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EDITORIAL

Private Sector's sluggish Investment: Why India's Real Large Investment Isn't Keeping Pace?



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Equity markets are vibrant, but Private sector investment is very slow. The real large investment is not keeping pace with the investment opportunities being initiated and implemented by the Governments and PSUs.

Private Sector investment in large scale greenfield projects, factories, latest technology, new products, Mega steel plants, Electronic passenger and goods Automobile sector, Earth moving

equipment, defence, Mega power plants, mining, aircrafts manufacturing, railway locomotives and tracks, space, Robotics, large assembly, import substitution products and technology innovation and absorption, and infrastructure, logistics, pipelines, offshore and onshore drilling, petroleum refineries, solar cells, wafers, semi- conductors, roads, agriculture and service sector large projects including Cold Chain, high tech methodology, large scale cultivation, Agro-processing, **and other sustainable growth areas, all these demand a different kind of economic environment, credit availability and policies to enable entrepreneurial courage, conviction, monetary commitment, patient timelines, and trust instable yet dynamic, policy framework for wealth creators.**

India today stands at a paradox. The financial markets are energetic: startups, unicorns, private equity, SIPs in Mutual funds, large subscription for offer for sale and IPOs garner headlines, market cap and stock exchange index is surging. Capital is available — yet the transformation of that capital into **real assets, new capacity, creation, infrastructure** and jobs is proceeding at a constrained pace. Why is private sector CAPEX (capital **expenditure**) lagging, even as publicly visible financial mobilisation is strong?

Sanctioned Projects: The Bank / FI Pipeline According to the RBI (via a study cited in media), the total cost of private sector projects sanctioned by banks / FIs in FY 2024-25 fell to
► *contd. to page 7*

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RBI's Vision for a Unified Financial Marketplace: Building the Next Layer of India's Digital Economy



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At the Global FinTech Fest 2025, **Honourable Reserve Bank of India (RBI) Governor Shri Sanjay Malhotra** articulated a transformative vision — the creation of a **Unified Financial Marketplace (UFM)** that integrates identity, payments, and data into a single programmable infrastructure.

From Digital Islands to a Unified Ecosystem: India's digital revolution — through **Aadhaar, UPI**, and the

digitization of government systems such as GST, Income Tax, and Land Records has been a great achievement in recent times, while the interaction of data and availability in a unified platform is being envisaged in the form of Unified Financial Marketplace (UFM). UFM is envisaged to have Identity Verification, Payment Integration and Database Linkage & Reflection of Output. This will enable

- Reliability of title for Properties being Digitised
- All Assets of a person to be listed in one login for verification by Due Diligence Agencies, Government Departments, Auditors and the person himself. This will also allow information of assets held by a deceased person to their successors and will also bridge several other information gaps.
- Open new paths for private innovation for various purposes.

Honourable RBI Governor further emphasised the positive contribution which **FinTechs** can make in this area by following principles of Inclusion, Customer-Centric Approach, Credit Linkage, Regulatory Compliance & Discharge of Applicable Tax and other dues, and as effective monetisation through regular income streams and also provide liquidity and capital gains. ► *contd. to page 2*

HAPPY
Diwali

AICAS wishes you a bright and prosperous Diwali!

...RBI's Vision for a Unified Financial Marketplace: Building the Next Layer of India's Digital Economy

Connecting the Dots: The Rise of Fractional Ownership Platforms

This vision aligns strongly with the rapid rise of **fractional ownership and digital investment platforms** such as **Strata, hBits, Assetmonk, Property Share, Myre Capital, RealX, BondsCapital, Fracsn, and Prop Returns**. These platforms allow investors to pool money and buy **fractional interests in high-value commercial properties**, earning rental income and potential capital gains.

Fractional platforms digitize asset ownership through special purpose vehicles (SPVs) or tokenized units, provide transparency, and democratize access to real estate that was traditionally reserved for institutional investors. **However, they face challenges around regulation, valuation, taxation, and secondary liquidity.**

The **Unified Financial Marketplace**, by integrating digital identity, programmable payments, and data verification, could provide the **regulatory infrastructure and interoperability backbone** needed for these models to scale safely and transparently — ensuring verified ownership, standardized reporting, and investor protection.

Risks and Perils for the Indian Property Market

While the vision promises inclusion and innovation, its rapid adoption across real assets poses **serious macroeconomic and structural risks** for India's property sector:

- **Asset Inflation** by increased liquidity and money supply chasing limited assets.
- **Redevelopment Complexity**: With fractional ownership structures involving multiple micro-investors, redevelopment, repurposing, or sale decisions will become legally and operationally complex.
- **Rental Income Dependence**: Fractional ownership entitles a person for returns like rent and capital appreciation, while does not allow possession and usage of property. The cyclic demand in real estate sector and issues like vacancy or defaults in rentals or disputes could further impact the return and safety of investments.
- **Cost Escalation**: This structure need to restrict layers of withholding tax (TDS) and platform fees, protect effective yields. Reduce regulatory compliance and audit requirements further minimise transaction and administrative costs, making such investments efficient.
- **Liquidity and Valuation Risks**: The fractional ownership market will require standardized governance and regulated trading mechanisms to address liquidity issues i.e. adequate buyers to be available at all times.

Legal, Income Tax, and GST Issues

The emerging fractional ownership model poses key legal and tax challenges due to its **unregulated structure** and lack of **clear investor protection norms**. On the **direct tax**

side, issues like **dual withholding, disallowance of expenses** (e.g., platform, administrative, and legal costs), and limitations under **House Property Income provisions** (allowing only standard deduction, interest, and property tax) may arise.

From a **GST perspective**, complexities emerge in **multi-layered billing, reconciliation, and return compliance** by both investors and platforms. Hence, there is an urgent need for a **harmonized legal and tax framework** ensuring investor protection, transparency, and tax efficiency.

Balancing Innovation with Prudence: While the **Unified Fractional Model (UFM)** offers potential benefits, it also brings operational hurdles in property transactions, taxation, and stamp duty compliance. A surge in fractional investments could inflate real estate prices, reduce affordability, and affect business viability — potentially impacting **economic stability**. If structured prudently, with **transparent governance and balanced regulation**, the **Unified Marketplace** can successfully bridge **innovation and integrity**, promoting **inclusive and sustainable growth**.

LATEST IN FINANCE

RBI Revises AT1 Capital Limits for Foreign Currency PDIs / SFBs & Overseas AT1 Instruments

RBI's 2025 directions on Basel III allow banks (excluding regional rural banks) to revisit limits on Additional Tier 1 (AT1) instruments, especially those issued in foreign currency or via overseas rupee-denominated bonds, thereby giving banks greater flexibility in raising capital from abroad. The update seeks to harmonize capital adequacy norms while retaining prudential safeguards under the Basel III regime.

RBI Tightens Rules on Lending Against Gold and Silver

Effective October 1, 2025, the RBI's first amendment to its gold and silver lending directions prohibits new advances for purchasing gold or financial assets backed by gold or silver, including ETFs and mutual funds. However, it permits working capital loans by scheduled banks and Tier 3/4 urban co-operative banks to industrial users who use gold/silver as raw materials, subject to restrictions against investment/speculation.

RBI Amends Rules on Loan Spreads and Fixed Rate Option

Under the revised "Interest Rate on Advances (Amendment) Directions, 2025," banks are now empowered to reduce non-credit risk spread components before the earlier three-year lock-in, offering borrowers potential relief sooner. Banks may also, at their option, provide borrowers the facility to switch from floating to a fixed interest rate at reset points. These changes seek to improve interest rate transmission and borrower flexibility under changing rate environments.

RBI Issues New Directions on Digital Payment Authentication (2025)

Effective April 1, 2026, all banks, non-bank payment system

providers, and participants must implement minimum two-factor authentication (2FA) for all domestic digital payments, with at least one dynamic factor (like OTP, token, or biometric). The framework also mandates interoperable tokenisation, risk-based authentication, and full customer compensation for unauthorised losses due to non-compliance. For cross-border card-not-present (CNP) transactions, additional authentication norms will apply from October 1, 2026. Older circulars from 2009–2016 are repealed, consolidating India's digital payment security rules into a single, modern standard.

RBI Issues Uniform Framework for Settlement of Deceased Customer Claims (2025)

The Reserve Bank of India (RBI) has issued the "Settlement of Claims in respect of Deceased Customers of Banks Directions, 2025" to streamline claim settlements related to deceased customers' bank accounts, lockers, and safe custody articles. Applicable to all banks, the directions mandate claim settlement within 15 days of receiving required documents, with interest/penalty for delays. Claims up to **₹15 lakh (₹5 lakh for cooperative banks)** can be settled through simplified documentation, without succession certificates. The framework takes effect by **March 31, 2026**, ensuring faster, fairer, and more transparent claim processing across the banking sector.

RBI Cancels NBFC License of Datta Finance for Irregular Digital Lending Practices

The Reserve Bank of India (RBI), on September 22, 2025, cancelled the Certificate of Registration (CoR) of Datta Finance and Trading Pvt Ltd, a New Delhi-based NBFC, for violating outsourcing norms in its digital lending operations. The company had outsourced critical functions — including customer onboarding, due diligence, loan disbursement, recovery, and KYC verification — to third-party platforms such as KinCash and Do Loan, managed by Zest Top One Technology Pvt Ltd, besides its own app Zest Cash. Following the cancellation, Datta Finance is barred from all NBFC activities, including digital lending and loan recovery operations.

RBI Sets Up Regulatory Review Cell (RRC)

The Reserve Bank of India has established a Regulatory Review Cell (RRC) under the Department of Regulation, effective October 1, 2025, to conduct a systematic review of all RBI regulations every 5–7 years. An independent Advisory Group on Regulation (AGR), comprising external experts, will support the RRC.

RBI Holds Repo Rate at 5.50%

The RBI's Monetary Policy Committee (MPC) kept the repo rate unchanged at 5.50% with a neutral stance (SDF: 5.25%, MSF/Bank Rate: 5.75%). India's GDP grew 7.8% in Q1 FY26; full-year growth projected at 6.8%. Inflation eased to 2.6%, aided by lower food prices and GST reforms.

Master Direction on Regulation of Payment Aggregator (PA) Key highlights:

- RBI issued **Master Directions** to regulate **Payment Aggregators (PAs)** across online, offline, and cross-border modes.
- All **non-bank PAs must secure RBI authorization by Dec 31, 2025**, or exit by Feb 28, 2026.
- PAs classified into **three types**: PA-O (Online), PA-P (Offline/Proximity), and PA-CB (Cross-border).
- **Net worth requirement**: Minimum ₹15 crore at application, to be scaled up to ₹25 crore within three years.
- **Funds settlement norms**: Escrow accounts mandatory with **T+1 settlement** cycle; strict KYC/due diligence for merchants.
- Cross-border PAs capped at **₹25 lakh per transaction**, with compliance to **FEMA & AML rules**, plus grievance redressal mandates.

These directions are **effective immediately** and aim to promote a safe and secure digital payment environment.

RBI fined Phone Pe Limited for breaching PPI (Prepaid Payment Instrument) guidelines. Inspections (Oct 2023–Dec 2024) revealed **escrow balances were lower** than total outstanding PPIs and merchant payments on some day.

Uttarakhand Mega Industrial & Investment Policy-2025 — Key Highlights

- Uttarakhand's new Mega Industrial & Investment Policy-2025 is aimed at attracting large-scale manufacturing enterprises by making the state more investment-friendly.
- The policy defines four categories of investment units (Large, Ultra Large, Mega, Ultra Mega) based on fixed capital investment (excluding land) and mandates minimum employment levels (ranging from 50 to 500) per category.
- Financial incentives include capital subsidy (10% to 20%, depending on category) disbursed over years post commercial production, stamp duty reimbursement (50% up to ₹50 lakhs on land/lease deeds), and special incentives for hilly districts (extra 1–2% subsidy).
- Enterprises must complete the committed investments within a 3 to 7-year timeframe from the date of application via the State's single window / Common Application Form (CAF) system.
- Units must use new plant & machinery, and projects in prohibited sectors (e.g. tobacco, certain low value-addition businesses, non-compliant environmental units) will not be eligible for incentives.
- The policy is valid for five years (unless amended earlier) from the date of notification.

FEMA

RBI Eases Reconciliation Rules for Export & Import Data Systems

The RBI has simplified reconciliation in the Export (EDPMS) and Import Data Processing and Monitoring Systems (IDPMS) for small-value transactions (₹10 lakh or less per bill). Authorised Dealer (AD) Category-I banks can now close

such entries based on simple quarterly declarations from exporters/importers confirming payment or remittance. Reductions in invoice value may also be accepted through declarations, with no penal charges for delays. The move, effective immediately, aims to reduce compliance burden and streamline cross-border trade reporting under FEMA Sections 10(4) and 11(1).

RBI Allows Standalone Primary Dealers to Trade in Non-Deliverable Rupee Derivatives

The Reserve Bank of India (RBI) has amended the Master Direction – Risk Management and Inter-Bank Dealings (2016) to allow Standalone Primary Dealers (SPDs), authorised as Authorised Dealer Category-III (AD Cat-III), to participate in Non-Deliverable Derivative Contracts (NDDCs) involving the Indian Rupee. Earlier, such transactions were limited to Authorised Dealer Category-I (AD Cat-I) banks operating IFSC Banking Units (IBUs) and overseas banks. This move broadens market participation, deepens the offshore rupee derivatives market, and strengthens India's integration with global forex markets. The revised provisions are effective immediately.

RBI Allows SRVA Holders to Invest in Corporate Debt Securities

The Reserve Bank of India (RBI) now permits foreign entities maintaining Special Rupee Vostro Accounts (SRVAs) to invest their rupee surplus not only in Government securities but also in non-convertible debentures (NCDs), bonds, and commercial papers (CPs) of Indian companies. These will fall under the General Route corporate debt limit, with no minimum maturity or issue-wise caps for SRVA investors. The amendment to the Master Direction on Non-Resident Investment in Debt Instruments (2025) is effective immediately, issued under FEMA Sections 10(4) and 11(1).

CAPITAL MARKET

SEBI Eases Transmission of Securities from Nominee to Legal Heir

The Securities and Exchange Board of India (SEBI) has simplified the transfer of securities from nominees to legal heirs, ensuring a smoother, tax-compliant process. Effective January 1, 2026, a new standard reporting code “TLH” (Transmission to Legal Heirs) will be used for such transfers, clarifying that these are not subject to capital gains tax under Section 47(iii) of the Income Tax Act, 1961.

SEBI Launches “Validated UPI Handles” and “SEBI Check” for Safe Investor Payments

The Securities and Exchange Board of India (SEBI) has introduced two new tools — “Validated UPI Handles” and “SEBI Check” — to enhance payment security and investor protection. Under this system, SEBI-registered intermediaries' UPI IDs will now carry a verified “@valid” tag (issued by NPCI) with category-specific suffixes, helping investors identify genuine entities. Additionally, the “SEBI Check” tool allows investors to verify bank account and UPI details of intermediaries before transferring funds via UPI, NEFT, RTGS, or IMPS, ensuring authenticity and reducing fraud risks.

SEBI Tightens Rules for Angel Funds: Accredited Investors, Caps, and Audits

- Angel Funds can now raise capital **only from accredited investors**; existing funds must comply by **8 Sept 2026**.
- **First close** of funds must be completed within **12 months of SEBI approval**, with at least **five accredited investors**.
- Funds must operate via a **single pooled structure**; multiple schemes are disallowed.
- Investment cap: Max ₹25 crore per company (including follow-ons); lock-in of 1 year (6 months in third-party sale).
- Overseas investments up to 25% of fund corpus permitted, subject to SEBI/RBI norms.
- Annual audits mandatory for funds >₹100 crore; reporting of investment-wise performance data to benchmarking agencies starts FY 2025–26.

SEBI Permits Co-Investment Schemes for AIFs under New CIV Framework

- Category I & II AIFs can now offer co-investments via separate CIV schemes in addition to PMS route.
- Each CIV scheme must have ring-fenced accounts (bank & demat).
- Limits: Investor co-investment ≤ 3x contribution in AIF scheme (exceptions for sovereign/development entities).
- CIV schemes prohibited from borrowing or leveraging funds.

SEBI Issues SOP for Smooth Exit of KYC Registration Agencies

SEBI has simplified the process for Know Your Client (KRA) agencies to voluntarily or involuntarily surrender their registration.

SEBI Mandates Two-Part Disclosure Document for Portfolio Managers”

- Disclosure split into Static (stable info) and Dynamic (frequently updated) parts.
- Static part covers services, risks, strategies, fees, taxes, conflicts, and redressal.
- Dynamic part includes financials, client data, audit findings, performance benchmarks.
- Updates to dynamic part must be done quarterly or on material change.
- AIF reforms: AI-only schemes with regulatory relaxations, reduced LVF threshold from ₹70cr → ₹25cr.

SEBI Allows Promoter Employees to Retain ESOPs Granted Pre-IPO

SEBI has amended regulations to allow promoter-group employees to retain share-based benefits granted before IPO filing. This addresses ambiguities in pre-IPO employee benefits. Promoter employees who received **ESOPs/SARs ≥ 1 year before IPO filing** may retain them.

SEBI Tightens ICDR: Mandatory Demat for Specified Securities Before Draft Offer Filing”

- All specified securities held by promoters, directors, KMPs, employees, QIBs, SR shareholders, etc. must be in demat form before filing the draft offer document.

SEBI Revises RELATED PARTY TRANSACTION Materiality Thresholds — Turnover-Linked Regime Introduced

- Material RPT thresholds now **scale with annual consolidated turnover**: e.g., up to ₹20,000cr → 10% of turnover; ₹20k–40kcr → ₹2,000cr + 5% above ₹20kcr; >₹40kcr → ₹3,000cr + 2.5% above ₹40kcr (capped by formula).
- **Audit-committee thresholds for subsidiary RPTs** clarified — different tests based on whether subsidiary has one-year audited financials.
- RPTs **≤1% of consolidated turnover or ₹10cr** will have simplified disclosures (separate circular to specify minima).
- **Omnibus shareholder approval** provisions integrated into Regulation 23(4) for consistency.
- Retail purchases by directors/KMPs (no business relationship & employee terms) clarified as **exempt** from RPT classification.

New SEBI RTA Regulations, 2025 — Activity-Based Oversight & Governance Norms”

- SEBI replaced legacy categories with a **single definition for RTAs** and applied activity-based regulation (only services to listed companies regulated).
- RTAs servicing unlisted companies must run those services via **separate business units** and disclaim SEBI regulation.
- **Net worth & fee structures** revised; **securities premium** can be included in net worth computation.

Editorial Comment: The SEBI registered RTA no more necessary for unlisted Companies. This may reduce the cost of Demat. Whether the RTA and Demat both services can now be provided by Depository participants- SEBI need to clarify in public interest.

SEBI Simplify FPI Onboarding

SEBI and market infrastructure institutions launched a centralized portal

- Website (www.indiamarketaccess.in) provides **step-by-step guidance** on FPI registration using the Common Application Form (CAF).
- Central repository of **applicable SEBI/RBI regulations**, documentation checklists, taxation and repatriation guidance.

SEBI Reclassifies REITs as Equity for Mutual Fund Investment Norms

- **REITs** are now **classified as equity** for mutual fund investment limit purposes; **InvITs** remain **hybrid**.
- Rationale: REITs display equity-like liquidity; InvITs have private placements & steady cash flows.

SEBI Lowers Mutual fund Max Exit Load

- Maximum exit load for mutual funds reduced from 5%

→ 3%, while allowing scheme-specific flexibility.

- Distributor incentives introduced for new individual investors from B-30 cities, capped at ₹2,000 per investor.
- Women-onboarding incentives launched with similar caps/mechanisms to B-30 incentives.

SEBI relaxed annual report delivery norms for issuers of non-convertible securities.

- Entities with listed non-convertible securities may send holders a letter with a weblink (or optional static QR code) to access the annual report instead of hard copy.
- Timelines for sending annual reports to holders, exchanges and trustees aligned with Companies Act (≥21 days before AGM).

SEBI Broadens Strategic Investor Category to Attract Institutional Capital into REITs & InvITs

- SEBI expanded Strategic Investor eligibility to include a wider set of QIBs—public financial institutions, provident funds, PFRDA-registered pension funds (≥₹25cr corpus), AIFs, state industrial development corporations, etc.
- Family trusts and intermediaries registered with SEBI (net worth >₹500cr) and certain NBFC layers are now eligible

GST

CBIC Clarifies E-Invoicing Threshold Applies PAN-Wise at ₹5 Crore

- E-invoicing mandatory for taxpayers with aggregate PAN turnover ≥₹5cr in any financial year from 2017–18 onwards.
- Limit is PAN-based, not state-GSTIN based.
- Turnover includes taxable, exempt, export and inter-state supplies.
- Applies to B2B, exports, SEZ supplies, deemed exports.
- Exempted categories remain (e.g., banking, insurance, SEZ units).
- Clarification effective immediately; non-compliance will attract penalties under Section 122 CGST.

CBIC Simplifies GST Refunds for Inverted Duty Structure Circular prescribes revised formula for refund of ITC accumulated under inverted duty.

- Clarifies treatment of input services vs input goods.
- Refund restricted to the extent of accumulation due to higher input tax vs lower output tax.
- Documentation requirements simplified; self-declaration formats updated.
- Intended to reduce litigation and improve refund timelines.
- Effective immediately; GST officers instructed to process claims accordingly.

CBIC Issues Clarifications on E-Way Bill Compliance for Complex Transactions In bill-to-ship-to cases, either buyer or supplier can generate e-way bill



EXCELLENCE
उत्कृष्टता के लिए हम प्रतिबद्ध हैं



ITAT Chennai: Section 54 Exemption Allowed Despite No Deposit in Capital Gains Account

the Income Tax Appellate Tribunal (ITAT), Chennai, held that failure to deposit unutilized capital gains into the Capital Gains Account Scheme (CGAS) before the due date under Section 139(1) does not invalidate exemption under Section 54, provided the capital gains are invested in a new residential property within the statutory 3-year period. The Tribunal emphasized that substance prevails over procedure and relied on Madras High Court rulings (e.g., Venkata Dilip Kumar v. CIT, CIT v. Sardarmal Kothari), affirming that the purpose of Section 54 is to promote reinvestment, not to penalize procedural delay. The appeal was allowed, granting the assessee Section 54 exemption of ₹10.27 lakh. [Shri Krishnamoorthy Vijayaraghavan vs. ITO (ITA No. 1976/CHNY/2025).]

Editorial Comment: This decision may not sustain scrutiny by Higher Courts.

ITAT Delhi Quashes 153C Assessment for Lack of Year-wise, Assessee-specific Satisfaction

Subject: Validity of assessment under Section 153C – Requirement of separate satisfaction for each assessee and year. Facts

- A search on the Focus Energy Group (22 March 2012) led to seizure of documents allegedly linked to Focusoil Inc., an overseas group company.
- The Assessing Officer (AO) issued Section 153C notices to 15 overseas entities, including Focusoil Inc., but recorded a single consolidated satisfaction note—without specifying assessee-wise or year-wise reasons.
- The AO completed assessments relying on findings from another entity's case (Gynia Holding Ltd.) without independent verification.

Decision

- The ITAT Delhi upheld the CIT(A)'s order quashing the assessment.
- Held that the AO failed to prove seized material belonged to Focusoil Inc., as required under Section 153C.
- A general, consolidated satisfaction note covering multiple entities and years violates mandatory legal requirements.
- Citing CIT v. Sinhgad Technical Education Society (SC), the Tribunal ruled that each assessment year and assessee must have distinct satisfaction based on specific material. [DCIT, Central Circle-19, New Delhi v. Focusoil Inc. ITAT Delhi – ITA No. 3911/Del/2015 & CO No. 339/Del/2015]

ITAT Delhi Quashes Assessment for Lack of Valid Jurisdiction Facts

The assessee's case was originally handled by ITO, Ward 39(4), Delhi, who issued notices under Sections 143(2) and 142(1). The case was later transferred to Ward 36(4) and then to Ward 36(6), based only on an administrative order under Section 120(5). No formal transfer order under Section

127(1)—which is mandatory for jurisdictional transfers—was ever issued. The assessee challenged the validity of the assessment on the ground of lack of jurisdiction. Decision

The ITAT Delhi held that a valid written order under Section 127(1) is essential when an assessment case is transferred between officers of different jurisdictions. An order under Section 120(5) is merely administrative and cannot substitute the statutory requirement of Section 127. Participation by the assessee does not cure a jurisdictional defect. Relying on Raj Sheela Growth Fund (P) Ltd. (466 ITR 26) and Kanwar Singh Saini (SC, 2012), the Tribunal ruled that the assessment made by ITO Ward 36(6) was without jurisdiction and void ab initio.

[Ramesh Kumar Gupta vs. ITO (Ward 36(1), Delhi) ITAT Delhi – ITA No. 291/DEL/2025]

ITAT Ahmedabad: Penalty under Section 271C Not Attracted for Late Deposit of TDS – Penalty u/s 271C – Whether delay in TDS remittance constitutes failure to deduct tax. Facts

The assessee deducted TDS on ₹42.51 lakh interest payments (u/s 194A) but remitted it late due to financial hardship. The AO imposed a penalty of ₹4.25 lakh u/s 271C, treating it as failure to deduct tax. The CIT(A) upheld the penalty. Decision: The ITAT held that Section 271C applies only where TDS is not deducted at all, not where it is deducted but deposited belatedly. Relied on U.S. Technologies International Pvt. Ltd. v. CIT (SC, 2023) – “Failure to deduct ≠ Failure to deposit.” Directed remand to AO to verify TDS challans, Form 26Q, and ledgers to confirm facts. [Grindly Gases & Petrochemicals Pvt. Ltd. v. JCIT ITAT Ahmedabad – ITA No. 1388/Ahd/2025 | Order dated 24.09.2025]

ITAT Delhi: No TDS under Section 194H on Payment Gateway Fees Applicability of TDS u/s 194H to payment gateway charges.

Mobikwik, a digital wallet operator, paid service fees to payment gateways (PGs) like CC Avenue and Zaaki for processing transactions. The AO treated these as commission, invoking Section 194H, and raised TDS demands under Sections 201 & 201(1A). The CIT(A) upheld the AO's view citing a principal-agent relationship.

Decision: The ITAT ruled that PGs are not agents but independent service providers offering tech-based payment services. Charges retained by PGs are service fees, not commission. Relied on CBDT Notifications 47/2016 & 56/2012, and rulings in MakeMyTrip (Delhi HC), Corporation Bank (Karnataka HC), etc. Held that Section 194H does not apply; hence, no TDS liability arises. [One Mobikwik Systems Ltd. v. JCIT (OSD), TDS Circle, Gurgaon ITAT Delhi – ITA Nos. 7830/Del/2018, 273 & 274/Del/2025]

OTHER LAWS

ED Attaches ₹255.28 Crore in Ramprastha Promoters & Developers Case (PMLA, 2002)

The Enforcement Directorate (ED), Gurugram, provisionally attached immovable properties worth ₹255.28 crore under the Prevention of Money Laundering Act (PMLA), 2002) in connection with M/s Ramprastha Promoters & Developers

Pvt. Ltd. (RPDPL). The case pertains to alleged cheating of over 2,600 homebuyers, wherein approximately ₹1,100 crore was collected for multiple real estate projects but possession was not delivered for more than 14 years. The attached assets include plots, lands, residential and commercial properties belonging to the company, its group entities, directors, and their relatives. With this action, the total attachment in the case stands at ₹827.49 crore, reflecting ED's continued crackdown on large-scale real estate fraud and investor deception.

ED Searches on B.C. Jindal Group over ₹505 Crore Overseas Transfer

The ED Headquarters in New Delhi conducted extensive search operations on 18-19 September 2025 under the Foreign Exchange Management Act (FEMA), 1999, across 13 premises in Delhi-NCR and Hyderabad, linked to B.C. Jindal Group and Shyam Sunder Jindal, including group entities like Jindal India Thermal Power Ltd., Jindal India Powertech Ltd., and Jindal Poly Films Ltd. The searches focused on suspected FEMA violations involving overseas investments, fund parking in foreign subsidiaries, and round-tripping of funds. Documents seized during the operation revealed that ₹505.14 crore had allegedly been transferred outside India through sham ODI transactions supported by inflated valuations of foreign shares. The findings point to potential misuse of ODI channels for capital flight and violation of FEMA norms.

ED Attaches ₹153.16 Crore from Ex-Promoters of Universal Buildwell Pvt. Ltd.

The Enforcement Directorate (ED), Gurugram, has attached assets worth ₹153.16 crore belonging to the former promoters of Universal Buildwell Pvt. Ltd., their group firms, and associates under the PMLA, 2002. The action follows a real estate fraud case involving project delays and cheating of homebuyers. Attached assets include land in Rajasthan, commercial units in Gurugram, and FDs worth ₹3.16 crore. A Prosecution Complaint was filed on 19 September 2025 before the Special PMLA Court.

MCA Allows Virtual AGMs and EGMs to Continue

The Ministry of Corporate Affairs (MCA) has allowed companies to continue conducting Annual General Meetings (AGMs) and Extraordinary General Meetings (EGMs) via Video Conference (VC) or Other Audio-Visual Means (OAVM) until further notice. This continues the framework of earlier circulars (notably General Circular No. 20/2020). However, statutory AGM timelines remain unchanged under the Companies Act, 2013, and delays will attract legal action. Companies may also transact business through postal ballots, following existing procedural and compliance norms.

ICSI Clarifies UDIN Applicability

ICSI has made UDIN mandatory for all compliance certificates, secretarial audits, and e-forms to ensure authenticity and traceability, in line with ICAI and ICMAI protocols. It applies to filings such as MGT-7, AOC-4, PAS-6, and half-yearly reports.

EDITORIAL

Private Sector's sluggish Investment: Why India's Real Large Investment Isn't Keeping Pace?

₹3.67 lakh crore. The private sector larger projects of scale are coming only in the field of Solar Energy, takeover of running highway toll projects, real estate residential developments or automobile sector electronic transition in a cautious manner. The project sanctions by banks are limited to small and mid-size investment in MSME sectors.

Poor Gross Fixed Capital Formation (GFCF): The public sector has driven a significant portion of recent capital formation through infrastructure spending and schemes like PM Gati Shakti (overarching railway, roads, ports, waterways, airports, mass transport and logistic infrastructure), while **private corporate investment** continues to trail its pre-2013 trajectory. The slower private capital investment component, despite buoyant corporate profitability and deleveraged balance sheets, underscores a structural caution that fiscal activism alone cannot offset.

Reasons for the slow private sector investment can be easily traced into the current economic environment, ailing financial infrastructures, and policy framework that caused complete risk averseness. In last several years, the banks and financial institutions have witnessed a large scale defaults. The 12 Public sector banks alone have written off loans and advances of Rs. 492,152 Crores just in last 5 years, in addition to large percentage of gross and net non-performing assets. The performance of private sector and foreign banks is not better. To a material extent, the written off loan accounts relate to indiscreet lending during pre 2014 era.

The evolution of insolvency and Bankruptcy Code has led to takeover of large, medium and small businesses through corporate insolvency resolution framework. Lender referred a large number of borrower default cases to Central Bureau of Investigation, Economic Intelligence Wing, Serious Fraud Investigation Office, Enforcement Directorate and Similar Agencies. Most of the good businesses, under temporary ailment due to reasons beyond their control, were acquired at very low consideration by select few major business groups. Most other projects were sold as real estate or were liquidated at throw away prices in the insolvency resolution process.

The Promoters whose businesses were taken over in terms of insolvency code were removed from any kind of management or control of the businesses under resolution process, thereby resulting into substantive job losses and closure of most of such businesses, except those projects which were too large. These promoters and entrepreneurs could not take up any other alternative businesses or investments or projects or any other gainful employment.

The resolution or liquidation of projects did not provide even a small percentage of investment share to the promoters or equity investors, as a part of resolution plan and the banks, lenders and other stake holders took a hit of 30% to 90 % in most cases.

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► *contd. from page 7*

Personal Guarantee: Most of the entrepreneurs, promoters, their friends, close relatives and corporate who provided personal guarantee and collateral security to the lenders also suffered prosecutions as well as litigation from lenders, to recover lender funds from their personal assets and has pushed most of them towards personal insolvency and bankruptcy. The aforesaid process of resolution, liquidation followed by bankruptcy has taken more than 8 years and still not even one person has become discharged insolvent after bankruptcy.

Entrepreneurship Killed: In the process of insolvency, humiliation, harassment, mistrust and societal apartheid to these businessmen, their families and close relatives including complete denial of any kind of revival package, relief or support or even a chance to recover business losses or any kind of support, the current economic environment has killed the entrepreneurship in case of a huge number of wealth creators and business families.

Most of the companies and businesses, who are currently working and growing profitably are ensuring reduction of their dependence on borrowing and are committed to not to borrow for their new projects and expansions, except working capital limits from banks, NBFCs or financial institutions. They are averse to take any financial leverage of any kind and at least keeping financial leverage within a small fraction of their equity exposure.

Policy Impediments: The policy framework as laid down by RBI, financial institutions, banks and NBFCs is not such which can promote private sector investment:

- Lenders are over-cautious, insisting on multiple layers of security — primary, collateral, personal and corporate guarantees, pledge of shares, and DSRA deposits — with high net interest margins.
- Specific schemes initiated at the behest of government by FI (e.g., SIDBI) to provide Risk Capital, failed as these FIs too demanded tangible collaterals.
- Lenders wish to micro-manage financial management of businesses by concurrent, monthly, quarterly micro monitoring and even approval of all material payments by lenders through ASM.
- Strict norms for categorisation as non-performing assets and NPA arising due to delay in Project completion date.
- Small moratorium period vis a vis large lead time of many years required to stabilize a green field new

project. Banks are persuaded by FM to not to lend money for large long gestation projects, without bringing credible lenders to meet the requirement.

- The risk of a small default or delay of financial creditors or operational creditors can push the project into insolvency, prosecution, investigation, personal bankruptcy and takeover of the business by lenders and other stake holders, without a fair treatment to the promoters.
- Large Scale reduction in number of Banks due to Merger, closure or practical non-functionality of DFIs, SFIs and other Infrastructure Sector Credit has also impacted supply of credit.
- The over-concentration of large advances by Banks to select few branches reducing majority of bank branches to Chief Manager (Scale IV) or Senior Manager (Scale III) led Branches has also impacted the ability of businesses to access credit with adequate geographic reach.

Other Government Policies

- **Land availability and cost** remain a major hurdle. With the Supreme Court restricting compulsory acquisition, government must facilitate affordable industrial land.
- Entrepreneurs face **red tape, high conversion costs, and procedural delays** in acquiring or changing land use, making large parcels unaffordable.
- **State agencies' conditions and pricing** for industrial land are restrictive and costly.
- **Subsidies, incentives, and government support** often face long delays.
- There is **no institutional equity support** from government for greenfield projects, despite their high risk and long gestation periods.

The above issues are only narrating a small portion of the horror story and large-scale impediments. A serious long term visionary action plan and policy initiative need to be strategized at earliest, as India is keen to become Viksit Bharat in 2047.

India's challenge is not lack of capital — the appetite for investment in equity, startups, fintech, and markets is real. The challenge is converting that capital into real assets, infrastructure, factories, and jobs under uncertainty and risk.



HONESTY
ईमानदारी के लिए हम प्रतिबद्ध हैं



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