

F.No.279/Misc./140 /2015/ITJ  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes  
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New Delhi, 31<sup>st</sup> December, 2015

**Subject: Recording of satisfaction note under section 158BD/153C of the Act - reg.-**

The issue of recording of satisfaction for the purposes of section 158BD/153C has been subject matter of litigation.


2. The Hon'ble Supreme Court in the case of M/s Calcutta Knitwears in its detailed judgment in Civil Appeal No.3958 of 2014 dated 12.3.2014(available in NJRS at 2014-LL-0312-51) has laid down that for the purpose of Section 158BD of the Act, recording of a satisfaction note is a prerequisite and the satisfaction note must be prepared by the AO before he transmits the record to the other AO who has jurisdiction over such other person u/s 158BD. The Hon'ble Court held that "*the satisfaction note could be prepared at any of the following stages:*

- (a) *at the time of or along with the initiation of proceedings against the searched person under section 158BC of the Act; or*
- (b) *in the course of the assessment proceedings under section 158BC of the Act; or*
- (c) *immediately after the assessment proceedings are completed under section 158BC of the Act of the searched person."*

3. Several High Courts have held that the provisions of section 153C of the Act are substantially similar/pari-materia to the provisions of section 158BD of the Act and therefore, the above guidelines of the Hon'ble SC, apply to proceedings u/s 153C of the IT Act, for the purposes of assessment of income of other than the searched person. This view has been accepted by CBDT.


4. The guidelines of the Hon'ble Supreme Court as referred to in para 2 above, with regard to recording of satisfaction note, may be brought to the notice of all for strict compliance. It is further clarified that even if the AO of the searched person and the "other person" is one and the same, then also he is required to record his satisfaction as has been held by the Courts.

5. In view of the above, filing of appeals on the issue of recording of satisfaction note should also be decided in the light of the above judgement. Accordingly, the Board hereby directs that pending litigation with regard to recording of satisfaction note under section 158BD /153C should be withdrawn/not pressed if it does not meet the guidelines laid down by the Apex Court.

  
(Ramanjit Kaur Sethi) 34/ ✓  
DCIT (OSD) (ITJ),  
CBDT, New Delhi.

Copy to:

1. The Chairperson, Members and officers of the CBDT of the rank of Under Secretary and above.
2. All Pr. Chief Commissioners of Income-Tax & All Directors General of Income-Tax with a request to bring to the attention of all officers.
3. The Pr. Director General of Income-Tax, NADT, Nagpur.
4. The Pr. DGIT (Systems), ARA Centre, Jhandewalan Extension, New Delhi.
5. The Pr. DGIT(Vigilance), New Delhi.
6. The ADG(PR, PP &OL), Mayur Bhawan, New Delhi for printing in the quarterly tax bulletin and for circulation as per usual mailing list (100 copies).
7. The Comptroller and Auditor General of India (40 Copies).
8. The ADG-4 (Systems) for uploading on ITD website.
9. Data Base Cell for uploading on irsofficersonline.
10. Guard File.

  
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