

## **CBDT clears haze & daze over reassessment proceedings pursuant to SC ruling**

**May 11, 2022**

CBDT, in exercise of powers under Section 119 issues Instruction No. 1 of 2022 for implementation of SC ruling in [Ashish Agarwal](#); Clarifies that the ruling applies to all cases where reassessment notices in the extended period were issued, regardless of whether such notices were challenged or not; Taking into consideration SC's observation that the Assesseees will be eligible for defences under Section 149, CBDT clarifies that SC ruling allows reassessment notices to travel back in time to their original date when such notices were to be issued and the new Section 149 is to be applied at that point of time; Thus, lays down the procedure for dealing with cases falling under various AYs where 30 days for providing information by the Revenue expire on Jun 2, 2022; CBDT makes it clear that for AYs 2013-14, 2014-15 and 2015-16, no information is required to be provided by AOs where income escaping assessment is less than Rs.50 Lakh; CBDT to issue a separate Instruction for disposal of such cases

As per the CBDT Instruction:

1. For AY 2013-14, AY 2014-15 and AY 2015-16: Fresh notice under section 148 of the Act can be issued with the approval of the specified authority under Section 151(ii) only if the case falls under the amended Section 149(1)(b)
2. For AY 2016-17 & AY 2017-18: Fresh notice under section 148 can be issued with the approval of the specified authority under Section 151(i) as per Section 149(1)(a) since they are within the period of three years from the end of the relevant AY
3. The notices cannot be issued in a case for AY 2013-14, AY 2014-15 and AY 2015-16 if the income escaping assessment amounts to or is likely to amount to less than Rs.50 lakh. Hence, to reduce the compliance burden, CBDT clarifies that information and material may not be provided in a case for AY 2013-14, AY 2014-15 and AY 2015-16 if the income escaping assessment amounts to or is likely to amount to less than Rs. 50 lakh.
4. Separate Instruction will be issued for disposing of such cases.

Procedure for AOs to comply with SC ruling:

1. Since the reassessment notices are deemed to be show cause notices under Section 148A(b), all requirements of new law prior to that show cause notice shall be deemed to have been complied with.
2. AOs shall exclude cases as per clarification in Para 3 above.
3. AOs shall provide the information and material relied upon for issuance of notice under the extended period within 30 days ending on Jun 2, 2022 in remaining cases.
4. Assesseees shall within two weeks (counted from last date of communication of information and material) respond as to why a notice under Section 148 should not be issued based on the information furnished
5. Where Assesseees seek more time to file reply to the show cause notice, then such a request shall be considered on merit and time may be extended as per Section 148A(b)
6. On receipt of the reply, AO shall decide on the basis of material available on record and Assessee's reply whether or not a notice under Section 148 can be issued.
7. AO shall pass an order under Section 148A(d) with the prior approval of the specified authority as per the new regime within one month from the end of the month in which the reply is received from the Assessee.
8. Where no reply is furnished by the Assessee, then AO shall pass an order within one month from the end of the month in which original or extended time allowed to furnish the reply expires.
9. AO shall issue the notice under Section 148 if finds the case fit for the notice after obtaining the approval of the specified authority under Section 151 and the copy of the order passed under Section 148A(d) shall also be served with the notice
10. If AO finds that the case is not fit enough to issue a notice under Section 148 then AO shall pass

an order under Section 148A(d) to that effect and serve it upon the Assessee.