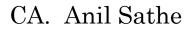
REASSESSMENT AND REVISION PROCEDURES-IMPORTANT PROVISIONS

By- CA. Anil Sathe

RELEVANT PROVISIONS OF THE IT ACT IN REGARD TO REASSESSMENT

- * Sec 2(8)- assessment includes reassessment
- ✤ Sec 147- Income escaping assessment
- Sec 148- Issue of notice when income has escaped assessment
- \clubsuit Sec 149- Time limit for issue of notice
- Sec 150- Assessment in pursuance of an order of appeal
- \clubsuit Sec 151- Sanction for issue of notice
- \clubsuit Sec 153-Time limit for completion of assessment



Events after filing of a return A return filed can either be
 Processed under section 143(1) and/or
 Assessed u/s 143(3) or 144

In either case if income has escaped assessment provisions of section 147/148 can be invoked



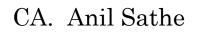
LIMITATION FOR ISSUE OF NOTICE U/S 148

- If return has been processed u/s 143(1)
 6 years from the end of the assessment year
- If assessment has been completed u/s 143(3)
 >4 years from the end of the assessment year unless
 - income chargeable to tax has escaped assessment on account of failure on part of the assessee to make a return u/s 139 or in response to notice u/s 142(1)
 - Or disclose fully and truly all material facts necessary for the purpose of assessment

EXPLANATIONS

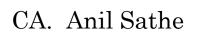
(Disclosure before the Assessing Officer)

Production of books of accounts or other evidence from which material evidence with due diligence could have been discovered by the AO will not necessarily amount to disclosure



DEEMED ESCAPEMENT

- No return filed where there is obligation to file on account of existence of taxable income
- Return filed but income understated or excessive loss, deduction, allowance or relief claimed
- ✤ Failure to furnish report u/s 92E



DEEMED ESCAPEMENT (CONTINUED)

 \clubsuit Where an assessment has been made, but

- i. Income chargeable to tax has been underassessed; or
- ii. Such income has been assessed at too low a rate; or
- iii. Such income has been made the subject of excessive relief under this Act; or
- iv. Excessive loss or depreciation allowance or any other allowance under this Act has been computed
- Where any person is found to have any asset (including financial interest in any entity) located outside India –(severe implications)

SCOPE OF REASSESSMENT

 Can include all sources of income that come to the notice of the assessing officer during the course of the proceeding



PRECAUTIONS WHICH MAY PROTECT ONE FROM REASSESSMENT

Disclose basis of claims/ rationale

 Furnish all relevant details during the course of assessment

✤ Refer to the disclosure emphatically

State that all material facts have been disclosed and request that any further details be called for expeditiously

ISSUE/ SERVICE OF NOTICE U/S 148

Within period of limitation

On right person

Issue of notice mandatory

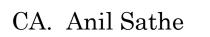


SANCTION U/S 151

- \clubsuit If assessment has been made u/s 143(3)
 - No notice by AO below the rank of Assistant Commissioner unless Joint Commissioner satisfied of reasons
 - After expiry of 4 years unless commissioner is satisfied that it is a fit case for reopening
 - In any other case after expiry of 4 years by an AO below the rank of Joint Commissioner after recording by Joint Commissioner that he is satisfied that it is a fit case

FORMATION OF REASON

- Reason to 'believe' and not reason to suspect
- Information
- New evidence
- Retrospective amendment
- Judicial pronouncement



RECORDING OF REASONS

Reason recorded has to have nexus with facts

Reason to believe must exist on the date of recording reasons

* Belief must be of AO not of any other person.

Reasons recorded must constitute belief and not opinion

* Manner of recording of reasons-

> Cogent

Must allege failure of assessee incase of reopening beyond 4 years

Cannot be based on audit objections



ILLUSTRATIVE E CAUSES FOR REASON TO BELIEVE

- Basis for Reason to believe
 - Searches/ Surveys on assessee or other related parties
 - Information about evasion through a particular modus operandi
 - Statements recorded of any person in another proceeding
 - > Accommodation entries of shares/loans/advances
 - > Bogus purchases

PROCESS OF REASSESSMENT

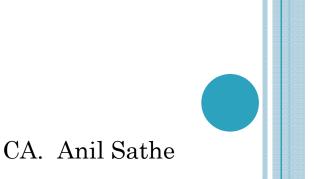
Issue of notice/ service of notice

Filing of return by the Assessee

Request for furnishing reasons

Recording objections for reopening

Disposal of objections



Steps / Remedies where

>AO does not furnish reasons

>AO furnishes reasons late

>AO takes up the assessment at the fag end before limitation



PERIOD FOR COMPLETION OF REASSESSMENT U/S 153

- * 1 year from the end of the financial year in which notice u/s 148 is served
- If the assessment is in pursuance of an order u/s 250 or section 254, 1 year from the end of the financial year in which order u/s 250/254 is received

CA. Anil Sathe

 If a reference u/s 92CA(1) is made (Reference to Transfer pricing Officer)the period is extended to two years

REVISION U/S 263

- The Commissioner
- May call for and examine the record of the proceeding
- And if he considers any order passed therein as prejudicial to the interest of revenue
- He may after giving an opportunity of being heard/ making or causing an inquiry
- Pass an order thereon as the circumstances of the case justify
- Including an order enhancing or modifying the assessment
- Or cancelling the assessment and directing a fresh assessment

- \clubsuit A revision can be made
 - > Only within 2 years from
 - The end of the previous year in which the order sought to be revised was passed



Order sought to be revised must be

> Erroneous

> Prejudicial to revenue



Orders Not Prejudicial

 \clubsuit Where 2 views are possible

- Where a judicial pronouncement has not been followed
- $\ensuremath{\$}$ Subsequent amendment of law



DOCTRINE OF MERGER

- If order is the subject matter of appeal
- Matters not considered in the appeal can be the subject matter of revision



Orders which are Prejudicial

- \clubsuit Erroneous method of accounting u/s 145
- Assessments made with undue haste and total lack of enquiry
- Grossly erroneous interpretation of law



Commissioner in revision proceeding must

>Give proper opportunity to assessee

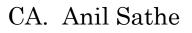
>Not use subsequent material or rely on audit objection

>Must give basis for revision and record reasons



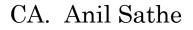
OTHER REVISIONS UNDER SECTION 264

- Any order other than an order referred to under section 263
- Passed by an authority subordinate to the Commissioner
- Maybe revised by the Commissioner on his own motion
- Or by an application by the assessee



LIMITATIONS

- A Commissioner cannot revise an order of his own motion if 1 year has elapsed from the date of the order
- An application by the assessee has to be made within a period of one year from the date on which the order is communicated to him
- Delay can be condoned if sufficiency of reasons established



Orders which cannot be revised U/S 264

* Time for appeal has not expired

* Order is the subject matter of an appeal



THANK YOU