

Rule-2E, Income-tax Rules

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

2E. (1) An application for approval shall be made on or after the 1st day of June, 1998 in Form No. 56E by an enterprise to the Central Government.

(2) Every application for approval made under sub-rule (1) shall be accompanied by the following documents, namely :—

- (a) a copy of certificate of incorporation under the Companies Act, 1956 (1 of 1956) or a copy of the document evidencing the constitution of the enterprise and its legal status;
- (b) a copy of the project report or agreement in respect of the eligible business duly approved by the Central Government or any State Government or any local authority or any other statutory body, as the case may be;
- (c) balance sheets and profit and loss accounts for the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made :

Provided that an application made under sub-rule (1) may be accompanied by the balance sheets and profit and loss accounts for less than three previous years where an enterprise has been formed at any time during the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made.

(3) The Central Government shall approve an enterprise for the purposes of clause (23G) of section 10, if such enterprise is wholly engaged in the eligible business.

(4) The Central Government may, before approving an enterprise, call for such documents (including audited annual accounts) or information from the enterprise, as it thinks necessary in order to satisfy itself that such enterprise is wholly engaged in the eligible business and that Government may also make such enquiries as it may deem necessary in this behalf.

(5) The Central Government shall pass an order in writing while granting approval or refusing approval to the enterprise :

Provided that no order refusing the approval shall be passed unless an opportunity of being heard has been given to the enterprise.

(6) Every enterprise approved under sub-rule (5) shall maintain books of account and get such books audited by an accountant, as defined in *Explanation* to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Chief Commissioner of Income-tax under whose jurisdiction it is assessed, before the due date of filing of the return under sub-section (1) of section 139.

(7) Where the enterprise,—

- (a) ceases to carry on the eligible business; or
- (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (6); or
- (c) fails to furnish the audit report as required by sub-rule (6),

the Chief Commissioner of Income-tax shall, after making such enquiries as he may deem necessary, furnish a report on the circumstances referred to in clauses (a), (b) and (c) to the Central Government, within six months from the due date of filing of return under sub-section (1) of section 139.

(8) The Central Government, on being satisfied that any or all of the circumstances referred to in clauses (a), (b) and (c) of sub-rule (7) exist, shall withdraw the approval granted under sub-rule (5) :

Provided that no order withdrawing the approval shall be passed unless an opportunity of being heard has been given to the enterprise.

Explanation : For the purposes of this rule,â€”

- (a) Â the expression “enterprise” • means any enterprise wholly engaged in the eligible business;
- (b) Â the expression “eligible business” • means the business referred to in sub-section (4) of section 80-IA or a housing project referred to in sub-section (10) of section 80-IB and which fulfils the conditions specified in the said sub-sections or a hotel project or a hospital project as defined in clauses (g) and (h) of *Explanation 1* to clause (23G) of section 10.]