

June 2015

# CBDT issues guidelines on condonation of delay in filing claim for refund/carry forward of losses

The Ministry of Finance, Government of India, has put forth, through a Circular issued on 9 June 2015, criteria and guidelines for the condonation of a delay in filing claim for refund/ carry forward of losses.

The Central Board of Direct Taxes (CBDT) has come up with a comprehensive circular, superseding all earlier circulars/ instructions/ orders<sup>1</sup> in this regard.

The key highlights of this Circular are set out below:

### A. <u>Guidelines already covered in erstwhile Circulars/ Instructions/ Orders:</u>

• The power to condone a delay has been delegated to various authorities as follows:

Amount of claim (refund / loss) for any one assessment year	Authority
Up to INR 10 lacs	Principal CIT / CIT
More than INR 10 lacs and up to INR 50 lacs	Principal CCIT / CCIT
More than INR 50 lacs	CBDT

Application is to be made within six years from the end of the relevant assessment year.

- Such an application will be examined for acceptance/ rejection by the authority, based on the following criteria:
  - a) The claim is correct and genuine;
  - b) There is a case of genuine hardship on merits;
  - c) Income is not assessable in the hands of any other person under the Income-tax Act;
  - d) The refund has arisen as a result of excess tax deducted or tax collected at source, advance tax or self-assessment tax.
- Authorities have been empowered to direct the jurisdictional Tax Officer to make necessary inquiry or scrutiny to ascertain the correctness of the claim.
- Taxpayers can claim an additional refund even after completion of the assessment.
- No interest would be admissible in case of belated claim of refunds.

# B. <u>Additional guidelines:</u>

- The application should be ideally disposed of by the authorities within six months from the end of the month in which the application was received.
- A guideline has been prescribed for cases involving refund claim pursuant to a Court Order. The time limit of six years to exclude the period for which the proceedings were pending before any Court of Law. In such a case, the condonation application should be filed within six months from the end of the month in which Court order was issued or the end of financial year, whichever being later.
- Time limit of six years does not apply in the case of tax deducted at source by banks on interest in relation to 8% Savings (Taxable) Bonds, 2003 at the time of maturity, resulting in mismatch between the year of recognition of income by the taxpayer (on mercantile basis, if any) and tax deducted at source.

The Circular also provides coverage in respect of applications/ claims pending as on the date of issuance of the Circular.

<sup>1</sup> F. No. 225/208/93-IT(A-II) dated 12 October 1993, Board's Circular No. 670 dated 26 October 1993, Circular No. 8/2001 dated 16 May 2001, Instruction No. 12/2003 dated 30 October 2003 and Instruction No. 13/2006 dated 22 December 2006

To read the complete Circular please click here

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