

(TO BE PUBLISHED IN PART II, SUB-SECTION (ii) OF SECTION 3 OF THE GAZETTE OF INDIA)

Government of India
Ministry of Finance
Department of Revenue (CBDT)

New Delhi, the 21st of February, 2017

NOTIFICATION

S.O.....(E).-In exercise of the powers conferred by sub-section (2) of section 138 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to all the relevant factors, hereby makes the following amendment in the notification of Government of India in the Ministry of Finance, Department of Revenue (Central Board of Direct Taxes) published in the Gazette of India, Part II, Section 3, Sub-section(ii) vide number S.O. 576(E), dated the 23rd of May, 2003, namely:-

In the said notification, in the proviso, in clause (ii), for the words and figures, "the notifications issued under section 138 from time to time", the words, brackets and figures, "provisions of sub-section (1) of section 138 of the Act" shall be substituted and shall be deemed to have been substituted with effect from 23rd May, 2003.



(Rohit Garg)
Director-ITA.II, CBDT

The Explanatory Memorandum as appended in Annexure.

Note:- The Principal notification was published in the Gazette of India, Part II, Section 3, Sub-section (ii) vide notification S.O. 576(E) dated the 23rd May, 2003 and the same has not been amended so far.

(F.No. 225/120/2016-ITA.II)

Notification No. 2/2017

To

The Manager,
Government of India Press,
Mayapuri, New Delhi

Copy to:-

1. PPS to FM/Dir(FMO)/OSD to MoS(R)/PPS to RS
2. Chairman & All Members, CBDT
3. All Pr.CCsIT/DGsIT
4. O/o Pr. DGIT(Systems) for placing on the website: incometaxindia.gov.in
5. ITCC, Central Board of Direct Taxes (4 copies)
6. Addl. CIT, Data base Cell for uploading on Departmental Website
7. Guard file



(Rohit Garg)
Director-ITA.II, CBDT

Explanatory Memorandum

Notification No. 137 dated 23.05.2003 SO(E)-576 issued by the Central Govt., in exercise of its powers under section 138(2) of the Income-tax Act, 1961 ('Act'), prohibited providing information/record/ document to any person or authority by the Income-tax Authorities. While the said notification prescribed a general prohibition in furnishing of information/documents before any person/authority, two exceptions were, however, mentioned where the information can be made available. The first exception pertained to providing information by DGIT (Systems) in respect of records or data related to PAN, tax deduction account number and computerization of income-tax records of taxpayers. The second exception was related to disclosure of information in accordance with notifications issued under section 138 of the Act from time to time.

As notification dated 23.05.2003 was issued under sub-section(2) of Section 138, which starts with a non-obstante clause, the implication appeared to be that the information could be provided only to the authorities/ persons which are so notified u/s 138(1)(a)(ii) of the Act by the Central Government while disclosure of information under section(s) 138(1)(a)(i) and section 138(1)(b) of the Act was prohibited. Therefore, an apprehension was raised by some of the stakeholders that the said notification puts restriction on the powers of the authorities mentioned in sub sections (1)(a)(i) & (1)(b) of section 138 of the Act, thereby, making these provisions virtually redundant.

Therefore, in order to remove any ambiguity in interpretation of the said notification, Central Government, with retrospective date, has decided to clarify that clause (ii) of the proviso in the notification dated 23/05/2003 would mean the disclosure of any information in accordance with the provisions of section 138(1) from time to time.

Pg The above partial amendment in notification dated 23.05.2003, would, in effect, remove the restraint placed by the notification dated 23.05.2003 and harmonize it with provisions of section 138 of the Act.
