

Solution

As per amendment made by Finance Act, 2014 read with rules, Resident can seek advance ruling for its tax liability if value of one or more transactions exceeds Rs. 100 crore. But in the given case, value of proposed transaction is Rs. 85 crore only, therefore, Janeman Limited, an Indian company cannot seek advance ruling for its tax liability.

If value of proposed transaction is Rs. 185 crore, then Janeman Limited is eligible to seek advance ruling for its tax liability. For that purpose, it has to pay fees Rs. 5,00,0000 along with application in a prescribed form.

Readers Note:**Practical 6**

Q, a non-resident, made an application to the Authority for Advance Rulings on **2.7.2017** in relation to a transaction proposed to be undertaken by him. On **31.8.2017**, he decides to withdraw the said application. Can he withdraw the application on **31.8.2017**?

Solution

Section 245Q(3) Act provides that an applicant may withdraw the application within 30 days from the date of the application. In the present case, more than 30 days have elapsed since the date of application by Q to the AAR, he cannot withdraw the application.

However, **AAR, in M.K.Jain AAR No.644 of 2004**, has observed that section 245Q(3) does not preclude the AAR from permitting withdrawal of the application after the period of 30 days, if the circumstances of the case so justify.

Readers Note:**56.3 PROCEDURE ON RECEIPT OF APPLICATION****Section:- 245R**

- On receipt of an application, the Authority shall forward a copy thereof to the Principal Commissioner or Commissioner and, if necessary, call upon him to furnish the relevant records.
- The Authority may, after examining the application and the records called for, by order, either allow or reject the application.
- However, no application shall be rejected unless an opportunity has been given to the applicant of being heard. Further, where the application is rejected, reasons for such rejection shall be given in the order.
- A copy of every order rejecting application shall be sent to the applicant and to the Principal Commissioner or Commissioner.
- Where an application is allowed, the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.
- On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.
- The Authority shall pronounce its advance ruling in writing within six months of the receipt of application.
- A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Principal Commissioner or Commissioner.