



Report on the seminar held on the valuation of perquisites

The Finance Act 2009 abolished Fringe Benefit Tax (FBT) with effect from April 1, 2009. The Finance Act 2009 obtained the assent of the President of India only in August 2009. The much awaited Income Tax Rule (Rule) 3 was notified only on December 18, 2009. The newly notified perquisite valuation rule is more or less the same as of the erstwhile Rule 3 during the pre-FBT regime.

There were many open questions regarding the taxation of benefits which were hitherto subject to FBT. The Bangalore Chamber of Industry and Commerce (BCIC) in association with the Bangalore Institute of Chartered Accountants organized a half day seminar on the valuation of perquisites for the benefit of professionals and the industry members on January 6, 2010 at The Chancery.

Mr. Sampath Kumar, the Secretary General of the BCIC briefly explained the purpose of the seminar. Mr. K.R. Girish, the President of BCIC and Partner, KPMG gave the welcome address. He was of the view that while many corporates had opportunities to structure the salary during the FBT regime, the current scenario after issue of the Rule 3 does not provide much room for structuring of salary - since all the benefits have been more or less covered under the perquisite valuation Rules.

Mr. K.R. Sekar – Chairman of the Direct Tax Expert Committee of the BCIC and Partner, Deloitte Haskins & Sells provided an overview of the workshop as well as the newly notified Rule 3. He gave a birds eye view of the initiatives taken by the BCIC to organise seminars highlighting matters of interest from a tax perspective. He highlighted areas where clarification from the CBDT and amendments to the Tax Laws would be welcome. He brought to the notice of the Commissioner of Income Tax(TDS), Mrs.Archana Choudhary. that clarification on the manner of claiming refund of FBT paid by the corporates during the first quarter of the current financial year is still unanswered. He also pointed out that the Government has not considered the inflation levels while drafting the perquisite Rules related to motor car perquisites, especially where the employee uses his own car.

Both Mr. K.R. Girish and Mr. K.R. Sekar opined that it was the request of the Industry to abolish FBT and since now the Government has heeded to their request, there is no choice but to comply with the valuation Rules and the related tax deductions.

Mrs. Archana Chaudhary, CIT (TDS) provided the key note address. At the outset she pointed out that the abolition of the FBT was on the request made by Industry. She admitted that there has been a considerable delay in the notification of Rule 3 and the corporates have very little time left to do a true-up on the tax deduction at source on various benefits that were hitherto taxed as FBT. She also assured that at least in Bangalore, the Income tax department would take a lenient view on the taxes to be deducted at source on the salary income for the financial year 2009-10. She was however, firm in mentioning that despite the complexities, corporates would have to deduct and pay the taxes in time and adhere to the statutory compliances.

Mrs. Tapati Ghose, Director of Deloitte Haskins & Sells took the audience through an analysis of Rule 3. The minute details of the valuation Rules were examined. She also

Bangalore Chamber of Industry and Commerce

highlighted the concerns of the industry w.r.t complying with the TDS provisions given that the close of the current financial year is fast approaching.

Mr. M.N. Vijay Kumar, Vice-President Finance of ING Vysya Bank Ltd gave a presentation on perquisite valuation from an industry perspective. In his brief and crisp presentation, he brought out the vital issues the industry is facing on the valuation of the perquisites. He pointed out that when contributions towards superannuation fund were brought under the ambit of FBT, it was understood that these would cover the high end employees, contribution to pension funds would not be covered. However, the ICAI has clarified that pension contributions would be covered under the superannuation funds, and hence there is a serious concern on the contributions made by banks to the retirement benefit plans. Mr. Vijaykumar also highlighted the practical issue in arriving at the taxable amount per amount. The vital point emerging from his lecture was that the perquisites having money's worth should be taxed on the basis of their value to the employee and not on the basis of the cost to the employer. He further stressed on the complexities involved wherein certain benefits have to be valued based on the manufacturing cost of the employer.

Mr. Alok Agarwal, Director KPMG, dealt with the accounting, FEMA and taxation issues on the stock option income. He highlighted that there is as yet no clarity on the taxation of stock option income in the case of internationally mobile employees w.r.t. the sourcing of income to be taxed in India.

Mr. Ramesh Kumar, Senior Vice-President HR, ABB Ltd presented the perquisite valuation from a HR perspective. He mentioned that the human resource department is always on the double edged fence. They have to deal with both the employees and the tax department. In his presentation, he referred to several facets of the valuation Rules which resulted in concerns that needed to be addressed. While the comments were made in a lighter vein, the seriousness of the issues were brought out very effectively.

Questions related to tax treatment on food coupons, meals provided by employers, gifts, reimbursement of vehicle fuel and maintenance expenses for employee owned cars were raised during the Q&A session amongst others.

At the end of the workshop, the audience had obtained an insight in to the valuation Rules, the complexities involved and the issues to be addressed. Mr. Sampath Kumar encouraged the audience to send relevant suggestions / queries on the valuation Rules, which could be forwarded to the Central Board of Direct Taxes (CBDT) through BCIC for necessary action.

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