

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 29th November, 2024

INCOME-TAX

G.S.R. 739(E).— In exercise of the powers conferred by section 295 read with sub-section (2) of section 92CB 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 (Tenth Amendment) Rules, 2024.

(2) Save as otherwise provided in these rules, they shall deemed to have come into force on the 1st day of April, 2024.
2. In the Income-tax Rules, 1962,—
 - (a) in rule 10TD, in sub-rule (3B), for the words and figures “assessment years 2020-21, 2021-22, 2022-23 and 2023-24”, the words and figures “assessment years 2020-21, 2021-22, 2022-23, 2023-24 and 2024-25” shall be substituted;
 - (b) with effect from the date of publication of this notification in the Official Gazette,-
 - (i) after rule 10THD, the following rules shall be inserted, namely:—

‘DCA. — Safe Harbour Rules for income referred to in clause (i) of sub-section (1) of section 9 chargeable to tax under the head “Profits and gains of business or profession”

Definitions.— 10TI. For the purposes of this rule and rule 10TIA to rule 10TIC,—

- (a) “eligible assessee” means a foreign company engaged in the business of diamond mining which has exercised an option for application of safe harbour rules in accordance with rule 10TIA;
- (b) “eligible business” means a business of selling raw diamonds in any notified special zone as referred to in clause (e) of *Explanation 1* to clause (i) of sub-section (1) of section 9;
- (c) “gross receipts” means the aggregate of —
 - (i) the amount paid or payable to the eligible assessee or to any person on his behalf on account of sale of raw diamonds by such eligible assessee; and

- (ii) the amount received or deemed to be received by the eligible assessee or by any person on his behalf on account of sale of raw diamonds by such eligible assessee;
- (d) "relevant previous year" means the previous year relevant to the assessment year in which the option for safe harbour is exercised;
- (e) "raw diamonds" means diamonds that are,—
- (i) uncut or unpolished;
 - (ii) unassorted;
 - (iii) unworked or simply sawn, cleaved or bruted;
 - (iv) not conflict diamonds as defined by the Kimberley Process;
 - (v) accompanied by Kimberley Process Certificate issued by the Kimberley Process authority in the exporting country; and
 - (vi) falling under Tariff Heading 7102 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

Safe Harbour.— 10TIA. (1) The income-tax authorities shall accept the option for safe harbour exercised by an eligible assessee in any relevant previous year under rule 10TIB, where the income declared by such assessee from an eligible business is in accordance with the circumstances as specified in sub-rule (2), unless such safe harbour is declared invalid under the provisions of sub-rule (3) of rule 10TIB.

(2) The circumstances referred to in sub-rule (1) in respect of the eligible business mentioned in column (1) of the Table below shall be as specified in column (2) thereof, namely:—

TABLE

Eligible business	Circumstances
(1)	(2)
Selling of raw diamonds referred to in clause (b) of rule 10TI.	The profits and gains of the eligible business chargeable to tax under the head "Profits and gains of business or profession" shall be 4 per cent. or more of the gross receipts from such business.

(3) Where the eligible assessee has exercised the option for safe harbour under rule 10TIB in respect of the eligible business in any relevant previous year and such option is not declared invalid under the said rule,—

- (a) any deduction allowable under the provisions of sections 30 to 38 shall be deemed to have been already given full effect to and no further deduction under those sections shall be allowed;
- (b) the written down value of any asset of such business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for such previous year;
- (c) no set off of unabsorbed depreciation under sub-section (2) of section 32 or carried forward loss under sub-section (1) of section 72 shall be allowed to such assessee; and
- (d) no set off of loss from other business under sub-section (1) of section 70 or other head under sub-section (1) or sub-section (2) of section 71 shall be allowed to such assessee for income chargeable to tax under the head "Profits and gains of business or profession" in respect of such business.

(4) The provisions of sections 92D and 92E shall apply in respect of an international transaction, if the eligible assessee enters into such transaction while carrying on the eligible business.

Explanation.— For the purposes of this sub-rule, "international transaction" shall have the same meaning as assigned to in section 92B.

Procedure.— 10TIB. (1) For the purposes of exercising option for safe harbour, the assessee shall furnish Form No. 3CEFC, complete in all respects, to the Assessing Officer before furnishing the return of income under section 139 for the relevant previous year.

(2) The income from eligible business shall be determined in accordance with the provisions of the Act without having regard to the provisions of sub-rule (2) of rule 10TIA, where the assessee does not exercise option for safe harbour under sub-rule (1) of the said rule.

(3) The Assessing Officer may declare the option for safe harbour as invalid by an order in writing, where the assessee has -

- (a) availed the safe harbour by furnishing incorrect facts; or
- (b) concealed facts related to his business.

(4) The Assessing Officer shall afford a reasonable opportunity of being heard to the assessee before declaring the option for safe harbour invalid under sub-rule (3).

(5) The Assessing Officer shall serve a copy of the order referred to in sub-rule (3) to the assessee and the other provisions of the Act shall apply accordingly.

Mutual Agreement Procedure not to apply.— 10TIC. The assessee shall not be entitled to invoke mutual agreement procedure under an agreement for avoidance of double taxation as referred to in section 90 or section 90A in relation to an eligible business, if the assessee has exercised the option for safe harbour under rule 10TIB in respect of such business and such option is not declared invalid under the said rule.’.

(ii) in Appendix-II, after Form No. 3CEFB, the following Form shall be inserted, namely:-

‘FORM NO. 3CEFC

[See sub-rule (1) of rule 10TIA]

[e-Form]

Application for opting for safe harbour for income referred to in clause (i) of sub-section (1) of section 9 chargeable to tax under the head “Profits and gains of business or profession”

To,
The Assessing Officer

.....

Sir/Madam,

I propose to opt for the safe harbour rules under section 92CB of the Income-tax Act, 1961(43 of 1961) read with rules 10TI to 10TIC of the Income-tax Rules, 1962. In this regard the particulars are as under:

1. General:

- (a) Full name of the assessee:
- (b) Permanent Account Number:
- (c) Address of the assessee:
- (d) Nature of business or activities of the assessee:
- (e) Status:
- (f) Assessment Year:

2. Eligible Business

Sl. No.	Particulars in respect of eligible business	Remarks
1.	Whether the assessee is an eligible assessee as referred to in clause (a) of rule 10TI?	Yes/No
2.	Whether the assessee is carrying on the eligible business of selling of raw diamonds as referred to in clause (b) of rule 10TI?	Yes/No
3.	If reply to question at Sl. No. (1) and (2) is yes, provide the following details:	

(a) Description of the eligible business.	
(b) Gross receipts of the eligible business	
(c) 4% of the gross receipts referred to in item (b) above	
(d) Whether the assessee is carrying on any other business other than the eligible business of selling of raw diamonds	
(e) If reply to item (d) referred above is yes, description of such other business(es)	
(f) Profits of such other business chargeable to tax under the head "Profits and gains of business or profession"	

I declare that the information furnished herein is correct and truly stated.

Place:

Date:

Yours faithfully,

.....
Signature

.....
Name

.....
Designation/Capacity

.....
Address

Note .—The application shall be verified by the person authorised to verify the return of income under section 140.’.

[Notification No. 124/2024/ F. No. 370142/13/2024-TPL(Part)]

SOURABH JAIN, Under Secy.

Explanatory Memorandum: The amendment made to the Income-tax Rules, 1962 in clause (a) of rule 2 of these rules is effective retrospectively from the 1st day of April, 2024 and applies to the assessment year 2024-25 relevant to the previous year 2023-24. Accordingly, it is hereby certified that no person is being adversely affected by giving retrospective effect to these rules.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part-II, section 3, sub-section (ii) *vide* number S.O. 969 (E), dated the 26th March, 1962 and were last amended *vide* notification number G.S.R. 645(E) dated the 16th October, 2024.

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