

Rule-2DA, Income-tax Rules

[Guidelines for approval under clause (23FA) of section 10.]

2DA. (1) An application for approval shall be made in Form No. 56AA by a venture capital fund or a venture capital company to the Central Government.

(2) Every application under sub-rule (1) may be made in any previous year in which any income by way of dividend or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking shall not be included in computing the total income of such venture capital fund or venture capital company.

(3) Every application for approval under sub-rule (1) shall be accompanied by the following documents, namely :â€”

- (a) Â a copy of the trust deed registered under the provision of the Registration Act, 1908 or a certificate of incorporation under the Companies Act, 1956 (1 of 1956);
- (b) Â balance sheets and profit and loss accounts for three previous years immediately preceding the previous year in which the application is made;
- (c) Â Forms 56BA and 56CA duly filled in and signed by the applicant; and
- (d) Â a copy of the certificate of registration issued by the Securities and Exchange Board of India under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

(4) The Central Government may approve the venture capital fund or the venture capital company, as the case may be, subject to the following conditions, namely :â€”

- (a) Â a venture capital fund or a venture capital company, as the case may be, is registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (b) Â a venture capital fund or a venture capital company, as the case may be, shall not invest more than twenty-five per cent of its total monies raised or total paid-up share capital in one venture capital undertaking;
- (c) Â every venture capital fund and venture capital company, shall maintain books of account and get such books audited by an accountant, as defined in *Explanation* to sub-section (2) of section 288 of the Act and, furnish the report of such audit duly signed and verified by such accountant to the Central Government before the due date of filing of the return under sub-section (1) of section 139 of the Act.

(5) The Central Government may pass an order in writing granting approval or refusing approval to the venture capital fund or venture capital company, as the case may be :

Provided that no order refusing the approval shall be passed unless an opportunity of being heard has been given to the venture capital fund or the venture capital company.

(6) The approval of the Central Government under sub-rule (5) shall at any one time have effect for such assessment year or years, not exceeding three assessment years.

(7) The Central Government shall withdraw the approval granted under sub-rule (5) in the following circumstances :â€”

- (a) “if the venture capital fund or the venture capital company”
- (i) fails to make investments in the manner specified in sub-rule (4);
 - (ii) invests more than twenty-five per cent of the monies raised by a venture capital fund or twenty-five per cent of paid-up share capital of the venture capital company, as the case may be, in one venture capital undertaking;
 - (iii) fails to maintain books of account and get such accounts audited by an accountant or fails to file the audit report required in clause (d) of sub-rule (4);
 - (iv) violates the provisions of the Act or rules made thereunder;
- (b) “if the certificate of registration granted under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), to a venture capital fund or a venture capital company is suspended or cancelled by the Securities and Exchange Board of India.]”