

DESAI SAKSENA & ASSOCIATES

3rd January, 2025

Friday Tax Alert

From:

**Tax Team of Desai Saksena and Associates
Chartered Accountants**

CA Varsha Nanwani (Senior Manager - Taxation)
Vikas Jogle (Manager - International Taxation)
CA Neelu Dusseja (Senior Manager – Indirect Taxation)
CA Neha Patel (Manager - Taxation)
CA Ajay Sachani (Manager - Taxation)
Digvijay Hirwani (Assistant Manager - Taxation)
Alok Sharma (Deputy Manager - Indirect Taxation)

Contacts:

If you have any questions or would like to have additional information on the topics covered in this alert, please email one of the following DSA professionals:

- ✓ CA Varsha Nanwani (Senior Manager – Taxation)
varsha@dsaca.co.in
- ✓ Vikas Jogle (Assistant Manager – International Taxation)
vikas@dsaca.co.in
- ✓ CA Neelu Dusseja (Senior Manager – Indirect Taxation)
neelu@dsaca.co.in
- ✓ CA Neha Patel (Manager - Taxation)
neha@dsaca.co.in
- ✓ CA Ajay Sachani (Manager – Indirect Taxation)
ajay@dsaca.co.in
- ✓ Digvijay Hirwani (Assistant Manager - Taxation)
digvijay@dsaca.co.in
- ✓ Alok Sharma (Deputy Manager – Indirect Taxation)
sharma.alok12@gmail.com

DESAI SAKSENA & ASSOCIATES

Where no order had been passed pursuant to remand by Appellate Tribunal and statutory time for Assessing Officer to pass an order had expired, Assessee's return was to be considered as accepted

FACTS OF THE CASE:

1. The Assessee-company was engaged in the business of distribution of telecom equipment and provision of technical services such as installation, commissioning, integration and other services relating to the telecom industry. It filed its original return of income declaring a loss of Rs. 4.64 crores. Subsequently, it filed its revised return declaring a loss of Rs. 6.24 crores and claimed refund of Rs. 105.57 crores.
2. The Assessing Officer made certain additions. The resultant demand of Rs. 45.52 crores were deducted from the refund of Rs. 105.57 crores (being the tax deducted at source) and the balance of Rs. 60.05 crores were refunded to the Assessee.
3. The Assessee filed an appeal against the final assessment order dated 3-10-2017 before the Tribunal. The Tribunal allowed the appeal and passed an order dated 24-2-2021 remanding the issue of transfer pricing to the TPO for a fresh determination. The additions made on account of the disallowance of advertisement expenses was deleted. The disallowances of customer claims and advances written off were also deleted, albeit subject to verification.
4. The Assessee's case was that no order had been passed pursuant to the remand by the Tribunal and consequently, the statutory time (as stipulated under section 153) for the TPO or the Assessing Officer to pass an order had since expired and the proceedings were time barred.

CONCLUSION:

- ✓ Undisputedly, the Tribunal had pronounced the order in open court on 24-2-2021. The order also indicates that the revenue was duly represented by the departmental representative. Thus, the timeline for passing an order under section 153(5) commenced from 24-2-2021.
- ✓ There is no controversy regarding the date on which the said order was received.
- ✓ In view of the settled position, there can be no dispute regarding the date of receipt of the order passed by the Tribunal. Concededly, further proceedings by the TPO or by the Assessing Officer pursuant to the remand by the Tribunal are now barred as the time stipulated for passing an order under section 153 has since expired. Consequently, the petitioner's return is required to be considered as accepted.

Huawei Telecommunications India Company (P.) Ltd. v. Assistant Commissioner of Income-tax [2024] 169 taxmann.com 732 (Delhi).

DESAI SAKSENA & ASSOCIATES

Extension of due date for determining amount payable as per column (3) of Table specified in section 90 of Direct Tax Vivad se Vishwas Scheme, 2024

The Central Board of Direct Taxes (CBDT), in exercise of its powers under sub-section (2) of section 97 of the Direct Tax Vivad Se Vishwas Scheme, 2024 ('the Scheme') extends the due date for determining amount payable as per column (3) of the Table specified in section 90 of the Scheme from **31st December, 2024 to 31st January, 2025.**

Accordingly, notwithstanding anything contained in the Direct Tax Vivad Se Vishwas Scheme, Rules or Guidance Note of 2024, in such cases where declaration is filed on or before 31st January, 2025, amount payable shall be determined as per column (3) of the Table specified in section 90 of the Scheme, and where declaration is filed on or after 01st February, 2025, amount payable shall be determined as per column (4) of the said Table.

Circular No. 20/2024 [F. No. 370149/213/2024-TTL dated 30.12.2024]

Extension of due date for furnishing belated/revised return of income for the Assessment Year 2024-25 in certain cases

The Central Board of Direct Taxes ('the CBDT'), in exercise of its powers under section 119 of the Income-tax Act, 1961 ('the Act'), extends the last date for furnishing belated return of income under sub-section (4) of section 139 of the Act or for furnishing revised return of income under sub-section (5) of section 139 of the Act for the Assessment Year 2024-25 in the case of resident individuals **from 31st December, 2024 to 15th January, 2025.**

Circular No. 21/2024 [F. No. 225/205/2024IITA-II dated 31.12.2024]