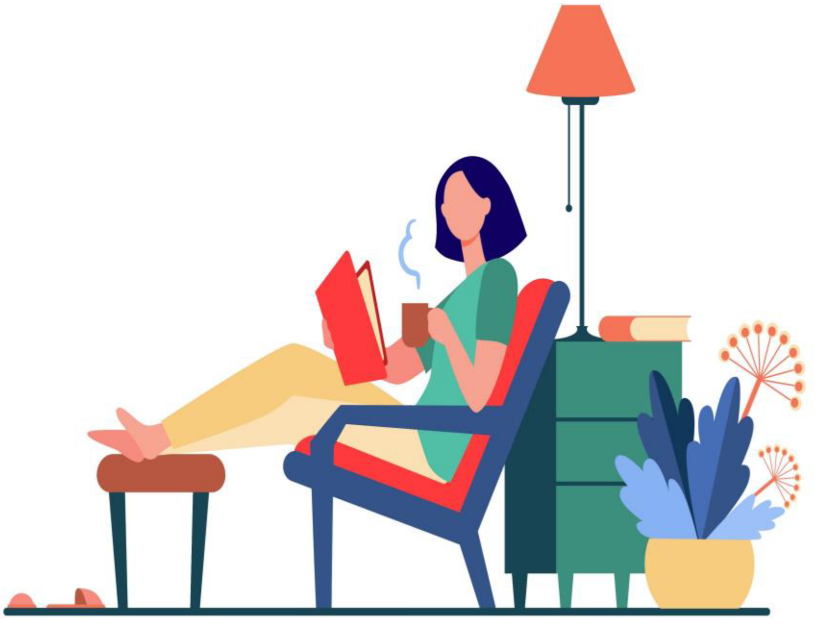
Cryptocurrencies

Currency	Pair	Price	%
Bitcoin	BTC/USD	19,132	−36.96
Ethereum	ETH/USD	1,055	−41.90
XRP	XRP/USD	0.32	−20.77
Btc Cash	BCH/USD	103	−43.14

Small Savings Schemes

Scheme	Current	Prior	%
Savings	4.00	4.00	0.00
FD (5 years)	6.70	6.70	0.00
NSC	6.80	6.80	0.00
PPF	7.10	7.10	0.00
KVP	6.90	6.90	0.00
SSA	7.60	7.60	0.00

Signal :
Positive
Negative
Mixed



Indian Corporates

Vodafone Idea to venture into enterprise solutions Vodafone Idea's Chief Enterprise Business Officer Arvind Nevatia has unveiled its plans to expand mobility and integrated internet of things (IoT) solutions, offering enterprise solutions, such as cloud telephony, auto-receptionist, and captive 5G networks to MSMEs. The company is also looking to deploy private networks in the manufacturing, mining, and port sectors. The company has recently partnered with L&T Smart World & Communication to deploy a 5G enterprise network at the AM Naik Heavy Engineering Complex manufacturing plant in Surat.

Bandhan bank increases interest rates Bandhan Bank has increased its interest rate on fixed deposits and savings accounts from July 4 onwards. The private sector bank has raised the rates on term deposits within 2 months to 1 year from 3.50% to 4.50%. Similarly, for fixed deposits with 1 year - 2 years tenure, the bank will now offer a 6.25% interest rate, up from 5.75%.

SpiceJet receives a show-cause notice from DGCA Directorate General of Civil Aviation (DGCA) sent a show-cause notice to SpiceJet on July 6 over 'poor safety oversight'. The regulator had noticed that the airline witnessed multiple incidents of technical glitches and also caused emergency landings. Meanwhile, SpiceJet's suppliers and approved vendors are not being paid regularly by the airline. The concerns about companies' financials are once again rising. The company's stock has already touched its 52-week low recently.

Yes Bank reports 14% growth Yes Bank in its latest regulatory filings has announced that its loans and advances stood at INR 186,598 crores in the first quarter this year, as compared to INR 163,654 crore in the previous quarter, registering a growth of 14%. The bank has also posted its gross retail disbursements which have doubled to INR 11,431 crores versus INR 5,006 crore in the same quarter the previous year. Total deposits have increased by 18.3% and stood at INR 193,241 crores as compared to INR 163,295 crores in the same quarter the previous year.

Coffee Day Enterprises reports default A total default of INR 470 crore has been reported by Coffee Day Enterprises on Tuesday on payments of interest and repayment of principal amount on loans from banks and financial institutions for the quarter ended June 30. The company said in its regulatory update that the delay in debt servicing is due to a liquidity crisis.

HDFC to partner with Salesforce HDFC has announced that it will collaborate with software firm Salesforce to support the company's growth priorities. The company said that it plans to build the next generation of integration backbone and to connect backend and frontend systems including Salesforce.

Burman family becomes a promoter of Eveready Industries The promoter of FMCG firm Dabur India has become the official promoter of Eveready Industries. The aforementioned information was revealed by a regulatory filing by the Kolkata-based flashlight and battery maker. The family had completed the acquisition of a 23.83 per cent stake in Eveready Industries.

Public sector undertakings

BEST disqualifies Tata Motors from supplying electric buses The Bombay High Court has upheld Brihanmumbai Electric Supply and Transport (BEST)'s decision to disqualify Tata Motors' bid from supplying electric buses worth INR 2,450 crore. On February 26, BEST issued a tender for stage carriage services for its 1,400 single-deckers AC electric buses for Mumbai and its suburbs. Tata Motors had submitted its bid, however, BEST declared the bid as technically non-responsive and not acceptable. Tata Motors thereon, challenged the bidding process in court contending that the bid was arbitrarily rejected, however, BEST denied the allegations and the High Court upheld the disqualification.

Canara Bank crosses one trillion in gold loans After the State Bank of India, Canara Bank has also crossed INR 1 trillion in gold loans. The bank is looking to further expand its gold loan portfolio by over 30% year-on-year (YoY) in the current financial year. Of the total, the agriculture segment has an overwhelming share of over INR 90,000 crore. A bank is making course corrections to ensure an increase in personal and micro and small enterprises (MSMEs). Bhavendra Kumar, the Chief General Manager, has said that a lot of customers are coming for gold loans to bridge the working capital gap, as there is a huge demand for immediate fund requirements. Canara Bank offers a maximum tenure of two years for loans against gold collateral. The interest rates for such loans vary between 7.4 - 7.65%.

Samunnati to partner with State Bank of India Samunnati, an open agriculture network has announced that it will enter into a co-lending partnership with the State Bank of India (SBI) and expand its outreach to Farmer Producer Organisations (FPOs). The company said that the transactions would be of INR 100 crores and the company will scale up its outreach to FPOs with customised financial solutions at affordable interest rates.

NTPC mines 61% more coal in the first-quarter National Thermal Power Corporation (NTPC), the state-owned power giant, has revealed that it has mined 61% more coal in the first quarter of the current year. The company confirmed that it achieved an output of 42.40 lakh metric tonnes in the April-June quarter against 26.40 lakh metric tonnes (MT) in the same period a year ago.

Startups

Startups that are on hiring spree amid global layoffs Amid global layoffs, there are a few startups who are reportedly on a hiring spree. E-learning platform Utkarsh Classes and Edutech has announced that it plans to hire 500 employees including senior leadership executives, educators, and sales and customer service, from tier 2 and 3 cities during the current financial year. LeadSquared, India's latest unicorn, has also announced to hire more than 800 employees in the next few months across sales and marketing, finance, product, and engineering. HappyLocate, a tech-based one-stop relocation platform, has planned to recruit 600 employees across sales, HR, accounts, operations, marketing, and tech. Sequretek, the Cybersecurity startup, has also set its aim to amplify the workforce from 400 now, to 500 across the US, Europe, and Asia. Vivifi India, a fintech startup, has also announced to increase its headcount by recruiting 1,000 new team members this year.

Baker's Dozen secures funding The Baker's Dozen (TBD), a Mumbai-based direct-to-consumer (D2C) brand has secured funding of USD 5 million including debt led by Fireside Ventures. The freshly infused funding will be deployed for product innovation, team building, brand marketing efforts, distribution expansion and technology. The funds will also be used for capital expenditure and expansion across international markets.

Bharatpe doubles its loan disbursals Bharatpe has posted more than two-fold growth in loan disbursals to over INR 3,600 crore in the April-June period. The fintech player has disbursed loans worth around INR 1,700 crore via its NBFC partners in the January-March 2022 quarter. Over 1.2 lakh merchants have benefitted from the loan disbursals from Bharatpe during the April-June quarter compared to 66,000 merchants in the January-March quarter.

Equity markets

Upcoming IPOs The upcoming initial public offers (IPOs) announced by the companies and expected to be launched in the coming months are as follows:

1. OYO (Oravel Stays)
2. Penna Cement Industries
3. Fincare Small Finance Bank
4. Lava International
5. Wellness Forever Medicare
6. PKH Ventures
7. Go First (Go Airlines)
8. Le Travenues Technology (Ixigo)
9. Tamilnad Merchantile Bank

Global conglomerates

Meta sues Octopus for scraping data Meta has sued Octopus, the US subsidiary of a Chinese high-tech enterprise, and a Turkish individual for scraping data from Facebook, Instagram and other big tech platforms. Octopus claims to have over one million customers and offers scraping services and access to software that customers can use to scrape any website. For a fee, Octopus customers can launch scraping attacks from its cloud-based platform or hire Octopus to scrape websites directly.

Twitter complies with the Ministry of Information Technology's notice Twitter, the micro-blogging website, has complied with the Ministry of Information Technology's latest notice within the final July 4 deadline. The company had received a stern warning to either comply with new IT Rules, 2021 or face stricter action. The company has complied with the June 27 notice sent by the ministry over taking action on some controversial tweets. The government had asked Twitter to act on the content take-down notices sent under Section 69A of the IT Act along with non-compliance notices issued for not taking the content down. Not complying with the IT rules, 2021 could have resulted in Twitter losing its immunity as a social media intermediary under Section 79 of the IT Act. In May, the IT Ministry issued a similar notice to the micro-blogging platform, directing it to appoint a resident grievance officer, a resident chief compliance officer, and a nodal contact person.

Astral Aviation to enter Indian airspace Kenya-based cargo airline Astral Aviation has announced that it will operate flights in the Indian airspace. The company will operate under the Pradhaan Air brand with an A320F plane. The CEO and founder of Astral said that he is confident about the airline's performance in the African market and will strive to establish it as a global freighter.

Razorpay shares Altnews' donor data with Government Razorpay in reaction to AltNews' statement citing the payments platform shared its donor data with the police has informed that it received an official written notice from police authorities under Section 91 of the Code Of Criminal Procedure, 1973. AltNews had tweeted that Razorpay has disabled the company's accounts and that the donors' data has been shared with the Government. AltNews has been under probe by various government authorities over FCRA violations.

What borrowers need to do when home loan interest rates are rising? The interest rates of home loans have begun to rise again. One may expect the interest rates to rise by about 200 basis points (2%) in two years. This is expected to increase the home loan tenure, as the interest burden increases. To ensure home loans don't become a burden over time, borrowers need to take corrective actions. Firstly, one can opt for refinancing the loan based on a cost-benefit analysis of each option. This can be done ...

India Datasets Programme – Draft policy and areas of concerns In February, the Ministry of Electronics and Information Technology (MeitY) came up with a draft policy 'India Data Accessibility and Use Policy 2022 (IDAU)' for the access and usage of data held by various government agencies. The policy immediately attracted criticism, especially for allowing the monetisation of data by way of sale or licensing to private enterprises. The way the policy was drafted depicted that revenue generation was the major motive behind the policy. The ...

New VPN Rules – Is the Government stretching too far? Indian Computer Emergency Response Team (CERT-In), India's cybersecurity watchdog, has issued new directives for companies offering Virtual Private networks (VPN). Under the new directive, VPN provider companies are required to store user data for at least five years, amongst other rules. These companies are now mandated to collect specific customer data even if the users delete their ...

Why is gambling becoming a worry for India Inc? Real Money Games (RMGs) are games in which the players play for a wager. These games make up around 80% of India's online gaming industry. According to a report by Economic Times, Indian gamers have spent approximately USD 1.73 billion in online sports betting during the year 2021. The experts have drawn concern as the lines between gaming and gambling are becoming a blur. Many critics ...

Newsletter by:

Greenvissage

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