

CBDT Clarifies the Applicability of GAAR Grandfathering on Income from Transfer of Investments Acquired Prior to 1 April 2017

2 April 2026

The Central Board of Direct Taxes (CBDT) has issued a notification dated 31 March 2026 (Notification), providing a significant clarification on the non-applicability of General Anti-Avoidance Rules (GAAR) with respect to income arising from the transfer of an investment that was made prior to 1 April 2017. This development seeks to resolve the ambiguity that arose pursuant to the judgment of the Hon'ble Supreme Court (SC) in the case of Tiger Global International II Holdings.

Original Framework

- The GAAR regime, introduced effective 1 April 2017, empowers tax authorities to treat an arrangement as an 'impermissible avoidance arrangement' where the main purpose of the arrangement is to obtain a tax benefit and which satisfies other specified conditions.
- As per the existing tax rules, GAAR does not apply to an income which arises from the transfer of an investment made prior to 1 April 2017.
- However, the tax rules also stated that without prejudice to the aforesaid exemption, GAAR would apply to any arrangement in respect of tax benefits obtained on or after 1 April 2017 (irrespective of the date of execution of such an arrangement).

Supreme Court's Interpretation

In the case of Tiger Global International II Holdings (refer our [Ergo](#)), the SC held that the GAAR grandfathering on income arising from the transfer of investments made prior to 1 April 2017 stands diluted by the 'without prejudice provision' and that GAAR shall apply to any arrangement (in respect of which a tax benefit has been obtained on or after 1 April 2017), irrespective of the date of execution of such an arrangement. This resulted into an ambiguity on applicability of GAAR grandfathering on income arising from the transfer of investments made prior to 1 April 2017.

Amended Framework

In the Notification, the CBDT has amended the tax rules and clarified the following:

- (a) GAAR shall not apply to any income arising from transfer of an investment which was made prior to 1 April 2017.
- (b) GAAR shall apply to an arrangement in respect of which a tax benefit has been obtained or after 1 April 2017 irrespective of the timing of such an arrangement. However, this provision shall not apply to income arising on the transfer of an investment which was made prior to 1 April 2017.

Impact Assessment

This Notification provides substantial relief to foreign investors with respect to grandfathered investments and mitigates the risk of litigation from a GAAR perspective. With effect from 1 April 2026, GAAR shall not be invoked on income arising from transfer of investments that were made prior to 1 April 2017 and hence, the relaxation extends to all such transactions that are subject to audit proceedings on or after 1 April 2026. In circumstances where GAAR has been invoked prior to 1 April 2026, the taxpayers will need to independently assess the applicability of GAAR grandfathering based on the original tax rules.

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