

## **Modification of CBDT's own order issued for exercising power of survey u/s 133A in pursuant to TAXATION AND OTHER LAWS ACT , 2020**

CBDT earlier issued order no ORDER NO. F.187/3/2020-ITA-I, DATED 19-10-2020 under section 119, read with section 133A of Income tax Act , 1961 exercising power of Survey in pursuance of section 133A and TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020

The CBDT vide order no ORDER NO. F.NO. 187/3/2020-ITA-I, DATED 31-12-2021 amended its earlier order no F.187/3/2020-ITA -I dated 19.10.2020. as under :-

In partial modification of the Central Board of Direct Tax's Order under Section 119 of the Income-tax Act, 1961 vide F.187/3/2020-ITA-I dated 19-10-2020, Para 1 (i), 1(iii) and para 5 are modified and may be read as below: —

### *Para 1 (i) TDS Charges*

Any verification or survey u/s 133A of the Act by the TDS charges shall be conducted by its officers. Where the TDS charge is headed by the Pr.CCIT of the region / CCIT (TDS) / jurisdictional CCIT of TDS charge, the verification or survey action shall be approved by the Pr. CCIT of the region / CCIT (TDS) / jurisdictional CCIT of TDS charges, as the case may be and shall be conducted by the officers of the TDS charge.

### *Para 1 (iii) International Taxation Division*

The TDS surveys by the International Taxation Division shall henceforth be approved by the collegium of Pr.CCIT (IT&TP) / CCIT (IT&TP) as one member of the collegium and CCIT (TDS) / jurisdictional CCIT of TDS charge or the Pr. CCIT of the region where there is no CCIT (TDS) / jurisdictional CCIT of TDS charge, as the case may be, as the other member of the collegium. The survey shall be conducted by the officers of TDS charge by including officers of IT&TP Division in the team. For any other survey by the International Taxation Division, the same is to be approved by the collegium of Pr.CCIT (IT&TP)/ CCIT (IT&TP) and DGIT (Inv.). Such surveys shall be conducted by the officers of the Investigation Wing by including officers of IT&TP Division in the team.

### *Para 5.*

The Pr.CIT/CIT/ PDIT/ DIT of the TDS charge or the Investigation Wing should monitor and ensure that the survey does not go beyond the scope as approved by the collegium of the concerned Pr. CCIT / CCIT (TDS)/ jurisdictional CCIT of TDS charge/ DGIT (Inv.), as the case may be as discussed above.

## **Extension of timelines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22**

The Central Board of Direct Taxes Vide Circular no -1 /2022 dated 11.01.2022, in exercise of its powers under Section 119 of the Act, on consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Income-tax Act,1961, provides relaxation in respect of the following compliances:

- The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 30th September 2021, in the case of assessee referred in clause (a) of Explanation 2 of Section 139(1) of the Act, as extended to 31st October 2021 and 15th January 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th February, 2022;
- The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 31st October, 2021, in the case of assessee referred in clause (aa) of Explanation 2 to Section 139 (1) of the Act, is hereby extended to 15th February, 2022;

- The due date of furnishing of Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which was 31 st October 2021, as extended to 30th November 2021 and 31st January 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th February, 2022;
- The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31 st October 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November 2021 and 15th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th March, 2022;
- The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 30 th November 2021 under sub-section (1) of section 139 of the Act, as extended to 31st December 2021 and 28th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th March, 2022.
- Clarification 1: It is clarified that this extension shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds one lakh rupees.
- Clarification 2: For the purpose of Clarification 1, in case of an individual resident in India referred to in sub-section (2) of section 207 of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under Circular No.9/2021, Circular No.17/2021 and this Circular) provided in that Act, shall be deemed to be the advance tax

#### **New IT Rule 8AD on Computation of Capital Gains from ULIPs u/s 45(1B) of the Act.**

The Central Board of Direct taxes Vide Notification G.S.R. 24(E) [NO. 8/2022/F.NO.370142/61/2021-TPL] , DATED 18-1-2022, In exercise of the powers conferred by sub-section (1B) of section 45, hereby gives the Income tax (2nd Amendment) Rules, 2022. It inserts Rule 8AD to Income Tax Rules 1962 and provides for Computation of Capital Gains from ULIPs u/s 45 (1B) of income tax Act.

This is in respect of insurance policy receipts on maturity/ withdrawal including towards bonus, which are subject to capital gains tax where annual premium exceeded Rs. 250,000, Vide Finance Act, 2021, government has rationalized tax provisions restricting the income tax exemption in respect of policies with annual premium above Rs. 250,000, in a way that taxpayers can only take tax benefit instead of making tax gains, out of such incentive schemes for investments/ insurance sector.

Readers may refer to above notification for further details

#### **CBDT Guidelines on Income Tax Exemption for ULIP Receipts u/s 10(10D) of Income Tax Act.**

CBDT clarifies that any sum received including by way of bonus during the current previous year under any one or more eligible Unit Linked Insurance Policy (ULIPs) issued on or after 01/02/2021 shall be exempt u/s 10(10D) of the Income Tax Act, 1961, if the annual premium during the policy term didn't exceed Rs. 250,000, vide Circular 2/2022 dt. 19/01/2022. In other words, receipts from ULIPs, on maturity/ withdrawal including towards bonus, shall be subject to capital gains tax in the case of policies with annual premium above Rs. 250,000.

Readers may refer to above Circular for further details

#### **Securities Transaction Tax (1st Amendment) Rules, 2022**

The Central Government, vide Notification GSR no 25(E) [NO. 9/2022/F. NO. 370142/61/2021-TPL] , DATED 18-1-2022, in exercise of the powers conferred section 114 of the Finance (No. 2) Act, 2004, gives Securities Transaction Tax (1st Amendment), Rules, 2022.

The newly inserted Rule 5A provides for Person responsible for collection and payment of securities transaction tax in case of Insurance Company. It substitutes Rule 6 with regard to Payment of securities transaction tax. It also Inserts Form 2A. It amends Rule 7 and 8 of Income Tax Rules 1962.

Readers may refer to above notification for further details

#### **Rules to Compute Exempt Income of Specified Fund for Section 10(23FF)**

The Central Board of Direct taxes, vide Notification GSR no 883 (E) [NO. 138/2021/F. NO. 370142/58/2021-TPL(PART-II)] , DATED 27-12-2021, in exercise of the powers conferred by section 10 (23FF) of Income tax Act, gives Income-tax (34th Amendment) Rules, 2021.

It inserts Income Tax Rule 2DD which provides for Computation of exempt income of specified fund for the purposes of clause (23FF) of section 10. It also Notifies New Forms i.e. Form No. 10-II being Statement of exempt income under clause (23FF) of section 10 of the

Income-tax Act, 1961 and Form No. 10-IJ being Certificate to be issued by accountant under clause (23FF) of section 10 of the Income-tax Act, 1961.

Readers may refer to above notification for further details

### **FACELESS APPEAL SCHEME, 2021**

The Central Government, vide Notification no 5429(E) [NO. 139/2021/F.NO. 370142/66/2021-TPL] , dated 28-12-2021 as Corrected by Corrigendum S.O. 90(E) [NO. 2/2022/F.NO. 370142/66/2021-TPL], dated 7-1-2022, in exercise of the powers conferred by Section 250 (6B) and (6C) of the Income tax Act, 1961 , and in supersession of the Faceless Appeal Scheme, 2020 of the Government of India in the Ministry of Finance published in the Official Gazette vide number S.O. 3296(E) dated 25th September 2020 and S.O. 3297(E) dated 25th September 2020, except as respects things done or omitted to be done before such supersession, gives the Faceless Appeal Scheme, 2021. It Provides for the followings

- Definitions for various terms.
- Scope of the Scheme
- Faceless Appeal Centres
- Procedure in appeal
- Penalty proceedings
- Rectification Proceedings
- Appellate Proceedings
- Exchange of communication exclusively by electronic mode
- Authentication of electronic record
- Delivery of electronic record
- No personal appearance in the Centres or Units
- Power to specify format, mode, procedure and processes
- Application of provisions of the Act

Readers may refer to above notification for further details

### **SETTING UP OF APPEAL UNITS UNDER FACELESS APPEAL SCHEME, 2021**

The Central Board of Direct Taxes hereby, vide OFFICE ORDER NO. 4 [F.NO. 187/4/2020-ITA-1] dated 29.12.2021, In pursuance of para 4 of S.O. 5429(E) Notification No. 139/2021/F.No 370142/66/2021-TPL, dated the 28th December, 2021, notifying the Faceless Appeal Scheme, 2021 and in supersession of Office Order-2 dated 25.09.2020 (F.No. 187/4/2020-ITA-I), sets up the 293 Appeal Units having specified authorities and came into force with effect from the 29th December, 2021.

For details of Headquarters, readers may refer to above notification.

### **E-ADVANCE RULINGS SCHEME, 2022**

The Central Government hereby, vide Notification S.O. 248(E) [NO. 07/2022/ F.NO.370142/62/2021-TPL(PART-I)] , dated 18-1- 2022, in exercise of the powers conferred by Section 245R and Section 245W (2) and (3) Income-tax Act, gives "e-advance rulings Scheme, 2022" It Provides for followings

- Definitions
- Scope of the Scheme
- E-advance rulings by Board for Advance Rulings.
- Allocation of applications for advance ruling.
- Procedure for giving advance ruling
- Procedure for filing and receipt of applications.
- Order for advance ruling

- Submission of additional facts before the Board for Advance Rulings
- Questions contained in the application
- Verification of additional facts
- Powers of the Board for Advance Rulings.–
- Powers and functions of the Secretary.–
- Authorisation to be filed
- Authentication of electronic record
- No personal appearance before the Board for Advance Rulings.
- Rectification of mistakes
- Appellate Proceedings.
- Proceedings not open to the public
- Communication on behalf of the Board for Advance Rulings.
- Communication exclusively by electronic mode.
- Publication of orders
- Application of the provisions of Chapter XIX-B of the Act.
- Power to specify format, mode, procedure and processes

#### **E-VERIFICATION SCHEME, 2021**

The Central Government hereby, vide Notification no - S.O. 5187(E) [NO. 137 /2021/ F.NO. 370142/57/2021-TPL(PART-I)] , dated 13-12-2021, in exercise of the powers conferred by section 135A s (1) and (2) of the Income-tax Act, 1961, gives “e-Verification Scheme, 2021”. It Provides for the followings

- Definitions
- Scope of the Scheme
- Electronic Collection and Verification
- Issue and service of notice
- Response to notice
- No personal appearance
- Communication exclusively by electronic mode
- Authentication of electronic record
- Power to specify procedure and processes

#### **CBDT Instructions under section 119 to Subordinate Authorities regarding Uploading of Information on VRU Functionality on Insight Portal for Implementation of Risk Management Strategy for Issue of Notice Under Section 148 of the Act. - INSTRUCTION F. NO. 225/135/2021/ITA-II, DATED 10-12-2021**

As per the amended provisions of the section 148 of the Income-tax Act,1961('the Act'), the information which has escaped assessment has been defined to include the two categories of information, i.e., (i) the information which is flagged in accordance with the risk management strategy formulated by the Board; and (ii) final audit objection raised by the C&AG.

• For effective implementation of risk management strategy, the Central Board of Direct Taxes (Board), in exercise of its powers under section 119 of the Act, directs that the Assessing Officers shall identify the following categories of information pertaining to Assessment Year 2015-16 and Assessment Year 2018-19, which may require action under section 148 of the Act, for uploading on the Verification Report Upload (VRU) functionality on Insight portal:

- (i) Information from any other Government Agency/Law Enforcement Agency
- (ii) Information arising out of Internal Audit objection, which requires action u/s 148 of the Act

- (iii) Information received from any Income-tax Authority including the assessing officer himself or herself
- (iv) Information arising out of search or survey action
- (v) Information arising out of FT&TR references
- (vi) Information arising out of any order of court, appellate order, order of NCLT and/or order u/s 263/264 of the Act, having impact on income in the assessee's case or in the case of any other assessee
- (vii) Cases involving addition in any assessment year on a recurring issue of law or fact:
  - [a.] exceeding Rs. 25 lakhs in eight metro charges at Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune while at other charges, quantum of addition should exceed Rs. 10 lakhs; [b]. exceeding Rs. 10 crore in transfer pricing cases.

and where such an addition:

1. has become final as no further appeal has been filed against the assessment order; or
  2. has been confirmed at any stage of appellate process in favor of revenue and assessee has not filed further appeal; or
  3. has been confirmed at the 1st stage of appeal in favour of revenue or subsequently; even if further appeal of assessee is pending, against such order
- As per the provisions of section 149(1)(b) of the Act, in specific cases where the Assessing Officer has in his possession evidence which reveal that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to fifty lakh rupees or more, notice can be issued beyond the period of three years but not beyond the period of ten years from the end of the relevant assessment year. Further, the notice under section 148 of the Act cannot be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit prescribed under the provisions of clause (b), as they stood immediately before the proposed amendment. As per explanation provided to section 149 of the Act, the term "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account

In view of the above, it is directed that the information pertaining to Assessment Year 2015- 16, which requires action u/s 148 of the Act shall be identified and uploaded on the VRU functionality on insight portal only as per the provisions of section 149(1)(b) of the Act.

- The above exercise of identifying and uploading the information along with the underlying documents in the above categories of cases must be completed by 20-12-2021.
- These Instructions shall be applicable to the Jurisdictional Assessing Officers and Assessing Officers of Central Charges and International Taxation