Back to Index
CIRRUS Business Line - Mumbai Wed, 01 Jul-20 Pg# :7 Size : 227.77 sq.cm. CIRRUS

I-T relief for investors in YES Bank, IL&FS reconstruction plan

Relief to cover regularisation of unauthorised colonies in NCR too

SHISHIR SINHA

New Delhi, June 30

To give relief from unintended tax consequences for individuals participating in YES Bank reconstruction scheme or in regularisation of unauthorised colonies in Delhi, the Income Tax Department has notified changes in laws.

These changes intend to provide relief from application of some provisions of Section 56 of Income Tax Act. This section says "Income or every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head 'Income from other sources', if it is not chargeable to income-tax under any of the heads specified in Section 14 (head of income), items A to E (Salaries, Income from house property, profit and gains of business or profession and capital gains)."

Now, due to amendments in the rule, the provision of this section will not be applicable in two conditions. First one is related with unquoted shares of a company and its subsidiary and the subsidiary of such subsidiary received by a shareholder, where National Company Law Tribunal (NLCT) Tribunal has, on an application moved by the Central government has suspended the Board of Directors and appointed new directors. This one will be applicable in Yes Bank reconstruction Scheme and in the matter of IL&FS.

Immovable property

The second condition is related with any immovable property, being land or building or both, received by a resident of an unauthorised colony in Delhi, where the Central government regularised the transactions of such immovable property based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents.

Aravind Srivatsan, Partner at Nangia Andersen LLP, felt that amendment is much-needed clarity and relief from the unintended tax consequnces which investors would have to factor on recent high-profile rescue schemes orchestrated by the Government of India.

He explained that by virtue of these rules, the deemed tax under Section 56 of the Income Tax Act would not apply to recipients who are in receipt of unquoted shares pursuant to NCLT approved resolution plan on distressed businesses (like IL&FS) and equity shares pursuant to a duly sanctioned bank reconstruction scheme (case of Yes Bank). No deemed taxation to the investor on receipt of unquoted shares even if the value is below fair market value.

"Given the volatile current market scenario, the income tax rules provide some cushion for the investors to consider schemes offered to investors on high profile rescue packages where public interest is involved and there is a need to prevent erosion of investor savings," he said.

Divakar Vijayasarathy, founder and Managing Partner at DVS Advisors LLP, said that the amendments have been proposed with a view to minimise frivolous litigation and also to upheld the spirit of the legislation.

"In cases of institutional restructuring to bailout an ailing public company like Yes Bank, the least any investor would want is a tax Bill for the bailout.

"Similarly, the case for government initiated restructuring of companies and regularisation of unauthorised colonies in NCR regions are causes initiated in public interest," he said.