

Circular No. 16 /2014
F.No.142/14/2007-TPL(Part)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Dated: 17th November, 2014

SUB:- Clarification in respect of Circular No.3 of 2008 dated 12/3/2008 of CBDT – reg.

Chapter XIX-A of the Income-tax Act, 1961 contains provisions relating to settlement of cases by the Income-tax Settlement Commission (ITSC). The provisions contained in the said chapter were amended by Finance Act, 2007 and a Revised Settlement Scheme was put in place. Explanatory Circular No. 3/2008 dated 12.03.2008 issued by CBDT vide para 61 (comprising sub paras 61.1 to 61.17) deals with Revised Settlement Scheme.

2. Para 61.2 of Circular No.3 of 2008 reads:-

“61.2 under the existing provisions, an assessee may make an application to the Commission at any stage of the proceedings in his case pending before any Income-tax Authorities. After 31st May, 2007, an assessee can make an application to the Commission only during the pendency of the proceedings before the Assessing Officer. It is further clarified that (a) since intimation under section 143(1) is not an assessment order, there will be no bar in filing an application for settlement subsequent to receipt of an intimation under section 143(1). It is not material whether time-limit for issue of notice under section 143(2) has expired or not; (b) the assessment shall be deemed to have been completed only on the date of service of assessment order to the applicant”.

3. It has been inadvertently stated in para 61.2 of Circular No.3 of 2008 that the assessment shall be deemed to have been completed only on the date of service of assessment order to the applicant. This statement is not inconsonance with the provisions contained in Explanation to clause (b) of section 245A of the Income-tax Act which, inter alia, provides that a proceeding for assessment of any assessment year shall be deemed to have concluded on the date on which the assessment is made.

4. In view of the above, para 61.2 of Circular No.3 of 2008 is replaced with the following with effect from the 1st day of June, 2007:-

“61.2 Under the existing provisions, an assessee may make an application to the Commission at any stage of the proceedings in his case pending before any Income-tax Authorities. After 31st May, 2007, an assessee can make an application to the Commission only during the pendency of the proceedings before the Assessing Officer. It is further clarified that (a) since intimation under section 143(1) is not an assessment order, there will be no bar in filing an application for settlement subsequent to receipt of an intimation under section 143(1). It is not material whether time-limit for issue of notice under section 143(2) has expired or not; (b) the assessment shall be deemed to have been completed on the date on which the assessment order is passed.”

(Gaurav Kanaujia)

Director (TPL-IV)

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

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