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SECTION 3, SUB-SECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 28th April, 2016

INCOME-TAX

S.O. __ (E).— In exercise of the powers conferred by section 35, read with 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 (10th Amendment) Rules, 2016.
(2) They shall come into force on the 1st day of July, 2016.

2. In the Income-tax Rules, 1962 (hereafter referred to as the said rules), in rule 6,—

(a) in sub-rule (7), for the words and brackets “Director General (Income-tax Exemptions)” wherever they occur, the words “Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax or Principal Director General of Income-tax or Director General of Income-tax having jurisdiction over the sponsor” shall be substituted;

(b) in sub-rule (7A),—

(A) for clause (b), the following clauses shall be substituted, namely:-

“(b) The prescribed authority shall furnish electronically its report,—

(i) in relation to the approval of in-house research and development facility in Part A of Form No. 3CL;

(ii) quantifying the expenditure incurred on in-house research and development facility by the company during the previous year and eligible for weighted deduction under sub-section (2AB) of section 35 of the Act in Part B of Form No.3CL;

(ba) The report in Form No.3CL referred to in clause (b) shall be furnished electronically by the prescribed authority to the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax or Principal Director General of Income-tax or Director General of Income-tax having jurisdiction over such company within one hundred and twenty days,—

(i) of the grant of the approval, in a case referred to in sub-clause (i) of clause (b);

(ii) of the submission of the audit report, in a case referred to in sub-clause (ii) of clause (b);”;

(B) in clause (c), for the words, figures and letters “a copy thereof shall be furnished to the Secretary, Department of Scientific and Industrial Research by 31st day of October of each succeeding year”, the words, figures, letters and brackets “a report of audit in Form No.3CLA shall be furnished electronically to the Secretary, Department of Scientific and Industrial Research on or before the due date specified in *Explanation 2* to sub-section (1) of section 139 of the Act for furnishing the return of income, for each succeeding year” shall be substituted;

(c) after sub-rule (7A), the following sub-rule shall be inserted, namely:—

“8. For the purposes of this rule, the Principle Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data, and shall also be responsible for the day-to-day administration in relation to furnishing the information in the manner so specified.”.

3. In the said rules, in Appendix II,—

(a) in Form No.3CK,—

(i) in Part A, for item 3, the following shall be substituted, namely:—

“3. Address, phone number of the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax or Principal Director General of Income-tax or Director General of Income-tax having jurisdiction over the company.

3A. Please specify the nature and business/activity of the company—

(a) business of bio-technology

(b) manufacture/production of article or things (Please specify the product).”;

(ii) in Part B,—

(A) for items (ii) and (iii), the following shall be substituted, namely:—

“(ii) the above Research and Development facility shall be exclusively used by the First Party to carry out scientific research relating to bio-technology or manufacture or production of any eligible article or thing under sub-section (2AB) of section 35 of the Act,

(iii) the First Party shall provide full co-operation to the Second Party in carrying out the Research and Development work relating to bio-technology or manufacture or production of eligible article or thing under sub-section (2AB) of section 35 of the Act.”;

(B) in item (v), for the words and brackets, “Director General of Income-tax (Exemptions) within a period of sixty days”, the words “Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax or Principal Director General of Income-tax or Director General of Income-tax having jurisdiction over the First Party within a period of one hundred and twenty days” shall be substituted;

(iii) in Part C, for items (iii) and (iv), the following shall be substituted, namely:—

“(iii) render full co-operation in carrying out the Research and Development work relating to bio-technology or manufacture or production of any eligible article or thing under sub-section (2AB) of section 35 of the Act;

(iv) ensure that the company does not manufacture any product listed in the Eleventh Schedule of the Act;

(v) ensure that the company shall reflect the capital and revenue expenditure on in-house research and development facility in the schedules/notes to accounts in the audited financial statement of the company prepared for the purposes of its annual report and for the purposes of computation of income-tax;

(vi) submit the information as per Annexure-I and Annexure-II every year for the approved period on or before the due date specified in *Explanation 2* to sub-section (1) of section 139 of the Act for furnishing the return of income;

(vii) ensure that the assets acquired by the approved facility will be utilised only for the approved purpose and shall not be disposed of without the approval of the Secretary, Department of Scientific and Industrial Research.”;

(iv) after Part C, the following shall be inserted, namely:—

“Annexure-I

(a) Information to be furnished separately in respect of each research and development facility approved by prescribed authority under section 35(2AB) of the Act.

1. Name and address of the registered office of the company
2. Permanent Account Number of the company
3. Previous year
4. Assessment year
5. A brief note on progress of each of the projects shown in the application to the prescribed authority at the time of approval. Any changes with regard to the scope of the projects as originally envisaged may be highlighted.

6. Details of any additional projects taken up during the previous year.
7. Details of changes, if any, in the research and development infrastructure during the previous year.
8. Details of research and development achievements and technologies commercialised during the previous year.
9. Details of patents obtained and/or filed during the previous year.
10. Details of any other changes in the approved research and development centre.

I certify that the above details are true and correct to the best of my knowledge and belief.

Signature of the Principal Officer of the company
(Name, designation and address)

Date:

Place:

Annexure-II

Details of expenditure incurred on the research and development facility centre approved by the prescribed authority under section 35 (2AB) of the Act.

- | | |
|---|-------------------|
| 1. Assessment year: | 2. Previous year: |
| 3. Location of the research and development facility: | |
| 4. Details of expenditure: (in Rs. Lakhs) | |
| A. (i) Land | |
| (ii) Buildings | |
| B. Capital Expenditure: | |
| (i) Equipment | |
| (ii) Others | |
| (a)..... | |
| (b)..... | |
| (c)..... | |
| (iii) Total | |

C. Revenue expenditure:

(a).....

(b).....

(c).....

Total

D. Total expenditure on the approved research and development centre (excluding land and building)

E. Details of assets disposed off/ transferred.

I certify that above expenditure claimed is as per the guidelines issued by Department of Scientific and Industrial Research and is true and correct to the best of my knowledge and belief.

Signature of the Principal Officer of the company

(Name, designation and address)

Date:.....

Place:.....”;

(b) for Form No.3CL, the following Form shall be substituted, namely:—

“FORM NO. 3CL

[See rule 6]

**Report to be submitted by the prescribed authority to the
Income-tax Authority specified under section 35(2AB) of the
Income-tax Act, 1961**

1. Name and address of the registered office of the company including Telex/Fax/Phone numbers
2. Permanent Account Number (PAN) of the company
3. Name and designation of the Principal Officer of the company
4. Nature of business/activity of the company
 - (I) Business of biotechnology
 - (II) Manufacture/production of any eligible article or thing under sub-section (2AB) of section 35 of the Act. (Please specify)

Part A

1. Annual production of the eligible products of the company during the past three years.
2. Proposed objectives of scientific research contemplated by the company.
3. Whether the nature of the business is related to the proposed objectives of the scientific research contemplated by the company.
4. Details of the nature of existing in-house Research and Development facilities specifying whether the in-house Research and Development facility is adequate for carrying out scientific research.
5. Registration number, date and validity of recognition granted by Department of Scientific and Industrial Research to the in-house Research and Development centre of the company.
6. Whether agreement for co-operation and Research and Development facility and for audit of the accounts maintained for that facility entered into.

Part B

1. Assessment year
2. Previous year
3. Location of the research and development facility
4. Annual production of the eligible products during the year
5. Details of expenditure: (in Rs. Lakhs)

- A. (i) Land
- (ii) Buildings
- B. Capital expenditure:
 - (i) Equipment
 - (ii) Others
 - (iii) Total
- C. Revenue expenditure:
 - (i) Expenditure directly related to research and development
 - (a).....
 - (b).....
 - (c).....
 - (ii) Total
- D. Total expenditure on the approved research and development centre (excluding land and building)
- E. Details of assets disposed of/transferred

I certify that the above details are true and correct to the best of my knowledge and belief.

.....
Signature of Secretary, Department of Scientific and Industrial Research

Date:.....

Place:.....”;

(c) after Form No.3CL, the following Form shall be inserted, namely:—

“FORM No.3CLA

[See rule 6]

Report from an accountant to be furnished under sub-section (2AB) of section 35 of the Act relating to in-house scientific research and development facility

1. *I/We have audited the accounts of the in-house research and development centre of M/s_____ located at _____ which is approved under section 35(2AB) of the Act by the prescribed authority (Secretary, Department of Scientific and Industrial Research), vide Order No.....dated.....
2. *I/We certify that:
 - (a) The company has maintained separate accounts for the research and development centre approved by Department of Scientific and Industrial Research under sub-section (2AB) of section 35 of the Act.
 - (b) The accounts have been satisfactorily maintained. The expenditure certified is also in consonance with Department of Scientific and Industrial Research guidelines.
3. The expenditure of Rs..... (Revenue Rs.....; Capital Rs....; Land and Building Rs...; others Rs.....) reported for the financial year relevant to the assessment year is correct to the best of my/our knowledge and belief as per the result of the audit of the approved research and development centre carried out by me/us. Also the research and development capital expenditure is reflected on page and revenue expenditure on page..... in the audited financial statement/annual report.

.....
 Signature of Accountant**
 Name of the Accountant
 Address of Accountant
 Membership No:

Date:.....

Place:.....”

Notes:

1. * Delete whichever is not applicable.
2. ** This report has to given by an Accountant-
 Accountant means an accountant as defined in the Explanation below sub-section (2) of section 288 of the Income-tax Act, 1961.”;

(d) in Form No.3CM,—

(i) after item 5, the following shall be inserted, namely:—

“6. Registration number, date and validity of recognition granted by Department of Scientific and Industrial Research to the in-house Research and Development centre of the company.”;

(ii) for the words and brackets “Director General (Income-tax Exemptions)” occurring at the end, the words “Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax or Principal Director General of Income-tax or Director General of Income-tax having jurisdiction over the company” shall be substituted.

[Notification No. 29/2016, F.No.142/19/2015-TPL]

(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 vide notification number S.O.1262(E), dated the 30/03/2016.