

DIRECT TAXES PROFESSIONALS' ASSOCIATION

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12th July, 2022

To,
The Pr. CCIT, West Bengal & Sikkim,
Aaykar Bhawan,
Kolkata

Email: kolkata.prccit@incometax.gov.in

Respected Sir,

Sub: Representation in respect of proceedings under section 148A/ 148 as per Order of the Hon'ble Supreme Court and as also directed by the CBDT.

We would like to make the following Representation in respect of proceedings under section 148A/ 148 as per Order of the Hon'ble Supreme Court and as also directed by the CBDT.

1. We humbly urge that as directed in the Order of Hon'ble Supreme Court the assessee is entitled to all the rights under section 148A, as well under sec. 149 therefore the representation made by the assessee need to be allowed and properly considered before making any draft order u/s 148A(d) and before giving any approval by Specified Sanctioning Authority.
2. Further the CBDT circular should be followed in its true spirit and cases with genuine facts & merits should be dropped, so as to keep in line with the Government's intention to do ease of business and reduce unnecessary litigation.
3. The Officials in many cases are inclined to somehow recommend the reopening of the case under section 148 and they make draft order with such mind set. The mind set need to re-oriented to do justice in all cases and drop the proceedings in cases it so deserve and recommend action u/s 148A(d) read with sec. 148 only in cases where there is evidence particularly in cases where a case is under consideration beyond 3 assessment years. The provisions containing pre-conditions in section 149, particularly sec. 149(1)(b) of the Income tax Act should be strictly followed.
4. A) Sir, **Sec. 149(1)(b) prior to its substitution w.e.f. 1st April 2022** provides that no notice under sec. 148 shall be issued for the relevant assessment year, if three years, but not more than 10 years, have elapsed from the end of the relevant assessment year **unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amount to or is likely to amount to Rs. 50 Lakh or more for that year.**

B) The Finance Act 2022 added the following w.e.f. 1st April, 2022: **the income chargeable to tax, represented in the form of an asset; expenditure in respect of a transaction or in relation to an event or occasion, or an entry or entries in the books of account, which has escaped assessment amount to or is likely to amount to Rs. 50 Lakh or more for that year.**

C) Sir, for earlier assessment years particularly in which Notice u/s 148 were issued between 1st April, 2021 and 30th June, 2021, the then existing provisions of sec.

149(1)(b) should be applied and not the amended provisions substituted by the Finance Act, 2022.

We humbly pray for your honour's kind consideration on the above issues.

Assuring your honour our best co-operation and thanking you 🙏

Yours faithfully.



Narayan Jain,
Chairman, DTPA Representation Committee

CC to Mr B Tudu,
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