

F.No. 173/616/2018-ITA.I
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)

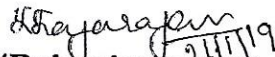
North Block, New Delhi,
Dated the 21 January, 2019

Subject: Applicability of section 56(2)(viiia) of the Income-tax Act, 1961 or similar provisions under section 56(2) of the Income-tax Act, 1961 for issue of shares by a company-reg

As mentioned in Circular 02/2019, a comprehensive review of the subject matter relating to interpretation of the term "receives" as used in, inter alia, section 56(2)(viiia) of the Income-tax Act, 1961 (the Act) and similar provisions contained in section 56(2) of the Act has been made by the Board in view of pendency of this issue in various judicial forums and clarifications sought by stakeholders. Based on the above, the following position is hereby clarified.

2. Keeping in view the plain reading as well as the legislative intent of section 56(2)(viiia) and similar provisions contained in section 56(2) of the Act, being anti-abuse in nature, it has been decided that the view, as was taken in circular no. 10/2018 [subsequently withdrawn by circular no. 02/2019] that section 56(2)(viiia) of the Act would not apply to fresh issuance of shares, would not be a correct approach, as it could be subject to abuse and would be contrary to the express provisions and the legislative intent of section 56(2)(viiia) or similar provisions contained in section 56(2) of the Act.

3. Therefore, any view expressed by the Board in Circular No. 10/2018 shall be considered to have never been expressed and accordingly, the said circular shall not be taken into account by any Income-tax authority in any proceedings under the Act.


(Rajarajeswari R)

Under Secretary to the Government of India

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(Rajarajeswari. R)

Under Secretary to the Government of India