

**R.C. JAIN AND ASSOCIATES LLP**

**NEWSLETTER**

**March 2024**

*“The pen is mightier than the sword”*



# INDEX

1. Direct Tax	03
2. Case Laws	06
3. RBI	09
4. Hunar Art	12

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**IT Notifications**

**Notification No. [Notification No. 27/2024 /F. No. 370142/3/2024-TPL]**

**Changes in Figures and Letters in Clauses and Sub-clauses of 3CD**

The Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely,

In the Income-tax Rules, 1962, in Appendix II, in Form No. 3CD :-

- I. In PART A - in clause 8a, The figures and letters “115BAD” shall be substituted with **“115BAD/115BAE”**.
- II. In PART B –
  - A) In Clause 12, The figures and letters “44AD” shall be substituted with **“44AD, 44ADA”**.
  - B) In Clause 18(ca), the following sub-clauses shall be substituted with :-

“(ca) Adjustment made to the written down value—

    - I. under the proviso to sub-section (3) of section 115BAA (for assessment year 2020-21 only);
    - II. under the first proviso to sub-section (3) of section 115BAC or the proviso to sub-section (3) of 115BAD (for assessment year 2021-22 only);
    - III. Under the second proviso to sub-section (3) of section 115BAC (for assessment year 2024-25 only).”;
  - C) In clause 19,
    - i. After the Table after Row with entry “35(2AB)”, **the row with entry “35ABA” shall be inserted;**
    - ii. In the Table after Row with entry “35E”, **the row with entry “any other relevant section” shall be inserted;**
  - D) In clause 21,
    - I. in sub-clause (a), in the table, under the column relating to ‘Nature’,—
      - i. The words “Expenditure by way of penalty or fine for violation of any law for the time being force, are substituted with **“Expenditure for any purpose which is an offence or is prohibited by law or expenditure by way of penalty or fine for violation of any law (enacted in India or outside India)”**.
      - ii. The row with the words “Expenditure by way of any other penalty or fine not covered above”, the row with the words **“Expenditure incurred with compound an offence under any law for the time being in force, in India or outside India”** shall be inserted;

iii. for the words “Expenditure incurred for any purpose which is an offence or which is prohibited by law”, the words **“Expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person”** shall be substituted;

II. in sub-clause (b), in paragraph (ii), in sub-paragraph (B), in item (IV),  
The word “payer”, shall be substituted with **“payee”**

E) in clause 26, for the brackets, letters and word “(f) or (g)” are substituted with **“(f), (g) or (h)”**

F) in clause 32,

- in sub-clause (a),—
  - I. in the table, in column (5), the figures and letters “115BAD” are substituted with **“115BAD/115BAE”**.
  - II. in the table, in column (6), the figures and letters, “115BAD”, the figures and letters Are substituted with **“115BAD/115BAE”**.
  - III. below the table, the words and figures “To be filled in for assessment year 2021-22 only.” Are substituted with **“To be filled in only for assessment year 2021-22 and 2024-25, as applicable.”**

- In sub-clause (b), --- In Form No. 3CEB, in the Annexure thereto, in Part C (Specified domestic transaction), serial number 25 shall be substituted as **serial number 26** thereof and before serial number 26 ,the following shall be inserted, namely:

Serial no. 25.(newly insert) Particulars in respect of specified domestic transaction in the nature of any business transacted between the persons referred to in sub-section (4) of section 115BAE:  
Has the assessee entered into any specified domestic transaction with any person referred to in sub-section (4) of section 115BAE which has resulted in more than ordinary profits expected to arise in such business?

If ‘yes’, provide the following details :

- a. Name of the person with whom the specified domestic transaction has been entered into.
  - b. Description of the transaction including quantitative details, if any.
  - c. Total amount received or receivable or paid or payable in the transaction—
    - i. as per books of account;
    - ii. as computed by the assessee having regard to the arm's length price.
  - d. Method used for determining the arm's length price [See sub-section (1) of section 92C].
- In sub-clause (c), --- In Form No. 65,
    - i. under the heading “Verification”, after clause (4), the following clause shall be inserted, namely:—

Clause (5) \*I certify that the applicant company is a unit of an International Financial Services Centre and has filed the application within three months from the date on which the deduction under section 80LA of the Income- tax Act, 1961 is no longer applicable.”;

ii. in the Annexure, in PART A, for clause 6, the following clauses shall be substituted, namely:–

“Clause 6. Date on which the company became a qualifying company [to be given only in case of a company which becomes a qualifying company after the initial period] (enclose evidence in support of the claim)

“Clause 6A.

- a) Has the applicant company availed of deduction under section 80LA of the Income- tax Act, 1961?
- b) If so, please specify the date on which such deduction is no longer applicable?”

**~ Complied by Mihir Gohil**

**CASE LAWS**

**1) Issue Involved:**

- Where assessee had not filed a revised return of income or called upon Assessing Officer to treat original return of income as return in response to notice under section 148, assessee was not entitled to challenge reassessment proceedings on ground that reasons for reassessment were not provided

**HIGH COURT OF MADRAS**

**Swapna Manuel**

**vs.**

**Assistant Commissioner of Income-tax**

**SENTHILKUMAR RAMAMOORTHY, J.**

**Gist of the Case:**

Section 148, read with section 143, of the Income-tax Act, 1961 and article 226 of the Constitution of India, 1950 - Income escaping assessment - Issue of notice for (Non-filing of return) - Assessment year 2016-17 - Whether upon receipt of notice under section 148, assessee has two options, first is to file a revised return of income and request for reasons for re-opening assessment and second is to inform Assessing Officer that original return of income should be treated as return in response to notice under section 148 – Held, yes – Whether where assessee had not resorted to either option, assessee was not entitled to challenge reassessment proceedings on ground that reasons for re-assessment were not provided.

**Held:**

The question that falls for consideration is whether the impugned assessment order should be interfered with in exercise of discretionary jurisdiction. The ground on which the petitioner urged that interference is warranted is that reasons for re-opening the assessment were not provided.

From the above provision, it is evident that re-assessment proceedings commence with a notice calling upon the assessee concerned to file the return of income. Upon receipt of said notice, the petitioner/assessee had two options. The first option was to file a revised return of income and request for reasons for re-opening the assessment. The second option was to inform the Assessing Officer that the original return of income may be treated as the return in response to the notice under section 148. If the second option had been availed of, it would still have been open to the petitioner to request for reasons for re-opening the assessment. The petitioner did not, however, resort to either option.

Thereafter, the Assessing Officer issued notice under section 142(1) calling upon the assessee to produce the documents specified in such notice. The annexure to the notice indicates that the petitioner did not comply with the notice under section 148. Upon receipt of this notice, the petitioner replied asking for reasons for re-opening the assessment and attached certain documents, while requesting for further time to submit other documents. This communication was issued more than six months after receipt of notice under section 148. As contended by senior standing counsel, if the petitioner had provided a revised return of income or called upon the Assessing Officer to treat the original return of income as the return in response to notice under section 148, the petitioner would have been entitled to challenge the proceedings on the ground that reasons for re-assessment were not provided, but not otherwise.

For reasons set out above, the impugned assessment order does not warrant interference under article 226 of the Constitution of India. It is, however, open to the petitioner to assail such order by filing a statutory appeal. In view of the rejection of the challenge to the assessment order, the challenge to the penalty order, which is consequential, also suffers the same fate.

## **2) Issue Involved:**

- Income arising from revocable transfer of assets is taxable in hands of transferor, i.e., settler of revocable trust and it is to be clubbed in total income of transferor and not in total income of transferee of assets

**I N THE ITAT, MUMBAI BENCH 'D'**

**Reporter Family Private Trust**

**vs.**

**Assessing Officer-ITO (IT), 26(1)(1).**

**AMIT SHUKLA, JUDICIAL MEMBER**

**AND GAGAN GOYAL, ACCOUNTANT MEMBER**

## **Gist of the Case:**

Section 61, read with section 63, of the Income-Tax Act, 1961 - Transfer of assets - Revocable - Assessment year 2010-11 - Whether income arising from revocable transfer of assets is taxable in hands of transferor, i.e., settler of revocable trust and it is to be clubbed in total income of transferor and not in total income of transferee of assets. During year under consideration, assessee, a revocable private trust, purchased units of mutual funds, A notice under section 148 was issued upon assessee for reopening proceedings which was returned unserved. Thereafter, a show cause notice was issued by Assessing Officer which was also not served/responded by assessee. Accordingly, he made an addition on account of purchase of mutual funds - Commissioner (Appeals) upheld additions.

It was observed that assessee was a revocable trust settled by B and A .It had purchased units of mutual funds and capital gain on mutual funds had already been offered to tax in income tax return of settler - Whether, in view of aforesaid, income or any source of investment in mutual funds was taxable in hands of settler and not in hands of assessee trust and, therefore, impugned addition was to be deleted.

**Held**

It is found that there is no dispute that assessee is a 'revocable trust' settled by B and A on 8-3-2007. The assessee had purchased units of mutual funds during the assessment year 2010-11 and the same has already been offered to tax in the income tax return of the settler for the assessment year 2010-11 in the return of income filed on 31-7-2010. In the said return of income, the settler B had offered the capital gain on mutual funds of the revocable family private trust. The copies of the returns have been filed before the Tribunal which was also filed before the Commissioner (Appeals).

First of all he has to ascertain as to in whose case such income should be taxable whether in the hands of the revocable trust or in the hands of the transferor/settler.

The income arising from revocable transfer of assets is taxable in the hands of the transferor, i.e., the settler of the revocable trust and it is to be clubbed in the total income of the transferor and not in the total income of the transferee of the assets. It is noted that from the trust deed that settler may revoke this trust deed and the entire trust fund shall be reinvested in the settler absolutely. Thus, even as per the terms of the trust deed, the income or any source of investment in the mutual funds was ought to be taxable in the hands of the settler. Thus, even as per law, the income could not have been taxed in the hands of the assessee trust.

It has been further brought on record that on similar issue, assesses case was selected for scrutiny for assessment years 2011-12 to 2013-14 wherein the notices were served on the correct address. The assessee had brought all these facts on record and the Assessing Officer thereafter had accepted the assessee's contention and no addition was made on account of any income/purchase of investment of mutual funds. This fact was also brought to the notice of the Commissioner (Appeals) which has been completely ignored. Accordingly, the order of the Commissioner (Appeals) is to be set aside and the entire addition confirmed by him was to be deleted.

**~ Complied by Sanchit Jain**



**RBI/2023-24/134**  
**DOR. AML.REC.83/14.06.001/2023-24**  
**March 11, 2024**

Implementation of Section 12A of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005: Designated List (Amendments)

Master Direction on Know Your Customer Compliance

- Section 52 of the Master Direction on Know Your Customer outlines compliance with the "Procedure for Implementation of Section 12A of the Weapons of Mass Destruction (WMD) and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005" by the Ministry of Finance, Government of India.
- Section 53 of the MD on KYC mandates daily verification of the 'UNSCR 1718 Sanctions List of Designated Individuals and Entities'.
- The Ministry of External Affairs (MEA), GOI has notified amendments to the UNSC Committee established pursuant to resolution 1718(2006), affecting the 'designated list'.
- The latest version of the UNSC Sanctions lists on DPRK is available at the UN Security Council's website.
- REs are advised to ensure meticulous compliance with these communications.

**RBI/2023-24/135**  
**DGBA.GBD.No.S1217/42-01-029/2023-2024**  
**March 13, 2024**

Reporting and Accounting of Central Government transactions for March 2024

Central Government Transactions Reporting and Accounting Procedure

- Circular DGBA.GBD.No.S1469/42-01-029/2022-2023 outlines procedures for Central Government transactions at Receiving/Nodal/Focal Point branches for the 2022-23 financial year.
- The closure date for residual transactions in March 2024 is set for April 10, 2024.
- Receiving branches, including those not locally located, are advised to adopt special arrangements for payment and collection.
- Nodal/Focal Point branches are advised to prepare separate sets of scrolls for March and April transactions.
- All transactions (revenues/tax collections/payments) should be accounted for at receiving branches up to March 31, 2024, not mixed with April 2024 transactions.
- Instructions should be issued to branches concerned immediately.

**RBI/2023-24/136**

**CO.DGBA.GBD.No.S1234/31-12-010/2023-2024**

**March 13, 2024**

Cut-off time for uploading of GST, ICEGATE and TIN 2.0 luggage files

RBI's Response to Agency Banks' Request for Luggage File Extension

- Agency banks have requested RBI extension for uploading GST, ICEGATE, and TIN 2.0 receipts beyond the 1800-hour cut-off time.
- RBI has advised against any extension beyond this cut-off time.
- The modified paragraph 10 now states that agencies collecting GST, ICEGATE, and Direct Taxes under TIN 2.0 must upload their files in RBI's QPX/e-Kuber on all days except global holidays.
- The files must be uploaded before 1800 hours prescribed by the Central Board of Indirect Taxes & Customs and Central Board of Direct Taxes.
- All other instructions remain unchanged.

**RBI/2023-24/137**

**DOR.SOG (LEG).REC/84/09.08.024/2023-24**

**March 20, 2024**

All Agency Banks to remain open for public on March 31, 2024 (Sunday)

Government of India Requests Banks to Open Government Transactions,

- Banks dealing with government receipts and payments to open on March 31, 2024.
- This is to account for all government transactions in FY 2023-24.
- Agency Banks advised to promote availability of these services.

**RBI/2023-24/138**

**CO.DGBA.GBD.No.S1252/42-01-029/2023-2024**

**March 22, 2024**

Annual Closing of Government Accounts – Transactions of Central / State Governments – Special Measures for the Current Financial Year (2023-24)

## Government Transactions Accountability for Agency Banks in 2023-24

- Agency banks must account for all government transactions within the same financial year.
- Branch openings for over-the-counter transactions will remain open until normal working hours on March 30 and 31.
- Transactions via NEFT and RTGS System will continue until 2400 hours on March 31, 2024.
- Special clearing sessions for government cheques will be conducted on March 30 and 31, 2024.
- Reporting window for Central and State Government transactions to RBI will remain open until 1200 hours on April 1, 2024.
- Agency banks are encouraged to promote these special arrangements

**~ Complied by Prachi Dubey**

**#HUNAAR ART**



**~ By Pooja Thopate**

Allow us to tell you more!



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