

F.No.400/29 /2002-IT(B)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, the 26th June 2006.

Sub: - Order under Section 119(2)(a) of the Income-tax Act, 1961 regarding Waiver of Interest under Sections 234A, 234B and 234C of the Income Tax Act, 1961.

In exercise of the powers conferred under clause (a) of sub-section (2) of section 119 of Income-tax Act, 1961, Central Board of Direct Taxes, hereby directs that the Chief Commissioner of Income-tax and Director-General of Income-tax may reduce or waive interest charged under section 234A, or section 234 B 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 may 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 income-tax (principal component of demand) due on the income as assessed. The Chief Commissioner of Income-tax or Director-General of Income-tax may also impose any other conditions as deemed fit for the said reduction or waiver of interest.

2. 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:

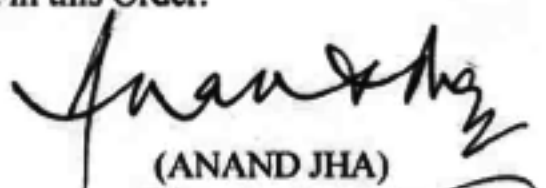
- (a) Where during the course of proceedings for search and seizure under section 132 of the Income-tax Act, or otherwise, the books of account and other incriminating documents have been seized, and the assessee has been unable to furnish the return of income for the previous year, during which the action under section 132 has taken place, within the time specified in this behalf, and the Chief Commissioner / 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) Any income chargeable to income-tax under any head of income, other than "Capital Gains" is received or accrued after 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 / Director General is satisfied on the facts and circumstances of the case that this is a fit case for reduction or waiver of the interest chargeable under section 234C of the Income-tax Act.
- (c) Where any income was not chargeable to income-tax in the case of an assessee on the basis of any order passed 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 the decision of the Supreme court of India, or as the case may be, a decision of a larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final), in any assessment or re-assessment proceedings the advance tax paid by the assessee during such financial year is found to be less than the amount of advance tax payable on his current income, and the assessee is chargeable to interest under section 234B or section 234C, and the Chief Commissioner / Director General is satisfied that this is a fit case for reduction or waiver of such interest.
- (d) 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.

3. The class of cases referred to in paragraph 2(a) and 2(d) are specified only for the purposes of waiver of interest charged under section 234A of the Income Tax Act.

4. Earlier Orders under section 119(2)(a) dated 23.5.1996 and 30.1.1997 on the subject stand superceded by this Order. If any petition in the past has been

rejected because the Board had not issued this direction earlier, such petition may be reconsidered and decided in accordance with this Order. If any petition in the past was allowed in accordance with the Orders under section 119(2)(a) dated 23.5.1996 and 30.1.1997, such Orders allowing waiver should not be re-opened/ revised as per the guidelines contained in this Order.


(ANAND JHA)
Director (Budget)
26.6.06

Copy to:

1. The Chairman, Members and other officers in CBDT of the rank of Under Secretary and above.
2. All Chief Commissioners and Directors General of Income Tax.
3. 100 copies to DIT (RSP&PR) for printing in the quarterly tax bulletin and for circulation as per their usual mailing list.
4. DIT (Recovery), DIT (System), DIT (DOMS), DIT (Vigilance) and DIT (IT).
5. The Comptroller and Auditor General of India (40 copies).
6. Guard file.


Director (Budget)