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9th January, 2020

To,
The Chairman CBDT
North Block
New Delhi

Respected Sir,

Sub : Injustice done in high pitched assessments. Grant of opportunity of being heard

1. With reference to the above subject, certain cases have been brought to our notice of high pitched assessments where injustice has been caused to the assesses.
2. Procedure of e-assessment was first time introduced to bring transparency in assessment proceedings and to avoid corruption.
3. Few of the examples where injustice is caused to the tax payers on account of the following reasons.
 - a. Submission given on personal email id of assessing officer instead of portal of e-assessment.
 - b. Adjourment application filed by the assessee on email id of assessing officer not considered nor informed the assessee to file it on e-assessment portal.
 - c. Submission given to the assessing officer appeared after two days in the portal of e-assessment and meanwhile the assessment order is passed.
 - d. Where submission was uploaded but not considered and assessment order passed on the same day.
 - e. Where personal attendance of the tax consultant / assessee requested but the assessment order passed without considering this request.
 - f. Where third party statement considered by AO but opportunity of cross examination not given.

Durgesh V. Buch
President

Natubhai Patel
Sr. Vice President

Bhargav Thakkar
Vice President

Sanjeev Chhajer
Secretary

Dilip M. Padhya
Secretary (R)

Pathik S. Patwari
Treasurer



- g. Concept of real income as per section 5 of the Income Tax Act (basis of charge) not considered and heavy demands raised.
- h. These are the few instances brought to your notice. There may be many more.
4. In such cases it is requested to give directions to the assessing officers to give personal hearing in recovery / penal proceedings and to consider necessary evidences in relation to addition made in assessment order.
 5. In recovery proceedings assessee can prove with cogent evidence that assessee is not in default and for penalty proceedings he can prove that penalty as per section 270A or section 270AAC(1) is not leviable as both the proceedings are separate from assessment proceedings.
 6. If the opportunity of being heard is given, we are sure that in many cases the grievance of the assesses will be redressed.
 7. The assessing officer will be also able to judge the correct tax amount and penalty recoverable and he can pass speaking order against stay application.
 8. No penalty should be levied on such amount which the assessee is able to convince the assessing officer.
 9. In many case it has been observed that though opportunity of cross examination is asked by the assessee the same is not given and on account of that instruction no. was issued by CBDT to CIT(A) for giving an opportunity of cross examination.
 10. If personal hearing is given in stay / penal proceedings the genuineness of demand can be ascertained. If this is not done the department will proceed to recover such undisputed tax by survey, attachment of bank account etc. which the assessee is not liable to pay and it will give bad image to the department.
 11. The assessee will also be able to know the correct tax liability which he could manage to pay in installments also.



12. We have received many cases in which the demand raised is beyond the capacity of assessee and nothing could be recovered by the department looking to the assets held by the assessee.
13. Your prompt direction to the assessing officer to give opportunity will remove the defects caused on account of e-assessment and which will help in collecting legitimate tax dues of the assessee.

Sincerely yours,

Jainik Vakil
Chairman
Direct Tax Committee

Bakul Parikh
Co-Chairman
Direct Tax Committee