

TAXATION OF SECURITISATION TRUST & ITS INVESTORS

Salient Features of Taxation Rules are as under:

- (i) **Any income of securitization trust shall be exempt under section 10(23DA). However, income from securitization trust would be taxable in the hands of investors under section 115TCA;**
- (ii) **The income paid or credited by the securitization trust shall be taxable in hands of investor and shall be deemed to be of the same nature and in the same proportion in the hands of the investor, as if it had been received by, or had accrued or arisen to, the securitization trust during the previous year.**
- (iii) **TDS shall be effected by the securitization trust under section 194LBC @ 25% in case of payment to resident investors which are individual or HUF and @ 30% in case of others. In case of payments to non-resident investors, the deduction shall be at rates in force;**
- (iv) **The income accruing or arising to, or received by, the securitization trust, during a previous year, if not paid or credited to investors, shall be deemed to have been credited to the account of the investors on the last day of the previous year in the same proportion in which such investors would have been entitled to receive the income had it been paid in the previous year.**
- (v) **Any income which has been included in the total income of the investor, in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of investor in the previous year in which such income is actually paid to him by the securitization trust.**

Illustration 1:

Suppose a Securitization Trust raises money from:

Mutual Funds	₹ 100 crores
Mutual Funds	₹ 200 crores
Reconstruction companies	₹ 300 crores
Non-Resident Investors	₹ 400 crores
	<u>₹ 1,000 crores</u>

- The Securitization Trust issues debt instruments and/or security receipts to investor for equivalent amount.

- Securitization Trust purchases loans of ₹ 1500 crores of Bank of India i.e. Loan given by Bank of India and shown as asset in Balance sheet of Bank of India. The said Loans are purchased for ₹1000 crores.
- Bank of India get interest of ₹ 150 crores on the said Loans and said interest is passed on to securitization Trust by Bank of India.
- Now, income of ₹ 150 crores is exempt in hands of Securitization Trust under section 10(23DA).
- Securitization Trust distributes income to investors as under:

Mutual Funds	₹ 10 crores
Institutional Investor	₹ 20 crores
Reconstruction Companies	₹ 30 crores
Non-Resident	₹ 40 crores
	<u>₹ 100 crores</u>

- Now as per section 115TCA(3), the income of ₹50 crores not paid or credited by securitization Trust to Investor shall be deemed to be credited to the account of Investors on the last day of the Previous year in proportionate manner. Therefore, following income shall be deemed to be credited to the investors on 31.03.2022.

Mutual Funds	₹ 5 crores
Institutional Investor	₹ 10 crores
Reconstruction Companies	₹ 15 crores
Non-Resident	₹ 20 crores
	<u>₹ 50 crores</u>

- In the hands of Investors, the income received/deemed to be credited shall be in the nature of interest received on Loans given.
- The Income of ₹ 50 crores when actually paid in previous year 31.03.2023 shall not be included in total income of investors in previous year 31.03.2023.
- Now, the Securitization Trust shall deduct TDS as under:

Investor	Amount taxable in the hands of investors on which TDS to be deducted	Rate of TDS
Mutual Fund	NIL [Entire income of the mutual fund is exempt under section 10(23D)] No TDS since as per section 196 there is no TDS on any payment made to Mutual Funds	NIL
Resident Institutional Investor	20 crores + 10 crores = 30 crores	25% if they are individual/HUF 30% in other case.
Reconstruction Company	30 crores + 15 crores = 45 crores	30%
Non-Resident	40 crores + 20 crores = 60 crores	20% as per section 115A