

F.No. 225/86/2017-ITA.II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

North Block, New Delhi, dated the 28th of March, 2017

Order under section 119 of the Income-tax Act, 1961

Subject: Petitions seeking condonation of delay in making payment of first instalment under the Income disclosure Scheme, 2016-reg.-

The Board has received condonation petitions under section 119 of the Income-tax Act, 1961 ('Act') from some of the declarants under the Income Disclosure Scheme, 2016 ('IDS') who have paid (fully or partly) the first instalment either belatedly, after the prescribed date of 30th November, 2016, or have not yet made the payment and have now made the request for relaxing/extending the due date. The reasons for making belated payment/not making payment of first instalment is found attributed to varied factors.

2. Under IDS, 2016, declarants were required to pay the first instalment of the twenty-five per cent of total liability of tax, surcharge and penalty on or before 30th November, 2016. Considering the fact that some of the declarants under IDS Scheme faced technical difficulties in depositing the first instalment at the banks, vide Instruction No. 2/2017 dated 16.01.2017 in F.No. 142/8/2016-TPL (Part), Board has already issued directions to the jurisdictional Principal Commissioners/Commissioners to accept the payment of tax etc., payable under IDS in cases where remittance had been made through cheque, RTGS, electronic transfer etc. on or before 30th November, 2016, but the same was credited by banks after 30th November, 2016 but before 5th December, 2016. Further, to mitigate difficulties being faced by the declarants regarding getting due credit for payments which were made within the prescribed timeframe, guidelines for effecting correction in challan attributes have also been issued vide Order in F.No. SW/07/01/06/OLTAS INSTRUCTION/DIT(S) II dated 13.02.2017. Hence, the hardships faced by the declarants due to technical issues have already been redressed.

3. As far as remaining declarants are concerned, the reasons for not making timely payments are stated as under –

- (a) Personal/emergency reasons
- (b) Lack of liquidity
- (c) Confusion about the due date
- (d) Rush at banks
- (e) Any other reasons which are attributable to declarants

3.1 The Board after considering the matter, is of the view that either condoning the delay in making payment of first instalment by the defaulters who have not paid any amount till now or further extending the date beyond the due date for regularising/facilitating the payment of liabilities under IDS merely to accommodate a few, especially when most of the declarants had abided by the prescribed scheduled date, does not merit consideration. It is noted that IDS does not provide for levy of interest on delayed payments, and hence, granting such a condonation to the defaulters may be discriminatory against the declarants who made it a point to adhere to the prescribed time schedule. It is also observed that all the declarants while filing declarations under the IDS were well aware of the payment schedule which they were required to follow. The final liability also became crystallised once a certificate in Form No. 2 [r.w. Rule 4(3) of the IDS Scheme] was issued by the

Pr.CIT/CIT to that effect by mid-October, 2016. Thus, the defaulting declarants who want condonation of delay on the grounds mentioned above had sufficient time at their disposal to suitably organize their affairs so as to ensure timely payment of first instalment without the need to wait till the last minute. It is also relevant to point out here that provisions of the Scheme were well publicised by the Government through various steps such as media campaigns in visual, print & social media, organized meetings, awareness programmes etc. whereby the declarants were also suitably informed of the legal consequences arising from non-compliance of payment schedule. Hence, any delay by the declarants on grounds mentioned above is solely attributable to lack of initiative or timely action on the part of the concerned declarants and hence does not justify condonation.

3.2 In view of the above, Board, while exercising its powers under section 119 of the Act, has decided that granting condonation of delay in payment of instalment under IDS, 2016 beyond the prescribed due date or relaxation/extension of due date shall not be feasible in cases of delays due to circumstances mentioned in Para 3 above.

4. However, some instances have been brought to the notice where the declarant effected the full payment within the due date and same was also acknowledged by the bank, but it was intimated later by the bank that fund transfer did not materialize within the prescribed timeframe and the money was either returned back to the declarant or credited to Govt. A/c after 5th December, 2016. Such instances clearly refer to the circumstances over which the declarant had absolutely no control. Only, in such cases, the concerned Pr.CIT/CIT is hereby authorized to deal with the applications on a case to case basis after verifying the claim of the declarant through the relevant bank statements/certificates etc. and consider on merits the condonation in appropriate cases provided the amount payable as per the first instalment as well as second instalment is paid by 31st March, 2017 by the concerned declarant.



(Rohit Garg)

Director-ITA.II, CBDT

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(Rohit Garg)

Director-ITA.II, CBDT