

F. No. 275/56/2016-IT (B)

Government of India/ भारत सरकार

Ministry of Finance/ वित्त मंत्रालय

Department of Revenue/(राजस्व विभाग)

Central Board of Direct Taxes/(केन्द्रीय प्रत्यक्ष कर बोर्ड)

North Block, New Delhi

24th March, 2017

Order under Section 119(2)(a) of the Income-tax Act, 1961

Subject: Guidelines for waiver of interest charged under section 201(1A) (i) of the Income-tax Act, 1961.

In exercise of the powers conferred under clause (a) of sub-section (2) of section 119 of Income-tax Act, 1961 (the Act), Central Board of Direct Taxes (the Board), hereby directs that the Chief Commissioner of Income-tax and Director General of Income-tax may reduce or waive interest charged under section 201(1A) (i) of the Act in the classes of cases specified in paragraph 2 of this Order for the period and to the extent the Chief Commissioner of Income-tax/ Director General of Income-tax may deem fit. However, no reduction or waiver of such interest shall be ordered unless the principal demand under sections 200A, 201(1) or 234E, as the case may be, stands fully paid or satisfactory arrangements for payment of the principal demand under these sections have been made. The Chief Commissioner of Income-tax or Director General of Income-tax may also impose any other condition as deemed fit for the said reduction or waiver of interest.

2. The class of cases in which the reduction or waiver of interest under section 201(1A) (i) can be considered, are as follows:

(i) Where during the course of proceedings for search and seizure under section 132 of the Income-tax Act, or otherwise, the books of account and other documents necessary for making deduction under Chapter XVIIIB of the Act were seized and the assessee was not able to, within the time specified, deduct tax at source from any sum credited to any account (whether called "suspense account" or by any other name) in his books of accounts.

(ii) Where any sum paid or payable was not liable for deduction of tax at source in the case of a deductor on the basis of any order passed by the jurisdictional High Court, and as a result, he did not deduct tax at source in relation to such sum, and subsequently, in consequence of any retrospective amendment of law or a decision of the Supreme Court of India or a decision of a Larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final) in any proceedings, as the case may be, tax was held to be deductible or the tax deducted by the deductor during such financial year was found to be less than the tax deductible on such sums paid or payable.

(iii) Where the default under section 201 relates to non-deduction or a lower deduction of tax under section 195 of the Act in respect of a payment made to a non-resident (including a foreign company) being a resident of a country or specified territory outside India with

whom India has entered into an agreement referred to in section 90 or 90A of the Act, and where -

- (e) a dispute regarding the tax payable in India in respect of the said payment had been referred to the Competent Authority in India mentioned in Rule 44H of the Income-tax Rules, 1962 under the said agreement under section 90 or 90A of the Act;
- (f) such reference had been received by the Competent Authority in India within a period of two years of the date on which the notice of demand determining the tax payable was received by the person in default under section 201;
- (g) the dispute has been settled by way of a resolution arrived at under the Mutual Agreement Procedure (MAP) provided in the said agreement; and
- (h) the person in default under section 201 has given his acceptance to the resolution and has withdrawn his appeal(s) pending on the issue, within the meaning of sub-rule (4) of Rule 44H of the Income-tax Rules, within a period of one month of the date on which the resolution is communicated to him.

3. Even if the interest u/s 201(1A) (i) has already been paid by the deductor, the same can be considered for waiver, subject to the conditions above and a refund may be given to the deductor, if waiver is ordered.

4. The Chief Commissioner of Income-tax or Director General of Income-tax examining an application for waiver of interest under this Order shall pass a speaking order after providing adequate opportunity of being heard to the applicant.

5. The Board reserves the power to examine any grievance arising out of an order passed or not passed by Chief Commissioner of Income-tax or Director General of Income-tax, as the case may be, and issue suitable directions to these authorities for proper implementation of this Order. However, no review of or appeal against the orders passed on merits by such authorities would be entertained by the Board.

Hindi version follows.



(Sandeep Singh)

Under Secretary to the Govt. of India

Tele: 23094182

Email: sandeep.singh68@nic.in

1. Chairman, Members and all other officers of the Central Board of Direct Taxes.
2. Pr. CCIT/ Pr.DGIT/ CCIT/ DGIT with a request to circulate the same amongst all officers in their Region / Charge.
3. Commissioner (Media & Technical Policy) and Official Spokesperson, CBDT.
4. Addl. Director General of Income-tax (PR, PP & OL)
5. Office of Comptroller & Auditor General of India.
6. ADG (Systems)-IV for uploading on the Departmental website.
7. Database Cell for uploading on the IRS Officers website.
8. Guard File.