

F.No.225/233/2019/ITA-II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 14th August, 2019

To

The Secretary General
All India Motor Transport Congress
New Delhi

Sir,

Subject: Urgent clarification regarding amendment in Section 44AE of the Income Tax Act, 1961(Act)-reg.

Kindly refer to your e-mail dated 05.08.2019 on the above mentioned subject.

2. Vide the above referred letter, it has been requested by the All India Motor Transport Congress (AIMTC) to clarify whether which of the following has to be considered while calculating the presumptive income under section 44AE of the Income-tax Act, 1961(Act) in the context of amendment made in sub-section (2) of section 44AE of the Act vide Finance Act, 2018 w.e.f. 01.04.2019.

- (i) Gross Vehicle Weight (which include **un-laden** weight of the vehicle and the payload **laden weight**))
- (ii) Un-laden Weight i.e., Weight of the Empty Vehicle
OR
- (iii) Laden Weight (Payload)

3. The matter has been examined. In this regard, I am directed to state that for the purposes of the section 44AE, the word 'Heavy goods Vehicle' has been defined in the section itself as below:

(aa) the expression "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms:

4. It is further mentioned in the said section that the definition of 'Gross Vehicle Weight' or 'Unladen Weight' or 'Goods carriage' will be as per the definition in the Motor Vehicles Act, 1988. The Motor Vehicles Act, 1988 defines the said terms as below:

Section 2(14)- "**goods carriage**" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods:

Sec 2(15)- "**gross vehicle weight**" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle:"

Section 2(48)- "**unladen weight**" means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body:"


5. In this regard, it is relevant to note that the definition 'Heavy Goods Vehicle' in the Income-tax Act is different from the definition of said term in the Motors Vehicle Act,1988. The definition of the said term as per the Motors Vehicle Act,1988 is as below:

Section 2(16)- "**heavy goods vehicle**" means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms:

6. The above definitions make it clear that the assesseees will have to compute the profits and gains of business under section 44AE of the Act on the basis of above definitions. It means that in respect of a "heavy goods vehicle" i.e. all goods carriage vehicle whose gross vehicle weight exceeds 12,000 kilograms, the profits and gains from each goods carriage for the purposes of section 44AE of the Act shall be at the rate of Rs. 1000/- per ton of gross vehicle weight for every month or part of the month. However, in respect of a tractor or a road-roller, where the gross vehicle weight is not applicable, and unladen weight exceeds 12,000 Kilograms, the profits and gains from each goods carriage for the purposes of section 44AE of the Act shall be at the rate of Rs.1000/- per ton of unladen weight for every month or part of the month.

7. This issues with the approval of Member (IT&C),CBDT.

Yours faithfully,


(Sarita Kumari)

Director, (ITA-II)

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