

F.No. 173/14/2018-ITA.I
Government of India
Ministry of Finance
Department of Revenue (CBDT)

North Block, New Delhi, dated the 6th of February, 2018

To
All Principal Chief-Commissioners of Income-tax


Madam/Sir

Subject: Determination of fair market value of unquoted equity shares of 'Start Up' companies under section 56(2)(viib) of the Income-tax Act read with Rule 11UA(2) of Income-tax Rules -reg.-

Section 56(2)(viib) of the Income-tax Act, 1961 (Act) provides that where a closely held company issues its shares at a price which is more than its fair market value, the amount received in excess of fair market value will be charged to tax in the hands of the company as income from other sources. Explanation to section 56(2)(viib) of the Act prescribes various methods for valuation of fair market value of shares of the closely held company. Among the various options for valuation of fair market value, one of the methods prescribed is based on fair market value of the unquoted equity shares as determined by a merchant banker or an accountant as per the Discounted Free Cash Flow Method.

2. It has come to the notice of the Board that in recent times, section 56(2)(viib) of the Act is being invoked in case of 'Start Up' companies by the Assessing Officers which has otherwise raised a genuine investment on the basis of their 'idea'. It has been submitted that in tax-assessments, 'Start Up' companies invariably submit a valuation report from a merchant banker or an accountant based on Discounted Free Cash Flow Method as prescribed in Rule 11UA(2)(b) of Income-tax Rules, 1962. However, in assessments, such reports are not being accepted and rejected/modified by the Assessing Officers by treating them as based upon abnormal valuations resulting in additions being made u/s 56(2)(viib) of the Act in cases of 'Start Up' companies.

3. In view of the above, it has been decided that in case of 'Start Up' companies which fall within the definition given in Notification of DIPP, Min. of Commerce & Industry, in G.S.R. 501(E) dated 23.05.2017, if additions have been made by the Assessing Officer under section 56(2)(viib) of the Act after modifying/rejecting the valuation so furnished under Rule 11UA(2), no coercive measure to recover the outstanding demand would be taken. Further, in all such cases which are pending with the Commissioner (Appeals), necessary administrative steps should be taken for expeditious disposal of appeals, preferably by 31st March, 2018.


(Vinay Sheel Gautam)
Under Secretary (ITA.I), CBDT

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