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CBDT clarifies on Income Declaration Scheme, 2016



CBDT has issued Circular no 27/2016 providing clarifications on various queries. The details of the same are under:

- A revised declaration can be filed on or before the date of closure of the Scheme provided the undisclosed income in the revised declaration is not less than the undisclosed income declared in the declaration already filed.
- The cases of the declarant shall not be selected for scrutiny under the CASS only on the ground that there is increase in capital in the balance sheet as a result of the declaration made under the Scheme.
- If the consideration for acquisition of benami property has already been paid by the beneficial owner and the fair market value of the property has been declared by the beneficial owner under the Income Declaration Scheme, than the transfer of property from benamidar to beneficial owner is only to regularize and there will be no involvement of monetary consideration for transfer of immovable property by the benamidar in the name of the declarant, the question of capital gains in the hands of benamidar and deduction of tax at source thereon shall not arise.
- Vide notification S.O. 2322(E) dated 06.07.2016, an order has been passed by the Central Government directing that no public servant shall produce before any person or authority any such document or record or any information or computerized data or part thereof as

comes into his possession during the discharge of official duties in respect of a valid declaration made under the Scheme.

- Section 184 & 185 of the Finance Act, 2016 unambiguously provide for payment of tax, surcharge and penalty at the rate of 45 per cent of undisclosed income. For Example: if a person declares INR 100 lakh as undisclosed income being the FMV of undisclosed immovable property and pays tax, surcharge and penalty of INR 45 lakh on the same out of his undisclosed income. In this case the declarant will not get any immunity under the Scheme in respect of undisclosed income of 45 lakh utilized for payment of tax, surcharge & penalty but not included in the declaration filed under the Scheme. To get immunity under the scheme in respect of the entire undisclosed income of INR 145 lakh, declarant has to declare undisclosed income of INR 145 lakh.
- As per section 187(2) of the Finance Act, 2016, the time limit for filing Form-3(intimation for payment of tax) is same as the time limit notified for payment of tax, surcharge and penalty under the Scheme.
- Immunity to the directors or the partners, as the case may be, shall be available in respect of the undisclosed income declared under the Scheme by the company or partnership firm.
- If a person having undisclosed income in the form of an investment in immovable property in the name of his spouse can declare the FMV of the property in his own name if the funds for acquisition of the said property were provided by such person.

- It is clarified by the CBDT that for the purpose of determination of fair market value of quoted shares and securities, if a share is listed on more than one recognized stock exchange and the quoted price of the share as on 01-06-2016 is different, then quoted price of the share shall be taken which records the highest volume of trading in the share as on 01.06.2016.

Source: Circular no 27/2016 dated 14-07-2016

CBDT gives option to file revised income declaration in Form 1 of IDS



CBDT has further amended the Income Declaration Scheme Rules and has provided an option to file revised income declaration in form 1 of IDS.

Source: NOTIFICATION NO. SO 2477(E) [NO.60/2016 (F.NO.142/8/2016-TPL)], dated 20-07-2016

Time-limit for acknowledgement extended to 30 days for IDS declaration made in month of July,16



Sub-rule (3) of rule 4 of the IDS, rules 2016 (the Rules) provides that the acknowledgement in Form-2 is to be issued by the Principal Commissioner/Commissioner to the declarant within 15 days from the end of the month in which the declaration has been furnished. Accordingly, for the month of July 2016, acknowledgement in form-2 is required to be issued by 15th August 2016.

CBDT has extended the time limit for issuance of acknowledgement in form 2 from 15 days to 30 days in the month of July 2016.

Source: CBDT Notification No. 47/2016/F.No 275/53/2012-IT(B) dated 17-06-2016

Govt. allows payment of tax in 3 instalments under Income Declaration Scheme till Sept. 30, 2017



Taking into the practical difficulties of the stakeholders, the Government has decided to revise the time schedule for making payments under the Scheme as under:

- a minimum amount of 25% of the tax, surcharge and penalty to be paid by 30.11.2016
- a further amount of 25% of the tax, surcharge and penalty to be paid by 31.3.2017, and
- the balance amount to be paid on or before 30.9.2017.

Source: Press Release , dated 14-07-2016

Tax dept. to issue 7 lakh letters for high value transactions in its bid to nab tax evaders

Under AIR, various types of high-value transactions were being reported to the Income Tax Department. These include reporting of cash deposits of Rs.10 lac or more in a saving bank account, sale/purchase of immovable property valued



at Rs. 30 lakh or more, etc. Many of these transactions do not have PAN linked to it. The Department has details of about 90 lakhs such transactions for the period 2009-10 to 2016-17. The Income Tax Department has with the help of in-house computer techniques, grouped such non-PAN transactions and identified 7 lakh high-risk clusters having around 14 lakh non-PAN transactions which are being scrutinized by the Income Tax Department closely. The Department will be issuing letters to the parties of these transactions requesting them to provide their PAN number against these transactions.

The parties can log-in to their e-filing website and by quoting a Unique Transaction Sequence Number provided in the letter sent to them, can link their transaction with their PAN easily. They will also be able to give a response to this letter electronically by choosing the option of either owning up the transaction or denying the transaction as their own. The responses received from such parties online will be examined by the Department. The Department will initiate further necessary action in those cases where no replies are received.

Source: Press release dated 21-07-2016

Due date for filing of return of income extended: CBDT

CBDT has extended the due date of filing of return of income from 31-07-2016 to 05-08-2016, in case of income tax assessee who are required to file their return of income under section 139(1) of the ITA, by the said due date, all over

India except the state of Jammu and Kashmir. In the state of Jammu and Kashmir, the due date has been extended to 31-08-2016.

Source: ORDER [F.NO.225/195/2016/ITA.II], dated 29-07-2016

Charitable trust registered under sec. 10(23C) (iv) won't be hit by sec. 40(a)(ia) disallowance

Facts of the case



The assessee was a charitable trust and was registered under section 10(23C) (iv). Since the assessee was registered u/s 12AA, the income was claimed to be exempted under section 11. AO noted that there were certain expenses incurred by the assessee on which TDS was not deducted. He disallowed certain amount by invoking provisions of section 40(a)(ia). CIT(A) held in favour of the assessee. Department on further appeal to ITAT.

Ruling of the High Court

The tribunal ruled in favour of the assessee by contending that “*since the income of the assessee is exempt in view of sections, the income of the assessee is not taxable under the head ‘income from business or profession’ under 10(23) (c), 11 and 12AA chapter IV. The provisions of section 40(a)(ia) can be invoked only for the purposes of computing the income under the head ‘business income’. Since the income is not computed under this head, the provisions of section 40(a)(ia) cannot be invoked*”.

Source: Income Tax Officer, ward-3, Panchkula vs Haryana State Counselling Society

ITAT- Chandigarh ,[2016] 71 taxmann.com 274 dated 29-07-2016

Individuals attaining age of 60 yrs. on 1st April to be deemed as senior citizens in preceding FY

CBDT has clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would therefore be decided on the basis of above criteria.

Source: CIRCULAR NO.28/2016 [F.NO.225/182/2016/ITA.II], dated 27-07-2016

Govt. to allot PAN and TAN in one day through paperless hassle free process



For fast tracking the allotment of PAN and TAN to company applicants, Digital Signature Certificate(DSC) based application procedure has been introduced on the portals of PAN service providers' M/s NSDL eGov and M/s UTIITSL. Under the new process PAN and TAN will be allotted within one day after completion of valid online application.

Similarly, a new Aadhaar e-Signature based application process for Individual PAN applicants has been made available on the portals of PAN service providers M/s NSDL eGov.

The URL links for the above applications are available in 'important links on the homepage of the departmental website 'incometaxindia.gov.in'.

Introduction of Aadhaar based e-Signature through M/s NSDL eGov in PAN application not only ensures paperless hassle free PAN application process but also seeding of Aadhaar in PAN which will curb the problem of duplicate PAN to a great extent.

Source: Press release, dated 09-07-2016

No TDS on transportation charges reimbursed by buyer if seller is liable to pay such charges to GTA

Facts of the case

During the year 2006-07, a seller had sold certain goods to the assessee(buyer). Under the contract of sale, the seller was bound to send the goods to the buyer and to pay the transportation charges to the GTA (Goods Transport Agency). It was, however, entitled to recover the transportation charges from the buyer. The assessee reimbursed the freight component to the seller and claimed deduction of the same. The Tribunal held that the assessee was liable to deduct tax at source as per section 194C in respect of freight component. Since the assessee had failed to deduct tax at source in respect thereof, the lower

authorities were justified in disallowing the freight component as per section 40(a)(ia). Assessee on further appeal to High Court.

Ruling of the High Court



The High Court ruled in favour of the assessee by contending that Even assuming that the supplier in transporting the goods to the assessee acted as an agent of the assessee and the assessee has reimbursed the freight charges to the supplier, who in turn has paid to the concerned transporter as held by the Tribunal is conceptually correct, no other conclusion is possible. The agent being the supplier in the instant case has admittedly paid to the transporter and has also deducted tax at source. When the agent has complied with the provision, the principal cannot be visited with penal consequences. For one payment there could not have been two deductions. Moreover, when a person acts through another, in law, he acts himself.

Source: Hightension Switchgears (P)ltd vs Commissioner of Income Tax.

High Court of Calcutta, [2016] 71 taxmann.com 207 (Calcutta)/[2016] 240 Taxman 582 (Calcutta)/[2016] 385 ITR 575 (Calcutta) dated 21-07-2016

CBDT notifies tolerance range under transfer pricing for AY 2016-17

The CG hereby notifies that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one per cent of the latter in respect of wholesale trading and three per cent of the latter in all other cases, the price at which the

international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2016-2017. Whole sale trading means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-

- a) purchase cost of finished goods is eighty per cent or more of the total cost pertaining to such trading activities; and
- b) average monthly closing inventory of such goods is ten per cent or less of sales pertaining to such trading activities.

Source: CBDT NOTIFICATION NO. SO 2425(E) [NO.57/2016 (F.NO.500/1/2014-APA-II)], dated 14-07-2016

Gold/Silver rates as on June 1, 2016 to determine FMV under Income Declaration Scheme

Gold/Silver rates as on June 1, 2016 to determine FMV under Income Declaration Scheme, which are given as under:

Gold 10 grams 999 – Rs 29,075/-

Gold 10 grams 995 - Rs 28,925/-

Gold 10 grams 916 - Rs 26,633/-

Silver 999 1kg - Rs 38,910

Source: News, Taxmann.com dated 16-07-2016

Purchased property couldn't be held as unexplained investment solely on basis of Stamp duty valuation

Facts of the case



In the course of assessment proceedings, AO has found that assessee had purchased a residential house property. When sale deed was presented for registration, an objection was raised by the stamp department for the deficit stamp duty.

As per the value fixed for the purpose of stamp duty, the assessee paid difference of the stamp duty. The AO made addition to assessee's income u/s 69 in respect of difference of value of property shown in sale deed and valuation made for stamp duty purposes. The Tribunal confirmed the said addition. Assessee on further appeal to High Court.

Ruling of the High Court

The High Court ruled in favour of the assessee by contending that there was not any independent or corroborative material for consideration paid or received in addition to that mentioned in sale deed. The basis of the addition is only valuation report of the District Registrar under the stamp Act and the department valuer. The payment of additional stamp duty may be on the basis of the valuation of the valuer of the Stamp Act authority but same ipso facto cannot be said to be a valid ground to initiate the proceedings under section 69 or to invoke power under section 69 on the premise that additional consideration was paid or received. Accordingly, the appeal of the assessee is allowed.

Source: S.S Jyothi Prakash vs Additional Commissioner of Income Tax.

High Court of Karnataka, [2016] 71 taxmann.com 207 (Karnataka) dated 21-07-2016

CBDT lays down criteria for manual selection of cases for scrutiny during the FY 2016-17

- 1) CBDT has laid down the following procedure & criteria for manual selection of returns/cases for compulsory scrutiny for the FY 2016-17: -
 - a) cases involving addition on a substantial and recurring question of law or fact in earlier assessment year(s), in excess of Rs. 25 lakhs in metro charges at Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune, while for other charges, quantum of such addition should exceed Rs. 10 lakhs (for transfer pricing cases, quantum of such addition should exceed Rs. 10 crores) and where:
 - such an addition in assessment has become final as no further appeal was/has been filed.
 - such an addition has been confirmed at any stage of appellate process in favour of revenue and assessee has not filed further appeal.
 - such an addition has been confirmed at 1st appeal stage in favour of revenue or subsequently and further appeal of assessee is pending before any Authority in the appellate process.

- b) All assessments pertaining to Survey under section 133A of the Act excluding those cases where books of account, documents etc. we're not impounded and returned income (excluding any disclosure made during the Survey) is not less than returned income of preceding assessment year. However, where assessee retracts the disclosure made during the Survey, such cases will not be covered by this exclusion.
- c) Assessments in search and seizure cases to be made under section(s) 158B, 158BC, 158BD, 153A & 153C read with section 143(3) of the Act and also for the returns filed for the assessment year relevant to the previous year in which authorization for search and seizure was executed under section 132 or 132A of the Act.
- d) Return filed in response to notice under section 148 of the Act.
- e) Cases where registration under section 12AA of the IT Act has not been granted or has been cancelled by the CIT/DIT concerned, yet the assessee has been found to be claiming tax-exemption under section 11 of the Act. However, where such orders of the CIT/DIT have been reversed/set-aside in appellate proceedings, those cases will not be selected under this clause.
- f) Cases of entities, being 'scientific research association' or 'university, college or other institution', having approval under section(s) 35(1)(ii)/35(l)(iii) of the Act.
- g) Cases in respect of which specific and verifiable information pointing out tax evasion is given by any Government Department/Authority.

However, before selecting a case for scrutiny under this criterion, Assessing Officer shall be required to take prior administrative approval from the concerned jurisdictional Pr. CIT/Pr.DIT/CIT.

- 2) Computer Aided Scrutiny Selection (CASS): Cases are also being selected under CASS-2016 on the basis of broad based selection filters. List of such cases has been/is being separately intimated by the Pr. DGIT(Systems) to the jurisdictional authorities concerned.
- 3) As a taxpayer friendly measure, to reduce the departmental interface with the assessee and reduce the compliance burden of taxpayers in scrutiny assessment proceedings, the scheme of Assessment through e-mail is being extended to all scrutiny cases including the cases selected under above parameters in seven cities of Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata and Mumbai. However, assessee in these seven cities can exercise the option of not being scrutinized under the e-mail based paperless assessment proceedings after informing the Assessing Officer concerned in writing in the beginning or subsequently during the course of assessment proceedings. Further, in cases which require submission of voluminous documents and it is not practicable to submit the scanned copies thereof through e-mail, in such instances, the Assessing Officer may decide to receive such documents in physical form after recording reasons for the same.

Source: INSTRUCTION NO.4/2016 [F.NO.225/176/2016/ITA.II], dated 13-07-2016

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