

Circulars/Notifications

Given below are summarised important Circulars and Notifications issued by the CBDT, CBIC-GST and FEMA since the publication of the last issue of the journal, for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. Suggestions on this column can be submitted at eboard@icai.in



I. NOTIFICATIONS

1. The CBDT notifies “e-advance rulings Scheme, 2022” u/s 245R & 245W - Notification No. 7/2022, dated 18-01-2022

Vide this notification, deriving powers from section 245R & 245W, the CBDT has introduced e-advance rulings Scheme, 2022 applicable w.e.f. 18.01.2022. The said scheme provides for definitions, scope, E-advance rulings, allocation of applications, procedure for giving advance rulings as well filing applications and other procedures to be followed on receipt of application and other necessary specifications for operationalising the said scheme.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-7-2022.pdf>

2. Insertion of Rule 8AD prescribing mechanism for computation of capital gains for the purposes of section 45(1B) - Notification No. 8/2022, dated 18-01-2022

Vide the Income tax (2nd Amendment) Rules, 2022, applicable w.e.f. 18.01.2022, the CBDT has inserted a new rule 8AD deriving powers from section 45(1B) so as to lay rules for computation of capital gains. The said rules, *inter alia*, provide that the capital gains as computed shall be deemed to be the capital gains arising from the transfer of a unit of an equity oriented fund set up under a scheme of an insurance company comprising unit linked insurance policies.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-8-2022.pdf>

3. Government notifies National Skill Development Corporation for the purposes of section 10(46) - Notification No. 10/2022, dated 21-01-2022

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified, National Skill Development Corporation, a body constituted by Central Government in respect of the specified income arising to that Corporation subject to satisfaction of conditions laid therein for FYs 2021-22 to 2025-26.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification_no_10_2022.pdf

4. Amendment in conditions and audit report of Notification No. 89/2020 dated 02.11.2020 - Notification No. 11/2022, dated 25-01-2022

Vide this notification, the Government has substituted clauses (vii) to (xii) pertaining to amendment in conditions specified in Notification No. 89/2020 dated 02.11.2020 (exemption u/s 10(23FE) for the sovereign wealth fund, namely, the MIC Redwood 1 RSC

Limited, Abu Dhabi, United Arab Emirates). Further, Audit report to be filed by the aforesaid Sovereign Wealth Fund for claiming exemption u/s 10(23FE) has also been substituted.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-11-2022.pdf>

5. Government notifies West Bengal Electricity Regulatory Commission for the purposes of section 10(46) - Notification No. 12/2022, dated 27-01-2022

Matter on Direct and Indirect Taxes is contributed by Direct Taxes Committee, GST & Indirect Taxes Committee and Corporate Laws and Corporate Governance Committee of ICAI respectively. FEMA updates by CA. Manoj Shah, CA Hinesh Doshi and CA. Sudha G. Bhushan.

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified, 'West Bengal Electricity Regulatory Commission', Kolkata (PAN: AAAGW0011J), a Commission constituted by the State Government of West Bengal in respect of the specified income arising to that Commission subject to satisfaction of conditions laid therein for FYs 2021-22 to 2025-26.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-11-2022-new.pdf>

II. CIRCULARS

1. Clarification regarding the Most-Favoured-Nation (MFN) clause in the Protocol to India's DTAA's with certain countries - Circular No. 03/2022, dated 03-02-2022

The Protocol to India's DTAA's with some of the countries, especially European States and OECD members (The Netherlands, France, the Swiss Confederation, Sweden, Spain and Hungary) contains a provision, referred to as the MFN clause. Though each MFN clause in these DTAA's has a different formulation, the general underlying provision is that if after the signature/ entry into force (depending upon the language of the MFN clause) of the DTAA with the first State, India enters into a DTAA with another OECD Member State, wherein India limits its source taxation rights in relation to certain items of income (such as dividends, interest income, royalties, Fees for Technical Services, etc.) to a rate lower or a scope more restricted than the scope provided for those items of income in the DTAA with the first State, such beneficial treatment should also be extended to the first State. In view of the specified decree/ bulletin/publication on interpretation of the MFN clauses and the representations received from the taxpayers and field formation seeking clarity, the CBDT vide this Circular has issued certain clarifications on the applicability of the MFN clause:

The detailed Circular can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/circular/circular-3-2022.pdf>

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. ITD conducts search and seizure operations in Haryana - Press Release(s), dated 17-01-2022

The ITD had conducted a search and seizure operations on a diversified business group engaged in the manufacturing of plywood/plyboard, MDF board, inverter and vehicle batteries, and in the refining of lead on 11.01.2022. More than 30 premises spread across the cities of Yamuna Nagar, Ambala, Karnal, and Mohali have been covered in the search operation.

The complete text of the above Press Release(s) can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1051/PressRelease-ITD-conducts-search-and-seizure-operations-in-Haryana-17-1-22.pdf>

2. Setting up of office for operationalising Interim Boards for Settlement - Office Order, dated 31-01-2022

In continuation to the Notification No. 91/2021 dated 10.08.2021 and in pursuance of Para 4(2) of the e-Settlement Scheme, 2021, made by the Central Government vide Notification No. I29/2021 dated 01.11.2021, the CBDT vide this Order has set up office for the Interim Boards for Settlement as per details laid down in this Order. Necessary staff shall be provided by the PCCIT concerned, who is the jurisdictional Principal CCIT for the IBS concerned. in consultation with the CBDT. This order shall come into force w.e.f. 01.11.2021.

The complete text of the above Office Order can be downloaded from the link below:

<https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/502/Setting-up-of-office-for-operationalising-Interim-Boards-for-Settlement-31-1-22.pdf>

3. Around 6.17/6.2 crore Income Tax Returns (ITRs) and about 19/21 lakh major Tax Audit Reports (TARs) filed on the new e-Filing portal of the Income Tax Department - Press Release(s), dated 07-02-2022 & 11-02-2022

The ITD has been issuing reminders to taxpayers through emails, SMS and Twitter encouraging taxpayers and CAs not to wait till the last minute

and file their TARs/ITRs without further delay. Further, to assist the filers for resolution of any grievance related to e-filing, two new email ids i.e. TAR.helpdesk@incometax.gov.in and ITR.helpdesk@incometax.gov.in have been provided.

The complete text of the above Press Release(s) can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1053/Around-6-17-crore-ITRs-and-about-19-lakh-major-TARs-filed-on-new-e-Filing%20portal-ITD-7-2-22.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1054/PressRelease-More-than-6.2-crore-ITRs-and-about-21-lakh-major-TARs-14-2-22.pdf>



Customs

Notification

Central Government vide **Notification No. 7/2022-Customs (N.T.) dt. 01.02.2022** has, *inter-alia*, substituted/amended following rules of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017:

- (i) Rule 4: Importer to give prior information
- (ii) Rule 5: Procedure to be followed in order to avail the benefit of exemption
- (iii) Rule 6: Importer to maintain records
- (iv) Rule 6A: Procedure for allowing imported goods for job work
- (v) Rule 6B: Procedure for allowing imported goods for unit transfer
- (vi) Rule 7: Re-export or clearance of unutilised or defective goods
- (vii) Form IGCR-1: Prior information to be provided by the importer

Notification No. 7/2022-Customs (N.T.) dt. 01.02.2022 may be referred to for details. The above amendments will be effective from 01.03.2022.

Circular

Clarification regarding applicability of Social Welfare Surcharge on goods exempted from basic and other customs duties/cesses

Social Welfare Surcharge (SWS) is levied and collected, as a duty of customs, *vide* section 110 of the Finance Act, 2018 and is calculated at the rate of 10% on the aggregate of duties, taxes and cesses which are levied and collected by the Central Government as a duty of customs on goods imported into India. It may be noted that at present SWS applies at the rate of 10% of the aggregate of customs duties payable on import of goods and not on the value of imported goods.

In the absence of any specific exemption on Social Welfare Surcharge, a view is being taken that Social Welfare Surcharge shall be payable on notional customs duty as determined on Tariff rate in case of goods exempted from basic and other customs duties/cesses.

It has been clarified by the Board that the amount of Social Welfare Surcharge payable would be 'Nil' in cases where the aggregate of customs duties (which forms the base for computation of SWS) is zero even though SWS has not been exempted. Law does not require computation of SWS on a notional customs duty where applicable aggregate of duties of customs is zero.

Circular No. 3/2022-Customs dt. 01.02.2022



FEMA Updates

Voluntary Retention Route (VRR) for Foreign Portfolio Investors (FPIs) investment in debt

A.P. (DIR Series) Circular No. 22 dated February 10, 2022

Please refer to paragraph 3 of the **Statement on Developmental and Regulatory Policies dated February 10, 2022** regarding enhancement of the investment limit under the Voluntary Retention Route (VRR). The investment limit under the VRR is increased to Rs. 2,50,000 crore from Rs. 1,50,000 crore.

These directions shall be applicable with effect from April 1, 2022.

Regulations Review Authority (RRA 2.0) – Interim Recommendations – Discontinuation / Merger / Online Submission of Returns

A.P. (DIR Series) Circular No. 26 dated February 18, 2022

As part of the implementation of the interim recommendations of the RRA 2.0, it is proposed to discontinue/merge the returns listed below:

Sr. No.	Return Name	Return Description
1.	Details of guarantee availed and invoked of from non-resident entities	Non-resident guarantee for fund based and non-fund based facilities (such as Letters of Credit/guarantees/Letter of Undertaking (LoU) / Letter of Comfort (LoC) entered into between two persons resident in India

Further, it is also proposed to convert, the paper based/ e-mail-based returns listed below into online filing:

Sr. No.	Return Name	Return Description
1.	FII Weekly	All AD banks advised to report inflow/ of outflow of foreign funds on account of investment by FIIs/FPIs in the Indian capital market in a format which consists of two parts: Part A: Inflow/outflow- Fund Position and Part B: Residual Maturity Pattern.
2.	MTSS	Statement showing details of remittances received through Money Transfer Service Scheme during the quarter ended, within 15 days from the close of the quarter to which it relates.
3.	Statement of default in MTT	Statement on default in Merchanting Trade Transactions (MTT)
4.	Details of remittances made by NRO account	Remittances made out of NRO accounts up to 1 million USD per calendar year - Facilities to NRIs/PIOs and foreign nationals – liberalisation
5.	Overseas Principal-wise list of Sub Agents	Overseas principal-wise list of sub-agents of MTSS Indian Agents
6.	Declaration confirming the veracity of the list placed on RBI website	Confirmation of veracity of the list of sub-agents
7.	List of additional locations	List of additional locations of MTSS Agents
8.	Statement of Foreign Currency Account/s maintained in India in their names with AD Category-I Banks out of export proceeds of Foreign Currency Notes/ encashed Travelers' Cheques	Statement of Foreign Currency Account/s maintained in India in their names with AD Category-I Banks out of export proceeds of Foreign Currency Notes/ encashed Travelers' Cheques

Legal Update

9	Statement of the amount of foreign currency written off during a financial year	Statement of the amount of foreign currency written off during a financial year
10	Form RMC-F	RMC- Restricted Money Changing
11	Statement of the collateral held by MTSS Indian Agents	Statement of the collateral held by MTSS Indian Agents
12	Details of Online Payment Gateway Service Providers (OPGSP) arrangements	Details of Online Payment Gateway Service Providers (OPGSP) arrangements
13.	Extension of time in respect of clean credit for import of rough, cut and polished diamonds	Extension of time in respect of clean credit for import of rough, cut and polished diamonds
14.	Advance remittances made for import of rough diamonds without a bank guarantee or standby letter of credit, where the amount of advance payment is equivalent to or exceeds USD 5,000,000/-	Advance remittances made for import of rough diamonds without a bank guarantee or standby letter of credit, where the amount of advance payment is equivalent to or exceeds USD 5,000,000/-
15.	ESP reporting	“Statement of shares repurchased by the issuing foreign company from Indian employees/ Directors under ESOP Schemes for the year ended March 31, (Year)
		(to be submitted on the letterhead of the Indian Company / Office / Branch through their AD bank)”
16.	FLM8 – (Sale and Purchase of Foreign Currency)	Summary statement of purchases and sale of foreign currency notes during the month reported by FFMCS and AD-Category II.
17.	LO/BO/PO	Consolidated list of all the Branch Office (BO)/ Liaison Office (LO) / Project Office (PO) opened and closed by them during a month
18.	Reporting of Long term Advance	Reporting of Long term Advance of USD 100 million & more along with Progress Report to be submitted by Authorised Dealer Bank on utilization of Long term export Advances
19.	Form ECB	Application and Reporting of loan agreement details
20.	Form ECB 2	Reporting of actual ECB transactions through AD Category -1 banks
21.	Form TC	Compilation of short-term credit extended for imports and payments thereof