

F.No. 285/26/2002-IT(Inv.)  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

New Delhi, the 29<sup>th</sup> July, 2003

To

All Chief Commissioners of Income Tax,  
All Directors General of Income Tax (Inv.).

Subject: ***Guidelines for compounding of offences under Direct Tax Laws – Amendments - regarding.***

Sir,

The existing Guidelines for compounding of offences under the Direct Tax Laws issued vide Board's [F.No. 285/161/90-IT\(Inv.\) dated 30<sup>th</sup> September, 1994](#) have been reviewed in the light of past experience and future needs. Following amendments are hereby made to these Guidelines with immediate effect:

**(A) PROCEDURAL AMENDMENTS:-**

- (I) Under the existing Guidelines, Technical Offences (enlisted in para 2.2 of the said Guidelines) are to be compounded, by the Chief Commissioner of Income Tax or Director General of Income Tax(Inv.) (as the case may be), if following conditions are collectively satisfied:
- (i) It is the first offence by the assessee.
  - (ii) The compounding charges do not exceed Rs. 10 lakh.
  - (iii) The offence is compounded only before the filing of complaint.

In all other cases, the technical offences as per existing Guidelines, are to be compounded with the approval of the Board.

**In this regard, it has now been decided that:**

- (a) all types of cases relating to technical offences are to be compounded by CCIT/DGIT;**
- (b) distinction between first offence and subsequent offence is removed; and**
- (c) CCIT/DGIT shall not reject an application for compounding of a technical offence, if all conditions prescribed in the Guidelines are satisfied.**

(II) Para 5(iii) of the existing Guidelines provides that for compounding of substantive/non-technical offences, in which the amount involved in the offence exceeds Rs. 1 lakh, the Board shall grant approval if Ministry of Law advises that the chances of successful prosecution are not good. **This requirement of referring the matter to the Ministry of Law has now been done away with.**

**(B) REDUCTION OF COMPOUNDING FEE**

With a view to encourage the assesseees to get their offences compounded, compounding fee in respect of the following offences has been substantially reduced as under:

**(I) Section 276B (prior to 1.4.1989) – Failure to deduct or pay tax –**

Under the existing guidelines, compounding fee is 10% per month or part of a month, of the amount in default where the said amount exceeds Rs. one lakh and 5% per month or part of a month of the amount in default in other cases. **It has now been reduced to 2% per month or part of a month of amount in default irrespective of amount in default.**

**(II) Section 276DD (prior to 2.4.1989) – Failure to comply with the provisions of Section 269SS –**

Under the existing Guidelines, compounding fee is 50% of the amount of any loan or deposit accepted in contravention of the provisions of Section 269SS. **It has now been reduced to 20% of the amount of any loan or deposit accepted in contravention of the provision of Section 269SS.**

**(III) Section 276E (prior to 1.4.1989) – Failure to comply with the provisions of Section 269T –**

Under the existing Guidelines, compounding fee is 50% of the amount of deposit repaid in contravention of the provisions of Section 269T. **It has now been reduced to 20% of the amount of deposit repaid in contravention of the provisions of Section 269T.**

**(IV) Section 276CC – Failure to furnish returns of income –**

Under the existing Guidelines, compounding fee is as under

**“9.7.1** – 5% per month or part of a month of the tax determined on regular assessment as reduced by the tax deducted at source and advance tax, if any, paid during the financial year immediately preceding the assessment year reckoned from the date immediately following the date on which the return of income was due to be furnished, to the date of furnishing of the return or where no return was furnished, the date of completion of the assessment.

**9.7.2** - Where before the date of furnishing of the return or where no returns was furnished, the date of completion of assessment of any tax is paid by the assessee u/s 140A or otherwise:

- (ii) Compounding fee shall be calculated in the manner prescribed in para 9.7.1 above, up to the date on which the tax is so paid and
- (iii) Thereafter the fee shall be calculated at the aforesaid rate on the amount of tax determined on regular assessment as reduced by the TDS, advance tax and tax paid u/s 140A or otherwise before filing the return of income or where no return was furnished the date of completion of assessment.”

**It has now been reduced to 2% per month or part of a month of the tax to be calculated as above.**

**(V) Section 276C(1) willful attempt to evade tax, etc. –**

Under the existing Guidelines, the fee is:

- (a) If the amount sought to be evaded is less than Rs. one lakh, the compounding fee shall be 100% of amount sought to be evaded.
- (b) If the amount sought to be evaded is more than Rs. one lakh, the compounding fee shall be 200% of the amount sought to be evaded.

**It has now been reduced to 50% of amount sought to be evaded irrespective of the amount sought to be evaded.**

2. All other provisions of the existing Guidelines and clarifications issued subsequently from time to time shall continue to be applicable.
3. Above amendments shall be applicable to future as well as to cases pending at any stage. However, the offences already compounded shall not be reconsidered.
4. These amendments shall apply mutatis mutandis to offences under the other Direct Tax Laws also.
5. These amendments may be brought to all concerned and be given wide publicity.

Yours faithfully,  
Sd/-

**( SHARAT CHANDRA )**

Director (Inv.II & III) & OSD (Legal)

Copy to:

1. PS to Finance Minister/Secretary (R)/Chairman & Members (CBDT)
2. All Joint Secretaries/Directors/Dy. Secretaries/Under Secretaries in CBDT.

Sd/-

**( SHARAT CHANDRA )**

Director (Inv.II & III) & OSD (Legal)