F.No. 225/12/2016/ITA.II
Government of India
Ministry of Finance
Department of Revenue (CBDT)

North Block, New Delhi, dated the 2nd of May, 2016

To
Principal Chief-Commissioners of Income-tax/
Principal Directors General of Income-tax

Subject: - Consistency in taxability of income/loss arising from transfer of unlisted shares under Income-tax Act, 1961-regd.-

Regarding characterisation of income from transactions in listed shares and securities, Central Board of Direct Taxes ('CBDT) had issued a clarificatory Circular no. 6/2016 dated 29th February, 2016, wherein with a view to reduce litigation and maintain consistency in approach in assessments, it was instructed that income arising from transfer of listed shares and securities, which are held for more than twelve months would be taxed under the head 'Capital Gain' unless the tax-payer itself treats these as its stock-in-trade and transfer thereof as its business income. It was further stated that in other situations, the issue was to be decided on the basis of existing Circulars issued by the CBDT on this subject.

2. Similarly, for determining the tax-treatment of income arising from transfer of unlisted shares for which no formal market exists for trading, a need has been felt to have a consistent view in assessments pertaining to such income. It has, accordingly, been decided that the income arising from transfer of unlisted shares would be considered under the head 'Capital Gain', irrespective of period of holding, with a view to avoid disputes/litigation and to maintain uniform approach.

3. It is, however, clarified that the above would not be necessarily applied in the situations where:

i. the genuineness of transactions in unlisted shares itself is questionable; or
ii. the transfer of unlisted shares is related to an issue pertaining to lifting of corporate veil; or
iii. the transfer of unlisted shares is made along with the control and management of underlying business

and the Assessing Officer would take appropriate view in such situations.

4. The above may be brought to the notice of all for necessary compliance.

(Rohit Garg)
Deputy Secretary to the Government of India

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1. Chairman, CBDT and all Members, CBDT
2. PS to Revenue Secretary
3. All JS/CsIT, CBDT
4. Addl. CIT, Data base Cell for uploading on Departmental Website
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(Rohit Garg)
Deputy Secretary to the Government of India