

SCRUTINY ASSESSMENTS

The Income Tax Act contains provisions regarding comprehensive scrutiny in Section 143. In simple terms scrutiny assessment is a detailed examination of the return of income filed by the assessee to check whether:

- Income has been understated
- Any excessive loss has been computed
- Tax has been under-paid or not.

In order that scrutiny assessment is made, a return of income has to be filed. It could be filed either under Section 139 or in response to a notice u/s 142(1).

It is after filing a return of income, that an assessee may be called up for scrutiny.

If a scrutiny notice is issued **prior to** submission of return of income, it is not a valid notice - DIT vs. Society for Worldwide Inter Bank Financial, Telecommunications [2010] 323 ITR 249 (Delhi). Hence, filing of return is a pre-requisite for initiating scrutiny.

Service of notice

A notice shall be **SERVED** on the assessee under Section 143(2)(ii) requiring him to produce evidence which he may rely in support of his return. Such notice shall be **SERVED** on the assessee within **6 months** from the end of the financial year in which the return is furnished. It is interesting to note that if notice is SENT to assessee on the last day of the period of limitation of 6 months, but was SERVED on the assessee a few days after period of limitation, it is not a valid notice - Adarsh Traders v. CIT [2003] SOT 12 (Delhi)(SMC II).

Other points regarding notice:

- **Authentication of notice** - Section 282A provides that where an notice/document is required to be issued, served or given by any income-tax authority, it shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.
- As per Section 292BB, where an assessee has appeared in any proceeding or co- operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was –
 - (a) not served upon him; or
 - (b) not served upon him in time; or
 - (c) served upon him in an improper manner:

But Section 292BB shall not apply where the assessee has raised such objection before the completion of such assessment or reassessment.

Scrutiny

Assessing officer shall, in the notice served, require the assessee to produce details which he thinks are necessary for the purpose of the scrutiny. Some of the frequently asked queries include requests for furnishing particulars of places of business, nature of business activities, particulars of directors, books of accounts, audited financial statements, investments made, related party transactions details etc.

After hearing such evidence and after taking into account such particulars as the assessee may produce in response to the notice, the Assessing Officer shall, by an order in writing, allow or reject the claim or claims specified in such notice and make an assessment determining the total income or loss accordingly, and determine the sum payable by (or refund due to) the assessee on the basis of such assessment.

Time Limit for completion of Assessment:

The time limit for completion of scrutiny assessment is prescribed in Section 153. As per Section 153(1), scrutiny assessment shall be completed **within 2 years** from the end of the relevant assessment year. Where in the case reference has been made to the Transfer Pricing officer, the time shall be **extended by another 12 months**.

Procedure for scrutiny in the case of scientific research association, news agency etc

This procedure is applicable to assessees required to furnish return of income u/s 139(4C) or 139(4D) ie

- research association u/s 10(21);
- news agency referred u/s 10(22B);
- association or institution u/s 10(23A);
- institution u/s 10(23B);
- fund or institution or trust or institution or any university or other educational institution or any hospital or other medical institution u/s 10(23C),
- university, college u/s 35(1)(ii)/(iii)

Here, assessment order can be made after giving exemption u/s 10. But if Assessing Officer wants to pass an order without giving effect to Section 10, he needs to follow the below mentioned steps:

- Intimate the Central Government or the prescribed authority, the contravention of the provisions of relevant clause of section 10, by such organization listed above, where in his view such contravention has taken place, and
- the approval granted to organization has been withdrawn or notification issued in respect of such organization has been rescinded.

Penalty

Where an assessee fails to comply with a notice under Section 143(2), the penalty is fixed at Rs. 10,000 for each such failure. This is specified in Section 271(1)(b).

Some relevant judicial rulings:

- Under Section 143, books of account cannot be detained; assessing officer has the power to only call for them – Pragdas Mathuradas vs. ITO [1950] 18 ITR 757 (Cal).
- Once a valid notice u/s 143(2) has been issued, proceedings for rectification u/s 154 of intimation u/s 143(1) can't be initiated – CIT vs. Haryana State Handloom and Handicrafts Corporation Ltd [2010] 336 ITR 699 (P&H).
- Where an assessment order u/s 143(3) is passed without issuing a notice to assessee u/s 143(2), the said order is invalid – P Sukumar HUF vs. CIT [2011] 15 taxmann.com 326 (Chennai –Trib).