

## GUIDELINES FOR COMPOUNDING OF OFFENCES UNDER DIRECT TAX LAWS, 2019

The Government in its measure of curbing the evasion of tax has issued new guidelines. The new guidelines tightens the screw on the defaulters and make no-easy-escape for them by paying just penalties.

### **CIRCULAR F. NO. 285/08/2014-IT(INV.V)/147, DATED 14-6-2019**

The new guidelines have made offences done under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Act, 2015 and the Benami Transactions (Prohibition) Act, 1988 non-compoundable. This includes money laundering cases too.

The offences have been categorized under two categories -

#### **Category A -**

- Failure to make payment or deliver returns or statements or allow inspection (Section 276)
- Failure to deduct or pay tax
- Failure to pay tax deducted at source under Chapter XVII-B
- Failure to pay tax deducted at source under chapter XVII-B or tax payable under section 115-O or 2nd proviso the section 194B to the credit of the Central Government
- Failure to pay the tax collected at source
- Failure to furnish Return of Income
- Failure to furnish returns of income in search cases in block assessment scheme
- Failure to comply with the provisions of section 269SS
- Failure to comply with the provisions of section 269 T
- False statement in verification etc. with reference to Category 'A' offences
- Abetment of false return etc. with reference to Category 'A' offences

#### **Category B –**

- Failure to comply with the provision of sections 178(1) and 178(3)
- Failure to comply with the provisions of section 269AB or section 269-I.
- Failure to comply with the provisions of sections 269UC, 269UE and 269UL
- Willful attempt to evade tax, etc.
- Willful attempt to evade payment of taxes, etc.
- Failure to produce accounts and documents
- False statement in verification etc. with reference to Category 'B' offences
- Falsification of books of account or documents, etc.
- Abetment of false return, etc. with reference to Category 'B' offences

The following offences are generally not to be compounded:

- i. Category 'A' offence on more than three occasions. However, in exceptional circumstances compounding requested in more than three occasions can be considered only on the approval of the Committee referred to in Para 10 of these Guidelines, The 'occasion' is defined in Para 8.2,
- ii. Category 'B' offence other than the first offence(s) as defined in Para 8.2 for the purpose of these Guidelines.

- iii. Offences committed by a person for which he was convicted by a court of law under Direct Taxes Laws.
- iv. Any offence in respect of which, the compounding application has already been rejected, except in the cases where benefit of rectification is available in these Guidelines.
- v. The cases of a person as main accused where it is proved that he has enabled others in tax evasion such as, through entities used to launder money or generate bogus invoices of sale/purchase without actual business, or by providing accommodation entries in any other manner as prescribed in section 277 A of the Act.
- vi. Offences committed by a person who, as a result of investigation conducted by any Central or State Agency and as per information available with the Pr. CCIT/CCIT/Pr. DGTT/DGTT concerned, has been found involved, in any manner, in anti-national/terrorist activity.
- vii. Offences committed by a person who was convicted by a court of law for an offence under any law, other than the Direct Taxes Laws, for which the prescribed punishment was imprisonment for two years or more, with or without fine and which has a bearing on the offence sought to be compounded.
- viii. Offences committed by a person which, as per information available with the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned, have a bearing on a case under investigation (at any stage including enquiry, filing of FIR/complaint) by Enforcement Directorate, CBI, Lokpal, Lokayukta or any other Central or State Agency.
- ix. Offences committed by a person whose application for 'plea-bargaining' under Chapter XXI-A of 'Code of Criminal Procedure' in respect of any offence is pending in a Court or where a Court has recorded that a 'mutually satisfactory disposition of such an application is not worked out' and such offence has bearing on offence sought to be compounded.
- x. Any offence which has bearing on an offence relating to undisclosed foreign bank account/assets in any manner.
- xi. Any offence which has bearing on any offence under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.
- xii. Any offence which has bearing on any offence under the Benami Transactions (Prohibition) Act, 1988.
- xiii. Any other offence, which the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned considers not fit for compounding in view of factors such as conduct of the person, nature and magnitude of the offence.

The guidelines also provide guidance on Authority Competent to Compound an Offence, Checklist for compounding guidelines and the necessary procedures and formats. The guideline can be accessed at - [https://www.incometaxindia.gov.in/news/guidelines\\_compounding\\_offencesdtl\\_2019\\_misccomm\\_14\\_6\\_19.pdf](https://www.incometaxindia.gov.in/news/guidelines_compounding_offencesdtl_2019_misccomm_14_6_19.pdf)

The plain reading of the guidelines provide clear message that the government is turning strict on the certain kinds of offences and does not want to give an easy escape to the offenders who end up paying interest, penalty and demand to set free. This is a clear message for the offenders to end up such procedures and evasions.

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