

# **DISPUTE RESOLUTION COMMITTEE**

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## **DISPUTE RESOLUTION COMMITTEE**

- (1) Dispute Resolution Committee shall consist of **three members**, as under:—
- (a) **two members** shall be **retired officers** from the **Indian Revenue Service** (Income-tax), who have held the post of Commissioner of Income-tax or any equivalent or higher post for five years or more; and
  - (b) **one serving officer not below the rank of Principal Commissioner of Income-tax or Commissioner of Income-tax as specified by the Board.**
- (2) The decision of the Dispute Resolution Committee shall **be by majority**.

## **ORDERS AGAINST WHICH ASSESSEE CAN GO TO DISPUTE RESOLUTION COMMITTEE (SPECIFIED ORDER)**

An assessee can approach Dispute Resolution Committee against the order of passed by Assessing Officer or the draft order passed by Assessing Officer under section 144C. The following conditions should be satisfied:

- (i) aggregate sum of variations proposed or made in such order **does not exceed ten lakh rupees**;
- (ii) such order is **not based on search initiated under section 132** or requisition under section 132A in the case of assessee or any other person or **survey under section 133A** or **information received** under an agreement referred to **in section 90 or section 90A**;
- (iii) where return has been filed by the assessee for the assessment year relevant to such order, total income as per such return does **not exceed fifty lakh rupees**.

## **PERSONS WHO CAN NOT APPROACH DISPUTE RESOLUTION COMMITTEE**

**The following persons can not approach Dispute Resolution Committee:**

- (A) person in respect of whom an **order of detention has been made** under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974;

- (B) person in respect of whom **prosecution for any offence punishable under the provisions of the Indian Penal Code**, the Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, the Prohibition of Benami Transactions Act, the Prevention of Corruption Act, or the Prevention of Money-laundering Act, **has been instituted and he has been convicted of any offence punishable under any of those Acts**;
- (C) person in respect of whom **prosecution has been initiated by an income-tax authority** for any offence punishable under the provisions of this Act or the Indian Penal Code or for the purpose of enforcement of any civil liability under any law for the time being in force, or such person has been convicted of any such offence consequent upon the prosecution initiated by an income-tax authority;
- (D) person who is notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act;

### **OPTION TO THE ASSEESSEE**

The assessee has an option either to appeal to CIT(Appeals) or approach Dispute Resolution Committee

### **APPLICATION TO DISPUTE RESOLUTION COMMITTEE**

1. Asseessee has to file application to Dispute Resolution Committee within 1 month from the date of receipt of order/ draft order of the Assessing Officer.
2. The Dispute Resolution Committee shall admit the application or reject the application of the assessee (opportunity of being heard to be given to the assessee before rejecting the application of assessee)
3. If application of the assessee is rejected by Dispute Resolution Committee then assessee can file an appeal to the Commissioner (Appeals) and the period taken by the Dispute Resolution Committee in deciding on the admissibility of the application shall be excluded from the period available to file such appeal.

### **POWERS OF DISPUTE RESOLUTION COMMITTEE**

The Dispute Resolution Committee may, after considering the material available on record, including any further information or evidence received from the assessee, income-tax authority or any other person, may decide —

- (a) **to make modifications to the variations in specified order, which are not prejudicial to the interest of the assessee, and decide for waiver of penalty and immunity from prosecution in accordance** with the provisions of rule 44DAG, and pass an order of resolution accordingly; or
- (b) **to not make modifications to the variations in the specified order, but however may decide for waiver of penalty and immunity from prosecution** provisions in accordance with the provisions of rule 44DAG, and pass an order of resolution accordingly, which shall be treated as an order not prejudicial to the interest of the assessee; or

- (c) **to not make any modification to the specified order**, and pass an order disposing off the application, which shall be treated as an order '**not prejudicial to the interest of the assessee**,

**within six months from the end of the month in which application for dispute resolution is admitted by the Dispute Resolution Committee;**

### **MODIFIED ORDER IN PURSUANCE OF ORDER OF DISPUTE RESOLUTION COMMITTEE**

Notwithstanding anything contained in section 144C, upon receipt of the order of the Dispute Resolution Committee, the Assessing Officer shall,—

- (a) in a case where the specified order is a draft of the proposed order of assessment under section 144C, pass an order of assessment, reassessment or recomputation; or
- (b) in any other case, modify the order of assessment, reassessment or recomputation, in conformity with the directions contained in the order of the Dispute Resolution Committee within a period of **one month from the end of the month in which such order is received**.

### **APPEAL OR REVISION**

No appeal or revision is possible against the modified order

#### **RULE 44DAC: POWER TO REDUCE OR WAIVE PENALTY IMPOSABLE OR GRANT IMMUNITY FROM PROSECUTION OR BOTH UNDER THE ACT**

- (1) The Dispute Resolution Committee shall, subject to such conditions as it may think fit to impose for the reasons to be recorded in writing, grant to the person who made the application for dispute resolution under section 245MA of the Act, waiver of penalty imposable or immunity from prosecution or both, in respect of the order which is the subject matter of resolution, if it is satisfied that such person has,—
  - (i) **paid the tax due on the returned income in full if available; and**
  - (ii) **co-operated with the Dispute Resolution Committee in the proceedings before it.**
- (2) Notwithstanding anything contained in sub-rule (1), no immunity shall be granted by the Dispute Resolution Committee in a case where the proceedings for the prosecution for an offence have been initiated before the date of receipt of the application.
- (3) An immunity granted to a person under sub-rule (1) shall stand withdrawn, if such person fails to comply with any of the conditions subject to which the immunity was granted and thereupon the provisions of the Act shall apply as if such immunity or waiver had never been granted.