

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 4th October, 2016

INCOME-TAX

S.O. 3145(E).—In exercise of the powers conferred by clause (iii) of Explanation to section 35ABA and section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes, hereby, makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (24th Amendment) Rules, 2016.

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

2. In the Income-tax Rules, 1962, after rule 6, the following rule shall be inserted, namely:—

‘6A.Expenditure for obtaining right to use spectrum for telecommunication services.—(1) For the purpose of section 35ABA, the term “payment has actually been made” shall mean,—

(a) where an assessee has opted and been allowed by the Department of Telecommunications, Government of India to make full upfront payment of spectrum fee, the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee;

(b) where an assessee has opted and been allowed by the Department of Telecommunications, Government of India to make deferred payment, the amount which would have been payable by the assessee had he opted for full upfront payment of spectrum fee irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

(2) In case of deferred payment referred to in clause (b) of sub-rule (1), where there is failure by the assessee to comply with any of the conditions specified by the scheme of the Department of Telecommunications, Government of India and Department of Telecommunications terminates the allotment or assignment of

spectrum, the Assessing Officer shall, in exercise of power vested in him under sub-section (3) of section 35ABA shall re-compute the total income of the assessee for the previous year in which the deduction has been claimed and granted to him by deeming that,—

- (i) the total amount of spectrum fee paid up to the date of termination is the amount of “payment actually been made”;
- (ii) the spectrum was in force up to the date of its termination for the purpose of computing “relevant previous year”;

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PITAMBAR DAS, Director (Tax Policy and Legislation)

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 969 (E), dated the 26th March, 1962 and last amended by the Income-tax (23rd Amendment) Rules, 2016, vide notification number S.O. 3080 (E), dated 29/09/2016 .