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Income from other sources – exemption to strategic disinvestments

Introduction

Section 56(2) of the Income-tax Act, 1961 ('the Act') specifies certain incomes that are taxable under the head 'income from other sources.' However, proviso (XI) to clause (x) of section 56(2) exempts certain money or property received from being taxed as income. One such exemption under proviso (XI), read with Rule 11UAC, sub-rule (4) of the Income-tax Rules, 1961 ('the Rules') was:

Any movable property, being equity shares, of the public sector company, received by a person from the Central Government or any State Government under strategic disinvestment.

In the Budget 2023 proposals, the honourable Finance Minister of India announced that the government will implement certain strategic disinvestments and to facilitate such disinvestments, the accumulated losses and unabsorbed depreciation would be allowed to be carried forward. This carry forward will be allowed if the amalgamation takes place within 5 years of the strategic disinvestment.

Consequential amendment in the Rules

The newly modified Rules are called the Income-tax (Eighth Amendment) Rules, 2023. Rule 11UAC, sub-rule (4) is modified with effect from 1 April 2023 to exempt:

Any movable property, being equity shares, of a public sector company or a company, received by a person from a public sector company or the Central Government or any State Government under strategic disinvestment.

Strategic disinvestment, as per the revised section 72A means: Sale of shareholding by the Central Government or any State Government or a public sector company, in a public sector company or in a company, which results in

a. reduction of its shareholding to below 51 % and
b. transfer of control to the buyer.

Thus, from the assessment year ('A.Y.') 2023-24, the consideration received through the process of strategic disinvestment as mentioned above will not enter the computation of income. The exemption is provided to facilitate easy implementation of the planned government decisions, like privatization of banks and other companies.

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Therefore

Earlier the exemption was applied only in the case of sale of a public sector undertaking ('PSU'). The change in the income-tax law has been made to make strategic divestment in PSUs attractive. Now, this includes the equity shares of any other company, e.g., a bank, a financial institution, a shipping company, etc. It may be seen that consequential changes in the definition of 'strategic decision' are done to implement the Budget decisions of strategic disinvestments (including that of the IDBI Bank, Concor and Shipping Corporation of India, as specifically spelt out therein).