

No More Frivolous Or High-Pitched Assessments Allowed: CBDT To AOs

The CBDT has issued an Office Memorandum dated 07.11.2014 setting out 12 steps that have to be taken by the department to ensure a “non-adversarial tax regime”. One of the important points made is that Assessing Officers must cease issuing “long and non-specific questionnaire” and making assessments without proper basis. It has been emphasized that each Range Head has to ensure that “frivolous additions or high-pitched assessments” are not made by the AOs. Important directives have also been given with regard to the withholding of refunds, recovery of demand, passing of remand orders and filing of appeals. At the end, the CBDT has warned that officers have to adhere to the instructions scrupulously and that non-adherence will be viewed seriously and disciplinary action initiated.

F.No.279/Misc./52/2014-(ITJ)

Government of India,
Ministry of Finance,
Department of Revenue,
Central Board of Direct Taxes,

New Delhi the 7th November, 2014

OFFICE MEMORANDUM

Sub: Further steps towards a non-adversarial tax regime-reg.

On several occasions the Finance Minister has emphasized the need for furthering a non adversarial tax regime. A non-adversarial tax regime cannot be achieved without concerted endeavor at each level, especially at levels where the public interaction is high. Though the Central Board of Direct Taxes (CBDT) has issued instructions from time to time on some of these issues, there is a need for consolidation of earlier instructions and issuance of further directions in this regard. Accordingly, CBDT hereby directs that the officials of the Income-tax Department must adhere to the following guidelines for achieving such objective:

- i. Letter dated 21.08.2014 of Chairman, CBDT on cleanliness and punctuality should be implemented in letter and spirit as these are the basic requirements of an efficient and taxpayer centric organization.
- ii. Any appointment given to the public must be honored and such appointments should not be cancelled or postponed without any unavoidable reason, especially when the assessee/representative is willing to attend.
- iii. Despite less than one percent cases being selected for scrutiny assessment, this area of work continues to remain in focus where the tax administration is questioned as adversarial. The selection of cases under Computer Assisted Scrutiny Selection has resolved the issue of subjectivity in selection of cases for scrutiny. However, the process of scrutiny involving long and non-specific questionnaires, the nature of additions made and the high-pitched assessments without proper basis continue to attract adverse attention. Instruction No. 6/2009 entrusted a responsibility on each Range Head to ensure improvement in quality of assessments by issuing directions under section 144A of the Act. There is a

need to follow the said Instruction in letter and spirit and accordingly, the Range Heads are required to ensure that frivolous additions or high-pitched assessments without proper basis are not made. The Principal Commissioners of Income-tax/ Commissioners of Income-tax are required to supervise the work of their subordinates to ensure due discharge of these functions.

iv. Instruction No. 15 of 2008 dated 04.11.2008 provides for review of scrutiny assessment orders by the supervising officers on a quarterly basis. Instruction No. 16 of 2008 dated 4.11.2008 lays down the procedure for Inspection of work of Assessing Officers, Tax Recovery Officers, Range Offices and Commissioners of Income-tax (Appeals). These instructions are issued with the overall aim of capacity building and improving quality of work. Supervisory authorities are required to ensure that these instructions are duly followed.

v. Instruction No. 7 of 2014 dated 26.09.2014 clarifies that ordinarily in scrutiny cases selected on the basis of AIR/CIB/26AS information, the scrutiny shall be limited to that information. Wider scrutiny would be possible only with the sanction of Principal Commissioner of Income-tax/ Commissioner of Income-tax in specified cases and under the monitoring of the Range Head. (Such cases form 25-30% of the total scrutiny basket, thus limiting the cases of full scrutiny).

vi. Withholding of refunds due to mismatch of TDS data has been sought to be remedied through Instruction No. 5 of 2013 dated 08.07.2013 which provides for grant of credit on the basis of evidence submitted by the assessee. This Instruction must be followed scrupulously.

vii. Instruction No. 1914 of 1993 dealing with recovery of demand, stay of demand and grant of installments has stood the test of time and is equally relevant today. Same is reiterated for implementation in deserving cases. Measures for recovery of tax should be subject to the said Instruction.

viii. In cases of remand, the Commissioners of Income-tax (Appeals) should specify the aspect which needs to be verified. The practice of forwarding the entire documents/submission of the assessee for comments of the Assessing Officers should cease. Assessing Officers will be required to submit a remand report only in cases where the remand is on a specific matter.

ix. Threshold limits have been set for appeals to ITAT, High Courts and Supreme Court at Rs. 4 lakhs, Rs. 10 lakhs and Rs. 25 lakhs, respectively. This, however, does not imply that appeals above these amounts have to be necessarily filed. Where the tax effect is above these amounts, the officer concerned is enjoined with the duty to ensure that the same is filed only if it is feasible to so do on merits of the case.

x. A review of the proposals for filing SLPs reveals that in most of the cases, the decision to file a reference before the High Court itself was not in order. No substantial question of law existed or the question of law was not correctly drafted. Hence, in stations having more than one Chief Commissioner of Income-tax (CCIT) the decision to file a reference before the High Court will be taken by two CCsIT including the CCIT in whose jurisdiction the matter lies. The Principal CCIT/ CCIT (CCA) concerned may issue directions for pairing of CCsIT for this purpose. In case of disagreement between the two CCsIT, the matter will be referred to the Principal CCIT/ CCIT (CCA). For references in the jurisdiction of the Principal CCIT/ CCIT (CCA), in case of disagreement, the matter will be referred to the CCIT-II.

xi. Any regime where taxpayers' grievances are not attended to in time may be considered adversarial. Time limits have been set out for their disposal under Citizens' Charter, CPGRAMS, etc. However, the

pendency reflects poorly on the monitoring effort. All the supervisory authorities are directed to ensure that the grievances are disposed off within the specified time period

xii. The issue of summons without adequate caution and due application of mind has caused concern to the Board. Supervisory authorities have to ensure that the summonses are issued only in deserving cases. Summons should also clarify if the person has been called as a witness or in his own case, and the matter for which he has been called.

2. Officers and staff at all levels are advised to follow the above instructions scrupulously. Non adherence to these instructions will be viewed very seriously and disciplinary action initiated.

(Priyanka Singh)
(OSD)ITJ
CBDT

To
All Principal Chief Commissioners of Income-tax /Directors General of Income-tax