

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

BOMBAY HIGH COURT ASKS CBDT TO CONSIDER IMPARTING TRAINING FOR TAXMEN



Bombay High Court has asked Central Board of Direct Taxes (CBDT) to consider formulating a scheme to train its officer how to apply their minds while recording reasons. The court also passed severe stricture against tax officials.

“A copy of this order be also sent to the Chairman, CBDT, who may perhaps formulate a scheme whereby the officers are trained how to apply their mind and what all points should be kept in mind while recording the reasons,” a Division Bench of Justices Amit B Borkar and K R Shriram said while recently disposing a petition filed by Sharvah Multitrade Company Private Limited.

Further, the Bench said that the Chairman, CBDT, may also advise the Commissioners concerned “not to grant approval under Section 151 of the said Act mechanically but after considering the reasons carefully and scrutinising the same.” The petition was filed after a notice by issued by the Income Tax Department. The petitioner submitted that the reassessment proceedings for AY 2015-16 are wholly without jurisdiction, illegal, arbitrary, and liable to be quashed.

The Bench noted that the petitioner for Fiscal Year 2014-15 had been a beneficiary through fund trail of ₹3.72 crore. Then again, it is mentioned that the above mentioned bogus entities managed, controlled and operated by Sharvah Multitrade Company Private Limited for providing bogus accommodation entries, hence, all the transactions entered into between the above mentioned entities and the assessee/beneficiary are bogus accommodation entries in nature. “What perplexes us as much as the assessee was perplexed is how a company can provide bogus entry to itself,” it observed while adding that it was total non application of mind of tax official.

The Bench found mention of ‘Annexure -2’ in the affidavit by the tax officer, but neither saw ‘Annexure - 1’ nor found ‘Annexure - 2’. Then it was surprised to find that approval for issuance of notice by two immediate officials (Joint Commissioner of Income Tax who recommended for approval and Principle Commissioner of Income Tax, who approved), senior to AO. “We wonder whether the officers of respondents ever bother to read the papers before writing the reasons or recommending for approval or while granting approval,” it said.

The Bench noted that petitioner filed objections and also alleged lack of application of mind. However, the AO rejected the objections but did not deal with the objection of the assessee of lack of application of mind.

The Bench directed placing of this order before the Principal Chief Commissioner of Income Tax, Mumbai for information and necessary action. It also asked order to be sent to AO, so that he would be careful in future.

UK SETS OUT APPROACH TO GLOBAL MINIMUM TAX IMPLEMENTATION



The UK government on January 11 opened a consultation on how it plans to implement and administer within the UK the OECD model rules on the internationally agreed 15% global minimum tax. The consultation also considers the introduction of a UK domestic minimum tax, as well as potential broader amendments to base erosion and profit shifting (BEPS) measures.

In the consultation document, the government describes how it proposes to translate provisions relating to the application of the minimum tax's global anti-base erosion (GloBE) rules, the calculation of effective tax rate, reporting and payment, and other issues.

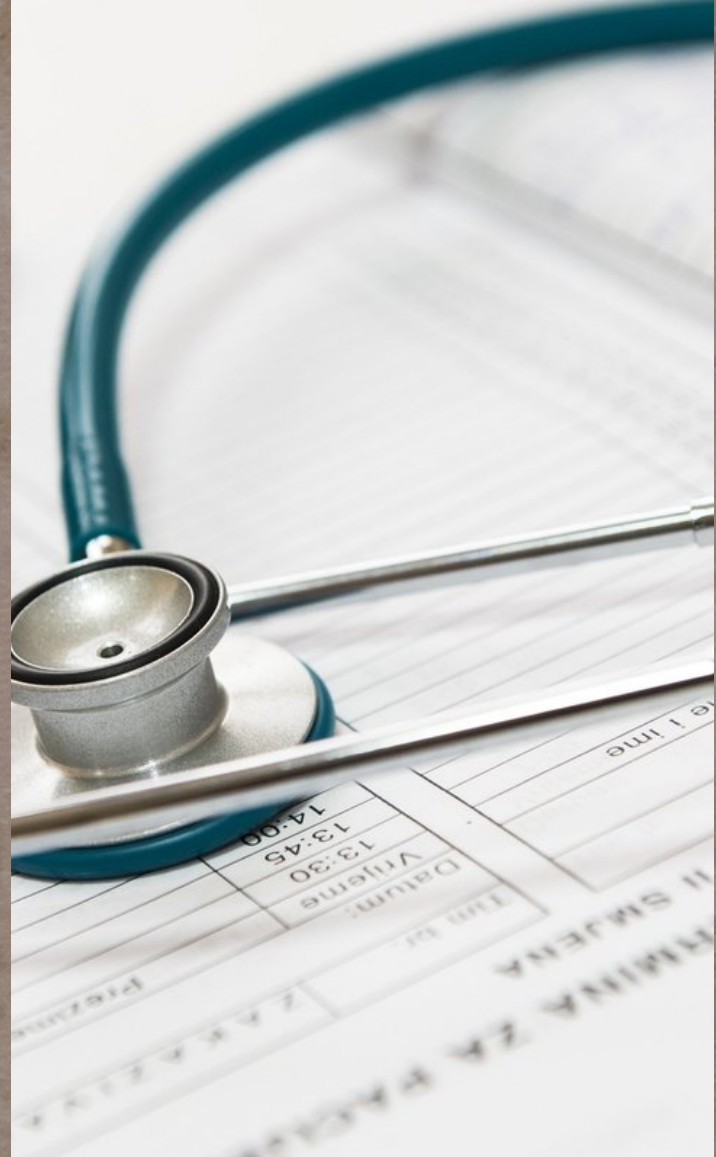
The consultation is open until April 4, running concurrently with OECD work on the commentary to the model rules that were released last month. Following the consultation, the UK government plans to issue draft legislation in the summer.

The government expects to include legislation relating to the GloBE "income inclusion rule" in Finance Bill 2022-23, which would then take effect on April 1, 2023. This is intended to be in line with the OECD Inclusive Framework's October agreement, which set a timeframe under which jurisdictions are to enact legislation for the global minimum tax in 2022 with the goal for the provisions to take effect in 2023.

The consultation also seeks feedback on the GloBE "undertaxed payments rule," as well as the potential domestic minimum tax, but it states that these provisions would not take effect before April 1, 2024, at the earliest.

The consultation does not cover the treaty-based "subject to tax rule" under the global minimum tax. The government notes that this rule will require the development of a model treaty provision, which is still under discussion among the OECD Inclusive Framework.

NO GST ON HEALTHCARE SERVICES UNDER MEMBERSHIP PLANS BY MULTI-SUPER SPECIALITY HOSPITALS: AAR



Healthcare services provided under a membership scheme run by multi-super specialty hospitals to its members and their families were not taxable and will not face goods and services tax, according to a recent tax ruling by Gujarat Authority for Advance Ruling.

The Gujarat Authority for Advance Ruling (AAR) has held that healthcare services, where multi-super specialty hospitals take a lump-sum amount in form of membership to provide services to their family, would not attract GST.

The ruling came in response to an application by Divyajivan Healthcare LPP. It had approached the AAR seeking clarity on levy of GST on a membership plan in its proposed multi-super specialty hospital.

The applicant had also tied up with other hospitals in India where the members can avail health care service

TODAY'S QUOTE

"When you accept that there are certain truths in your life that you can't change, it allows you to embrace your new reality and move forward."

— Amy Purdy

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AKSHAY SHAH

Email: ca.akshah@gmail.com

Contact No.: 9958975768

Website: www.jainshah.com