SUPPLEMENTARY

DECEMBER - 2019

PAPER - 7 & 16

STATUTORY UPDATES

Maximum exemption limit in case of gratuity covered u/s 10(10)(iii)– Notification No. 16/2019 dated 08-03-2019

The Central Government, having regard to the maximum amount of any gratuity payable to employees, specifies ₹ 20 lakh as the limit in relation to the employees who retire or become incapacitated prior to such retirement or die on or after 29-03-2018 or whose employment is terminated on or after the said date.

Exception to sec. 56(2)(viib) – Notification No. 13/2019 dated 05-03-2019

The provisions of sec. 56(2)(viib) shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration has been received from a person, being a resident, by a company which fulfils the following conditions and files the specified declaration:

1. It has been recognised by DPIIT
2. aggregate amount of paid up share capital and share premium of the startup after issue or proposed issue of share, if any, does not exceed, ₹ 25 crores.
    - In computing the aggregate amount of paid up share capital, the amount of paid up share capital and share premium of ₹ 25 crores in respect of shares issued to any of the following persons shall not be included—
      (a) a non-resident; or
      (b) a venture capital company or a venture capital fund;
    - Considerations received by such startup for shares issued or proposed to be issued to a specified company shall also be exempt and shall not be included in computing the aggregate amount of paid up share capital and share premium of ₹ 25 crore.
3. It has not invested in any of the following assets:
    a. building or land appurtenant thereto, being a residential house, other than that used by the Startup for the purposes of renting or held by it as stock-in-trade, in the ordinary course of business;
    b. land or building, or both, not being a residential house, other than that occupied by the Startup for its business or used by it for purposes of renting or held by it as stock-in trade, in the ordinary course of business;
    c. loans and advances, other than loans or advances extended in the ordinary course of business by the Startup where the lending of money is substantial part of its business;
    d. capital contribution made to any other entity;

e. shares and securities;
f. a motor vehicle, aircraft, yacht or any other mode of transport, the actual cost of which exceeds ten lakh rupees, other than that held by the Startup for the purpose of plying, hiring, leasing or as stock-in-trade, in the ordinary course of business;
g. jewellary other than that held by the Startup as stock-in-trade in the ordinary course of business;
h. any other asset, whether in the nature of capital asset or otherwise, of the nature specified in (iv) to (ix) of clause (d) of Explanation to sec. 56(2)(vii).

However, the Startup shall not invest in any of the assets specified above for the period of 7 years from the end of the latest financial year in which shares are issued at premium.

- "specified company" means a company whose shares are frequently traded within the meaning of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and whose net worth on the last date of financial year preceding the year in which shares are issued exceeds ₹ 100 crore or turnover for the financial year preceding the year in which shares are issued exceeds ₹ 250 crore.

This notification shall be deemed to have come into force retrospectively from the 19th February, 2019.

Tax Audit Report: No need to report GAAR & GST details in clauses 30C & 44 of Tax audit Report for A.Y. 2019-20 – Circular 9/2019 dated 14-05-2019

Section 44AB of the Income-tax Act, 1961 read with rule 6G of the Income-tax Rules, 1962 requires specified persons to furnish the Tax Audit Report along with the prescribed particulars in Form No. 3CD. The existing Form No. 3CD was amended vide notification no. GSR 666(E) dated 20-07-2018 with effect from 20-08-2018. However, the reporting under clause 30C and clause 44 of the Tax Audit Report was kept in abeyance till 31st March, 2019 vide Circular No. 6/2018 dated 17-08-2018.

It is further decided that the reporting requirements under clause 30C (pertaining to General Anti-Avoidance Rules (GAAR)) and clause 44 (pertaining to Goods and Services Tax (GST) compliance) of the Form No. 3CD shall be kept in abeyance till 31st March, 2020.

ITR Forms for A.Y. 2019-20 notified - Notification No. 32/2019, dated 01-04-2019

The CBDT has notified Income-tax Return Forms (ITR Forms) for the Assessment Year 2019-20 vide this notification.

Clarification on threshold limit u/s 194A where payee is a senior citizen – Notification No. 06/2018 dated 06-12-2018

CBDT clarifies that no tax deduction at source u/s 194A of the Income Tax Act, 1961 shall be made in case of Senior Citizens where the amount of such income or the aggregate amount of such income credited or paid during the financial year does not exceed ₹ 50,000.

Form 15H can be furnished if no tax payable on income after rebate u/s 87A - Notification No. 41/2019 dated 22-05-2019

Form 15H shall be accepted for the assessee whose income is higher than the income for which Form 15H can be accepted, but his tax liability shall be nil after taking into account the rebate u/s 87A.

New format for Form 16 notified – Notification No. 36/2019 dated 12-04-2019

The new format for Form 16 is notified by the Central Board of Direct Taxes (CBDT), which requires a detailed break up of tax-exempt allowances paid to the employee. The format specified in the notification shall be effective from May 12, 2019.

Amendment to Notification No 36/2019 dated 12-04-2019 w.r.t Part B of Form 16 - Notification No. 38/2019 dated 03-05-2019

Part B of the Form 16 has been modified by Notification No 36/2019 dated 12-04-2019. In modified Part B, effect for deduction u/s 80C, 80CCC and 80CCD(1) has been considered twice, in Aggregate of deductible amount under Chapter VI-A [at S. No. 11].
This notification has been issued to rectify the format in this regard.

Procedure, format and standards for issuance of certificate for TDS in Part B of Form No. 16 in accordance with the provisions of sec. 203 through TRACES – Notification No. 09/2019 dated 06-05-2019

Section 203 read with the Rule 31 stipulates furnishing of certificate of tax deduction at source (TDS) by the deductor to the deductee specifying therein the prescribed particulars such as amount of TDS, valid permanent account number (PAN) of the deductee, tax deduction and collection account number (TAN) of the deductor, etc. The relevant form for TDS certificate in case of deduction u/s 192 of Chapter XVII-B of the Act is Form No. 16 which is to be issued annually. TDS Certificate in Form No 16 has two parts viz. Part A and Part B (Annexure). Part A contains details of tax deduction and deposit and Part B (Annexure) contains details of income.

Vide Central Board of Direct Taxes Notification No. 36/2019 dated 12.04.2019, 'Part B (Annexure) of Form 16' and 'Annexure II of Form no. 24Q' in Appendix II to the Income tax Rules, 1962 have been amended.

In exercise of the powers delegated by the Central Board of Direct Taxes, under rule 31(6A), the Principal Director General of Income-tax (Systems) hereby specifies the procedure, formats and standards for the purposes of generation and download of certificates from "TDS Reconciliation Analysis and Correction Enabling System" or (https://www.tdscpc.gov.in) (hereinafter called TRACES Portal), as below:

- All deductors (including Government deductors) shall be able to issue the TDS certificate in Part B of Form No. 16 (by generation and download through TRACES Portal) in respect of all sums deducted on or after 01-04-2018 under the provisions of sec. 192 provided that the relevant TDS statement for the 4th quarter i.e. Form 24Q is furnished alongwith duly filled in Annexure II of Form 24Q (as substituted).
- To ensure generation of accurate TDS certificate in Part B of Form No. 16, the deductor(s) need to report correct data in Annexure II of Form 24Q.
- The TRACES generated Form No. 16 shall have a unique TDS certificate number.
- The deductor, issuing the TDS certificate in Form No. 16 by downloading it from the TRACES Portal, shall, before issuing to the deductee authenticate the correctness of contents mentioned therein and verify the same either by using manual signature or by using digital signature in accordance with rule 31(6).
- The item nos. 2(f) and 10(k) in Part B (Annexure) of Form 16 required to be filled-in by the deductor manually shall be made available at the bottom of the TRACES generated Form 16 (Part B) and the deductor shall duly fill details, where available, in item numbers 2(f) and 10(k) before furnishing of Part B (Annexure) to the employee.
- The deductors who opt to authenticate Part B of Form No. 16 manually will be provided with the download of the Part B of Form No. 16 alongwith these item nos. 2(f) and 10(k) appearing at the bottom of the Form. The deductor shall duly fill details, where applicable, in item numbers 2(f) and 10(k) before furnishing of Part B (Annexure) to the employee.
- The deductors who opt to authenticate Part B of Form No. 16 using DSC will be provided with the download of Part B of Form No. 16 without item nos. 2(f) and 10(k) and therefore these details shall be required to be prepared by the employer and issued to the employee, where applicable, before furnishing of Part B to the employee.

Giving effect to the judgement(s)/order(s) of Hon'ble Supreme Court on Aadhaar-PAN for filing return of income - Circular No. 6/2019, dated 31-03-2019

As per Section 139AA(1)(ii), w.e.f. 01.07.2017, every person who is eligible to obtain Aadhaar number has to quote the Aadhaar number in return of income.

In a series of judgements i.e. (i) BinoyViswam vs. Union of India reported in (2017) 396 ITR 66 (ii) Final Judgement and order of the Constitution Bench of Hon'ble Supreme Court dated 26.09.18 in Justice K. S. Puttaswamy (Retd.) and another {Writ Petition (Civil) No. 494 of 2012}; & (iii) Shreya Sen &Anr. In SLP (Civil) Diary No(s) 34292/2018 dated 04.02.2019, Hon'ble Supreme Court has upheld validity of Section 139AA.

In light of the aforesaid judgement(s)/order(s) of Hon'ble Supreme Court, from 01.04.2019 onwards, to give effect to the above judgements/orders, it has been decided by the CBDT that provision of Section 139AA(1)(ii) would be implemented and it is mandatory to quote Aadhaar while filing the return of income unless specifically exempted as per any notification issued under section 139AA(3). Thus, returns being filed either electronically or manually cannot be filed without quoting the Aadhaar number.

Returns which were filed prior to 01.04.2019 without quoting of Aadhaar number as an outcome of any decision of different High Courts in a specific case or returns which were filed during the period when the online functionality for filing the return without quoting of Aadhaar number was so available in the aftermath of decision of Delhi High Court dated 24.07.18 in W.P. C.M 7444/2018 & C.M. Application No. 28499/2018 in case of Shreya Sen vs. Union of India &Ors., till it was withdrawn post decision of Constitution Bench of the Hon'ble Supreme Court dated 26.09.18, would also be taken up for processing without causing any adverse consequence for non-quoting of Aadhaar as per provision of Section 139AA.

Due date to link Aadhar with PAN extended to 30-09-2019 - Notification No. 31/2019 dated 31-03-2019

The date for intimating the Aadhaar number and linking PAN with Aadhaar is extended to 30-09-2019, unless specifically exempted. Notwithstanding the last date of intimating/linking of Aadhaar Number with PAN being 30.09.2019, it is also made clear that w.e.f. 01.04.2019, it is mandatory to quote and link Aadhaar number while filing the return of income, unless specifically exempted.

Centralised Verification Scheme – Notification No. 05/2019 dated 30-01-2019

In exercise of powers conferred by sec. 133C(3), a new Centralised Verification Scheme, 2019 is notified in suppression of the Notification No. 12/2018 dated 22-02-2018

Prescribed Authority u/s 133C – Notification No. 04/2019 dated 30-01-2019

The prescribed income-tax authority under section 133C shall be an income-tax authority not below the rank of Assistant Commissioner of Income-tax who has been authorised by the Central Board of Direct Taxes to act as such authority for the purposes of that section.

Extending the due date for furnishing of report u/s 286(4) – Notification No. 7/2019 dated 08-04-2019

As per Rule 10DB(4), the period for furnishing of the report u/s 286(4) by the constituent entity referred to in that sub-section shall be twelve months from the end of the reporting accounting year.

It has been further provided that in case the parent entity of the constituent entity is resident of a country or territory, where, there has been a systemic failure of the country or territory and the said failure has been intimated to such constituent entity, the period for submission of the report shall be six months from the end of the month in which said systemic failure has been intimated.

On receipt of representations regarding the hardship being faced in complying with the requirement of furnishing such report by March 31, 2018, vide Circular No 9/2018 dated December 26, 2018, as a one-time measure, the period for furnishing of said report by the constituent entities referred to under clause (a) or (aa) of said sub-section, in respect of reporting accounting years ending upto February 28, 2018, was extended to March 31, 2019.

The agreement for providing for exchange of the report of the nature referred to in sec. 286(2) has been entered into by India and the USA on March 27, 2019. However, the agreement and the exchange mechanism would come into effect only after both the countries notify each other about the completion of all internal procedures for exchange which is underway.

Since filing of the report by the constituent entity referred u/s 286(4)(a) or (aa) in India gets triggered on completion of twelve months from the last date of the reporting accounting year and Circular 9/2018 has extended the period for furnishing of the report till March 31, 2019 in respect of reporting accounting years ending upto February 28, 2018, due to non-notification of the agreement and resultantly non-activation of the exchange mechanism between India and

the USA, said report has to be filed by such constituent entities, whose parent entities are resident in USA and whose reporting accounting years ended after February 28 , 2018.
In view of the above, in order to remove the genuine hardship faced by the constituent entities referred to under clause (a) or (aa) of said sub-section, whose parent entities are resident in USA, in furnishing of the report u/s 286(4) read with Rule 10DB(4), the Board, in exercise of powers conferred u/s 119, extends the period for furnishing of said report by such constituent entities, in respect of reporting accounting years ending upto April 29, 2018, to April 30, 2019.

Securities and Exchange Board of India (Mutual Funds) Regulations, 1996notified as specified regulation u/s 9A(9)(e) – Notification No. 27/2019 dated 20-03-2019

The Central Government notifies Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 for the purpose of sec. 9A(9)(e). Thus, Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 shall also be considered as specified regulation for the purpose of sec. 9A.

Clarification Regarding Definition Of "Fund Manager" u/s 9A(4)(b) - Circular 8/2019 dated 10-05-2019

In respect of representations for inclusion of an Asset Management Company (AMC) being approved in accordance with Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 for the purpose of Section of 9A(4) (b) of the Income-tax Act, 1961. SEBI has stated that an AMC is engaged in the activity of fund management of Mutual Funds and hence is in substance, a Fund Manager, and entitled for benefits u/s 9A of the Income-tax Act. Therefore, it is hereby clarified that the phrase "fund manager" in sec. 9A(4)(b) of the Income-tax Act includes an AMC as approved by SEBI under the SEBI (Mutual Funds) Regulations, 1996.

Inter-Governmental Agreement for exchange of country by country reports between India and the United States of America notified - Notification No. 37/2019 dated 25-04-2019

On 27-03-2019, an Inter-Governmental Agreement for Exchange of Country-by-Country Reports was entered into by the Government of the Republic of India and the Government of the United States of America.

In exercise of the powers conferred by item (ii) of sec. 286(9)(b) of the Income-tax Act, 1961, the Central Government notifies the said Agreement, as set out in the Annexure and all the provision of the said Agreement shall be given effect to in the Union of India in accordance with paragraph (1) of Article 5 of the said Agreement.

Condonation of delay in filing of Form No. 10B for years prior to A.Y. 2018-19 - Circular 10/2019 dated 10-05-2019

Under the provisions of sec. 12A of Income-tax Act, 1961, where the total income of a trust or institution as computed under the Act without giving effect to the provisions of sec. 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have to be audited by an accountant and the person in receipt of the income is required to furnish along with the return of income for the relevant assessment year the report of such audit in Form 10B (as per Rule 17B) duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

As per Rule 12(2) of the Rules, such audit report is to be furnished electronically. The failure to furnish such report in the prescribed form along with the return of income results in disentitlement of the trust from claiming exemption u/s 11 and 12.

However, in many case Form no. 10B has not been filed along with the return of income for A.Y. 2016-17 and A.Y. 2017-18. It has been requested to the Board that the delay in filing of Form no. 10B may be condoned. Previously, vide instruction in F. No. 267/482/77-IT(part) dated 09.02.1978, the CBDT had authorized the ITO to accept a belated audit report after recording reasons in cases where some delay has occurred for reasons beyond the control of the assessee.

Accordingly, in supersession of earlier Circular/ Instruction issued in this regard, the CBDT hereby directs that:

i. The delay in filing of Form no. 10B for A.Y. 2016-17 and A.Y. 2017-18, in all such cases where the Audit Report for the previous year has been obtained before the filing of return of income and has been furnished subsequent to the filing of the return of income but before the date specified u/s 139 of the Act is condoned.
ii. In all other cases of belated applications in filing Form no.10B for years prior to A.Y. 2018-19, the Commissioners of Income-tax are authorized to admit such applications for condonation of delay u/s 119(2)(b) of the Act. The Commissioners will while entertaining such belated applications in filing Form No. 10B shall satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time.
iii. Further, all such applications shall be disposed off by 30.09.2019.

Agreement for exchange of information with Marshall Islands - Notification No. 40/2019 dated 21-05-2019

CBDT notifies Agreement for exchange of information between Government of the Republic of India and the Government of Republic of the Marshall Islands.

Clarification regarding liability and status of Official Assignees under the Income-tax Act - Circular No. 04/2019 dated 28-01-2019

Under provisions of the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920, where an order of Insolvency is passed against a debtor by the concerned Court, property of the debtor gets vested with the Court appointed Official Assignee. The Official Assignee then realizes property of the insolvent and allocates it amongst the creditors of the insolvent. Consequentially, Official Assignee has the responsibility to handle income-tax matters of the estate assigned to him.

In this regard, a clarification has been sought regarding applicability of sec. 160(1)(iii) of the Income-tax Act, 1961 which applies on a 'Representative Assessee' in the case of an Official Assignee. Further, clarity regarding status of the Official Assignee's i.e. their fallibility in the appropriate category of 'persons', as defined in section 2(31) of the Act, has also been sought.

As per provisions of section 160(1)(iii) of the Act, a 'Representative Assessee' amongst other situations specified therein, becomes liable in respect of any income which the Assignee receives or is entitled to receive while managing the property for benefit of any person. As per the two insolvency Acts, Official Assignee manages the property of the debtor for the benefit of the creditors.

Further, the Insolvency Act, 1909, in unambiguous terms, provides that an insolvent ceases to have an ownership interest in the estate once an order of adjudication is made u/s 17 of the Insolvency Act.

Thus, it is hereby clarified that since Official Assignee does not receive the income or manage the property on behalf of the debtor, they cannot be considered as a 'Representative Assessee' of the debtor under the Act while computing the tax-liability arising from the estate of the debtor.

As property of the insolvent is vested with the Official Assignee as per specific provisions of the Act/Law regulating functioning of the Official Assignee's, they have to be treated as a 'juristic entity' for purposes of the income-tax Act.

Hence, it is clarified that for purpose of discharge of tax-liability under the Act, the status of Official Assignees is that of an 'artificial juridical person' as prescribed in sec. 2(31)(vii) of the Act, not being one of the 'persons' falling in sub-clauses (i) to (vi) of section 2(31) of the Act.

Therefore, Official Assignee is required to file income-tax return electronically in the ITR Form applicable to 'artificial juridical person' separately for each of the estate of the insolvent and the income shall be taxed as per the rates applicable in a particular year to an 'artificial juridical person'.

In view of the above position, Official Assignees would have to obtain a separate PAN for each of the estate of the insolvent.

Norms for conversion of branch of foreign bank in India into subsidiary company – Notification No. 85/2018 dated 06-12-2018

Section 115JG of the Act, inter alia, provides that in case the conversion of the Indian branch of a foreign bank fulfills the conditions notified by the central government, the capital gains arising from such conversion shall not be chargeable to tax; and the provision relating to unabsorbed depreciation, set-off or carry forward and set-off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in case of foreign company and Indian subsidiary, shall apply with such modification, exception and adaptations as may be specified in the notification.

In this context, following notification is issued:

Conditions

a. The Indian branch amalgamates with the Indian subsidiary company in accordance with the scheme of amalgamation approved by the shareholders of the foreign company and the Indian subsidiary company and sanctioned by the Reserve Bank of India under paragraph 20(h) of the Framework for setting up of wholly owned subsidiaries by foreign banks in India issued by the Reserve Bank of India vide press release number 2013-2014/936 dated 06-11-2013;
b. All the assets and liabilities of the Indian branch immediately before conversion shall become the assets and liabilities of the Indian subsidiary company;

c. The asset and liabilities of the Indian branch are transferred to the Indian subsidiary company at values appearing in the books of account of the Indian branch immediately before its conversion.
   - For determining the value of the assets, any change in the value of assets consequent to their revaluation shall be ignored.

d. The foreign bank referred to in sec. 115JG(1) or its nominee shall
   - Hold the whole of the share capital of the Indian subsidiary company during the period beginning from the date of conversion and ending on the last day of the previous year in which the conversion took place; and
   - Continue to hold the share of Indian subsidiary company carrying not less than 51% of the voting power for a period of 5 years immediately succeeding the said previous year;

e. The foreign company does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the Indian subsidiary company;

Consequences

The provision of the Act relating to unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in the case of such foreign company and the Indian subsidiary company shall apply with the following exceptions, modifications and adaptation,-

a. **Depreciation allowance u/s 32**: The aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the Indian branch and the Indian subsidiary company shall not exceed in any previous year the deduction calculated at the prescribed rates as if the conversion had not taken place, and such deduction shall be apportioned between the Indian branch and the Indian subsidiary company in the ratio of the number of days for which the assets were used by them;

b. **Accumulated loss and Unabsorbed depreciation**: The accumulated loss and the unabsorbed depreciation of the Indian branch, shall be deemed to be the loss or allowance for depreciation of the Indian subsidiary company for the previous year in which conversion was effected and provisions of the Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.
   - "accumulated loss" means so much of the loss of the Indian branch before its conversion into the Indian subsidiary company under the head "Profits and gains of business or

profession" (not being a loss sustained in a speculation business) which such Indian branch would have been entitled to carry forward and set off under the provisions of sec. 72 if the conversion had not taken place;

- "unabsorbed depreciation" means so much of the allowance for depreciation of the Indian branch before its conversion into the Indian subsidiary company, which remains to be allowed and which would have been allowed to the Indian branch under the provisions of the Act, if the conversion had not taken place;

c. **Actual cost of capital asset for sec. 43(1)**: The actual cost of the block of assets in the case of the Indian subsidiary company shall be the written down value of the block of assets as in the case of the Indian branch on the date of its conversion into the Indian subsidiary company;

d. **Actual cost of capital assets u/s 35AD**: The actual cost of any capital asset on which deduction has been allowed or is allowable u/s 35AD, shall be treated as 'nil' for the purposes of sec. 43(1) in the case of the Indian subsidiary company if the capital asset became the property of the Indian subsidiary company as a result of conversion of the Indian branch;

e. **Cost of acquisition of capital assets in other cases**: Where the capital asset other than those referred above (point c and d) became the property of the Indian subsidiary company as a result of conversion of the Indian branch, the cost of acquisition of the asset for the purposes of computation of capital gains shall be deemed to be the cost for which the Indian branch acquired it or, as the case may be, the cost for which previous owner has acquired it.

- 'previous owner' in relation to any capital asset owned by the Indian subsidiary company means the last previous owner of the capital asset who acquired it by a mode of acquisition other than those referred to in sec. 49(1)(i) or (ii) or (iii) or (iv) or sec. 115JG(1)

f. **MAT Credit**: The tax credit of the Indian branch shall be deemed to be the tax credit of the Indian subsidiary company for the purpose of the previous year in which conversion was effected and the provisions of section 115JAA shall apply accordingly.

- 'tax credit' means so much of the tax credit of the Indian branch before conversion into Indian subsidiary company which such Indian branch would have been entitled to carry forward and set off under the provisions of section 115JAA, if the conversion had not taken place;

g. **Voluntary Retirement Scheme (VRS) expenditure**: The provisions of 35DDA shall be, as far as may be, apply to the Indian subsidiary company, as they would have applied to the Indian branch, if the conversion had not taken place;

h. **Provision for bad and doubtful debts**: The credit balance in the provision for bad and doubtful debts account made u/s 36(1)(viia) of the Indian Branch on the date of conversion shall be deemed to be the credit balance of the Indian subsidiary company and the provisions of section 36 shall apply accordingly.

i. **Non applicability of provision relating to Deemed Gift**: The provisions of sec. 56(2)(x) shall not apply to the transaction of receipt of shares in the Indian subsidiary company by the foreign company or its nominee in consequence of the conversion of the Indian branch into the Indian subsidiary company.

- "date of conversion" shall be the date which the Reserve Bank of India appoints for the vesting of undertaking of the Indian branch in Indian subsidiary company under paragraph 20(i) of the Framework for setting up of wholly owned subsidiaries by foreign banks in India issued by the Reserve Bank of India vide press release number 2013-2014/936 dated 6th day of November, 2013.

In the case of a capital asset which became the property of the Indian subsidiary company in consequence to conversion of a branch of a foreign company, there shall be included the period for which the asset was held by the said branch of the foreign company and by the previous owner, if any, who has acquired the capital asset by a mode of acquisition referred to in sec. 49(1)(i) or (ii) or (iii) or (iv) or sec. 115JG(1) – Rule 8AA(4) [**Inserted vide Notification No. 86/2018 dated 06-12-2018**]

Time limit for furnishing report u/s 286(4) by the constituent entity – Notification No. 88/2018 dated 18-12-2018

As per sec. 286(4), a constituent entity (subject to certain exceptions) of an international group, resident in India, shall require to furnish the report, in respect of the international group for a reporting accounting year, within the specified period. By inserting Rule 10DB(4), it has been provided that:

- The period for furnishing of the report u/s 286(4) by the constituent entity shall be 12 months from the end of the reporting accounting year.
- However, in case the parent entity of the constituent entity is resident of a country or territory, where, there has been a systemic failure of the country or territory and the said failure has been intimated to such constituent entity, the period for submission of the report shall be 6 months from the end of the month in which said systemic failure has been intimated.