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Newsflash

**CBDT provides relief from tax demand
raised in PAN inoperative cases**

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1.0 Background

- 1.1 In a move towards having a robust digitized tax system and to address the menace created by identical / multiple Permanent Account Numbers ('PAN') and bogus tax identities, **the Finance Act 2017** introduced section 139AA of the Income Tax Act, 1961 ('the Act'), with effect from 1 April 2017. The said section required taxpayers¹, having PAN as on 1 July 2017, to intimate their Aadhaar² number to the specified income tax authority on or before the notified date, thereby, making it mandatory for the taxpayers to link their PAN and Aadhar. In case of failure to do so, **PAN was deemed to be invalid**.
- 1.2 Thereafter, vide **the Finance Act 2019** (with effect from 1 September 2019), the said section was amended to provide that if taxpayers fail to intimate their Aadhar number, then **PAN shall be made inoperative** (instead of being invalid). However, if such PAN is subsequently linked with the Aadhaar, then the PAN shall become operative from the date of such linking.
- 1.3 Initially, the sunset date for intimating Aadhar to the specified income tax authority was notified to be 31 July 2017. However, owing to various hardships being faced by the taxpayers and due to Covid-19 pandemic, the Central Government granted multiple extensions from time-to-time to facilitate the process of smooth linking.
- 1.4 **The Finance Act 2021** introduced a new provision in the form of section 234H of the Act prescribing levy of late fees if the taxpayers intimate their Aadhar after sunset date. For the said purposes, the extended last date for linking PAN with Aadhar without making any payment of late fees was 31 March 2022.

¹ All individuals except those who reside in the State of Assam, Meghalaya or Jammu and Kashmir, or those who are non-residents or of the age of 80 years or more at any time during the financial year or are not a citizen of India.

² 12-digit random number issued by the Unique Identification Number of India (UIDAI) to the Indian residents Aadhaar under the (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016

2.0 Consequences of PAN becoming inoperative

2.1 As per Rule 114AAA³ of the Income Tax Rules, 1962 ('the Rules'), the taxpayers who have failed to intimate or link their Aadhar, shall be liable to face the following consequences as a result of their PAN becoming inoperative:

- (i) Refund of any amount of tax or part thereof, due under the provisions of the Act, shall not be granted.
- (ii) Interest shall not be payable on such refund for the period during which the PAN remains inoperative.
- (iii) Tax shall be deducted at source ('TDS') at higher rate, in accordance with the provisions of section 206AA of the Act.
- (iv) Tax shall be collected at source ('TCS') at higher rate, in accordance with the provisions of section 206AA of the Act.

2.2 Consequent to the above, CBDT vide **Circular No. 3 of 2023 and Press Release dated 28 March 2023** clarified that the above listed consequences will be effective from 1 July 2023⁴ and shall continue till PAN becomes operative (within 30 days from the date of intimation of Aadhar).

3.0 Partial Modification of Circular No. 03 of 2023 regarding consequences of PAN becoming inoperative as per Rule 114AAA of the Income Tax Rules

3.1 As mentioned above, **Circular No. 3 of 2023** detailed various consequences of PAN becoming inoperative, including deduction or collection of tax at source ('TDS'/ 'TCS') at higher rate in accordance with the provisions of section 206AA or 206CC of the Act, as the case may be.

3.2 In this regard, various taxpayers had raised grievances that they were in receipt of notices alleging default of 'short deduction/ collection' of TDS/TCS while carrying out transactions where PAN of deductee / collectee was inoperative. In such cases, since the tax deduction / collection was not made at higher rate, demands have been raised by the tax authorities against the deductor / collector. In many such cases, the taxpayers may have also filed appeal before the appellate authorities.

3.3 With a view to redressal of hardships faced by such deductors/ collectors, the CBDT vide **Circular No. 6/ 2024 dated 23 April 2024** relaxed the provisions and specified that for all transactions

³ As substituted by Notification No. 15/ 2023 dated 28 March 2023

⁴ Prior to this, the adverse consequences of not linking, furnishing, intimating, or quoting PAN were applicable from 1 April 2023 [CBDT Circular No. 7/ 2022 and Press Release dated 30 March 2022]

entered upto **31 March 2024** and in cases where the PAN becomes operative (as a result of linkage with Aadhar) on or before **31 May 2024**, no liability shall arise on the deductor/ collector to deduct/ collect tax at a higher rate. In other words, the rates of TDS/ TCS as provided under other provisions of the Act shall only be applicable.



4.0 Our Comments

- 4.1 The above relaxation by CBDT is a welcome move considering the severe consequences in cases where notices have been received for short deduction/ collection on this aspect. The relaxation and deferral of adverse consequences of PAN becoming inoperative at a later date (i.e. 31 May 2024) provides a window to taxpayers to get PAN of their deductee linked with Aadhar by payment of prescribed fees, without triggering such adverse consequences.
- 4.2 To give effect to the said Circular, the tax authorities may come up with further clarifications to explain the possible course of action to be adopted by the taxpayers. Appeal filed before the appellate authorities may be withdrawn, once the issue is resolved.
- 4.3 Since this relief is for transactions upto 31 March 2024, it is advisable to reach out to the deductee / collectee and promptly ensure their PAN linkage with Aadhar on or before 31 May 2024. Further, for transactions entered on or after 1 April 2024, at the time of deduction of taxes, it is pertinent to ensure that PAN of the deductee is already linked to Aadhar and is operative. The facility for verification of PAN exists on the Income Tax and TRACES Portal.

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This Newsflash summarizes the CBDT relief provided vide circular no. 6/2024 dated 23 April 2024. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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