

Draft of Notification to be issued under third proviso to the clause (38) of section 10 of the Income-tax Act, 1961

In exercise of the powers conferred by third proviso to the clause (38) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby, for the purposes of the said proviso, notifies all transactions of acquisition of equity share entered into on or after the 1st day of October, 2004 which are not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004, other than the following:-

(a) where acquisition of listed equity share in a company, whose equity shares are not frequently traded in a recognised stock exchange of India, is made through a preferential issue other than those preferential issues to which the provisions of chapter VII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 does not apply;

(b) Where transaction for purchase of listed equity share in a company is not entered through a recognised stock exchange;

(c) Acquisition of equity share of a company during the period beginning from the date on which the company is delisted from a recognised stock exchange and ending on the date on which the company is again listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 read with Securities and Exchange Board of India Act, 1992 and any rules made there under;

Explanation, –for the purpose of this notification, –

(a) “Frequently traded shares” means shares of a company, in which the traded turnover on a recognised stock exchange during the twelve calendar months preceding the calendar month in which the transfer is made, is at least ten per cent of the total number of shares of such class of the company:

Provided that where the share capital of a particular class of shares of the company is not identical throughout such period, the weighted average number of total shares of such class of the company shall represent the total number of shares

(b) ‘Listed’ means listed in a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rule made there under

(c) “Recognised stock exchange” shall have the same meaning as in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).