Info Capsule

CBDT NOTIFIES RULE 10CB FOR SECONDARY ADJUSTMENTS UNDER SECTION 92CE OF INCOME TAX ACT, 1961[1]

Rule 10CB for operationalizing the provisions of secondary adjustment has been notified by the Central Board of Direct Taxes on June 15, 2017. It prescribes the time limit for repatriation of excess money and the rate of interest to be applied for computing the income in case of failure to repatriate the excess money within the prescribed time limit. Separate rates of interest have been provided for international transactions denominated in Indian currency and in foreign currency. The rates of interest are applicable on an annual basis.

The time limit of 90 days for repatriation of excess money shall begin only when the primary adjustments exceeding Rupees One Crore made in respect of Assessment Year 2017-18 or later, attains finality. Where the transfer pricing order is appealed against by the taxpayer, the time limit for repatriation shall commence only after the appeal is finalized by the appellate authority.

The rule is available on the website of the Income-tax Department at http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/634/Press-Release-PoEM-15-6-2017.pdf

The Finance Act, 2017 inserted section 92CE in the Income-tax Act, 1961 with effect from April 1, 2018 to provide for secondary adjustment by attributing income to the excess money lying in the hands of the associated enterprise, in order to make the actual allocation of funds consistent with that of the primary transfer pricing adjustment. The provision shall apply to primary adjustments exceeding Rupees One Crore made in respect of Assessment Year 2017-18 onwards.

CCI ISSUES ORDER AGAINST HYUNDAI MOTOR INDIA LIMITED (HMIL) FOR ANTI-COMPETITIVE CONDUCT IMPOSES PENALTY OF RS. 87 CRORE FOR THE ANTI-COMPETITIVE CONDUCT DATED JUNE 14, 2017[2]

The Competition Commission of India (CCI) has found Hyundai Motor India Limited (HMIL) to be in contravention of the provisions of Section 3(4) (e) read with Section 3(1) of the Competition Act, 2002 for imposing arrangements upon its dealers which resulted into Resale Price Maintenance in sale of passenger cars manufactured by it. Such arrangements also included monitoring of the maximum permissible discount levels through a Discount Control Mechanism. Further, HMIL was found to have contravened the provisions of Section 3(4) (a) read with Section 3(1) of the Act for mandating its dealers to use recommended lubricants/ oils and penalizing them for use of non-recommended lubricants and oils.

The final order has been passed on June 14, 2017, information filed by the dealers of HMIL viz. Fx Enterprise Solutions India Pvt. Ltd. and St. Antony's Cars Pvt. Ltd.

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[1] Available at: http://pib.nic.in/newsite/erelease.aspx?relid=0

[2] Available at: http://www.cci.gov.in/orders-commission/102

Apart from issuing a cease and desist order against HMIL, CCI has imposed a penalty of Rs. 87 crore upon HMIL for the anti-competitive conduct. The penalty has been levied @ 0.3% of the average relevant turnover of HMIL of preceding three years. CCI noted in its order that for the purposes of determining the relevant turnover for the impugned infringement, revenue from sale of motor vehicles alone have been taken into account.

A copy of the CCI's order passed in Case Nos. 36 & 82 of 2014 has been uploaded on the website of CCI at http://www.cci.gov.in/sites/default/files/36%20and%2082%20of%202014.pdf

GST FACILITATION CELL (DETAILS)-DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION[3]

A GST facilitation cell has been set up in the Department of Industrial Policy & Promotion to answer queries regarding GST. The GST facilitation cell is headed by Shri Sudhansu Sekhar Das, Economic Adviser (ss.das@nic.in, Tel:23063932) and consists of the following:

1. Shri Piyush Mishra
2. Ms. Astha Funda
3. Ms. Akshita Bhatia
4. Ms. Nitu Jaiswal

They can be contacted over phone: 011-23062379, 23062665; gstcell-dipp@gov.in, #mociseva.

The cell will function on all working days between 9.00 A.M.to 5.30 P.M.

Team ICSI

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[3] Available at: http://pib.nic.in/newsite/erelease.aspx