



President
Vipul K. Choksi

Hon. Jt. Secretaries
Ketan L. Vajani | Haresh P. Kenia

Vice President
Anish M. Thacker

Treasurer
Parag S. Ved

Imm. Past President
Hinesh R. Doshi

19th August, 2019

To,
Mr. Pramod Chandra Mody
The Chairman
The Central Board of Direct Taxes
Ministry of Finance,
North Block, Parliament Street,
New Delhi – 110 001

Sub: Stay of Recovery Proceedings under The Income Tax Act, 1961, pending first appeal by the assessee.

Respected Sir,

The Chamber of Tax Consultants (CTC), Mumbai, was established in 1926. CTC is one of the oldest voluntary non-profit making organizations in Mumbai – in its 93rd year - formed with the object of educating and updating its members on Tax and other Laws. It has robust membership strength of about 4000 professionals, comprising of Advocates, Chartered Accountants and Tax Practitioners. The Chamber also has created a niche with the Government and other regulatory agencies. It is one of the leading institutions for making effective representation with respect to Income Tax and Allied laws. It acts as a catalyst for bringing out necessary changes both from the perspective of Government as well as Tax payers.

This is with reference to your orders dated 29.02.2016 and 31.07.2017 directing the Assessing Officers to stay the disputed demands subject to certain criterion.

The subject line of both the orders reads as under:

“Partial modification of Instruction No. 1914 dt. 21.03.1996 to provide for guidelines for stay of demand at the first appeal stage.”

In the body of the order the reference is made to the pendency of the appeals only before the CIT(A). The AOs are directed to keep the demand in abeyance if 20% of the disputed tax is paid, subject to the finalization of the appeal.



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However, it may be appreciated that the first appeal in cases where Transfer Pricing disputes are involved, and the assessee has chosen to refer the draft assessment order u/s 144C to the Dispute Resolution Panel for directions to be given to the AO for finalizing the order u/s 143(3), the first appeal is to be preferred before the Income Tax Appellate Tribunal (ITAT).

The orders granting a relief from recovery proceedings should be uniform for all assessees whose first appeals are pending.

You shall agree that since the first appeal is pending the assessee should be given an opportunity to get its grievances addressed before the recovery is enforced.

We therefore request your Honours' to make the following amendment in the body of the orders:

“First appeal, whether pending before the CIT(A) or ITAT (as the case may be)”, so that all assessees whose first appeal is pending are treated equally.

In view of the above we request to modify the above two orders in respect of the stay of demand to all assessees whose first appeal is pending before any appellate authority.

Thanking you,

Sincerely yours,

For **THE CHAMBER OF TAX CONSULTANTS**

Sd/-

VIPUL K. CHOKSI
PRESIDENT

Sd/-

MAHENDRA SANGHVI
CHAIRMAN
LAW & REPRESENTATION COMMITTEE

Sd/-

APURVA SHAH
CO-CHAIRMAN