

REDUCTION OR WAIVER OF PENAL INTEREST FOR LATE FILING OF RETURN OF INCOME, ETC. - AUTHORISATION OF POWERS TO CHIEF COMMISSIONERS AND DIRECTORS - GENERAL` (INVESTIGATION)

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In exercise of the powers conferred under clause (a) of sub-section (2) of section 19 of the Income-tax Act, 1961, the Central Board of Direct Taxes, hereby direct that the Chief Commissioner of Income-tax and Director-General of Income-tax may reduce or waive interest charged under section 234A or section 234B or section 234C of the Act in the classes of cases or classes of income specified in paragraph 2 of this order for the period and to the extent the Chief Commissioner of Income- tax/Director-General of Income-tax deem fit. However, no reduction or waiver of such interest shall be ordered unless the assessee has filed the return of income for the relevant assessment year and paid the entire tax due on the income as assessed except the amount of interest for which reduction or waiver has been requested for. The Chief Commissioner of Income-tax or the Director-General of Income-tax may also impose any other conditions deemed fit for the said reduction or waiver of interest.

1. 1 :-

The class of incomes or class of cases in which the reduction or waiver of interest under section 234A or section 234B, or, as the case may be, section 234C can be considered, are as follows :

(a) Where during the course of proceedings for search and seizure under section 132 of the Income-tax Act, or otherwise, the books of account and other incriminating documents have been seized and

for reasons beyond the control of the assessee, he has been unable to furnish the return of income for the previous year during which the action under section 132 has taken place, within the time specified in this behalf and the Chief Commissioner or, as the case may be, Director-General is satisfied having regard to the facts and circumstances of the case that the delay in furnishing such return of income cannot reasonably be attributed to the assessee.

(b) Where during the course of search and seizure operation under section 132 of the Income-tax Act, cash is seized which is not allowed to be utilised for payment of advance tax instalment or instalments as they fall due after the seizure of cash and the assessee has not paid fully or partly advance tax on the current income and the Chief Commissioner or the Director-General is satisfied that the assessee is unable to pay the advance tax.

(c) Where any income chargeable to income-tax under any head of income, other than "capital gains" is received or accrues after the due date of payment of the first or subsequent instalments of advance tax which was neither anticipated nor was in the contemplation of the assessee and the advance tax on such income is paid in the remaining instalment or instalments and the Chief Commissioner or Director General is satisfied on the facts and circumstances of the case that this is a fit case for reduction or waiver of interest chargeable under section 234C of the Income-tax Act.

(d) Where any income which was not chargeable to income-tax on the basis of any order passed in the case of an assessee by the High Court within whose jurisdiction he is assessable to income-tax, and as a result, he did not pay income-tax in relation to such income in any previous year and subsequently, in consequence of any retrospective amendment of law or, as the case may be, the decision of the Supreme Court in his own case, which event has taken place after the end of any such previous year, in any assessment or reassessment proceedings the advance tax paid by the assessee during the financial year immediately preceding the relevant assessment year is found to be less than the amount of advance tax payable on his current income, the assessee is chargeable to interest under section 234B or section 234C and the Chief Commissioner or Director-General is satisfied that this is a fit case for reduction or waiver of such interest.

(e) Where a return of income could not be filed by the assessee

due to unavoidable circumstances and such return of income is filed voluntarily by the assessee or his legal heirs without detection by the Assessing Officer.

2. 2 :-

The Chief Commissioner of Income-tax/Director-General of Income-tax may order the waiver or reduction of interest under sections 234A, 234B and 234C under this order with reference to the assessment year 1989-90 or any subsequent assessment year but shall not so reduce or waive penal interest in those cases where waiver or reduction of such interest has been rejected in the past on the merits of the case. If any petition in the past has been rejected because the Board had not issued this direction earlier, these may be reconsidered and decided in accordance with this order. Notification : No. F.No. 400/234/95-IT(B), dated 23-5-1996.