

F. No. 173/149/2019-ITA-1
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

North Block, New Delhi,
Dated the 10th October, 2023

To,

All Pr. Chief Commissioners of Income-tax/ Chief Commissioners of Income-tax
All Pr. Director Generals of Income-tax/ Director Generals of Income-tax.

Madam/Sir,

Sub: Assessment of Startup Companies involving application of section 56 (2)(viib) of the Income -tax Act, 1961 -reg.

Kindly refer to the subject mentioned above.

2. In this regard, the undersigned is directed to state that the Department for Promotion of Industry and Internal Trade (DPIIT) vide notification no. G.S.R. 127(E) dated 19.02.2019 provided for exemption for the purpose of clause (viib) of sub-section (2) of section 56 of the Income-tax Act, 1961 (the Act) for Startup company. By this notification, it has been provided that provisions of section 56 (2)(viib) of the Act shall not apply to Startup Companies which have been recognized by the DPIIT and fulfils the conditions mentioned in para 4(i) and 4(ii) of the said notification.

3. In pursuance to the above, the Central Board of Direct Taxes (CBDT) had issued notification no. 13/2019/F. No. 370142/5/2018-TPL(Pt.) dated 05.03.2019 notifying that the provisions of clause (viib) of sub-section (2) of section 56 of the Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration has been received from a person, being a resident, by a company which fulfils the conditions specified in para 4 of the notification no. G.S.R. 127(E) dated 19.02.2019 issued by DPIIT. The same was reiterated by CBDT Circular No. 16/2019 dated 07.08.2019.

3.1 In this context, it is brought to notice that the Finance Act 2023 has amended clause (viib) of sub-section (2) of section 56 of the Act and the words "*being a resident*" have been omitted w.e.f. 01.04.2024.

4. Instances of cases of Startups having been picked up for scrutiny under CASS have been reported. In the light of the above, the procedure as laid down with regard to the assessment of such Startup companies which have been recognized by the DPIIT and fulfilling the conditions mentioned in para 4(i) and 4(ii) of the DPIIT notification referred

in para 2 above (hereinafter 'such Startup Companies') involving the issue of section 56(2)(viib) of the Act, is being re-iterated and it is clarified that;

(i) Where the case of such Startup Company is selected under scrutiny on the single issue of applicability of section 56 (2) (viib) of the Act, no verification on such issues shall be done by the Assessing Officers during the proceedings u/s 143 (2) or u/s 147/143(2) of the Act and contention of such recognized Startup Companies on the issue will be summarily accepted.

(ii) Where the case of such Startup Company is selected under scrutiny with multiple issues including the issue u/s 56 (2) (viib) of the Act, the issue of applicability of section 56 (2)(viib) of the Act shall not be pursued during the assessment proceedings of such Startup Company. Due procedure be followed about other issues for which the case has been selected.

-sd-
(Ashwani Kumar)
DCIT(OSD)-I, ITA-I, CBDT

Copy to:

1. PS to FM/OSD to FM/PS to MoS(R)/OSD to MoS(R)
2. PS to Secretary (Finance) / (Revenue)
3. The Secretary, DPIIT
4. The Chairman, CBDT & All Members, CBDT
5. All Joint Secretaries / CsIT, CBDT
6. The C&AG
7. The CIT(M&TP), Official Spokesperson of CBDT
8. O/o DGIT (Systems) with request to upload on the departmental website
9. Addl. CIT, Data-Base Cell for uploading on IRS officer's website.


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