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Corporate Tax

October 12, 2024

Supreme Court settles the dust on Reassessment

Key Principles

Section 149(1) of the new regime has retrospective effect

For notices issued between 1 April 2021 to 30 June 2021, time limit of three years and ten years would apply subject to proviso to section 149(1)(b)

TOLA will, *in a limited sense*, override the substituted reassessment provisions in cases wherein time limit falls within 20 March 2020 to 31 March 2021

Sanction of specified authority under section 151(i) of the new regime applicable where three years fall between 20 March 2020 to 31 March 2021, may be granted till 30 June 2021

Sanction of specified authority under section 151(2) of the old regime applicable where four years fall between 20 March 2020 to 31 March 2021, may be granted till 31 March 2021

Approval from specified authority under section 151 of the new regime required for passing an order under section 148A(d) and issuing notice under section 148 pursuant to directions provided in Ashish Agarwal case

Revenue conceded that proceedings for AY 2015-16 be dropped (presumably since TOLA doesn't apply, as the year was not time-barred under either the 3-year or 6-year limit)

Scope of the directions in Ashish Agarwal case applied PAN INDIA, including all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 to 30 June 2021

Period from the issuance of notice under section 148 (old regime) until the assessing officer provided information as per the Ashish Agarwal case, along with the two weeks for the assessee to respond, is deemed stayed

If the reassessment notice under the new regime was issued beyond the time limit as per the Act read with TOLA (excluding the stay period as above), such notice shall be treated as time barred

SC has directed the Assessing Officers to dispose off the objections. It would be interesting to see if the above observations on principles and position continue to hold good once the judgment is implemented.

Position post SC Ruling

Particulars	Assessment Year				
	2013-14	2014-15	2015-16	2016-17	2017-18
Cases falling under three-year period [Section 149(1)(a) as per Finance Act 2021]					
End of three-year period (Income < INR 50 Lakh)	31-Mar-17	31-Mar-18	31-Mar-19	31-Mar-20	31-Mar-21
Whether TOLA applicable?	No	No	No	Yes	Yes
Time Limit for reassessment notice	31-Mar-17	31-Mar-18	31-Mar-19	30-Jun-21	30-Jun-21
Whether notice issued pursuant to TOLA between 01 April 2021 and 30 June 2021 prima facie valid?	No	No	No	Yes	Yes
If Sanctioning Authority for issuing notice under section 148 [Section 151(i) of New Law]	NA	NA	NA	Principal Commissioner or Principal Director or Commissioner or Director	
Due Date for obtaining approval of sanctioning authority for a valid notice under section 148	NA	NA	NA	30-Jun-21	30-Jun-21
If Sanctioning Authority for issuing notice under section 148 [Section 151(2) of Old Law]	Joint Commissioner				
Due Date for obtaining approval of sanctioning authority for a valid notice under section 148	NA	NA	NA	31-Mar-21	31-Mar-21
Cases falling under six / ten-year period [Section 149(1)(b) read with first Proviso thereto per Finance Act 2021]					
End of six-year period (Income ≥ INR 50 Lakh) (limit as per old law)	31-Mar-20	31-Mar-21	31-Mar-22	31-Mar-23	31-Mar-24
End of ten-year period (Income ≥ INR 50 Lakh)	31-Mar-24	31-Mar-25	31-Mar-26	31-Mar-27	31-Mar-28
Due Date as per first proviso to section 149(1)	31-Mar-20	31-Mar-21	31-Mar-22	31-Mar-23	31-Mar-24
Whether TOLA applicable?	Yes	Yes	No	No	No
Time Limit for reassessment notice	30-Jun-21	30-Jun-21	31-Mar-22	31-Mar-23	31-Mar-24
Whether notice issued pursuant to TOLA between 01 April 2021 and 30 June 2021 prima facie valid?	Yes	Yes	No	No	No
If Sanctioning Authority for issuing notice under section 148 [section 151(1) of Old Law]	Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner				
Due Date for obtaining approval of sanctioning authority for a valid notice under section 148	31-Mar-21	31-Mar-21	31 March 2021 (NA)	NA	NA
If Sanctioning Authority for issuing notice under section 148 [section 151(ii) of New Law]	Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General				
Due Date for obtaining approval of sanctioning authority for a valid notice under section 148 (read with first Proviso to section 149(1))	30-Jun-21	30-Jun-21	31 March 2022 (NA)	31 March 2023 (NA)	31 March 2024 (NA)

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