



REASSESSMENT AND REVISION PROCEDURES- IMPORTANT PROVISIONS

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RELEVANT PROVISIONS OF THE IT ACT IN REGARD TO REASSESSMENT

- ❖ Sec 2(8)- assessment includes reassessment
- ❖ Sec 147- Income escaping assessment
- ❖ Sec 148- Issue of notice when income has escaped assessment
- ❖ Sec 149- Time limit for issue of notice
- ❖ Sec 150- Assessment in pursuance of an order of appeal
- ❖ Sec 151- Sanction for issue of notice
- ❖ Sec 153-Time limit for completion of assessment

❖ **Events after filing of a return**

- ❖ A return filed can either be
 - Processed under section 143(1)
and/or
 - Assessed u/s 143(3) or 144

In either case if income has escaped assessment provisions of section 147/148 can be invoked

LIMITATION FOR ISSUE OF NOTICE U/S 148

- ❖ If return has been processed u/s 143(1)
 - **6 years** from the end of the assessment year

- ❖ If assessment has been completed u/s 143(3)
 - **4 years** from the end of the assessment year unless
 - income chargeable to tax has escaped assessment on account of failure on part of the assessee to make a return u/s 139 or in response to notice u/s 142(1)
 - Or disclose fully and truly all material facts necessary for the purpose of assessment



EXPLANATIONS

(Disclosure before the Assessing Officer)

- ❖ Production of books of accounts or other evidence from which material evidence with due diligence could have been discovered by the AO will not necessarily amount to disclosure



DEEMED ESCAPEMENT

- ❖ No return filed where there is obligation to file on account of existence of taxable income
- ❖ Return filed but income understated or excessive loss, deduction, allowance or relief claimed
- ❖ Failure to furnish report u/s 92E

DEEMED ESCAPEMENT (CONTINUED)

- ❖ Where an assessment has been made, but
 - i. Income chargeable to tax has been underassessed;
or
 - ii. Such income has been assessed at too low a rate; or
 - iii. Such income has been made the subject of excessive relief under this Act; or
 - iv. Excessive loss or depreciation allowance or any other allowance under this Act has been computed

- ❖ Where any person is found to have any asset (including financial interest in any entity) located outside India –(severe implications)

SCOPE OF REASSESSMENT

- ❖ Can include all sources of income that come to the notice of the assessing officer during the course of the proceeding

PRECAUTIONS WHICH MAY PROTECT ONE FROM REASSESSMENT

- ❖ Disclose basis of claims/ rationale
- ❖ Furnish all relevant details during the course of assessment
- ❖ Refer to the disclosure emphatically
- ❖ State that all material facts have been disclosed and request that any further details be called for expeditiously

ISSUE/ SERVICE OF NOTICE U/S 148

- ❖ Within period of limitation
- ❖ On right person
- ❖ Issue of notice mandatory

SANCTION U/S 151

- ❖ If assessment has been made u/s 143(3)
 - No notice by AO below the rank of Assistant Commissioner unless Joint Commissioner satisfied of reasons
 - After expiry of 4 years unless commissioner is satisfied that it is a fit case for reopening
 - In any other case after expiry of 4 years by an AO below the rank of Joint Commissioner after recording by Joint Commissioner that he is satisfied that it is a fit case

FORMATION OF REASON

- ❖ Reason to 'believe' and not reason to suspect
- ❖ Information
- ❖ New evidence
- ❖ Retrospective amendment
- ❖ Judicial pronouncement



RECORDING OF REASONS

- ❖ Reason recorded has to have nexus with facts
- ❖ Reason to believe must exist on the date of recording reasons
- ❖ Belief must be of AO not of any other person.
- ❖ Reasons recorded must constitute belief and not opinion

❖ Manner of recording of reasons-

- Cogent
- Must allege failure of assessee in case of reopening beyond 4 years
- Cannot be based on audit objections



ILLUSTRATIVE E CAUSES FOR REASON TO BELIEVE

- ❖ Basis for Reason to believe
 - Searches/ Surveys on assessee or other related parties
 - Information about evasion through a particular modus operandi
 - Statements recorded of any person in another proceeding
 - Accommodation entries of shares/loans/advances
 - Bogus purchases

PROCESS OF REASSESSMENT

- ❖ Issue of notice/ service of notice
- ❖ Filing of return by the Assessee
- ❖ Request for furnishing reasons
- ❖ Recording objections for reopening
- ❖ Disposal of objections

❖ Steps / Remedies where

- AO does not furnish reasons
- AO furnishes reasons late
- AO takes up the assessment at the fag end before limitation

PERIOD FOR COMPLETION OF REASSESSMENT U/S 153

- ❖ 1 year from the end of the financial year in which notice u/s 148 is served
- ❖ If the assessment is in pursuance of an order u/s 250 or section 254, 1 year from the end of the financial year in which order u/s 250/254 is received
- ❖ If a reference u/s 92CA(1) is made
(Reference to Transfer pricing Officer)-
the period is extended to two years

REVISION U/S 263

- ❖ The Commissioner
- ❖ May call for and examine the record of the proceeding
- ❖ And if he considers any order passed therein as prejudicial to the interest of revenue
- ❖ He may after giving an opportunity of being heard/ making or causing an inquiry
- ❖ Pass an order thereon as the circumstances of the case justify
- ❖ Including an order enhancing or modifying the assessment
- ❖ Or cancelling the assessment and directing a fresh assessment

- ❖ A revision can be made
 - Only within 2 years from
 - The end of the previous year in which the order sought to be revised was passed



- ❖ Order sought to be revised must be
 - Erroneous
 - Prejudicial to revenue



ORDERS NOT PREJUDICIAL

- ❖ Where 2 views are possible
- ❖ Where a judicial pronouncement has not been followed
- ❖ Subsequent amendment of law

DOCTRINE OF MERGER

- ❖ If order is the subject matter of appeal
- ❖ Matters not considered in the appeal can be the subject matter of revision

ORDERS WHICH ARE PREJUDICIAL

- ❖ Erroneous method of accounting u/s 145
- ❖ Assessments made with undue haste and total lack of enquiry
- ❖ Grossly erroneous interpretation of law

- ❖ Commissioner in revision proceeding must
 - Give proper opportunity to assessee
 - Not use subsequent material or rely on audit objection
 - Must give basis for revision and record reasons

OTHER REVISIONS UNDER SECTION 264

- ❖ Any order other than an order referred to under section 263
- ❖ Passed by an authority subordinate to the Commissioner
- ❖ Maybe revised by the Commissioner on his own motion
- ❖ Or by an application by the assessee

LIMITATIONS

- ❖ A Commissioner cannot revise an order of his own motion if 1 year has elapsed from the date of the order
- ❖ An application by the assessee has to be made within a period of one year from the date on which the order is communicated to him
- ❖ Delay can be condoned if sufficiency of reasons established

ORDERS WHICH CANNOT BE REVISED U/S 264

- ❖ Time for appeal has not expired
- ❖ Order is the subject matter of an appeal

THANK YOU

