KRESTON RANGAMANI

Income Tax Newsletter

August 2022

CBDT specifies conditions for exemption to money received from employer or other person in COVID cases by family of deceased vide

Notification No. 92/2022-Income Tax I Dated: 5th August, 2022

Clause (XIII) of the first proviso to clause (x) of sub-section (2) of section 56 of the Income-tax Act, 1961 provides that where any sum of money received by family member of a person who died due to COVID-19, the money so received shall not be considered as income of the family member where such money is received from the employer of deceased person. If the money is received from any other person, the exemption amount shall be limited to Rs. 10 lakhs in aggregate.

CBDT reduces time limit to verify ITR from 120 days to 30 days for returns filed on or after 01-08-2022

The Central Board of Direct Taxes (CBDT) has decided to reduce the time limit for e-verification or submission of ITR-V in respect of any electronic furnishing of return of income. The CBDT has notified that the time limit for e-verification or submission of ITR-V shall now be 30 days from the date of filing of return of income. The earlier taxpayer was allowed 120 days to verify e-filed returns.

The revised time limit of 30 days shall be applicable for ITR filed on or after 01-08-2022. The earlier time limit of 120 days would continue to apply if the return of income is electronically filed before 01-08-2022.

The CBDT has also clarified that:

(a) Where ITR is e-verified/ITR-V submitted within 30 days from the date of filing of the electronic return, the date of filing of return of income shall be considered as date of furnishing of return of income.

(b) Where ITR is e-verified/ITR-V submitted beyond the time limit of 30 days from the date of filing of the electronic return, the date of e-verification/ITR-V submission shall be considered as the date of furnishing of return of income. Accordingly, all consequences of late filing of return shall follow.

(CBDT Notification no. 5/2022, dated 29-07-2022)

Reduction of time limit for verification of Income Tax Return (ITR) from within 120 days to 30 days of transmitting the data of ITR electronically- reg

The Central Board of Direct Taxes (CBDT) vide Circular No. 3/2009 dated 21-05-2009 notified the new Income Tax Return (ITR) forms for Assessment Year 2009-10 and provided the facility of furnishing ITR in the following manner:

- ❑ Furnishing the return in paper form
- ❑ Furnishing the return electronically under digital signature
- ❑ Transmitting the data in the return electronically and thereafter submitting the verification of the return in form ITR-V to CPOC within 30 days after transmitting the data electronically
- ❑ Furnishing a bar coded return in paper form.

CBDT notifies books of account and other documents to be maintained by charitable institutions

This Tax Alert summarizes Notification No. 94/2022 dated 10 August 2022 (Notification) issued by the Central Board of Direct Taxes (CBDT) which notifies a new rule as prescribed by the enabling provisions of the Income Tax Law (ITL). The Finance Act 2022 had amended the enabling provisions for the charitable institutions to maintain books of account and other documents and it is one of the pre-conditions for availing exemption under the ITL. The new rule provides that charitable trust and other eligible institutions (charitable institutions) are required to maintain books of account and other documents. The documents prescribed require maintenance of record exhaustively in respect of different segments such as sources of income, application, investment or deposit of money etc. It also includes maintenance of details such as name, address, PAN , Aadhar number of every donor, as also of every person in respect of whom application is made or claimed. The books of account and other documents are to be maintained at the registered office for a period of ten years from the end of the relevant tax year. It may be kept at any other place as decided by the management by way of a resolution. It may be maintained in written or electronic form. Furthermore, if the charitable institutions are subjected to reassessment for any tax year, the books of account are to be maintained till the reopened assessment is finalized

Income Tax Case Law

Income Tax Department Can't Withhold Refunds in Mechanical and Routine Manner

Case Title: Trueblue India LLP Vs Deputy/Assistant Commissioner of Income Tax Circle
Case No.: 10886/2022
Dated: 28-07-2022

The Delhi High Court has held that an order under Section 241A of the Income Tax Act cannot be passed in a mechanical and routine manner. The refunds cannot be withheld just because the notice under Section 143(2) has been issued and the department wants to verify the claim for deduction under Section 10AA of the Income Tax Act.

The division bench of Justice Manmohan and Justice Manmeet Pritam Singh Arora has observed that the order under Section 241A was generic and no attempt was made by the department to substantiate how the grant of the refund is likely to adversely affect the revenue.

The petitioner/assessee stated that the department via email confirmed that the Income Tax Return has been processed and a refund along with interest amounting to Rs.21.80 crore under Section 244A has been determined as due to the petitioner. The refund due to the petitioner was liable to be released at the time of the processing of the return under Section 143(1). Section 143(1) of the Act is mandatory in nature, binding and uses the expression "shall". However, despite the clear statutory provision, no refund has been issued to the petitioner till date.

The petitioner submitted that the order only states that a claim of deduction under Section 10AA needs to be verified and it is likely to result in huge demand. The order is bereft of any reasoning as to why the refund should be withheld. The petitioner contended that the order was factually incorrect as it stated that the assessee had claimed a deduction under Section 10AA for Rs.10,95,87,033 and that this was the first year of claim as a new SEZ unit had been set up.

The petitioner submitted that there are two SEZ units, i.e., Unit 1 (old unit) and Unit 2 (new unit). Unit 1, is the fourth year of claim, and for unit 1, the deduction under Section 10AA has already been allowed in earlier years by the respondents. For Unit 2, it was the first year of claim. Hence, according to her, the question of the allowability of deduction under Section 10AA for SEZ Unit 1 does not arise.

The court held that the petitioner is liable to be released at the time of issuance of the intimation/order under Section 143(1) unless an order for withholding of refund has been passed under Section 241A of the Act, explicitly recording that the grant of refund is likely to adversely affect the revenue.

"The Order lacks sufficient reasoning to hold that the revenue would be adversely affected by the grant of –

refund. Accordingly, the impugned order dated June 15, 2022, passed under Section 241A of the Act is quashed and the matter is remanded back to the Office of the Assistant Commissioner of Income Tax Circle 43(1), Delhi with a direction to pass a fresh speaking order within six weeks," the court said.

The court ruled that even if the higher amount was withheld, the petitioner would still be entitled to a refund along with applicable interest under Section 244A of the Income Tax Act.

Income from undisclosed sources-Addition under section 69A-Unexplained cash deposit-Cash deposit made in several state part demonetization

Case Title: Tilak Raj Anand Vs. ITO
Case No.: 1453/Del/2021
Dated: 17-03-2022

The Assessing officer, during the course of assessment, issued a notice dated u/s 142(1) of the Act to explain the cash deposit during the demonetisation period in old currency notes and state the closing balance of cash in hand as on 08.11.2016. In response thereto, the assessee has stated that due to security reasons the cash was deposited in two lots. The contention of the assessee was not found acceptable by the Assessing Authority. He treated the sum of Rs. 4,00,000/- as not available in cash in hand and made addition of the same.

The Court has heard rival submissions and perused the material on record. I find that the Assessing Officer issued a show cause to explain the cash deposit of Rs. 9,00,000/- in specified bank notes in the bank account during the demonetisation. The contention of the assessee before the authorities below was that all the relevant documents in the nature of ledger, cash book, sales, purchases, cash flow were filed and no objection was raised by the Assessing Authority. It was further contended that the assessee accepted the source of deposit of Rs. 5,00,000/- on 16.11.2016 but treated Rs. 4,00,000/- deposited on 22.11.2016 as unexplained. The basis of the addition is that it is against the normal understanding that the assessee should have deposited the amount in one day. I find that the Assessing officer has not given any finding regarding the availability of cash with the assessee prior to the demonetisation.

If an assessee has cash available prior to demonetisation and if he opted to deposit the same multiple times, there is no prohibition in law for such deposits. The fundamental question would be whether the assessee was having the explained cash which was deposited in his bank account. The Authorities below have not commented anything adverse on the evidences filed by the assessee regarding availability of cash and correctness of the cash flow statement. No material is brought on record rebutting the contention of the assessee. Therefore, the finding of the authorities below is purely based upon surmises, which is not permissible under law.

In my considered view the Assessing Officer ought to have given a clear finding regarding availability of cash in the specified bank notes, which were banned by the order of the Government. It was stated before the authorities below that the demonetisation of currency was declared by the Reserve Bank of India on 8.11.2016. After demonetisation there was huge crowed to deposit old currency and withdrew new currency by public. As per the assessee it was not safe in view of the banks being over crowded during that period. This plea of the assessee was rejected stating that on earlier occasion the assessee had withdrawn bigger amount of money from the bank account. I find merit into the contention of the assessee that there were big lines and the banks were over crowded. Therefore, it was open to the assessee for the safety of the money to deposit in piece meals till the period as allowed by the Competent Authority.

If an individual has cash available prior to demonetisation and if they opted to deposit the same in multiple times, this is allowed. There will no prohibition of the law.

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