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Monthly Newsletter Series

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KNOWL with an EDGE

What's Inside

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HSCo

Crypto assets 'unregulated in India', I-T Dept takes action in tax evasion cases: What it means for crypto holders.

The government has once again made it clear that crypto assets remain unregulated in India, but that does not mean crypto investors are outside the tax and enforcement net.

In a written reply in Parliament, the Finance Ministry said that while the government does not collect data on crypto holdings, tax evasion and illegal use of crypto are being actively tracked and acted upon by multiple agencies.

Replying to a question in the Lok Sabha, Minister of State for Finance Pankaj Chaudhary said crypto assets or virtual digital assets (VDAs), including NFTs, are currently unregulated. "However, notwithstanding this, the Government has brought the sector under the Financial Intelligence Unit's regulatory ambit for anti-money laundering and combating the financing of terrorism," he said.

https://www.financialexpress.com

HRA, capital gains, foreign assets: How tax nudges helped govt mop up over Rs 30,000 crore without raids.

As the government gears up for the Union Budget 2026-27, the Economic Survey 2025-26 has highlighted a quiet but important shift in India's tax administration.

The focus is no longer only on scrutiny, audits or penalties. Instead, the tax system is increasingly relying on "nudging compliance" — a softer, data-driven approach that encourages taxpayers to voluntarily correct mistakes and pay the right tax.

For honest taxpayers, this shift matters. It reduces friction, lowers the risk of litigation, and makes compliance simpler and less intimidating.

What does 'nudging compliance' mean?
According to the Economic Survey, nudging compliance is anchored in behavioural economics. Under this approach, the Income Tax Department uses timely information, gentle prompts and data insights to influence taxpayer behaviour, instead of coercive enforcement.

https://www.financialexpress.com

No plan to reopen old cases after Tiger Global verdict: CBDT Chairman.

Chairman of the Central Board of Direct Taxes (CBDT) Ravi Agrawal said there is no intention to reopen old cases following the Supreme Court's ruling in the Tiger Global matter. In an exclusive interaction with Pushpita Dey and Dipak Mondal, he also explained how the Budget has addressed complications around taxing foreign assets and clarified key policy issues. Edited excerpts:

Could you explain how the government defines a small taxpayer under the Small Taxpayer Disclosure Scheme?

The background goes back to the Black Money Act (BMA) of 2015. Every year, India receives about 35–40 lakh pieces of information through the automatic exchange of information with various countries. These typically relate to small balances in foreign bank accounts, interest income, dividend income, and similar items.

A substantial portion of this information does not point to wilful tax evasion but to bona fide omissions.

https://www.newindianexpress.com

ITR 2026 new rules to widen tax base while simplifying compliance for taxpayers: CBDT

The new Income Tax Rules, 2026, which are likely to be notified in the first week of March, will come into effect from 1st April this year. Sources in the Central Board of Direct Taxes (CBDT) said that it will replace the existing Income Tax Rules, 1962. The objective of the new rules is to widen the tax base while simplifying compliance. The department had earlier released draft rules for stakeholder suggestions and comments till 22nd of this month. The new rule will promote ease of doing business and remove compliances which are not required. It will enable centralised processing and data-driven decision-making so that technology is used to provide better services to the taxpayers.

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Earlier, there were 511 rules, which have been brought down to 333 in the new Income Tax Rules, 2026.

https://www.newsonair.gov.in/itr-2026-new-rules-to-widen-tax-base-while-simplifying-compliance-for-taxpayers-cbdt/

Employee not be penalized for Non-deposit of TDS by employer

In the case of Ashish Ranjan Versus Income Tax Officer ITO Ward 3 (1), Darbhanga Patna Tribunal held that petitioner having accepted the salary after deduction of income tax at source had no further control over it in the sense that thereafter it was the duty of his employer acting as tax collecting agent of the revenue under Chapter XVII of the Act to pay the deducted tax amount to the Central Government in accordance with law. The employer of the petitioner having failed to perform his duty to deposit the deducted tax with the revenue, petitioner cannot be penalized.

We direct the ld. AO not to recover any demand from the assessee. The ld. AO can proceed against the employer to recover such demand or take any other remedial measure. Consequently, the appeal of the assessee is allowed.

www.itatonline.org

Advisory on Interest Collection and GSTR-3B Enhancements (Effective January 2026)

The GST Network (GSTN) has issued an advisory introducing significant system-driven enhancements in GSTR-3B, applicable from the January 2026 tax period onwards. These changes are intended to align interest computation with statutory provisions and improve the accuracy and transparency of tax reporting.

Revised Interest Computation – Table 5.1

With effect from January 2026, interest on delayed filing of GSTR-3B will be auto-computed by the GST portal after considering the minimum cash balance available in the Electronic Cash Ledger (ECL) from the due date of filing until the date of tax payment (offset). This enhancement is in line with the proviso to Rule 88B (1) and Section 50 of the CGST Act, 2017.

The auto-computed interest in Table 5.1 will be non-editable downward. However, taxpayers are required to self-assess their correct interest liability and may revise the auto-populated amount upward, wherever applicable.

Revised Formula:
Interest = (Net Tax Liability – Minimum Cash Balance in ECL from due date to date of debit) × (Number of days of delay ÷ 365) × Applicable Interest Rate

Auto-Population of Tax Liability Break-up

From the January 2026 tax period onwards, the GST portal will auto-populate the Tax Liability Break-up Table in GSTR-3B. This will be based on document dates reported in GSTR-1, GSTR-1A or IFF pertaining to previous tax periods, where the corresponding tax liability is discharged in the current period's GSTR-3B.

This enhancement is designed to facilitate accurate reporting of prior-period supplies declared in the current return.

Navigation Path:
Login → GSTR-3B Dashboard → Table 6.1 (Payment of Tax) → Tax Liability Break-up

Flexible Cross-Utilisation of ITC – Table 6.1

From January 2026, once IGST Input Tax Credit has been fully utilised, taxpayers will be permitted to discharge IGST liability using available CGST and SGST ITC in any sequence. This provides greater flexibility in credit utilisation and improves working capital management.

Interest Recovery through GSTR-10

In cases of cancelled registrations, where the last applicable GSTR-3B is filed after the due date, the applicable interest on such delayed filing will be levied and recovered through the Final Return in Form GSTR-10.

LUT Filing Enabled for FY 2026–27

The GST portal has enabled filing of the Letter of Undertaking (LUT) for the financial year 2026–27.

Members may initiate the LUT filing process for clients engaged in export of goods and/or services without payment of integrated tax, in accordance with applicable GST provisions.

Timely filing of LUT will ensure seamless export operations without payment of tax under bond and avoid procedural delays.

BUDGET 2026

Amendment to Sections 15(3) and 34(1) of the CGST Act – Post-Sales Discounts

The Government has proposed a simultaneous amendment to Section 15(3)(b) and Section 34(1) of the CGST Act, 2017, with respect to treatment of post-supply (post-sales) discounts.

Key Amendment

1. Substitution of Section 15(3)(b)
The condition requiring a prior agreement between supplier and recipient for deduction of post-supply discounts from the taxable value has been proposed to be removed.

Under the amended framework, deduction of post-supply discounts will be permissible subject to:
- Issuance of a credit note under Section 34 of the CGST Act; and
- Reversal of corresponding Input Tax Credit (ITC) by the recipient.

2. Corresponding Amendment to Section 34(1)

Section 34(1) has been proposed to be amended to expressly include discounts covered under the substituted Section 15(3)(b) as a valid ground for issuance of a credit note.

This brings statutory clarity by aligning the valuation and credit note provisions.

This amendment addresses a long-standing industry concern, particularly in sectors such as FMCG, pharmaceuticals, automobiles and retail, where post-sales discounts are commercially prevalent.

The earlier requirement of a "prior agreement" was often interpreted strictly by authorities, leading to unwarranted tax demands and protracted litigation. The issue had been widely represented before the GST Council and was specifically acknowledged in its 56th Meeting, leading to this recommendation.

The proposed change is a welcome step toward easing compliance burdens and reducing avoidable disputes. By removing the prior agreement condition, the law now aligns more closely with commercial realities.

However, a practical concern remains regarding the condition of ITC reversal by the recipient. Historically, disputes have arisen due to the absence of a robust mechanism enabling suppliers to verify whether recipients have duly reversed the corresponding ITC.

It would have been beneficial if the amendment had included an explicit clarification or proviso under Section 15(3)(b) stating that the responsibility of ITC reversal lies solely with the recipient. Such a clarification would align with the well-settled legal principle that one party cannot be penalised for the non-compliance of another (Lex Non Cogit Ad Impossibilia).

The amendment marks a progressive shift towards resolving interpretational challenges surrounding post-sales discounts. While the removal of the prior agreement condition is a significant relief, clarity on implementation of the ITC reversal requirement will be crucial to fully achieve the intended objective of reducing litigation and ensuring seamless compliance.

Key Amendments

1. Extension of Provisional Refund to Inverted Duty Structure Cases

Section 54(6) is proposed to be amended to include refunds of unutilised Input Tax Credit under Clause (ii) of the first proviso to Section 54(3), i.e., refunds arising due to inverted duty structure.

As a result, taxpayers claiming refund on account of inverted duty structure will now be eligible for provisional refund of up to 90% of the claimed amount, similar to the benefit currently available in respect of zero-rated supplies.

2. Removal of Minimum Threshold for Certain Export Refunds

Section 54(14) is proposed to be amended to exclude refunds relating to exports of goods with payment of tax from the minimum threshold requirement of INR 1,000.

Accordingly, no minimum monetary threshold will apply to such export refund claims.

Concluding Note

The proposed amendments to Section 54 reflect a pragmatic approach toward improving refund efficiency and easing working capital constraints. If implemented effectively, these measures are likely to provide meaningful relief to MSMEs and small exporters while strengthening the overall refund framework under GST.

Omission of Section 13(8)(b) of the IGST Act – Place of Supply for Intermediary Services

Amendment to Sections 15(3) and 34(1) of the CGST Act – Post-Sales Discounts

The Government has proposed the omission of Section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017, which presently governs the place of supply for intermediary services where either the supplier or the recipient is located outside India.

Existing Position

Currently, Section 13(8)(b) provides that the place of supply of intermediary services shall be the location of the supplier of services. This provision operates as an exception to the default rule under Section 13(2) of the IGST Act, which stipulates that the place of supply of services shall be the location of the recipient of services.

As a result of this exception, intermediary services provided by Indian entities to overseas recipients were often treated as supplied within India, thereby disqualifying them from being considered as “export of services”.

Proposed Amendment

It is proposed to omit Section 13(8)(b) from the statute. Consequently, intermediary services will be governed by the default rule under Section 13(2), meaning that the place of supply shall be the location of the recipient of services.

This change effectively shifts the place of supply outside India where the recipient is located overseas, thereby enabling such services to qualify as exports, subject to fulfilment of other conditions under Section 2(6) of the IGST Act.

Comments and Industry Perspective

The proposed omission seeks to implement the recommendation of the 56th GST Council Meeting held on 3 September 2025. The intent is to provide relief to Indian exporters of intermediary services and to align the GST framework with global trade principles.

Over the past nine years of GST, classification of services as “intermediary” has been one of the most contentious issues. Despite recipients being located outside India and consideration being received in foreign exchange, tax authorities frequently denied export status on the ground that Indian entities were acting as intermediaries rather than providing services on a principal-to-principal basis. By invoking Section 13(8)(b), the place of supply was treated as India, resulting in tax demands and denial of refund claims.

This issue significantly impacted sectors such as BPOs, Global Capability Centres (GCCs), Indian subsidiaries of foreign entities, and service providers engaged in support, marketing, and sales facilitation for overseas customers.

Although CBIC issued Circular No. 159/15/2021-GST dated 20 September 2021 clarifying that sub-contracting of services does not automatically qualify as intermediary services, disputes continued.

Multiple High Courts have consistently held that such services qualify as exports in appropriate factual scenarios. Notable decisions include:

- Amazon Development Centre India Pvt. Ltd. v. Addl. Commissioner of Central Tax [2024 SCC OnLine Kar 6105]
- IDP Education India Pvt. Ltd. v. Union of India [2025:BHC-OS:7665]
- Commissioner of DGST v. Global Opportunities Pvt. Ltd. [2025:DHC:8798 – DB]
- Ernst and Young Ltd. v. Addl. Commissioner, CGST Appeals-II, Delhi [(2023) 113 GSTR 252]
- Genpact India Pvt. Ltd. v. Union of India [(2023) 109 GSTR 429]
- Dharmendra M. Jani v. Union of India [2023 (72) GSTL 448 (Bom)]

The omission of Section 13(8)(b) is therefore a significant legislative correction and is expected to bring finality to prolonged disputes surrounding intermediary services and export eligibility.

The proposed amendment marks a progressive step toward promoting service exports and reducing interpretational ambiguity under GST. By aligning intermediary services with the default place of supply rule, the change is expected to provide certainty, reduce litigation, and strengthen India's position as a global services hub.

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RBI Unveils a Unified, Principle-Based FEMA Framework for Exports and Imports

The Reserve Bank of India (RBI) has ushered in a transformative shift in India's foreign exchange regime by notifying the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026, on 13 January 2026, replacing the long-standing 2015 Regulations. Effective 1 October 2026, the new framework consolidates export and import compliance into a single, cohesive and principle-based regulatory regime, marking one of the most comprehensive overhauls under FEMA since its inception

Unlike the earlier rules that relied heavily on fragmented circulars and transaction-specific prescriptions, the 2026 Regulations emphasise ease of doing business, flexibility and digital governance, particularly for small exporters and importers. The framework has been shaped after extensive stakeholder consultation over multiple draft versions issued in July 2024 and April 2025, reflecting RBI's intent to align regulation with commercial realities.

A defining feature of the new regime is the enhanced role of Authorised Dealer (AD) banks, which are now empowered to make transaction-level decisions based on internal policies, bona fide assessments, and risk evaluation. This shift to a bank-led compliance model is complemented by mandatory digital reporting through EDPMS, IDPMS and FETERS, tighter timelines for document uploads, and exclusive routing of regulatory references through the PRAVAAH portal.

Substantively, the Regulations introduce several business-friendly measures:

- a uniform 15-month export realisation timeline (extended to 18 months for INR-settled trade),
- single, unified Export Declaration Form (EDF) for goods and services,
- simplified closure of small-value export/import entries (up to INR 10 lakh) based solely on declarations,
- broader flexibility for set-off, third-party payments and merchanting trade, and
- formal integration of INR trade settlement into the FEMA framework, reinforcing India's rupee internationalisation agenda.

At the same time, the RBI has reinforced safeguards by requiring AD banks to maintain strong KYC/AML controls, verify transaction genuineness, and promptly report doubtful cases to enforcement authorities.

The 2026 Regulations represent a decisive move away from prescriptive, circular-driven compliance toward a simplified, technology-enabled and principle-based FEMA architecture. While the regime substantially reduces procedural friction for businesses, it also places greater responsibility on AD banks and necessitates stronger internal controls, documentation and system readiness for exporters and importers.

With the effective date set for 1 October 2026, stakeholders should use the transition window to realign contracts, upgrade ERP and reporting systems, and recalibrate trade compliance frameworks to fully leverage the flexibility offered under the new regulations.

(Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026, on 13 January 2026)

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Supreme Court Redraws Treaty Protection Boundaries — Substance and GAAR Prevail Over TRC in Tiger Global Ruling

In a watershed judgment with far-reaching consequences for cross-border investment structures, the Supreme Court of India, in the matter of Tiger Global International II / III / IV Holdings has held that treaty benefits under the India–Mauritius DTAA can be denied where an arrangement is found to be an impermissible avoidance arrangement, notwithstanding the existence of a valid Tax Residency Certificate (TRC) or grandfathering provisions.

The ruling decisively shifts the balance in favour of substance-based scrutiny, reaffirming the primacy of GAAR and judicial anti-avoidance principles over formal treaty entitlements

Background

Tiger Global entities, incorporated in Mauritius, acquired shares of Flipkart Singapore between 2011 and 2015 (i.e., prior to 1 April 2017). In 2018, the shares were transferred to a Luxembourg entity as part of Walmart's acquisition of Flipkart. Tiger Global sought a nil withholding certificate, claiming capital gains exemption under Article 13(3A) of the India–Mauritius DTAA on the basis of grandfathering. The AAR rejected the application, holding that the arrangement was prima facie designed for tax avoidance. While the High Court ruled in favour of Tiger Global, the Revenue appealed to the Supreme Court.

Supreme Court's Key Findings

1. TRC Is Not Conclusive Evidence of Treaty Eligibility

The Court held that a TRC is only prima facie evidence of residence, not determinative. Indian tax authorities are entitled to examine actual control, management, and commercial substance behind the structure

2.GAAR Overrides Treaty Benefits and Grandfathering

Even if investments were made prior to 1 April 2017, GAAR can apply to arrangements that result in a tax benefit on or after that date. Grandfathering protects investments, not abusive arrangements.

3. Effective Management Determines Residence

Mere incorporation or regulatory compliance in Mauritius does not establish treaty residence if real decision-making and control lie elsewhere.

4. Indirect Transfers Not Covered by Grandfathering

The Court clarified that Article 13(3A) applies only to direct transfers of Indian shares. Indirect transfers fall under Article 13(4) and do not enjoy grandfathering or LOB protection.

5. AAR Can Reject Applications on Prima Facie Avoidance Grounds

For rejecting an application under section 245R(2), the AAR need only form a prima facie view, not a final determination.

6. Treaties Do Not Facilitate Double Non-Taxation

The object of a tax treaty is to prevent double taxation, not to enable tax-free exits in both jurisdictions. Evidence of potential double non-taxation strengthens the case for anti-avoidance scrutiny.

The ruling significantly dilutes the long-held perception of TRC sanctity. Legacy Mauritius structures, including those assumed to be GAAR-proof, may now face renewed scrutiny. Private equity and venture capital exits could see valuation and tax-risk recalibration. Even where GAAR is not technically invoked, judicial anti-avoidance rules (JAAR) can independently deny treaty benefits.

The Supreme Court has delivered a clear message that Treaty protection flows from commercial substance and not form, incorporation, or documentation alone.

Going forward, foreign investors must ensure that governance, decision-making, and economic substance are demonstrably aligned with the claimed treaty residence. The Tiger Global ruling marks a decisive turn toward substance-first treaty interpretation, reshaping India's cross-border tax

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landscape.

(Authority for Advance Rulings (IT) & Ors. v. Tiger Global International II / III / IV Holdings (Civil Appeal Nos. 262–264 of 2026))

Tribunal Confirms Deductibility of Head Office Costs Recharged to Indian PE

In a significant ruling clarifying profit attribution principle for foreign enterprises operating through Indian branches, the Delhi Bench of the Income-tax Appellate Tribunal (ITAT) in the case of FCS Computer Systems S Pte Ltd. has held that operational expenses incurred by a foreign head office and cross-charged to its Indian branch (Permanent Establishment) are deductible while computing profits attributable to the Indian PE.
The decision reinforces the treaty principle that a PE must be taxed on net business profits, not gross receipts.

Background

The taxpayer, a Singapore tax resident, provided hospitality technology solutions and operated in India through a branch office, which it accepted as a PE under the India–Singapore tax treaty.

During the relevant year, the Singapore head office incurred certain operational costs—such as software procurement, maintenance services, call centre support, subscriptions, and courier charges — which were recharged to the Indian branch on a cost-to-cost basis, without any mark up.

The Revenue disallowed these expenses on the ground that the head office and branch were the “same person” and that a taxpayer cannot claim deduction for purchases from itself.

Tribunal's Key Findings

- **PE as a Distinct and Separate Enterprise**

Relying on Article 7(2) of the India–Singapore tax treaty, the Tribunal reiterated that profits of a PE must be computed as if it were a distinct and independent enterprise dealing at arm's length with the head office.

- **Net Profit Principle Must Prevail**

Denial of genuine operational costs would result in taxation of gross receipts, which is contrary to treaty intent. Business profits can only be determined after allowing all expenses incurred for the purposes of the PE's business.

- **Commercial Necessity of Costs**

The Tribunal noted that without incurring procurement and maintenance costs, the Indian branch could not have generated revenue. These expenses were therefore inextricably linked to Indian operations.

- **Treaty Overrides Domestic Law Restrictions**

Following the Supreme Court's ruling in *Hyatt International* and the Special Bench decision in *Mashreq Bank*, the Tribunal held that domestic law limitations cannot be imported into treaty-based profit attribution unless expressly provided.

This ruling provides important clarity for multinational enterprises operating through Indian branches. It confirms that head office costs legitimately incurred and recharged to the Indian PE—on a cost-to-cost basis—must be allowed as deductions when computing PE profits.

Taxpayers should, however, ensure robust documentation to demonstrate:

- cost-only recharges (no mark-up),
- rational allocation keys, and
- a clear nexus between the expenses and Indian revenues.

The decision strengthens the principle that India's taxing rights over a PE extend only to real business profits—not notional gross income.

(FCS Computer Systems S Pte Ltd. v. ACIT (ITA No. 1034/Del/2025))

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Due dates for the Month of Mar, 2026#

Regulation	Due Date	Compliance	Description
Income Tax Act, 1961	2-Mar-26	TDS/TCS	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA/194IB/194IM in the month of Februray 2026 Due date for deposit of Tax deducted/collected for the month of Februray 2026.
	7-Mar-26	TDS/TCS	Due date for deposit of Tax deducted/collected for the month of February, 2026.
	15-Mar-26	Advance Tax (44AD)	Due date for payment of whole amount of advance tax in respect of assessment year 2026-27 for assessee covered under presumptive scheme of section 44AD / 44ADA
	15-Mar-26	Advance Tax	Fourth instalment of advance tax for the assessment year 2026-27
Goods and Service Tax (GST)	10-Mar-26	GSTR 7	Summary of Tax Deducted at Source (TDS) and deposited for the month of Februray 2026
	10-Mar-26	GSTR 8	Summary of Tax Collected at Source (TCS) and deposited by E-Commerce Operator for the month of Februray 2026
	11-Mar-26	GSTR -1	Return of outward supplies of taxable goods and/or services for the Month of Februray 2026 (for Assesses having turnover exceeding 5 Cr.)
	13-Mar-26	GSTR 6	Return for Input Service Distributors for the month of Februray 2026
	13-Mar-26	IFF-QRMP	Option of uploading Invoices for Februray 2026 using Invoice Furnishing Facility (IFF) applicable to tax payers opted for Quarterly Return Monthly Payment (QRMP) Scheme
	20-Mar-26	GSTR-3B	Simple GSTR return for the Month of Februray 2026 (based on category of taxpayer)
Foreign Exchange Management Act, 1999 (FEMA)	7-Mar-26	ECB - 2	Filing of ECB-2 Return for the month of February, 2026
PT Act 1975 (Employee)	30-Mar-26	PT Employees (Monthly)	PT Payment for the month of February, 2026
PT Act 1975 (Employee)	31-Mar-26	PT Annual	Annual PT Payment for FY 2025-26 (Employee & Employer)
Employees' Provident Funds & Miscellaneous Provisions Act, 1952	15-Mar-26	PF Payment	PF Payment for the month of February, 2026
Employees' State Insurance Act, 1948 - (ESIC)	15-Mar-26	ESIC Payment	ESIC Payment for the month of February, 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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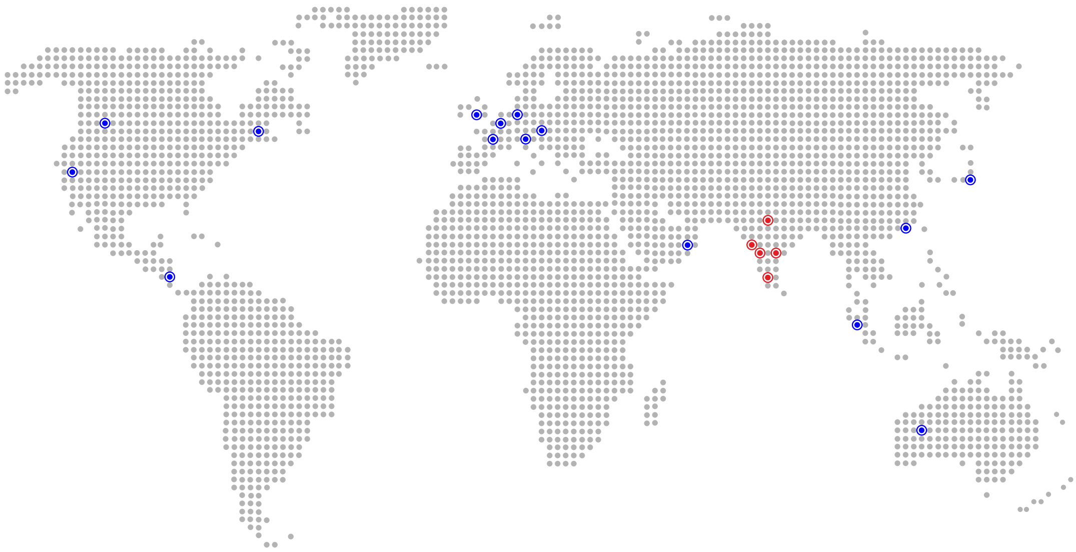

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