



INCOME TAX ALERT

N. A. SHAH **BULLETIN**

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Circular No. 11/2017 dated 24.03.2017 on waiver of interest charged u/s 201(1A)(i) of the Income Tax Act,1961 ('Act')

- Section 201(1A)(i) of the Act provides for liability to pay simple interest @ one percent per month or part of a month on failure to deduct tax by an assessee.
- Central Board of Direct Taxes ('CBDT') has directed that the Chief Commissioner of Income-tax ('CCIT') and Director General of Income-tax ('DGIT') may reduce or waive such interest charged u/s 201(1A)(i) of the Act in the following cases:
 - Where, during the course of search and seizure u/s 132 of the Act, the books of accounts and other necessary documents for deducting taxes were seized and the assessee was not able to deduct tax at source, within the specified time limit, on any sum credited to any account in his books of account.
 - Where any sum paid or payable was not liable for deduction of tax at source on the basis of an order of the jurisdictional High court and subsequently, by way of a retrospective amendment of law or a decision of Supreme Court or a Larger bench of the jurisdictional High Court, such sum was made liable to deduct tax or higher tax was held to be liable on such sum.
 - Where default relates to non-deduction or lower deduction u/s 195 of the Act in respect of payment made to the resident of a country with whom India has entered into Double Taxation Avoidance Agreement and where -
 - i. Dispute regarding tax payable in India has been referred to the Competent Authority ('CA') in India;
 - ii. Such reference has been received by the CA within period of two years from the receipt of notice of demand determining tax payable u/s 201 of the Act;
 - iii. The dispute has been settled by a resolution under Mutual Agreement Procedure; and
 - iv. The person in default has accepted the resolution and has withdrawn his pending appeal(s) on this issue within a period of one month from the communication of the resolution.

- It is also provided that no reduction or waiver shall be ordered unless the principal demand u/s 200A/201(1)/234E of the Act is either fully paid or satisfactory arrangement for payment of such demand have been made.
- It is also provided that even if interest u/s 201(1A)(i) of the Act has already been paid by the deductor, the same can be considered for waiver, subject to the above conditions and refund may be given to deductor.
- The CCIT/ DGIT examining the waiver application shall pass a speaking order after providing reasonable opportunity of being heard to the applicant.
- CBDT has reserved powers to examine any grievance arising out of such order passed or not passed by CCIT/ DGIT and issue suitable directions for proper implementation of this circular. However, no review of or appeals against such orders passed on merits shall be entertained by the Board.

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