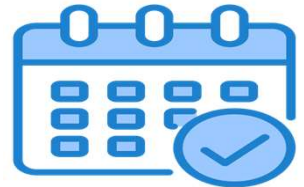


# Income Tax Newsletter January 2023

**Extension of time limit for compliance to be made for claiming any exemption under Section 54 to 54GB of the Income-tax Act, 1961 (' Act') in view of the then-Covid-19 pandemic.**



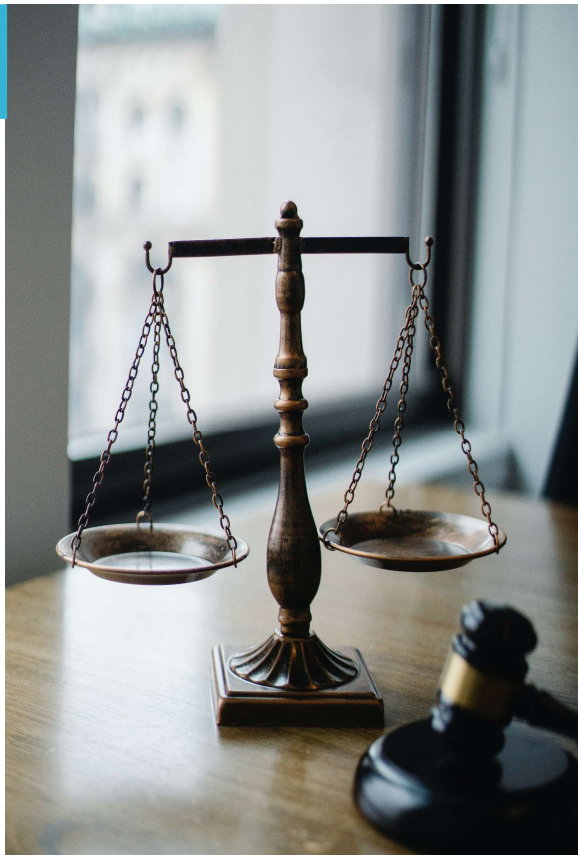
In view of the representations received and on further consideration of the then prevailing COVID-19 pandemic and resultant restrictions imposed, causing genuine hardship faced by taxpayers in making the afore mentioned compliances under the Act, the CBDT, in exercise of its power under Section 119 of the Act, vide Circular No. 1/2023 dated 06<sup>th</sup> January 2023, provides that the compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase. construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54 OB of the Act, for which the last date of such compliance falls between 01<sup>st</sup> April, 2021 to 28<sup>th</sup> February, 2022 (both days inclusive), may be completed on or before 31<sup>st</sup> March 2023.

**Partial relaxation with respect to electronic submission of Form 10-F by select category of taxpayers in accordance with the DGIT (Systems) Notification No. 3 of 2022.**

On consideration of the practical challenge being faced by non-resident (NR) taxpayers not having PAN in making compliance as per the said notification, and with a view to mitigate

genuine hardship to such taxpayers, it has been decided by the Competent Authority that such category of Non-resident taxpayers who are not having PAN and not required to have PAN as per relevant provisions of the Income-tax Act, 1961 read with Income-tax Rules, 1962, are exempted from mandatory electronic filing of Form IOT till 31<sup>st</sup> March 2023. For the sake of clarity, it is reiterated that such category of taxpayers may make statutory compliance of filing Form IOT till 31<sup>st</sup> March 2023 in manual form as was being done prior to issuance of the DGT(Systems) Notification No. 3 of 2022.

## CASE LAW UPDATE



**TDS not deductible on salary, bonus, commission or remuneration credited by firm to partners.**

**Case Name: ACIT Vs Dhar Construction Company (ITAT Guhati)**

**Case number: ITA No.181/GAU/2020**

**Date of Judgement/Order : 02/01/2023**

### **Facts:**

The case of the assessee was selected for scrutiny through CASS for high ratio of refund to TDS, large value claim of refund and large increase in capital in a year. AO assessed the income by making various disallowance like disallowance u/s 40(b)(v) and 40(a)(ia), disallowance of material consumed for construction, disallowance of labour charges/ salary/ store & spare/ direct expenses/ office expenses etc.

Aggrieved, the assessee preferred an appeal before the Id. CIT(A) and succeeded. Aggrieved, now the Revenue is in appeal before this Tribunal.

### **Held:**

Held that since salary, bonus, remuneration or commission are collectively termed as “remuneration” and the remuneration paid during the year is within the permissible limit provided u/s.40(b)(v) of the Act, therefore, we fail to find any infirmity in the findings of the Id. CIT(A). Further held that Explanation 2 to Section 15 of the Act which includes salary, bonus, commission or remuneration received by partner under the head ‘salary’ and considering the provisions of section 192 of the Act which talks about the salary given u/s. 15 of the Act, thus, we are inclined to confirm the findings of the Id. CIT(A) that there is no requirement under the provisions of the Act for deduction of tax at source by the partnership firm on salary, bonus, commission or remuneration etc or whatever name called given or credited to a partner of a firm.