

MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
(CENTRAL BOARD OF DIRECT TAXES)
(INCOME-TAX)
NOTIFICATION

New Delhi, the 18th January, 2022

S.O. 248(E).—In exercise of the powers conferred by sub-sections (9) and (10) of section 245R and sub-sections (2) and (3) of section 245W of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:—

1. Short title and commencement.—(1) This Scheme may be called the “e-advance rulings Scheme, 2022”.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions.— (1) In this Scheme, unless the context otherwise requires,—

- (i) “Act” means the Income-tax Act, 1961 (43 of 1961);
- (ii) “addressee” shall have the same meaning as assigned to it in clause (b) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (iii) “advance ruling” shall have the same meaning as assigned to it in clause (a) of section 245N of the Act;
- (iv) “applicant” means the assessee who had filed an application under section 245Q of the Act;
- (v) “authorised representative” shall have the same meaning as assigned to it in sub-section (2) of section 288 of the Act;
- (vi) “automated allocation system” means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to eliminate discretion and optimise the use of resources;
- (vii) “Board For Advanced Rulings” means the Board for Advance Rulings constituted under section 245-OB of the Act;
- (viii) “computer resource” shall have the same meaning as assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (ix) “computer system” shall have the same meaning as assigned to it in clause (l) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (x) “designated portal” means the web portal designated as such by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be;
- (xi) “digital signature” shall have the same meaning as assigned to it in clause (p) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (xii) “electronic mode” means any communication by way of an e-mail, video-telephony or video conferencing or any other electronic media;
- (xiii) “electronic record” shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (xiv) “email” or “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message;
- (xv) “Joint Secretary (Foreign Tax and Tax Research)” shall mean a person appointed by the Central Government as the Joint Secretary, Foreign Tax and Tax Research in the Department of Revenue, Ministry of Finance;
- (xvi) “Principal Commissioner or Commissioner”, in respect of an application, means-
 - (i) the Principal Commissioner or Commissioner of Income-tax, specified in the application; or
 - (ii) the Principal Commissioner or Commissioner of Income-tax designated by the Board in respect of the application;

- (xvii) “registered e-mail address” means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including-
- (a) the e- mail address available in the electronic filing account of the addressee registered in the designated portal; or
 - (b) the e-mail address available in the last income-tax return furnished by the addressee; or
 - (c) the e-mail address available in the permanent account number database relating to the addressee; or
 - (d) in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India; or
 - (e) in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or
 - (f) any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority;
- (xviii) “Rules” means the Income-tax Rules, 1962;
- (xix) “Secretary” shall mean a Commissioner appointed by Central Board of Direct Taxes as Secretary of Board for Advance Rulings;
- (xx) “video conferencing or video telephony” means the technological solutions for the reception and transmission of audio-video signals by users at different locations, for communication between people in real-time.

(2) Words and expressions used herein and not defined, but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Scope of the Scheme.— This Scheme shall be applicable to applications of advance rulings,—

- (a) made to the Board for Advance Rulings under sub-section (1) of section 245Q of the Act; or
- (b) transferred to Board for Advance Rulings under sub-section (4) of section 245Q of the Act.

4. E-advance rulings by Board for Advance Rulings.— (1) The Board for Advance Rulings shall pronounce e-advance rulings of applications allocated or transferred to it under paragraph 5, in accordance with the provisions of this Scheme;

(2) The Board for Advance Rulings shall have such other income-tax Authority, ministerial staff, executive or consultant to assist the members of the Board for Advance Rulings, as considered necessary by the Central Board of Direct Taxes.

5. Allocation of applications for advance ruling.— The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall, with the approval of the Central Board of Direct Taxes, devise a process to randomly allocate or transfer the applications for advance ruling, referred to in paragraph 3, to the Board for Advance Rulings through an automated allocation system.

6. Procedure for giving advance ruling.— The procedure for giving advance ruling on applications allotted or transferred to a Board for Advance Rulings, referred to in paragraph 5, shall be as per the following, namely: -

A. Procedure for filing applications.-

- (i) an application, referred to in clause (a) of paragraph 3, shall be made, in Form Nos, 34C, 34D, 34DA, 34E, 34EA mentioned in under Rule 44E of the Rules, by the applicant, to the Secretary or any other officer authorised in writing by the Secretary of Board for Advance Rulings, by electronic mail;
- (ii) if the applicant is not hitherto assessed in India, he shall indicate in Annexure I as provided in the relevant Forms to the application:
 - (a) his head office in any country,
 - (b) the place where his office and residence is located or is likely to be located in India, and
 - (c) the name and address of his representatives in India, if any, authorised to receive notices and papers and act on his behalf;
- (iii) the Secretary may send the application back to the applicant if it is defective in any manner for removing the defects within such time as he may allow. Such application shall be deemed to have been made on the date when it is re-submitted after removing the defects;

- (iv) an applicant may withdraw an application within thirty days from the date of the application.

B. Procedure on receipt of application.-

- (i) the Board for Advance Rulings shall intimate the applicant about the allocation or transfer, as the case may be;
- (ii) where an application, referred to in clause (b) of paragraph 3, has been allowed by means of an order of the Authority for Advance Rulings under sub-section (2) of section 245R of the Act, on or prior to the date on which such case is transferred to the Board for Advance Rulings, such application shall be deemed to have been allowed by the Board for Advance Rulings;
- (iii) upon allocation or transfer, as the case may be, of an application, other than the application referred to in sub-clause (ii), the Board for Advance Rulings shall,-
- (a) where the applicant is assessed to tax in India, forward a copy of the application to the Principal Commissioner or Commissioner, as the case may be; or
- (b) where the applicant is hitherto not assessed to tax in India, forward a copy of the application to Joint Secretary (Foreign Tax and Tax Research),
- along with a requisition to furnish the relevant records within such time as allowed by the Board for Advance Rulings;
- (iv) upon receipt of the requisition, as referred to in item (b) of sub-clause (iii), the Joint Secretary (Foreign Tax and Tax Research) shall assign such application to the Principal Chief Commissioner of Income-tax (International Taxation) or Chief Commissioner of Income-tax (International Taxation), as the case may be, connected to the details mentioned in items (b) or (c) of sub-clause (ii) of clause A, requesting him to furnish the relevant records, within such time as may be specified by Board for Advance Rulings;
- (v) upon receipt of request, as referred to in item (a) of sub-clause (iii), or in sub-clause (iv), the relevant records shall be furnished to the Board for Advance Rulings by the authority to whom the reference has been made;
- (vi) where the request is in respect of a transaction already undertaken, the Board for Advance Rulings may require the authority to whom the reference has been made to verify the facts contained in the application;
- (vii) where the authority to whom the reference has been made fails to furnish relevant records, as referred to in item (a) of sub-clause (iii) or sub-clause (iv), the Board for Advance Rulings may proceed to allow or reject the application, by order, without waiting for the said records;
- (viii) where the relevant records, as referred to in item (a) of sub-clause (iii) or sub-clause (iv), have been submitted by the authority to whom the reference has been made, the Board for Advance Rulings, after examination of the application and the said records, in accordance with the provisions of sub-section (2) of section 245R of the Act, may-
- (a) by an order allow the application; or
- (b) call upon the applicant to explain as to why the application may not be rejected and direct him to submit any relevant material or information in support of such application within such time as allowed by the Board for Advance Rulings;
- (ix) in case of an explanation, referred to in item (b) of sub-clause (viii), has been called from the applicant, he may also request the Board for Advance Rulings to provide him a hearing which may be provided through video conference or video telephony;
- (x) where the applicant fails to furnish explanation, referred to in item (b) of sub-clause (viii), within such time or extended time, as may be allowed by the Board for Advance Rulings, it may proceed to pass the order under the provisions of sub-section (2) of section 245R of the Act, without waiting for the said explanation;
- (xi) where the applicant furnishes the explanation, referred to in item (b) of sub-clause (viii), the Board for Advance Rulings may, by an order under sub-section (2) of section 245R of the Act, allow or reject the application, providing reasons for rejection in case the application is rejected;
- (xii) The Board for Advance Rulings shall send a copy of the order referred to in sub-clause (vii) or item (a) of sub-clause (viii) or sub-clause (x) or sub-clause (xi), as the case may be, to the applicant and the Principal Commissioner or Commissioner, as the case may be.

C. Order for advance ruling.-

- (i) where an application for advance rulings has been allowed by an order, as referred to in sub-clause (vii) or item (a) of sub-clause (viii) or sub-clause (x) or sub-clause (xi) of clause B, the Board for Advance Rulings may send a notice to the applicant and the authority to whom the reference has been made, to submit such further material, information or evidence, as may be relevant to the proceedings, within such time or extended time, as may be allowed by the Board for Advance Rulings;
- (ii) the applicant or the authority to whom the reference has been made may, after the application has been allowed, *suomotu* submit any further material, information or evidence, as may be relevant to such proceedings, to the Board for Advance Rulings;
- (iii) the applicant or the authority to whom the reference has been made, shall respond to the notice, as referred to in clause (i), within the specified time or such time as may be extended by the Board for Advance Rulings, on the basis of a request made in this behalf;
- (iv) the Board for Advance Rulings shall, after considering the response, as referred to in clause (iii), and after providing an opportunity of being heard (through video conferencing or video telephony) under sub-section (5) of section 245R of the Act on the request of the applicant pronounce the advance ruling on the question specified in the application and send a copy thereof to the applicant and the authority to whom the reference has been made.

7. Submission of additional facts before the Board for Advance Rulings.—(1) The Board for Advance Rulings may at its discretion permit or require the applicant to submit such additional facts as may be necessary to enable it to pronounce its advance ruling.

(2) Where in the course of the proceedings before the Board for Advance Rulings, a fact is alleged which cannot be borne out by, or is contrary to, the record, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

8. Questions contained in the application.— The applicant shall not, except by leave of the Board for Advance Rulings, urge or be heard in support of any additional question not set forth in the application, but in deciding the application the Board for Advance Rulings shall, at its discretion, consider all aspects of the questions set forth as may be necessary to pronounce a ruling on the substance of the questions posed for its consideration.

9. Verification of additional facts.— Where in the course of any proceedings before the Board for Advance Rulings any fact not contained in the application for advance ruling (including the annexure and the statements and other documents accompanying such annexure), referred to in paragraph 3, are sought to be relied upon, they shall be submitted to the Board for Advance Rulings in writing and shall be verified in the same manner as provided for in such application.

10. Powers of the Board for Advance Rulings.— (1) The Board for Advance Rulings shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) as are referred to in section 131 of the Act.

(2) The Board for Advance Rulings shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974) and every proceeding before the Board for Advance Rulings shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

(3) If any difficulty arises in giving effect to any order of the Board for Advance Rulings, it may, on its own motion or on an application made by the applicant or the Principal Commissioner of Income-tax or the Commissioner of Income-tax, as the case may be, remove the difficulty in so far as it is not inconsistent with the provisions of the Act.

11. Powers and functions of the Secretary.—(1) The Secretary shall have the custody of the records or e-records of the Board for Advance Rulings and shall exercise such other functions as are assigned to him under this Scheme or by the Board for Advance Rulings by separate order.

(2) The official seal of the Board for Advance Rulings shall be kept in custody of the Secretary.

(3) The Secretary shall also have the following powers and duties, namely:—

- (i) to receive all applications filed before the Board for Advance Rulings ;
- (ii) to scrutinise the applications to find out whether they are in conformity with the Act, the rules and the procedure;
- (iii) to point out defects in such application to the parties and require them to remove the defects by affording them a reasonable opportunity to do so and, where, within the time granted, the defects are not removed, to obtain necessary orders of the Board for Advance Rulings ;

- (iv) to fix the date of hearing for the applications in consultation with the members of the Board for Advance Rulings and direct the issue of notices therefor;
- (v) to issue the service of notices or other processes and to ensure that the parties are properly served;
- (vi) to requisition records from the custody of any person including a Commissioner of Income-tax or any other authority;
- (vii) to allow inspection of records of the Board for Advance Rulings ;
- (viii) to direct any formal amendment of the records of the Board for Advance Rulings ;
- (ix) to grant certified copies of the orders of the Board for Advance Rulings to the parties;
- (x) to grant certified copies of documents filed in the proceedings to the parties in accordance with the rules;
- (xi) to bring on record legal representatives, in case of death or retirement of any party to the proceedings and to make such appropriate amendments in the cause title as may become necessary in the other situations; and
- (xii) to discharge any other function as may be assigned by the Board for Advance Rulings by special or general order.

12. Authorisation to be filed.— An authorised representative appearing for the applicant at the hearing shall file, before the commencement of the hearing, a document authorising him to appear for the applicant and if he is a relative of the applicant, the document shall state the nature of his relationship with the applicant, or if he is a person regularly employed by the applicant the capacity in which he is at the time employed.

13. Authentication of electronic record.— For the purposes of this Scheme, an electronic record shall be authenticated by the—

- (a) Board for Advance Rulings , the Principal Commissioner of Income-tax or the Commissioner of Income-tax, as the case may be, by affixing its digital signature;
- (b) applicant or his authorised representative, by affixing his digital signature if he is required under the Rules to furnish his return of income under digital signature, and in any other case, by communicating through his registered e-mail address.

14. No personal appearance before the Board for Advance Rulings .— (1) The applicant shall not be required to appear either personally or through authorised representative in connection with any proceedings under this Scheme before the Board for Advance Rulings or before the Secretary, ministerial staff, executive or consultant posted with the Board for Advance Rulings .

(2) The Principal Director General of Income Tax (Systems) or Director General of Income Tax (Systems), as the case may be, shall establish suitable facilities for video conferencing including telecommunication application software which supports video telephony at such locations as may be necessary, so as to ensure that the applicant, or his authorised representative, is not denied the benefit of this Scheme merely on the ground that such applicant or his authorised representative, or any other person does not have access to video conferencing at his end.

15. Rectification of mistakes.—(1) The Board for Advance Rulings may, with a view to rectifying any mistake apparent from the record, amend any order passed by it before the ruling pronounced by the Board for Advance Rulings has been given effect to by the Assessing Officer.

(2) Such amendment may be made *suo motu* or when the mistake is brought to its notice by the applicant or the Principal Commissioner of Income-tax or Commissioner of Income-tax, as the case may be, but only after allowing the applicant and the Principal Commissioner of Income-tax or Commissioner of Income-tax, as the case may be, reasonable opportunity of being heard.

16. Appellate Proceedings.— (1) An appeal against an order for advance ruling passed by the Board for Advance Rulings under this Scheme shall lie before the High Court.

(2) The Assessing Officer, having jurisdiction over the applicant, on the directions of the Principal Commissioner or Commissioner, may file an appeal to the High Court against an order of Board for Advance Rulings. .

17. Proceedings not open to the public.— The proceedings before the Board for Advance Rulings shall not be open to the public and no person (other than the applicant, his employee, the concerned officers of the Board for Advance Rulings or the Income-tax authority or the authorised representatives) shall, without the permission of the Board for Advance Rulings , remain present during such proceedings, even on video conferencing or video telephony.

18. Communication on behalf of the Board for Advance Rulings .— (1) The opportunity for hearing through video conferencing or video telephony shall be facilitated by any income-tax authority as authorised by the Board for Advance Rulings, who will provide the link and password to the applicant and concerned parties in advance.

(2) All communication of the Board for Advance Rulings inward and outward shall be carried out by any income-tax authority as authorised by the Board for Advance Rulings .

19. Communication exclusively by electronic mode.— (1) For the purposes of this Scheme,-

- (a) all communications between the Board for Advance Rulings and the applicant, or his authorised representative, shall be exchanged by electronic mode;
- (b) all communications between the Board for Advance Rulings and the Principal Commissioner of Income-tax or the Commissioner of Income-tax, as the case may be, shall be exchanged by electronic mode:

Provided that any application received in a mode other than electronic mode by the Board for Advance Rulings may be forwarded to the Principal Commissioner of Income-tax or the Commissioner of Income-tax, as the case may be, electronically, to the extent technologically feasible;

- (c) every notice or order or any other electronic communication under this Scheme from the Board for Advance Rulings shall be delivered to the addressee, being the applicant by sending an e-mail to the registered email address of the applicant or his authorised representative;
- (d) the applicant or the authorised representative shall file his response to any notice or order or any other electronic communication, under this Scheme, to the Board for Advance Rulings through his registered e-mail address;
- (e) the Principal Commissioner of Income-tax or the Commissioner of Income-tax, as the case may be, shall file his response to any notice or order or any other electronic communication, under this Scheme, to the Board for Advance Rulings through official electronic mail facility.

20. Language of the Board for Advance Rulings.—(1) The language of the Board for Advance Rulings shall be in Hindi or English, at the option of the applicant.

(2) Where any document is in a language other than English or Hindi, an English translation thereof should also be filed along therewith.

(3) The ruling, and other orders passed by the Board for Advance Rulings may, at the discretion of the Board for Advance Rulings , be in Hindi or English.

21. Publication of orders.— The Board for Advance Rulings, if deems fit its order to be published in any authoritative report or the press, may be sent for publication with such conditions as the Board for Advance Rulings specify.

22. Application of the provisions of Chapter XIX-B of the Act.— Save as otherwise provided herein above, all other provisions of the Chapter XIX-B of the Act shall apply.

23. Power to specify format, mode, procedure and processes.— The Principal Chief Commissioner of Income-tax (International Taxation) shall, wherever required, in consultation with Principal Director General of Income Tax (Systems) or Director General of Income Tax (Systems), as the case may be, with the approval of Board, lay down the standards, procedures and processes for effective functioning of the conduct of e-advance rulings proceedings under this Scheme, including format, mode, procedure and processes in respect of the following, namely:—

- (i) service of the notice, order or any other communication;
- (ii) receipt of any information or documents from the person in response to the notice, order or any other communication;
- (iii) issue of acknowledgment of the response furnished by the person;
- (iv) provision of “e-advance rulings” facility including login account facility, tracking status of e-advance rulings proceedings, display of relevant details, and facility of download;
- (v) accessing, verification and authentication of information and response including documents submitted during the e-advance rulings proceedings;
- (vi) receipt, storage and retrieval of information or documents in a centralised manner; and
- (vii) general administration and grievance redressal mechanism in the respective Boards for advance ruling.

[Notification No. 07/2022/ F.No.370142/62/2021-TPL(Part-I)]

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