

R.C. JAIN AND ASSOCIATES LLP

NEWSLETTER

November 2022

*“A Negative mind will never give you
A Positive Life.”*

-Tushar Zore



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Notification No: - 125/2022

Central Government hereby specifies certain funds for the purposes of the investment made in India

- 1) The Central Government hereby specifies the sovereign wealth fund, namely, Public Investment Fund (PAN: AAAJP1787D), (hereinafter referred to as “the assessee”) inserted clause (23FE) in Section 10 of the Income tax Act,1961 to provide for exemption to wholly owned subsidiaries of Abu Dhabi Investment Authority (ADIA) Sovereign Wealth Funds as the specified person for the purposes of this clause in respect of the investment made in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 subject to the fulfilment of the following conditions, namely:-
- The Assessee shall file return of income, for all the relevant previous years falling within the period beginning from the date on which the said investment has been made and ending on the date on which such investment is liquidated, on or before the due date specified for furnishing the return of income under sub-section (1) of section 139 of the Act;
 - the assessee shall get its books of account audited for the previous years referred to in clause (I) by an accountant specified in the Act and furnish the Audit Report in the format annexed as Annexure to this notification at least one month prior to the due date specified for furnishing the return of income under sub-section (1) of section 139 of the Act;
 - the assessee shall furnish a quarterly statement within one month from the end of each quarter electronically as specified by the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes (Tax Policy and Legislation Division), in respect of each investment made by it during the said quarter;
 - Assessee shall maintain Segmented Accounts of Income & Expenditure in Respect of Such Investment which qualifies for exemption.

DIRECT TAX

- the earnings of the assessee shall be credited either to the account of the Government of the Kingdom of Saudi Arabia or to any other account designated by that Government so that no portion of the earnings inures any benefit to any private person, barring any payment made to creditors or depositors for loan taken or borrowing made for purposes other than for making investment in India.
 - The assessee shall not have any loan or borrowing directly or indirectly, for the purposes of making investment in India.
 - 6 Investment shall be held for the last three years as required.
- 2) Violation of any of the conditions as stipulated in clause (23FE) of section 10 of the Act and this notification shall render the assessee ineligible for the tax exemption.
 - 3) This notification shall come into force from the date of its publication in the Official Gazette.

~ Compiled by Amit Shelke

Income Tax

Case Laws:

1. **[2022] 145 taxmann.com 269 (Kolkata - Trib.) [30-11-2022]**

INCOME TAX: Where input needed for preparing valuation report were not supplied correctly to expert (Chartered Accountant), results arrived at in said valuation report could not have been accepted.

- Basic information is supplied by management for preparation of valuation reports by experts which in this case is a Chartered Accountant (CA), and based on such information valuation reports are prepared. In case wrong information or an incorrect information is inadvertently given, results so arrived cannot be accepted.
- Where valuation report prepared by CA and fair market value of equity share and preference share had been arrived at mainly after considering net-worth of two step down subsidiaries, however, **fact of acquiring wholly owned subsidiaries/step down subsidiaries after cut-off date of valuation of share was not provided to CA**, results arrived at in valuation report could not have been accepted.

[2022] 145 taxmann.com 269 (Kolkata - Trib.)

IN THE ITAT KOLKATA BENCH 'A'

Income Tax Officer, Ward-11(3)

v.

LNB Renewable Energy (P.) Ltd.

SANJAY GARG, JUDICIAL MEMBER
AND DR. MANISH BORAD, ACCOUNTANT MEMBER
IT APPEAL NO. 2011 (KOL.) OF 2018
C.O. NO. 117 (KOL.) OF 2018
[ASSESSMENT YEAR: 2013-14]
NOVEMBER 30, 2022

2. **[2022] 145 taxmann.com 245 (Calcutta)[23-11-2022]**

INCOME TAX: Time-barred appeal should be allowed if it involves a substantial question of law: HC

- Revenue's appeal should not be dismissed on the technical ground of time-bar even if 627 days' delay in filing the appeal has not been satisfactorily explained by the Revenue as section 260A requires the High Court to consider whether any Substantial Question of Law (SQL) arises for consideration in appeal filed against ITAT's order. In view of the requirement of section 260A to consider as to whether any substantial question of law arises for consideration, it may not augue well to reject the appeal on a technical ground especially when the statute stipulates that the requirement is to consider whether any substantial question of law arises for consideration in this appeal. Hence for such reasons, discretion is exercised and accordingly delay in filing the instant appeal by Revenue is condoned.

[2022] 145 taxmann.com 245 (Calcutta)

HIGH COURT OF CALCUTTA

Principal Commissioner of Income-tax, 12

v.

Soorajmul Nagarmull

T.S. SIVAGNANAM AND HIRANMAY BHATTACHARYYA, J.J.
ITAT NO. 46 OF 2020
IA NOS. GA 1 AND 2 OF 2020
NOVEMBER 23, 2022

~ Compiled by Aryan Bhanushali

1. **RBI/2022-23/140**
DoR.FIN.REC.82/03.10.123/2022

23rd November, 2022

Inclusion of Goods and Service Tax Network (GSTN) under Account Aggregator Framework

- With a view to facilitate cash flow-based lending to MSMEs, it has been decided to include Goods and Services Tax Network (GSTN) as a Financial Information Provider (FIP) under the Account Aggregator (AA) framework. Department of Revenue shall be the regulator of GSTN for this specific purpose and Goods and Services Tax (GST) Returns, viz. Form GSTR-1 and Form GSTR-3B, shall be the Financial Information.

2. **RBI/2022-23/141**
DOR.LRG.REC.83/03.10.001/2022-23

23rd November, 2022

Basel III Framework on Liquidity Standards - Standing Deposit Facility

- In accordance with the queries received from banks seeking clarification on the treatment of Standing Deposit Facility under Liquidity Risk Management Framework.
- Accordingly, it is advised that the overnight balances held by banks with RBI under SDF shall be eligible as 'Level 1 High Quality Liquid Assets (HQLA)' for computation of LCR.

Applicability

This circular is applicable to all Commercial Banks (excluding Local Area Banks, Regional Rural Banks and Payments Banks). These instructions shall come into force with immediate effect.

3. **RBI/2022-23/136**
CO.DGBA.GBD.No.S957/43-33-005/2022-2023

14th November, 2022

Agency Commission for Direct Tax collection under TIN 2.0 regime

- After implementation of TIN 2.0 regime for collection of direct taxes, it has been decided to modify paragraph 21 of the captioned Master Circular. The modified paragraph 21 will read as follows:

“Agency banks are required to submit their claims for agency commission in the prescribed format to Central Accounts Section Nagpur in respect of Central government transactions and the respective Regional Office of Reserve Bank of India for State government transactions. However, agency commission claims with respect to GST receipt transactions and transactions related to direct tax collection under TIN 2.0 regime will be settled at Mumbai Regional Office of Reserve Bank of India only and accordingly all agency banks, authorized to collect GST and direct tax collection under TIN 2.0, are advised to submit their agency commission claims pertaining to the respective receipt transactions at Mumbai Regional Office only. The agency commission for transactions related to direct tax under OLTAS will be continued to be settled at CAS, Nagpur, RBI. The formats for claiming agency commission for all agency banks and separate and distinctive set of certificates to be signed by the branch officials and Chartered Accountants or Cost Accountants are given in Annex 2, Annex 2A and Annex 2B respectively. These certificates would be in addition to the usual Certificate from ED / CGM (in charge of government business) to the effect that there are no pension arrears to be credited / delays in crediting regular pension / arrears thereof.”

~ Compiled by Dhairya Ramani

INDIRECT TAX

1. Notification No. 22/2022-Central Tax

The amendment mentioned in the Central Goods and Services Tax Act, 2017 through the Notification No. 22/2022-Central Tax.

In the Central Goods and Services Tax Rules, 2017, the time limit for providing the details of outward supply of previous financial year and claiming ITC is changed from September 2022 to October 2022 filed upto 30th November 2022.

2. Notification No. 22/2022-Central Tax

The amendment mentioned in the Central Goods and Services Tax Act, 2017 shall come into force from the 1st December, 2022 through the Notification No. 23/2022-Central Tax

In Section 171(2) of Central Goods and Services Tax Act, 2017 Central Government, on the recommendations of the Goods and Services Tax Council, hereby empowers the Competition Commission of India established under sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

~ Compiled by Shreya Satavase

#HUNAAR HAAT



~ Shreya Satavase

Allow us to tell you more!



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