

of the said Circular reads as under:

"Clarification in respect of residency under section 6 of the Income-tax Act, 1961

Section 6 of the Income-tax Act, 1961 (the Act) contains provisions relating to determination of residency of a person. The status of an individual, as to whether he is resident in India or a non-resident or not ordinarily resident, is dependent, inter-alia, on the period for which the person is in India during a previous year or years preceding the previous year.

2. Various representations have been received stating that there are number of individuals who had come on a visit to India during the previous year 2019-20 for a particular duration and intended to leave India before the end of the previous year for maintaining their status as nonresident or not ordinary resident in India. However, due to declaration of the lockdown and suspension of international flights owing to outbreak of Novel Corona Virus (COVID-19), they are required to prolong their stay in India. Concerns have been expressed that this extra stay in India may make them a resident of India under section 6 of the Act.

3. In order to avoid genuine hardship in such cases, the Board, in exercise of powers conferred under section 119 of the Act, has decided that for the purpose of determining the residential status under section 6 of the Act during the previous year 2019-20 in respect of an individual who has come to India on a visit before 22nd March, 2020 and:

- (a) has been unable to leave India on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to 31st March, 2020 shall not be taken into account; or
- (b) has been quarantined in India on account of Novel Corona Virus (Covid-19) on or after March, 2020 and has departed on an evacuation flight on or before 31st March, 2020 or has been unable to leave India on or before 31st March, 2020, his period of stay from the beginning of his quarantine to his date of departure or 31st March, 2020, as the case may be, shall not be taken into account; or
- (c) has departed on an evacuation flight on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to his date of departure shall not be taken into account."

Mr. Mukul Rohatgi, learned Senior Advocate submits that the COVID-19 pandemic situation has continued beyond 31.03.2020 and even in the current financial year, large number of persons have been stranded and could not leave the shores of the country because of the lockdown.

Our attention has also been invited to a representation made by "Tax Law Educare Society" on 21.12.2020 to the Finance Minister.

Considering the fact that for the previous year, certain benefit was conferred by way of notification dated 08.05.2020, in our view, it would be appropriate for the petitioner to approach the CBDT.

We, therefore, direct the petitioner to make a representation in three days from today before the CBDT which shall be considered by the CBDT within three weeks of the receipt thereof.

With the aforesaid directions, this writ petition stands disposed of.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
COURT MASTER

(PRADEEP KUMAR)
BRANCH OFFICER