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SNK

Newsletter

RECENT ECONOMIC DEVELOPMENT

- ◆ President Donald Trump directed the US trade representative to level tariffs on about \$50 billion worth of Chinese goods following a seven-month investigation into intellectual property theft. In addition to the tariffs, the United States plans to impose new investment restrictions and take action against China at the World Trade Organization.
- ◆ China announced plans for reciprocal tariffs on \$3 billion of imports from the U.S., including products from steel to pork, after President Donald Trump's move to order levies on a range of Chinese goods sent markets plunging. China plans to take legal action against the U.S. under the World Trade Organization framework, the Commerce Ministry said in a statement. It plans a 25 percent tariff on U.S. pork imports and 15 percent tariffs on American steel pipes, fruit and wine, the statement said.
- ◆ The Federal Open Market Committee increased the overnight funds rate to a range of 1.5% to 1.75% in its first meeting with newly-installed Chairman Jerome Powell at the helm. Members of the rate-setting committee stuck to their median forecast for a total of three rate hikes in 2018, but revised upward their interest-rate projections for both 2019 and 2020. The central bank sees interest rates in 2019 at 2.9%, up from a prior forecast of 2.7%, while interest rates in 2020 are expected rise to 3.4%, up from a prior estimate of 3.1%.
- ◆ "We expect India's current account deficit to widen to USD 10-12 billion in Q4 FY18 from the low USD 3.4 billion in Q4 FY17, led by the increase in the merchandise trade deficit, even as the services trade surplus is expected to improve," rating agency ICRA said in a note.
- ◆ India is on track to doubling the size of its economy to \$5 trillion by 2025, the finance ministry said while asserting that the inflation target set by the Reserve Bank will not be breached.



- ◆ Consumer prices in India increased 4.44 percent year-on-year in February of 2018, below 5.07 percent in January and market expectations of 4.8 percent. It is the lowest inflation rate in four months but above the 4 percent medium-term target of the central bank. Inflation Rate in India averaged 6.65 percent from 2012 until 2018, reaching an all time high of 12.17 percent in November of 2013 and a record low of 1.54 percent in June of 2017.
- ◆ India's industrial production rose by 7.5 percent year-on-year in January 2018, following a 7.1 percent gain in the previous month and beating market expectations of 6.7 percent. Manufacturing output growth picked up to 8.7 percent in January from 8.5 percent in December, and electricity production rose 7.6 percent, faster than 4.4 percent in the previous month. Meanwhile, mining output grew by only 0.1 percent, compared with 1.2 percent in the previous period. Considering April to January, industrial production increased by 4.1 percent, compared with a 5.0 percent expansion in the same period of the previous fiscal year. Industrial Production in India averaged 6.56 percent from 1994 until 2018, reaching an all time high of 20 percent in November of 2006 and a record low of -7.20 percent in February of 2009.

(Source: Business news papers and Magazines)

- ◆ India's annual wholesale price inflation eased in February for the third straight month after touching an eight-month high in November, helped by a softer rise in food and fuel prices, government data showed. Annual wholesale price inflation last month slowed to 2.48 percent from a year earlier, from a provisional 2.84 percent rise in January.
- ◆ India's trade deficit narrowed to \$12 billion in February from \$16.30 billion in the previous month, the trade secretary said. India's merchandise exports are expected to touch \$300 billion in the current fiscal year ending this month compared with \$275.8 billion, mainly driven by a rise in commodity prices and strong demand in the US and Europe.
- ◆ China's fiscal revenue surged 15.8 percent in the first two months of this year from a year earlier, the finance ministry said.
- ◆ The UK employment report showed that wage growth picked up and the jobless rate unexpectedly dropped, putting pressure on the Bank of England to raise interest rates in the coming months. Including bonuses, pay growth rose by an annual 2.8%. The unemployment rate fell to 4.3%, below the consensus forecast of 4.4%.The number of people in employment rose by 168,000 in the three months to February, while the claimant count, which measures the change in the number of people claiming unemployment benefits, rose by 9,200 in the same period.
- ◆ The U.S. current account deficit widened slightly more than expected in the fourth quarter, amid an increase in goods imports. The Commerce Department said the current account deficit, which measures the flow of goods, services and investments into and out of the country, widened by \$26.7 billion to \$128.2 billion, or 2.6 percent of national economic output.
- ◆ U.S. sales of previously-owned U.S. homes rose in February, according to figures released by the National Association of Realtors. Existing home sales rose 3.0% in February from the previous month to an annualized pace of 5.54 million units.
- ◆ Argentina's economy expanded 2.9 percent in 2017 from the prior year and 3.9 percent in the fourth quarter versus the same period in 2016, Argentina's Indec statistics agency said.
- ◆ Australia added fewer jobs than forecast in February and unemployment edged higher as more people sought work, suggesting the central bank is likely to keep interest rates unchanged. Jobs rose 17,500 from January, when they advanced a downwardly revised 12,500; economists forecast 20,000 gain. Unemployment rate climbed to 5.6%; estimate unchanged at 5.5%
- ◆ French private sector activity slowed in March, according to survey data released. The preliminary reading of the Markit services purchasing managers' index came in at 56.8 this month from 57.4 in February.
- ◆ Private sector output in Germany slowed to the lowest level in eight months in March, fueling concern over the health of the euro zone's largest economy. Market research group Markit said that its Flash German Composite Output Index, which measures the combined output of both the manufacturing and service sectors registered a reading of 55.4 in March, down from 57.6 in February.
- ◆ China gingerly raised a key short-term interest rate on Thursday following the U.S. Federal Reserve Bank's move. The People's Bank of China (PBOC) said it had increased the rate on 7-day reverse repurchase agreements by 5 basis points (bps) to 2.55 percent.
- ◆ UK retail sales rose 0.8% in February the Office for National Statistics said. This was compared to a 0.2% decline in the previous month which was revised downwards from an initial 0.1% gain.
- ◆ Euro zone businesses rounded off the first quarter of 2018 with their slowest growth in over a year, much weaker than expected. IHS Markit's composite flash PMI for the euro zone, seen as a good guide to economic health, slumped to 55.3 this month, far below all forecasts in a poll which had predicted a more modest dip to 56.7 from February's final reading of 57.1.
- ◆ The overall rate of inflation in Canada picked up in February, Statistics Canada said. The consumer price index rose 2.2% last month, compared with the same month a year earlier.
- ◆ Gross domestic product, a broad measure of the goods and services produced across the U.S., rose at a 2.9% annual rate in the fourth quarter, adjusted for seasonality and inflation, the Commerce Department said.





Honda Motor Co. Ltd vs. ADIT (Supreme Court)

The AO is not entitled to issue a re-opening notice only on the basis that the foreign company has a permanent establishment (PE) in India if the transactions in respect of which it is alleged that there has been an escapement of income had already been disclosed by the Indian subsidiary and found by the Transfer Pricing Officer (TPO) to be at arm's length.

Shalibhadra Developers Vs Secretary, Income-tax Settlement Commission (Supreme Court)

SLP granted against High Court's ruling that application for settlement would be maintainable as long as order of assessment is not passed and date of dispatch or service of order on assessee would not be material for such purpose

ITO vs. Venkatesh Premises Co-op Society Ltd (Supreme Court)

Principles of Mutuality: Receipts by housing co-operative societies such as non-occupancy charges, transfer charges, common amenity fund charges and certain other charges from their members are exempt from income-tax based on the doctrine of mutuality. The fact that the receipts are in excess of the limits prescribed by the State Government does not mean that the Societies have rendered services for profit attracting an element of commerciality and thus was taxable.

Bar Council of India vs. A. K. Balaji & Ors (Supreme Court)

Foreign law firms and foreign lawyers cannot practice profession of law in India either in the litigation or in non-litigation side though they can "fly in and fly out" for the purpose of giving legal advice to their clients in India regarding foreign law. The expression "fly in and fly out" will only cover a casual visit not amounting to "practice". If the Rules of Institutional Arbitration apply or the matter is covered by the provisions of the Arbitration Act, foreign lawyers are not debarred from conducting arbitration proceedings arising out of international commercial arbitration but will be governed by code of conduct applicable to the legal profession in India. B.P.O. Companies providing wide range of customized and integrated services and functions to its customers like word processing, secretarial support, transcription services, proof reading services, travel desk support services, etc. may come within the purview of the Advocates Act, 1961 or the Bar Council of India Rules if in pith and substance the services amount to practice of law.

Habitat Shelters (P.) Ltd. Vs PCIT (Karnataka High Court)

Court cannot go into sufficiency of reasons assigned by assessing authority for directing Special Audit; only if there were no reasons assigned and objections of assessee were not considered, requirement of section 142(2A) can be said to have not been complied with by Authority

Demuric Holdings (P.) Ltd. Vs ACIT (Gujarat High Court)

Where during original assessment transaction of share transfer by assessee to subsidiary company without consideration was scrutinised by As-

sessing Officer, later on he could not reopen assessment on ground that by such transaction, dividend was transferred and, hence, assessee was liable to dividend distribution tax.

Giriraj Steel Vs DCIT (Gujarat High Court)

Where assessee firm while filing its return declaring nil income had explained that firm was converted into a company with all assets and liabilities and that profit earned by firm was transferred to successor company and company also paid tax on same and Assessing Officer after applying his mind to assessee's case accepted same, reassessment on grounds that income upto date of succession had to be assessed in hands of assessee firm was a mere change of opinion, thus, same was unjustified.

J.K. Trust Bombay Vs DCIT (Exemption) (Bom. High Court)

Where during assessment, Assessing Officer after scrutiny of assessee-trust's activity of integrated livestock development, held it as charitable, initiation of reassessment to held that assessee-trust's activity would not be covered within definition of charitable purpose not justified.

Umbrella Projects Pvt. Ltd vs. ITO (ITAT Delhi)

If the assessee has discharged the initial onus regarding the identity, credit-worthiness and genuineness, the onus shifts to the AO to bring material or evidence to discredit the same. The fact that the shareholders did not respond to s. 133(6) summons is not sufficient to draw an adverse inference. There must be material to implicate the assessee in a collusive arrangement with person who are accommodation entry providers.



Judicial pronouncements**Prabhat Gupta vs. ITO (ITAT Mumbai)**

The fact that s. 133(6) notices could not be served upon the alleged vendors and they were not physically available at the given addresses does not falsify the claim of the assessee that the purchases are genuine if the assessee has produced other evidence and made payments through banking channels.

ITO vs. Virat Credit & Holdings Pvt.Ltd (ITAT Delhi)

The grant of approval by the CIT with the words "Yes. I am satisfied" proves that the sanction is merely mechanical and he has not applied independent mind while according sanction as there is not an iota of material on record as to what documents he had perused and what were the reasons for his being satisfied to accord the sanction to initiate the reopening of assessment u/s 148 of the Act.

Emami Infrastructure Ltd vs. ITO (ITAT Kolkata)

The term 'subsidiary company' is not defined under the Income-tax Act and so will have to be given the meaning in s. 4(1)(c) of the Companies Act. A subsidiary of a subsidiary (step-down subsidiary) is also a subsidiary of the parent. Consequently, transfers between the holding company and the step-down subsidiary are not "transfers" which can give rise to capital gains or loss.

DCIT vs. Alcon Biosciences P Ltd (ITAT Mumbai)

The fact that a pvt. ltd co issued shares at an exorbitant premium is irrelevant if the assessee has proved the genuineness of the transaction. If the assessee has furnished necessary evidence to prove the identity of the share applicants and their PAN details, the department is free to proceed to reopen the individual assessments of the share applicants but it cannot be regarded as

undisclosed income of the assessee.

**International Taxation****Pr CIT vs. Amphenol Interconnect India P. Ltd (Bombay High Court)**

Transfer Pricing: The Comparable Uncontrolled Price (CUP) method is not the Most Appropriate Method for determining the Arm's Length Price (ALP) in respect of the transactions of (sales of goods and sales commission) with Associated Enterprises (AEs) if there are geographical differences, volume differences, timing differences, risk differences and functional differences. If it is not shown that the selection of TNMM as the Most Appropriate Method is perverse, the same cannot be challenged

Johnson Matthey India (P.) Ltd. Vs DCIT (Delhi ITAT)

Where assessee, engaged in manufacturing of auto exhaust catalyst, entered into technology collaboration agreement with AE for use of technology, trademarks and patent for carrying out its manufacturing activities, it could not be concluded that no benefit was derived by assessee by entering into said agreement with AE and, therefore, CUP method would be most appropriate method for determining ALP of payment of royalty made to AE in pursuance of technology collaboration agreement.

INDIRECT TAXES**Judicial pronouncements****Union of India Vs Intercontinental Consultants & Technocrats (p.) Ltd. (Supreme Court)**

For valuation of taxable service, value

of taxable service shall be gross amount charged by service provider 'for such service' and valuation of tax service cannot be anything more or less than consideration paid as quid pro qua for rendering such a service. Service tax is to be paid only on services actually provided by service provider.

Rajeevan V.N. Vs Central Tax Officer. - 1 Circle, Cochin (Kerala High Court)

Where application preferred by petitioner for registration under Act had been rejected on ground of certain discrepancies in documents submitted by him with application for registration, same would be considered if fresh application with requisite documents was filed by him.

Coimbatore Corporation Contractors Welfare Association Vs State of Tamil Nadu (Madras High Court)

Since CGST Act, 2017 came in force with effect from 1-7-2017, contract work for which agreements were executed prior to 1-7-2017, GST would not be imposed on same and 2 per cent VAT alone was applicable.

Lovely OffSet Printers Vs Commissioner of Central Excise, Tirunelveli (Chennai – CESTAT)

Goods that came out of printing industry classifiable under Tariff Heading No. 4901 90 and not under Heading No. 4821 00 as alleged by Adjudicating Authority.

Vetal Textiles & Electronics (P.) Ltd. Vs Commissioner of Central Excise, Coimbatore (Chennai – CESTAT)

'Grain cleaning and drying machine' being specifically used by milling industry for cleaning and also used as a dryer machine by millers classifiable under Heading No. 8437.

Notification / Circular/ Updates

- GST collections slid for the second straight month to Rs 85,174 crore in February as only 69 per cent of the assessee's filed returns.
- Around 59.51 lakh GSTR 3B returns were filed for the month of February till March 25. This is 69 per cent of total taxpayers who are required to file monthly returns, the finance ministry said in a statement.
- The Govt. has notified CGST (Third Amendment) Rules, 2018 wherein, amendments in rules 45, 124, 125, 127, 129, 133, 134, 137 and 138D has been made.
- Central Govt. has notified that E-way bill provisions would be applicable from April 1, 2018.
- The reverse charge mechanism on supply of goods or services by un-registered person to registered person has been deferred till June 30, 2018.

Due Dates of key compliances pertaining to the month of April 2018:

10 th April 2018	GSTR-1 for Feb. - for assessee having turnover more than Rs. 1.50 Cr.
15 th April 2018	ESIC / PF Payments for the month of March
20 th April 2018	GSTR-3B Return for March
30 th April 2018	TDS/TCS Payment for the month of March
30 th April 2018	GSTR-1 for Jan to March - for assessee having turnover up to Rs. 1.50 Cr.

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The information contained in this newsletter is of a general nature and it is not intended to address specific facts, merits and circumstances of any individual or entity. We have tried to provide accurate and timely information in a condensed form however, no one should act upon the information presented herein, before seeking detailed professional advice and thorough examination of specific facts and merits of the case while formulating business decisions. This newsletter is prepared exclusively for the information of clients, staff, professional colleagues and friends of SNK.

