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Monthly Newsletter Series

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KNOWL EDGE
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What's Inside

by: Manish Parekh
manish.parekh@hscollp.in

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Old income tax notices resurface as 10–15-year-old tax demands appear on portal, interest piles up, says report

Income tax demands from very old years, such as 2005 to 2011, have suddenly started appearing on the income tax portal, according to a report by 'The Economic Times'. This is a complete shock for many taxpayers, as many of them had neither received any notice nor were aware of the assessment orders at the time.

According to the ET report, in many of these cases, the interest amount has exceeded the principal tax amount, significantly increasing the taxpayers' problems.

Why are old tax demands surfacing on the portal?
The report suggests that the Income Tax Department is in the process of digitizing and integrating old and scattered records into a digital system. During this exercise, assessment orders from many years ago and the associated tax demands are now being uploaded to the income tax portal. The problem is that taxpayers who never received the order – or whose order was sent to the wrong address – are now seeing the outstanding amount directly and are expected to pay.

https://www.financialexpress.com

Over 63 lakh ITRs yet to be processed in AY 2025–26: Why refunds are getting delayed?

Over 63 lakh income tax returns are still under processing in AY 2025–26, leaving many taxpayers waiting for refunds even after the December 31 deadline. Is this normal? Tax experts explain why refunds are being held back, how mismatch checks work, and when taxpayers are entitled to interest on delayed refunds.

Even after the December 31 deadline for filing belated income tax returns, a large number of taxpayers are still waiting for their returns to be processed, and many are anxiously tracking their refunds.

As per data available on the Income Tax Department website, around 8.80 crore income tax returns (ITRs) have been filed so far for Assessment Year (AY) 2025–26. Of these, nearly 8.66 crore returns have been verified, and about 8.02 crore returns have already been processed. That leaves roughly 63 lakh taxpayers whose returns are still under processing — and for many of them, refunds are yet to be issued.

Tax experts are of the view that the mere fact that returns are pending after December 31 does not mean something has gone wrong. Under the Income-tax Act, the Centralised Processing Centre (CPC) has up to nine months from the end of the financial year to process returns filed for that year.

For returns filed in AY 2025–26 (related to FY 2024–25), this effectively means the department has time until December 31, 2026.

https://www.financialexpress.com

Section 87A rebate on capital gains from debt mutual fund: ITAT Chandigarh gives relief to taxpayer and cancels Rs 25,710 tax demand notice from Income Tax Dept.

ITAT Chandigarh in the case (ITA No. 887/CHANDI/2025) has provided significant relief to taxpayers by allowing the benefit of rebate under Section 87A of the Income-tax Act, 1961, on long-term capital gains (LTCG) arising from debt mutual funds for earlier assessment years.

Taxpayer had claimed rebate under Section 87A on his total tax liability, which included LTCG from debt mutual funds taxable at a special rate u/s 112. Centralised Processing Centre (CPC) restricted the rebate only to income taxable at normal rates and excluded tax on LTCG, resulting in a reduced rebate and a consequential tax demand.

Tribunal observed that the restriction applies only to long-term capital gains arising from transfer of listed equity shares, units of equity-oriented mutual funds, or business trusts, as specified under Section 112A(1). Long-term capital gains from debt mutual funds, however, are governed by Section 112 and are not covered by this restriction.

Accordingly, the Tribunal held that there is no

by: Manish Parekh
manish.parekh@hscollp.in

restriction on allowing the rebate u/s 87A against tax payable on LTCG from debt mutual funds. Since the total tax liability in the case exceeded the rebate threshold, the taxpayer was found eligible for the full rebate of Rs 25,000. The appeal was allowed, and directed recomputation of tax liability by granting the full rebate.

https://economictimes.indiatimes.com

GST Advisory: Online Filing of Opt-In Declaration for Specified Premises (Hotel Accommodation)

The GST portal has enabled **electronic filing of Opt-In Declarations** for declaring hotel accommodation premises as "**Specified Premises**", pursuant to **Notification No. 05/2025 – Central Tax (Rate) dated 16 January 2025**. This facility is relevant for both **existing registered taxpayers** and **new GST registration applicants** engaged in hotel accommodation services.

What is a "Specified Premises" under GST?

Under GST law, "**Specified Premises**" refers to **hotel accommodation units that meet prescribed tariff or valuation criteria**, as notified by the Government.

Declaring a premises as "specified" determines the **applicable GST rate** on hotel accommodation services and **eligibility for input tax credit (ITC)** as per the relevant notifications.

In simple terms:

- It is a **voluntary classification** exercised by the hotel operator
- Once opted, the premises is treated under the **specified GST rate structure**
- The option continues for future years unless the taxpayer **formally opts out**

Who can file the declaration?

- Regular GST taxpayers (active or suspended) supplying hotel accommodation services
- Applicants applying for new GST registration for hotel accommodation services

Not applicable to composition taxpayers, TDS/TCS registrants, SEZ units/developers, casual taxpayers, or cancelled registrations.

Types of Declarations Available

- **Annexure VII** – For existing registered taxpayers opting to declare premises as specified premises for a **subsequent financial year**
- **Annexure VIII** – For persons applying for **new GST registration**, to declare premises as specified premises from the effective date of registration

(Opt-Out Declaration – Annexure IX will be enabled separately)

Filing Timelines

- **Existing Registered Taxpayers (Annexure VII):** Can be filed between **1 January and 31 March of the preceding financial year**
  → For FY 2026-27, filing window is 01.01.2026 to 31.03.2026
- **New Registration Applicants (Annexure VIII):** Must be filed within **15 days from ARN generation** of the registration application
  If missed, filing is allowed only during the Annexure VII window
  Filing is not permitted if the registration application is rejected

Portal Navigation

GST Portal → **Services** → **Registration** → **Declaration for Specified Premises**
Declarations are submitted using **EVC**, and an **ARN is generated** on successful filing.

Key Points to Note

- Up to **10 premises** can be selected per declaration (multiple declarations allowed if required)
- Separate reference numbers are generated for each declared premise
- Suspended registrations may file; cancelled registrations cannot
- Once opted, the declaration remains valid for future years unless **opted out** within the prescribed timeline

Download & Intimation

- Filed declarations can be downloaded from the portal
- Confirmation is sent via **email and SMS** to authorised signatories

Important Transition Note

- For **FY 2025-26**, declarations were filed **manually**
- All such taxpayers must **re-file Annexure VII electronically for FY 2026-27** between **1 January 2026 and 31 March 2026**, even if they had earlier submitted manual declarations

GST Rate Impact: Specified vs Non-Specified Premises (Hotel Accommodation)

Particulars	Specified Premises	Non-Specified Premises
Meaning	Hotel premises voluntarily declared as "specified premises" through Annexure VII / VIII	Hotel premises not declared or opted out from specified status
Eligibility for Input Tax Credit (ITC)	**ITC Allowed** on inputs, input services and capital goods (subject to conditions)	**ITC Not Allowed** (blocked)
Effective Cost Structure	Higher output tax, but **input taxes can be set off**, reducing overall cost	Lower output tax, but **input taxes become cost**, increasing expenses
Compliance Requirement	Mandatory opt-in declaration on GST Portal	No declaration required
Continuity	Option continues for subsequent years unless **opt-out declaration** is filed	Continues by default unless opted in
Suitability	Hotels with **high input taxes** (renovation, leasing, services, food & beverage inputs, etc.)	Hotels with **lower input tax incidence** or price-sensitive customers
Impact on Pricing	Prices may increase due to higher GST rate but may be offset by ITC benefits	Lower GST visible to customers but higher embedded tax cost

Tripura High Court – ITC denial limited to non-genuine / fraudulent transactions

Union of India & Ors. v. (Tripura HC), WP (C) No. 688 of 2022
Decided on: *06.01.2026*
Key holding:

- Section 16(2)© of the CGST Act (which conditions ITC on the supplier having actually paid tax to the government) **cannot be interpreted to automatically deny ITC to a bona fide purchaser** simply because the supplier defaults.
- The provision must be read down and applied **only where transactions are found not bona fide, collusive, or fraudulent to defraud revenue**.
- A purchaser acting in good faith, with valid invoices and due payment made, *should be given an opportunity to prove genuineness of transactions* before ITC is denied.
- This follows similar reasoning in **MCLEOD Russel India Ltd v. UOI** and **M/s Shanti Kiran India (P) Ltd. v. Commissioner (Supreme Court / High Court series)** where bona fide purchasers were protected **despite supplier default**

by: Bhavesh Shah
bhavesh.shah@hscollp.in

RBI liberalises movement of Indian currency with Nepal and Bhutan

The Reserve Bank of India (RBI) has issued A.P. (DIR Series) Circular No. 18 dated 8 December 2025, significantly easing the rules governing the export and import of Indian currency to and from Nepal and Bhutan. The move replaces the earlier 2019 framework and is intended to support cross-border travel, trade, tourism and remittance flows with India's two closest neighbours.

Following a review of the earlier regime, the RBI has now permitted a person (other than citizens of Pakistan or Bangladesh) to carry Indian currency as follows:

1. Unlimited ₹100-and-below notes

Indian currency notes in denominations up to ₹100 may now be freely taken or sent to Nepal or Bhutan and brought back into India for any amount. This provides flexibility for everyday retail transactions and small payments in border regions and tourist centres.

2. Higher-denomination notes allowed up to ₹25,000

For Indian currency notes above ₹100 denomination, the RBI has allowed:

- Export from India to Nepal or Bhutan – up to ₹25,000
- Import into India from Nepal or Bhutan – up to ₹25,000

This creates a clear, practical limit while still allowing sufficient cash movement for travellers and small traders.

Nepal and Bhutan are among the few countries where the Indian Rupee circulates widely. By allowing unlimited movement of small-denomination notes, and up to ₹25,000 in higher denominations, the RBI has made it significantly easier for tourists, migrant workers, border traders, and small businesses to conduct legitimate cash transactions without breaching foreign exchange regulations.

(A.P. (DIR Series) Circular No. 18 dated 8 December 2025)

by: Bhavesh Shah
bhavesh.shah@hscollp.in

Delhi High Court rejects 'Virtual Service PE' under India–Singapore Treaty

In a landmark ruling with far-reaching implications for global professional services firms, the Delhi High Court in the case of Clifford Chance Pte Ltd has confirmed that India cannot tax offshore advisory services through a "virtual" Permanent Establishment (PE) unless the tax treaty explicitly provides for it. The Court ruled that physical presence of employees in India while performing services is mandatory for creating a Service Permanent Establishment (Service PE) under the India–Singapore tax treaty.

Clifford Chance Singapore provided legal advisory services to Indian clients during FY 2019–20 and FY 2020–21. In FY 2019–20, two employees visited India for 120 days, but actual client services were performed only for 44 days after excluding 36 vacation days, 35 business development days, and 5 common days (days when more than one employee was present in India). In FY 2020–21, all services were rendered remotely from outside India.

The tax department alleged that the 90-day threshold under the treaty was breached, and a "virtual Service PE" existed since services were delivered digitally to Indian clients.

Key Court Findings:

The Delhi High Court decisively rejected the Revenue's position and upheld the ITAT's ruling:

1. Only days of actual service in India count

The Court held that only days on which employees physically performed services in India for Indian clients can be counted for the 90-day Service PE threshold. Vacation days, business development days, and overlapping days must be excluded.

2. "Within India" requires physical presence

The treaty requires services to be furnished "within a Contracting State through employees or other personnel". The Court ruled this language has a territorial meaning, and services performed from outside India do not qualify as being furnished "within India".

3. No "Virtual Service PE" under the treaty

The Court categorically rejected the Revenue's attempt to read a virtual PE concept into the treaty:

"What is conspicuous by its absence cannot be supplied by judicial interpretation."

It held that while India has introduced Significant Economic Presence (SEP) under domestic law, treaty provisions remain unchanged. Without treaty renegotiation, remote digital services cannot create a PE.

This decision is highly significant for Law firms, consultants, accountants, investment banks, engineers and digital service providers servicing Indian clients from abroad. It confirms that remote delivery of services alone cannot trigger Indian taxation under Service PE rules. Treaty protection prevails unless countries explicitly amend their treaties to cover digital or virtual operations.

(CIT (International Tax) v. Clifford Chance Pte Ltd (ITA 353/2025))

Mumbai ITAT upholds "at-cost" transfer pricing for upstream oil & gas technical services

In a landmark decision for the oil & gas sector, the Mumbai Bench of the Income-tax Appellate Tribunal (ITAT) in the case of Shell India Markets Pvt. Ltd. has upheld Shell India's "at-cost" (no mark-up) pricing model for providing specialised upstream technical services to its foreign associated enterprises. The Tribunal confirmed that where Production Sharing Contracts (PSCs) prohibit profit on technical services, charging only cost recovery is fully consistent with arm's length principles, OECD guidelines, and industry practice.

Shell India Markets Pvt. Ltd. (SIMPL) provided high-end exploration and production (E&P) services such as geological and reservoir engineering to Shell group entities operating under PSCs with the Government of India. These PSCs legally prohibit any profit or mark-up on such technical services.

Despite this the Transfer Pricing Officer (TPO) applied a 16.52% margin, treating the services like ordinary

by: Bhavesh Shah
bhavesh.shah@hscollp.in

ITeS. The Dispute Resolution Panel (DRP) upheld the adjustment based on prior-year positions. The total TP adjustment across transactions exceeded ₹5,000 million.

Key Tribunal Findings:

1. "At-cost" pricing is arm's length for PSC-governed services

The Tribunal ruled that PSC restrictions are commercially binding and cannot be ignored for TP purposes. Other consortium members under identical PSCs also charge and receive services strictly at cost, proving this is industry norm. This satisfied the "Other Method" under Rule 10AB, which allows benchmarking based on industry practice and economic reality when standard comparables are unavailable.

2. OECD and expert opinion strongly support cost-only pricing

The Tribunal relied on an independent expert opinion that analysed the Indian TP law, OECD Guidelines, and Global oil & gas industry practice. The expert concluded that no-profit pricing under PSCs is arm's length, and the Tribunal faulted the Revenue for ignoring this evidence.

3. TP rules cannot override commercial and legal frameworks

The Tribunal held that transfer pricing cannot be applied in isolation from the underlying legal and commercial reality of PSCs, which embed remuneration through cost-recovery mechanisms and bar profit on services.

4. Revenue must act consistently across similarly placed taxpayers

The Tribunal noted that the Revenue had accepted at-cost pricing for other PSC consortium members, and therefore could not take a contradictory position for Shell India without justification.

This judgment goes beyond oil & gas and sends a strong message that Commercial reality and contractual restrictions matter in TP. "Other Method" under Rule 10AB can be used where standard comparables do not exist. Independent expert opinions and industry norms carry weight. ALP cannot be arbitrarily set at NIL. For industries with regulated pricing, consortium frameworks, or cost-recovery models, this ruling provides powerful precedent to defend zero-mark-up intercompany pricing under Indian transfer pricing law.

(Shell India Markets Pvt. Ltd. v. NFAC/DCIT (ITA No. 4828/Mum/2024))

Supreme Court tightens limits on deduction of foreign head-office expenses

In a significant ruling for multinational banks and foreign companies operating in India through branch offices, the Supreme Court of India in the case of American Express Bank Ltd. has clarified that all head-office expenses incurred outside India, whether common or exclusively for Indian operations, are subject to the statutory ceiling under Section 44C of the Income-tax Act, 1961. The Court rejected the taxpayer's long-standing position that expenses incurred solely for Indian branches should escape the five-percent cap and be fully deductible.

American Express Bank, a US-resident bank with branches in India, had incurred various head-office expenses outside India, including costs directly related to Indian operations. It claimed full deduction of those "exclusive" expenses under Section 37(1). The tax department argued that Section 44C, which limits deduction of head-office expenditure to the lower of 5% of adjusted total income or the amount attributable to India, applies to all such expenses, regardless of whether they are common or exclusive.

Key Supreme Court Findings:

The Supreme Court ruled decisively in favour of the Revenue:

1. Section 44C has overriding effect

Section 44C begins with a non-obstante clause, meaning it overrides Sections 28 to 43A, including Section 37(1). Once an expense qualifies as "head office expenditure", the statutory cap must apply.

by: Bhavesh Shah
bhavesh.shah@hscollp.in

2. "Attributable" includes "exclusive" expenses

The Court clarified that:

"Attributable" is a genus of which "exclusivity" is merely a species.

In simple terms, any expense incurred exclusively for Indian operations is, by definition, attributable to India, and therefore falls within Section 44C.

3. Treaty does not override the statutory cap

The taxpayer relied on Article 7(3) of the India–US tax treaty, which allows deduction of expenses incurred inside or outside India. The Court held that the treaty itself makes such deductions subject to Indian tax law, meaning Section 44C continues to apply.

4. Purpose of Section 44C upheld

The Court emphasized that Section 44C was enacted to prevent inflated allocation of global head-office costs to Indian branches and to address verification challenges arising from overseas records.

5. Limited remand to ITAT

While affirming the legal principle, the Court remanded the matter to the ITAT only to verify whether the disputed items truly qualify as "head office expenditure" under the statutory definition and not to re-open the applicability of the cap.

This judgment settles a long-running controversy and has major implications for Foreign banks, Multinational corporations and Global service providers operating through Indian branches. It confirms that no category of foreign head-office expense enjoys unlimited deductibility if it falls within the statutory definition of head-office expenditure.

(DIT v/s American Express Bank Ltd. (Civil Appeal Nos. 8291 of 2015 & 4451 of 2016))

by: Mayura Niphadkar | Pinkesh Jain
corplaw@hscollp.in | pinkesh.jain@hscollp.in

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Gist of notifications during the month of December, 2025

1 . The Ministry of Corporate Affairs (MCA), extended the due date of Annual filing related Forms viz. E-Forms AOC-4/AOC-4 XBRL/AOC-4 CFS, and Form MGT-7/MGT-7A for the financial year 2024–25, without payment of additional fees, up to January 31, 2026.

2. Amendment in Companies (Removal of Names of Companies from the Register of Companies) Rules, 2014 effective from 31st December, 2025. Under the amended Rules, Government Companies including their subsidiaries, when seeks removal of its name from the Register of Companies, the indemnity bond in Form STK-3A for directors appointed or nominated by the Central or State Government be executed by an Authorised Government Representative.

3. Companies (Appointment and Qualification of Directors) Amendment Rules, 2014 has been amended substituting Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014. The effective date of notification is 31st March, 2026.

Key changes

Particulars	Compliances Prior to Notification	Compliances Post Notification
Frequency of filing DIR-3 KYC	DIR-3 KYC to be filed annually	DIR-3 KYC to be filed **once in every three consecutive financial years**.
Applicability	Every Individual holding DIN as on 31st March.	Every Individual holding DIN as on 31st March of the relevant financial year.
Due date	30th September every year	30th June once in every three consecutive financial year
Mode of filing	DIR-3 KYC Web (offline and Online mode)	Only DIR-3 KYC Web (offline e-form discontinued)

4. Vide Notification dated 01st December 2025, MCA has amended the Companies (Specification of Definitions Details) Rules, 2025 which shall come into effect with effect from the 01st December, 2025.

Post Notification, Small companies mean a company, other than a public company which has:

- Paid up share capital of not more than 10 Crore rupees and
- Turnover of which as per its last profit and loss account does not exceed 100 Crore rupees.

Due dates for the Month of Feb, 2026#

Regulation	Due Date	Compliance	Description
Income Tax Act, 1961	7-Feb-26	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of January, 2026.
	14-Feb-26	TDS/TCS	Due date for issue of TDS Certificate for tax deducted under 194-IA/194IB/194IM in the month of December, 2025
	15-Feb-26	TDS/TCS	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2025
Goods and Service Tax (GST)	10-Feb-26	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of January, 2026
	10-Feb-26	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of January, 2026
	11-Feb-26	GSTR -1	Return of outward supplies of taxable goods and/or services for the Month of January, 2026 (for Assesses having turnover exceeding 5 Cr.)
	13-Feb-26	GSTR 6	Return for Input Service Distributors for the month of January, 2026
	13-Feb-26	IFF-QRMP	Option of uploading Invoices for January 2026 using Invoice Furnishing Facility (IFF) applicable to tax payers opted for Quarterly Return Monthly Payment (QRMP) Scheme
	20-Feb-26	GSTR-3B	Simple GSTR return for the Month of January, 2026
Foreign Exchange Management Act, 1999 (FEMA)	7-Feb-26	ECB - 2	Filing of ECB-2 Return for the month of January, 2026
PT Act 1975 (Employee)	28-Feb-26	PT Employees	PT Payment for the month of January, 2026
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Feb-26	PF Payment	PF Payment for the month of January, 2026
Maharashtra Shop & Establishment Act	28-Feb-26	Form R	Filing of Form 'R' for Shops and Established within Maharashtra for the period January 01, 2025 to December 31, 2025
Employees' State Insurance Act, 1948 - (ESIC)	15-Feb-26	ESIC Payment	ESIC Payment for the month of January, 2026

The above due date calender contains compliances generally applicable to taxpayers and this calender has been compiled by HSCo on basis of data available on various portals and other sources. One should always check applicable compliances based on their business needs and should also check updated due dates, if any, on the government portal before making the compliance.

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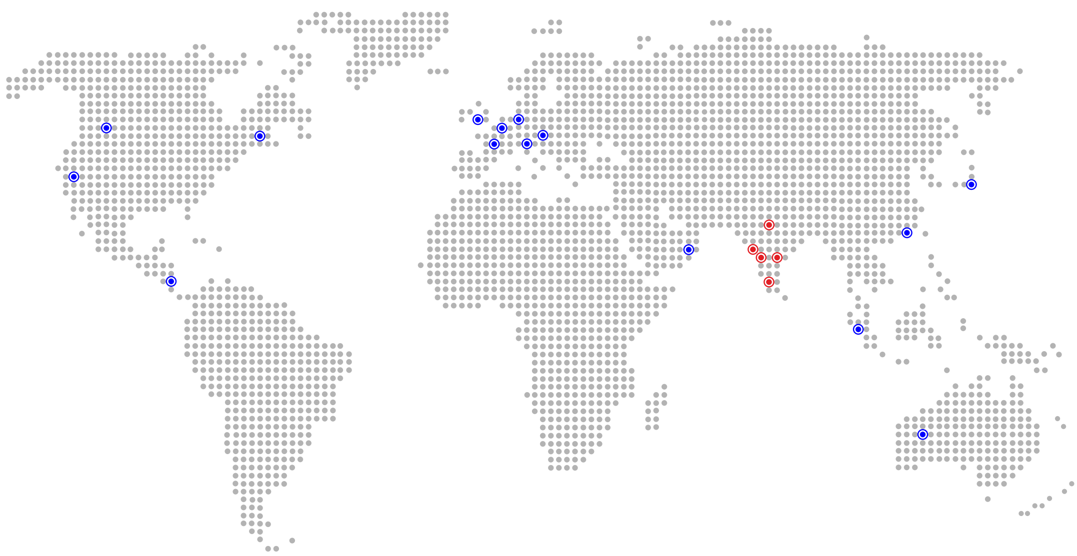

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Mumbai (HO)
409 / 410, Dalamal Chambers,
New Marine Lines,
Mumbai – 400 020

E: hs@hscollp.in

Delhi
B-415, Ansal Chamber-I,
3 Bhikaji Cama Place,
New Delhi – 110 066

E: delhi@hscollp.in

Bangalore
Brigade IRV, 9th & 10th Floor, Nallurahalli,
Whitefield,
Bangalore – 560 066

E: bangalore@hscollp.in

Pune
1A, 2nd Floor, City Vista,
Fountain Road,
Kharadi,
Pune – 411 014

E: pune@hscollp.in

Hyderabad
Level 1, Sanali Info Park,
8-2-120/113, Road No. 2,
Banjara Hills,
Hyderabad - 500 034

E: hyderabad@hscollp.in