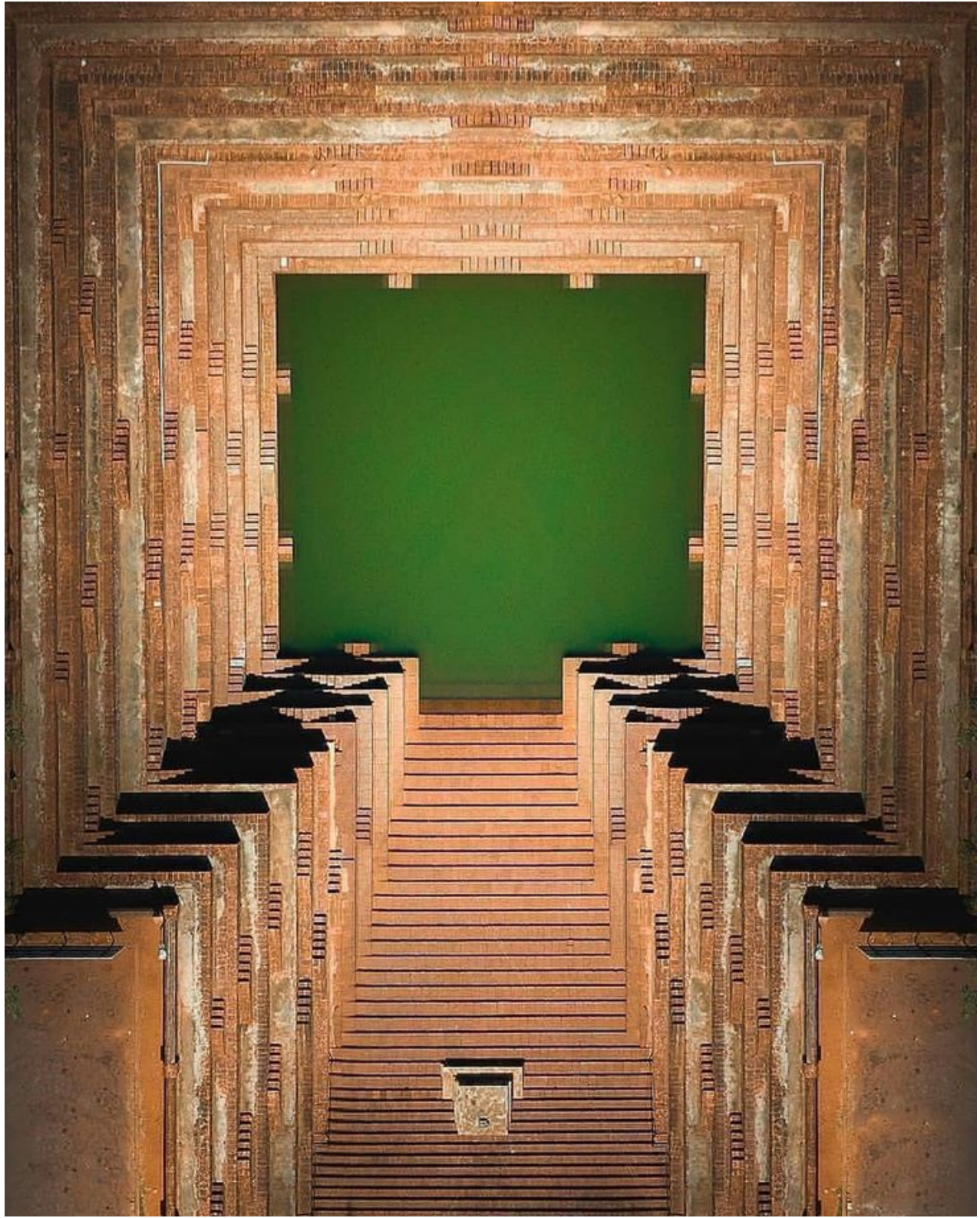


Rule 37BA-Credit For Tax Deducted at Source



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Introduction:-

After several years of changes related to taxation of Dividend in the hands of shareholders, Dividend is taxable in the hands of shareholders w.e.f 1st April,2020. Hence tax is deductible in the hands of shareholders by the company paying dividend if the amount of dividend paid during the year exceeds Rs.5,000 to a single person.

Further, issue may arise while giving credit of TDS while filing return of income if the dividend income is assessable in the hands of the person other than the person in whose name tax is deducted(e.g. Shares are held by Parents on behalf of minor child. Dividend is received in the bank account opened for the benefit of minor child or estate (being the beneficiary of shares) but tax is deducted in the name of minor child. As per the clubbing provisions income is offered by Parent in his/her return of income). This is where Rule 37BA of the Income Tax Act,1961 comes into play .

As per Rule 37BA, credit for TDS, shall be given to the person to whom payment has been made or credit has been given (hereinafter referred to as deductee). But, where the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee. This is possible only if following 2 conditions are fulfilled:

- i. when the deductee files a declaration with the deductor and
- ii. the deductor reports the tax deduction in the name of the other person whose name is mentioned in the declaration

Procedure of filing declaration:

1. The declaration is to be filed with deductor and should contain name, address, permanent account number of the person to whom credit is to be given, and reasons for giving credit to such person. There is no specific format provided by the act or rules and hence it can be any format with the minimum details as mentioned above (Refer Declaration format for Rule 37BA for reference. However each Registrar and Transfer Agent(RTA) can have a different format and hence it is advisable to ask for the format from RTA).

2. The deductor shall issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the declaration and shall keep such declaration in his safe custody.
3. The said declaration should be filed every year at the beginning with the deductor in order to enable the person offering income in his/her return of income to claim the deduction.

(This note highlights provisions related to credit for TDS when the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee.

This note summarizes only issues considered of importance to our clients and associates. This note is for private circulation amongst clients and associates of B. D. Jokhakar & Co. This should not be relied upon for taking or not taking any action. Advice should be taken specific to your situation.

This note is prepared on the basis of material available in public domain such as Income Tax Act, 1961 and Income Tax Rules, 1962. Even though every care is exercised to present this note in an error-free manner, we assume no responsibility for any errors/omissions or otherwise for any loss which may be sustained by anyone by relying upon the same)