

Ref : G/1/307
January 18, 2023

Smt Nirmala Sitharaman Ji,
Hon'ble Union Finance Minister,
Government of India,
A-Wing, Shastri Bhawan,
Rajendra Prasad Road,
New Delhi - 110 001

Sub : Representation for taking corrective measure to offer capital gain exemption for FY 2021-22

Ref : CBDT Circular No.1/2023 Dated 06.01.2023

Respected Smt Nirmala Sitharaman Ji,

Vidarbha Industries Association is the premier industry association of Central India working for the development of the industries in the region. We also take up the issues faced by the industrialists & taxpayers. We appreciate the efforts and initiative taken by you in the recent past and wish you our wholehearted support in all your endeavors to make India a 5 trillion economy.

Recently, CBDT has released the first circular of 2023 to extend the benefit of capital gain exemption for various categories of taxpayers. The period of investment for capital gain exemption which was earlier extended to 30th September 2021 by Circular No.12/2021 is now further extended to 31st March 2023. VIA appreciates your kind gesture of extending the dates for claiming capital gain exemption in view of the Covid-19 pandemic and resultant restrictions imposed thereafter.

Though the intention and decision are appreciable, the benefit may not be there to the taxpayers for the following reasons:

1. The due date of filing income tax return for the FY 2021-22 (AY 2022-23) was 31st July for generalized categories of taxpayers or 30th October for a few select categories of the taxpayers in business /covered by audit provision. It may be noted that the taxpayers have already filed the return for the FY 2021-22.
2. All those taxpayers who have failed to utilize the opportunity of investment/exemption till 30th September 2021, for any reason, have paid the tax by filing the income tax return within the original due date or within the due date of filing a belated return.



/ 2 /

3. In short, the due date for the FY 2021-22 is already over and the taxpayers are not allowed to file even the belated or revised income tax return. The last deadline to file the belated or revised return for the FY 2021-22 was 31st December 2022 whereas the present circular No. 1/2023 is issued 6th January 2023.
4. Though there is a new concept of filing "Updated Income Tax Return" for the FY 2021-22 till 31st March 2025, however it is of no use for the taxpayers in the present case.

An Updated return can be filed only if it is beneficial to the income tax department. The route of updated return cannot be used by the taxpayers to claim benefits or concessions. Updated return cannot be filed if (a) it has the effect of decreasing the total tax liability determined on the basis of return furnished earlier or (b) if it results in refund or (c) increases the refund due on the basis of return furnished earlier.

5. Though your kind honour intends to remove the hardship of the taxpayers & offer the benefit to the genuine taxpayers, the timing of the circular doesn't permit it. The circular is not going to be of any use to the genuine taxpayers who have already filed the return & paid the tax.

Way out to give Effect to Circular No. 1/2023 :

The circular intends to remove the hardship of the genuine taxpayers and offer the benefit to the genuine taxpayers. CBDT may issue another circular to extend the period of filing belated return U/s 139(4) or revised Return U/s 139(5) for such categories of taxpayers who wish to claim the benefit of exemption as a result of present circular No. 1/2023.

We hope that you would be kind enough to consider the above suggestion and may take the remedial measure to give effect to the Circular No.1/2023.

We wish you best of your health & look forward to the Next Union Budget – 2023 to be presented by you on 1st February 2023.

Thanks & warm regards,

For Vidarbha Industries Association

Vishal Agrawal
President
VIA

CA Ashok Chandak
Chairman
VIA Taxation & Corporate Law Forum

Cc to : The Chairperson, Central Board of Direct Taxes (CBDT),
Government of India, North Block, Delhi (NCT), New Delhi – 110 001

