

Is there contempt to SUPREME COURT'S order on part of CBDT by issuing circular for extension of various due dates

The Central Board of Direct Taxes (Hereinafter referred to as the 'CBDT') vide Circular No.8/2021 dated 01.05.2021 has extended certain time limits under Income Tax Act, 1961.

Inter-alia, through point (a), (b) and (c) of the said circular, it extended the time limit to file appeals with CIT(A), the time limit to file objections to DRP and time limit to file return in response to notice under section 148 till 31st May, 2021.

Important point to note here is that all the three above proceedings which are adjudicated by the CIT(A) or DRP or AO are **QUASI-JUDICIAL PROCEEDINGS**.

Reference is drawn to the Judgement of Hon'ble Supreme Court in the case of **Union of India (UOI) and Ors. v. Madras Steel Re-Rollers Association [2013] 29 taxmann.com 370 (SC)** where the Hon'ble Court held that :

*"Considering the facts and circumstances of the case and relying on the aforesaid decision of this Court, **we hold that the Assessing Authorities as well as the Appellate and the Revisional Authorities are creatures of the Act and they perform the functions of the quasi-judicial authorities and the orders passed by them are also quasi-judicial orders. Therefore, such orders are required to be passed by exercising independent mind and without impartiality and while doing so, such Authorities are required to consider various evidences made available to them.**"*
(Emphasis Supplied)

In light of law and judicial precedent stated hereinabove, it can be concluded that CIT(A) while adjudicating an appeal before him / her, acts as a '**quasi-judicial authority**' and is bound to dispose off the appeal with complete impartiality and unbiased mind.

Now, the suo-moto cognizance of the Supreme court last year vide order dated 23.03.2020 to extend the limitation period under all general and special laws in all proceedings w.e.f. 15th March, 2020 till further orders had provided much needed relief to the litigants across the country.

In continuance to the above, the **Cognizance for Extension of Limitation, In re, [2021] 127 taxmann.com 72 (SC)** looking into the current emergency like situation in the country due to sudden surge in COVID-19 cases, restored its last year's order dated 23.03.2020 of extending period of limitation under all general & special

laws and further directed at page 5 that **"the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.**

Further it has clarified that **"the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."**

Therefore, it can be safely interpreted that order dated 23-3-2020 of the Apex court stands expanded by order dated 27-4-2021 to take in its sweep all the quasi-judicial proceedings of all nature under any law including Income Tax Laws / GST Laws etc.

However, as stated above, the CBDT vide circular dated 01.05.2021, which was issued after the above Apex court's order, in its own whims have extended the period to file appeals to CIT(A) or objections to DRP or return in response to 148 notice till 31st May 2021 ONLY as against the order of the Apex court, that in all judicial and quasi-judicial proceedings, the period of limitation is extended till further orders.

Therefore, is it contempt to Hon'ble SC's order on part of CBDT?

These are some of the points which require further clarity as diverse views may be taken up by the various stakeholders. In my humble opinion, the above due dates won't be applicable on the assessee's and accordingly appropriate notifications should be issued by the relevant ministries to clarify the said issues so that the assessee's under various laws are not subject to undue harassment at the hands of the Assessing authorities.

Disclaimer:

The views mentioned above are the personal views of the author and have no legal binding.

Source: Taxmann.com