



Global Business Tax Alert Sharp Insights

CBDT prescribes guidelines and conditions for expediting disposal of condonation applications for delay in filing refund claim and claim of carry forward and set-off of losses

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Background

- Section 119(2)(b) of the Income-tax Act, 1961 prescribes that the Central Board of Direct Taxes ('CBDT') may *vide* a circular authorize the income-tax authority to admit an application or claim for any exemption, deduction, refund or any other relief under the Act, after the expiry of specified period for making such an application or claim.
- Under the powers prescribed in section 119(2)(b), the CBDT had issued instructions/circulars¹ in the past to provide guidelines and clarifying procedures regarding applications for condonation of delay in filing refund claims.
- The CBDT Circular² supersedes all the earlier instructions /circulars / guidelines and provides comprehensive guidelines, procedure and conditions for deciding matters relating to condonation applications with respect to refund claims / claim for carry forward of losses.

Circular by CBDT

- The circular deals with applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof, under section 119(2)(b) and covers all pending applications as on 9 June 2015.
- The circular also deals with a condonation application for a supplementary claim for refund. The Supplementary claim refers to claim for additional amount of refund after completion of assessment proceedings for the said year.
- The circular clarifies the Powers of prescribed income-tax authorities of accepting/rejecting such applications and conditions for acceptance /rejection, as under:

1 CBDT instruction [No.[F. NO. 225/208/93-IT(A-II)]], dated 26-10-1993 - Authorisation regarding condonation of delay in filing refund claim. CBDT Instruction dated 12-10-1993, Instruction No.1867 dated 30-11-1990, Circular No. 670 dated 26-10-1993, Instruction No.12/2003 dated 30-10-2003, CBDT Instruction No.13/2006 dated 22-12-2006

2 CBDT Circular No.9/2015 dated 9 June 2015 issued for Condonation of delay in filing refund claim and claim of carry forward of losses under section 119(2)(b) of the Income-tax Act, 1961

Limit of claim	Prescribed Authorities	Conditions
Where claim does not exceed Rs.10 lakhs for any one assessment year	Principal Commissioners of Income-tax /Commissioners of Income-tax	<ul style="list-style-type: none"> To ensure that Income / loss declared and / or refund claimed is correct and genuine and the case is of genuine hardships on merits
Where claim exceed Rs.10 lakhs but is not more than Rs.50 lakhs for any one assessment year	Principal Chief Commissioners of Income-tax /Chief Commissioner of Income-tax	<ul style="list-style-type: none"> May direct the jurisdictional Assessing officer to make inquiries or scrutinize the case, to ascertain the correctness of claim <p>Additional conditions for acceptance / rejection of application / claim for refund and supplementary claim of refund:</p> <ul style="list-style-type: none"> Income of the assessee is not taxable in the hands of other person No interest under section 244A to be granted on belated claim of refunds Such refund should have arisen as a result of excess tax deducted at source / advance tax payments/ self-assessment tax payments.
where claim amount is higher than Rs.50 lakhs	Central Board of Direct Taxes	

- The condonation application shall not be accepted by the prescribed authorities after a period of six years from the end of the assessment year for which such application / claim is made.
- In case of refund claim consequent to a Court order, the period for which such proceedings were pending before any Court shall not be included in the time limit of six years, provided the application is filed within six months from the end of the month in which the Court order was issued or the end of financial year, whichever is later.
- A condonation application for the above claims shall be disposed of within six months from the end of the month in which the application is received by the prescribed authority.
- The time limit of six years for making refund claims shall not be applicable for claiming refund in cases where the assessee has made investment in 8% Savings (Taxable) Bonds, 2003 issued by Government of India and opted for scheme of cumulative interest on maturity and has accounted interest earned on mercantile basis whereas the intermediary bank has deducted tax at source on entire amount of interest, on maturity.
- CBDT reserves the power to examine any grievance arising out of orders passed by the aforesaid prescribed authorities disposing the condonation applications.
- However no review or appeal against such orders will be entertained by the Board.

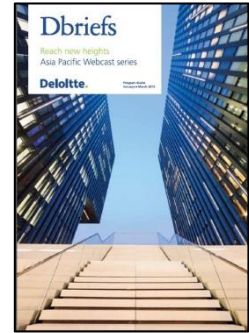
Comments

The CBDT Circular is expected to expedite the procedure of disposing the application for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof and supplementary claim for refund. The conditions prescribed in the Circular for acceptance / rejection of the application may lead to scrutiny or inquiry from the Assessing officer.

The Circular does not clarify if the assessee can file an appeal before the Appellate Authorities against the orders passed by the prescribed authorities disposing the condonation application,

Source: CBDT Circular No.9/2015 dated 9 June 2015 issued for Condonation of delay in filing refund claim and claim of carry forward of losses under section 119(2)(b) of the Income-tax Act, 1961

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