



DIRECT TAXES PROFESSIONALS' ASSOCIATION

(Registered under Societies Registration Act, 1961. Registration No. S/60583 of 1988-89)

Ref. No. – DTPA/Rep/21-22/32

Date: 5th July, 2021

URGENT

To,
Mrs. Nirmala Sitharaman,
Hon'ble Finance Minister,
fmo@nic.in,
Government of India,
North Block, New Delhi 110 001

Respected Madam,

Subject- Representation for recalling notices under section 148 issued as per old provisions after 31st March 2021

1. At the outset we appreciate that the scope of reopening of assessment has now been reduced. Taxpayer will be given an opportunity to explain before issue of notice under sec. 148. Overall our gratitude for the object of reducing litigation and bring ease of business so far reopening of assessment is concerned, as also mentioned in the Explanatory Memorandum to the Finance Bill, 2021.
2. Reopening of assessments after 1.4.2021 using old provisions already substituted w.e.f. 1.4.2021:
 - a) We would like to bring to your kind notice that the Assessing Officers are sending Notices under section 148 issued after 31st March 2021 as per old procedure which had been substituted with effect from 1.4.2021 by Parliament. Your honour will kindly appreciate that 2 sets of legal provisions cannot be used for same purpose of initiating proceedings for reopening of assessments during the period from 1st April, 2021 to 30th June, 2021 as the new provision have already come into force w.e.f. 1st April, 2021. Naturally earlier provisions become redundant and any notice issued under old provisions is bad in law.
 - b) The Finance Act, 2021 had SUBSTITUTED the provisions relating to Reassessment with effect from 1st April, 2021. After such substitution, the Old provisions relating to Reassessment, do not survive.
 - c) So far the extension of date for Issue of Notice u/s 147 as per section 3(1) of THE TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020 which got Presidential assent on 29th September, 2020, is concerned there is no question of extending any date for issue of Notice under sections 147/148, which do not exist any more w.e.f. 1.4.2021 as the same has been **substituted** by new provisions by Parliament.

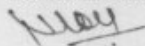
- d) The Finance Bill, 2021 presented by the Hon'ble Finance Minister on February 01, 2021, finally **received the assent of the President on March 28, 2021**, and with that, the Bill stood enacted and has come into existence as the 'Finance Act, 2021.
- e) **We humbly submit that such notices are inconsistent with Law and creating unnecessary confusion and harassment for taxpayers, so kindly consider to recall these notices.**

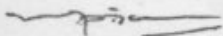
3. Deemed Information in case of Survey and Search :

- a) **We would also like to submit that as per new section 148, assessment can be reopened for 3 years if a survey or search has been conducted. In absence of any specific exclusion, it can be done even if no asset or incriminating documents or books of account was seized. This should not be allowed if search report is Nil.**
- b) **In case of Survey, scrutiny assessment is presently done only for the year in which survey is conducted. Same system should continue instead of providing for reopening of the assessment for 3 years considering the survey action as "Deemed information: under Expl 2 below section 148.**

We request your honour to kindly consider the above representation favorably and we shall be obliged for such consideration.

Thanking you,
Yours faithfully,


CA Narendra Goyal,
President, DTPA


Advocate Narayan Jain,
Chairman, DTPA Representation Committee

CC To:

1. **Sri Anurag Singh Thakur**
Hon'ble Minister of State for Finance,
North Block, New Delhi 110 001
2. **Sri Tarun Bajaj**
Revenue Secretary, Ministry of Finance,
North Block, New Delhi 110 001
3. **Shri J.B. Mohapatra,**
Chairman,
Central Board of Direct Taxes,
North Block, New Delhi 110 001