



RAMA UNIVERSITY

w w w . r a m a u n i v e r s i t y . a c . i n

FACULTY OF COMMERCE AND MANAGEMENT

COURSE: B.COM VI SEM.

SUBJECT: Corporate Tax Planning

SUBJECT CODE: BCH 403

LECTURE: 34

NAME OF FACULTY: DR. PALASH BAIRAGI

LECTURE-34



INCOME TAX ASSESSMENT PROCEDURES

Notice u/s 142(1)

1. If assessee has not furnished return, within time prescribed u/s 139, till issue of this notice, assessing officer may issue Notice u/s 142(1)(i), requiring him to furnish return within time specified in notice.
2. Notice u/s 142(1)(ii) is issued for requiring assessee to furnish books of accounts, documents, other information. It can be issued whether ITR has been filed or not. This notice is generally given with Scrutiny notice u/s 143(2), Show cause notice u/s 144, Notice u/s 148 or Notice u/s 153A.

Special Audit u/s 142(2A)

1. If at any time during assessment proceedings, Assessing officer is of the opinion that, it is necessary to get the books of accounts audited, having regard to the complexity of the case & in the interest of revenue, he may ask assessee to get his accounts audited. However, he has to give assessee reasonable opportunity of being heard before giving such directions.
2. Audit shall be done by a Chartered accountant nominated by Chief commissioner or commissioner.

Scrutiny Assessment u/s 143(3)

1. Notice is to be given u/s 143(2), being mandatory to be issued and such notice is to be served upto 6 months from end of financial year, in which return has been furnished
2. Scrutiny assessment u/s 143(3) cannot be done, if ITR has not been filed.
3. It cannot result in decrease in taxable income or increase in loss.
4. For AY 2018-19 Order u/s 143(3) shall be made upto 18 months from end of relevant assessment year (21 months for AY 2017-18)

Best Judgement / Ex-Parte Assessment u/s 144

1. Best Judgement assessment can be done, if:
 1. Assessee has not filed the income tax return upto issue of show cause notice u/s 144
 2. Assessee fails to comply with notice/s 142(1)
 3. Assessee fails to comply with special audit directions u/s 142(2A)
2. It can be done basis of information available gathered & available by the assessing officer.
3. For AY 2018-19 Order u/s 144 shall be made upto 18 months from end of relevant assessment year (21 months for AY 2017-18)

Income Escaping assessment u/s 147

1. Such an assessment can be done by issue of Notice u/s 148
2. Time limits for issuing notice u/s 148:
 1. If income escaped is Rs. 1,00,000 or more – 6 years from the end of relevant assessment year
 2. If income escaped is in relation to any asset (including financial asset) located outside India – 16 years from the end of relevant assessment year
 3. Other cases – 4 years from the end of relevant assessment year
3. Sanctions for issuing Notice u/s 148:
 1. Any notice can be issued upto 4 years from end of relevant assessment year by Joint Commissioner. However, Assistant commissioner / deputy commissioner/ Income tax officer can also issue, if Joint commissioner is satisfied
 2. Upto 6/16 years, by Any assessing officer , if Commissioner of Income tax or Chief Commissioner of income tax is satisfied.
4. Such notice can be issued, when assessing officer has reasons to believe that income of an assessment year, has escaped assessment.
5. Following are the cases of deemed escape assessment:
 1. Income tax return not filed & total income exceeds the basic exemption limit
 2. Income tax return has been filed, but no assessment done & income has been understated or losses have been overstated
 3. When assessment has been done, but income has been understated or losses have been overstated
 4. Where person is found to have any asset (including financial interest) outside India
 5. Where the assessee has failed to furnish transfer pricing report u/s 92E
6. Assessment u/s 147 shall be completed within 9 months from the end of Financial year, in which notice/s 148 has been served on assessee

D. Income Tax Appeals & Revision

Appeal with Commissioner (Appeals) – Sec 246A

1. Appeal can be filed by aggrieved assessee, against the order passed u/s 143(3), 144, 147, 153A, 154, penalty order u/s 271AAB and other specified sections
2. Appeal can be filed within 30 days of date of service of notice of demand relating to assessment / penalty or date of payment of tax (Sec 248)

3. Procedure for filing of appeal
 1. Form No. 35 to be filed
 2. Docs to be submitted – Memorandum of appeal, Statement of facts. Grounds of appeal, Copy of order appealed against, Notice of demand
 3. Copy of challan of payment of prescribed fees
4. Prescribed fees- If total income or loss of assessee is:
 1. Upto Rs. 100000- Rs. 250
 2. 100001 to Rs. 200000- Rs. 500
 3. More than Rs. 200000- Rs. 1000
 4. Any other case – Rs. 250
5. Where the assessee has presented an appeal, assessing officer, may subject to some conditions, stay demand till the final disposal of appeal.

Revision Application u/s 263

1. The commissioner may call for & examine the record of any proceedings of act and if he considers that any order passed by Assessing officer is erroneous, being prejudicial to interest of revenue, he may pass revision order after giving assessee reasonable opportunity of being heard.
2. The order under this section may be passed upto 2 years from the end of financial year, in which order sought to be revised has been passed.

Revision Application u/s 264

1. In case any order pass by any authority subordinate to assessing officer (other than order passed u/s 263), any authority subordinate to assessing officer, may on himself or on application filed by assessee, call for any information & pass revision order, after relevant inquiry & collecting information
2. After revision u/s 263, revision u/s 264 is not possible. However, after revision u/s 264, revision u/s 263 is possible.
3. Revision u/s 264 is not possible on any issue, if an appeal has been filed to CIT(Appeals).
4. The order under this section shall be passed within 1 year from end of financial year, in which application u/s 264 is filed by assessee.

Appeals to Appellate Tribunal u/s 253

1. Appeal to Income Tax Appellate Authority (ITAT), can be filed against the order of CIT (Appeals) u/s 250, 154, 270A, order of assessing officer, in pursuance of Dispute Resolution Panel.

2. Appeal to ITAT is to be filed within 60 days of receipt of order, against which appeal is to be filed
3. Procedure for filing appeal
 1. Form No. 36 is to be filed
 2. Docs to be submitted – Grounds of appeal, Order against which appeal has been filed, order of assessing officer, grounds of appeal & statement of facts before CIT (Appeals)
 3. Copy of challan of payment of prescribed fees
4. Prescribed fees- If total income or loss of assessee is:
 1. Upto Rs. 100000- Rs. 500
 2. 100001 to Rs. 200000- Rs. 1500
 3. More than Rs. 200000- 1% of assessed income (Maximum- Rs. 10,000)
 4. Any other case – Rs. 500
5. Income tax Appellate Tribunal is the final Fact finding authority.

Appeal to High Court u/s 260A

1. Appeal to High court can be filed, against the order of Appellate authority, if high court is satisfied that there exists a substantial question of law.
2. Commissioner or assessee can file appeal within 120 days from date on which order appealed is received by assessee or commissioner. (extension allowed in genuine cases)

Appeal to Supreme Court u/s 261

1. Appeal to Supreme court can be filed, against the judgement of High court, in any case, high court certifies to be fit one for appeal to Supreme Court.