

Nangia Andersen LLP



Reassessment notices issued after April 1, 2021, under the old regime, quashed – Delhi HC

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Delhi HC quashes reassessment notices issued under the old regime, opining that Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) does not extend application of the old reassessment regime beyond Mar 31, 2021, and effective 1st April 2021 requirements of the new scheme of reassessment must be complied.

Background

Section 148 of the Income Tax Act requires the Assessing Officer to serve a notice on the assessee before making any assessments or re-computations in case any income chargeable to tax has escaped assessment for any assessment year.

Further, the Finance Act, 2021 introduced new scheme of reassessment with effect from Apr 1, 2021 by inserting section 148A of the Act which mandates that except in the cases pertaining to search or requisition, the Assessing Officer (AO) shall conduct enquiries, if required, and provide an opportunity of being heard to the assessee prior to the issuance of notice. Only after considering the replies of the assessee, the AO shall decide whether it is a fit case for issue of notice under section 148 and serve a copy of such order along with such notice on the assessee.

- Over 1300 writ petitions were preferred by the assesseees challenging the validity of reassessment notices issued under the old regime of reassessment after Apr 1, 2021 without adhering to the requirement of Section 148A in view of the notifications issued by the CBDT under TOLA.
- The Delhi High Court has endorsed the view taken by the Allahabad and Rajasthan High Court. It has accepted the taxpayer's plea by quashing such reassessment notices issued under the old regime. The Court has opined that TOLA does not authorize the Revenue to extend application of the old reassessment regime beyond Mar 31, 2021. The requirements of the new scheme of reassessment effective from 1st April 2021 shall have to be necessarily complied with.



Nangia Andersen LLP's Take

This is a landmark judgment and will offer tremendous respite to taxpayers who have filed similar petitions before the other judicial forums. The opinion of the Delhi High Court shall not be binding on other high courts, but will offer guidance to the other High Courts in adjudicating on the impugned matter of validity of reassessment notices issued under the old regime.

Notably, the High Court's directive shall be binding only for taxpayers who have called into question the legitimacy of the reassessment notices before the High Court. Taxpayers who have not challenged the notices are likely to go through the strenuous process of reassessment proceedings or appellate proceedings, as the case may be.

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