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SUB-SECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 19th May, 2016

The Income Declaration Scheme Rules, 2016

NOTIFICATION

S.O. 1831(E)- In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 199 of the Finance Act, 2016 (28 of 2016), the Central Board of Direct Taxes, subject to the control of the Central Government hereby makes the following rules for carrying out the provisions of Chapter IX of the said Act relating to the Income Declaration Scheme, 2016 namely :—

1. Short title and commencement.

- (1) These rules may be called the Income Declaration Scheme Rules, 2016.
- (2) They shall come into force on the 1st day of June, 2016.

2. Definitions.

- (1) In these rules, unless the context otherwise requires, —
 - (a) “Act” means the Finance Act, 2016 (28 of 2016);
 - (b) “Form” means a form appended to these rules;
 - (c) “recognised stock exchange” shall have the same meaning as assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
 - (d) “registered valuer” means a person registered as a valuer under section 34AB of the Wealth-tax Act, 1957 (27 of 1957);
 - (e) “section” means a section of the Act.
- (2) Words and expressions used and not defined in these rules but defined in the Act, or the Income-tax Act, 1961 (43 of 1961) or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts and rules.

3. Determination of Fair market value

- (1) The fair market value of the asset shall be determined in the following manner, namely: —
 - (a) the value of bullion, jewellery or precious stone shall be the higher of —
 - (I) its cost of acquisition; and
 - (II) the price such bullion, jewellery or precious stone shall ordinarily fetch if sold in the open market as on the 1st day of June, 2016, on the basis of the valuation report obtained by the declarant from a registered valuer;
 - (b) the valuation of archaeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred to as artistic work) shall be the higher of —
 - (I) its cost of acquisition; and

- (II) the price such artistic work shall ordinarily fetch if sold in the open market as on the 1st day of June, 2016 on the basis of the valuation report obtained by the declarant from a registered valuer;
- (c) the value of shares and securities of –
- (I) quoted share and securities shall be the higher of –
- (i) its cost of acquisition; and
 - (ii) the price determined by taking –
 - (A) the average of the lowest and highest price of such shares and securities quoted on a recognised stock exchange as on the 1st day of June, 2016; or
 - (B) the average of the lowest and highest price of such shares and securities on a recognised stock exchange on a date immediately preceding the 1st day of June, 2016 when such shares and securities were traded on a recognised stock exchange, where on the 1st day of June, 2016 there is no trading in such shares and securities on a recognised stock exchange;
- (II) unquoted equity shares shall be the higher of –
- (i) its cost of acquisition; and
 - (ii) the value, on the 1st day of June, 2016, of such equity shares as determined in the following manner, namely: –

$$\text{the fair market value of unquoted equity shares} = \frac{(A+B - L) \times (PV),}{(PE)}$$

where,

- A = book value of all the assets in the balance sheet (other than bullion, jewellery, precious stone, artistic work, shares, securities and immovable property) as reduced by,- (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any, and (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;
- B= fair market value of bullion, jewellery, precious stone, artistic work, shares, securities and immovable property as determined in the manner provided in this rule;
- L= book value of liabilities shown in the balance sheet, but not including the following amounts, namely: –
- (i) the paid-up capital in respect of equity shares;
 - (ii) the amount set apart for payment of dividends on preference shares and equity shares;
 - (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
 - (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;

(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

PE = total amount of paid up equity share capital as shown in the balance-sheet;

PV= the paid up value of such equity share;

(III) unquoted share and security other than equity share in a company shall be the higher of, –

(i) its cost of acquisition; and

(ii) the price that the share or security shall ordinarily fetch if sold in the open market on the 1st day of June, 2016, , on the basis of the valuation report obtained by the declarant from a registered valuer;

(d) the fair market value of an immovable property shall be higher of –

(I) its cost of acquisition; and

(II) the price that the property shall ordinarily fetch if sold in the open market on the 1st day of June, 2016 on the basis of the valuation report obtained by the declarant from a registered valuer;

(e) value of an interest of a person in a partnership firm or in an association of persons or a limited liability partnership of which he is a member shall be determined in the manner as specified in clause (f);

(f) The net asset of the firm, association of persons or limited liability partnership on the 1st day of June, 2016 shall first be determined and the portion of the net asset of the firm, association of persons or limited liability partnership as is equal to the amount of its capital shall be allocated among its partners or members in the proportion in which capital has been contributed by them and the residue of the net asset shall be allocated among the partners or members in accordance with the agreement of partnership or association or limited liability partnership for distribution of assets in the event of dissolution of the firm, association or limited liability partnership, or, in the absence of such agreement, in the proportion in which the partners or members are entitled to share profits and the sum total of the amount so allocated to a partner or member shall be treated as the value of the interest of that partner or member in the partnership or association.

Explanation. – For the purposes of this clause the net asset of the firm, association of persons or limited liability partnership shall be $(A + B - L)$, which shall be determined in the manner provided in sub-clause (II) of clause (c);

(g) valuation of any other asset shall be higher of –

(I) its cost of acquisition or the amount invested; and

(II) the price that the asset would fetch if sold in the open market on the 1st day of June, 2016.

Explanation – For the purposes of this rule, –

(a) “quoted share or security” in relation to share or security means a share or security quoted on any recognized stock exchange with regularity from

time to time, where the quotations of such shares or securities are based on current transaction made in the ordinary course of business;

- (b) “unquoted share and security” in relation to share or security means share or security which is not a quoted share or security;
- (c) “balance sheet” in relation to any company means the balance sheet of such company (including the notes annexed thereto and forming part of the accounts) as on 31st day of March, 2016, which has been audited by the auditor of the company appointed under the Companies Act, 2013 (18 of 2013) and where the balance sheet as on 31st day of March, 2016 is not audited, the balance sheet (including the notes annexed thereto and forming part of the accounts) which has been approved and adopted in the annual general meeting of the shareholders of the company.

(2) Where investment in any asset is partly from an income which has been assessed to tax prior to assessment year 2017-18, the fair market value of the asset determined in accordance with sub-rule (1) shall be reduced by an amount which bears to the value of the asset as on the 1st day of June, 2016, the same proportion as the assessed income bears to the total cost of the asset.

4. Declaration of income or income in the form of investment in any asset.

(1) A declaration of income or income in the form of investment in any asset under section 183 shall be made in Form-1.

(2) The declaration shall be furnished:-

- (a) electronically under digital signature; or
- (b) through transmission of data in the form electronically under electronic verification code; or
- (c) in print form, to the concerned Principal Commissioner or the Commissioner who has the jurisdiction over the declarant.

(3) The Principal Commissioner or the Commissioner shall issue an acknowledgement in Form-2 to the declarant within fifteen days from the end of the month in which the declaration under section 183 has been furnished.

(4) The proof of payment of tax, surcharge and penalty made pursuant to the acknowledgement issued by the Principal Commissioner or the Commissioner shall be furnished by the declarant to the such Principal Commissioner or Commissioner in Form 3.

(5) The Principal Commissioner or the Commissioner shall grant a certificate in Form-4 to the declarant within fifteen days of the submission of proof of payment of tax, surcharge along with penalty by the declarant under section 187 of the Act in respect of the income so declared.

(6) The Principal Director-General of Income-tax (Systems) or Director-General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the form in the manner specified in sub-rule(2).

Explanation. – For the purposes of this rule “electronic verification code” means a code generated for the purpose of electronic verification of the person furnishing the return of income as per the data structure and standards specified by Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).