

4<sup>th</sup> July, 2025

## Friday Tax Alert

**Definition of 'eligible assessee' under sec. 144C indicates two categories of persons, not two conditions: Delhi ITAT**

### FACTS OF THE CASE:

1. The assessee raised an additional ground of appeal challenging validity of assessment order on ground that it did not fall within the definition of 'eligible assessee' as defined in section 144C(15)(b).
2. The assessee submitted that to be an 'eligible assessee' two conditions must be satisfied, i.e., there must be an order passed by Transfer Pricing Officer (TPO) under section 92CA(3) wherein variation had been made by him and the assessee must be a foreign company.
3. Since one of the two conditions as set out in subsection (15) to section 144C was not satisfied, provisions of section 144C were not attracted.

### DECISION OF THE ITAT:

1. A bare perusal of definition of 'eligible assessee' as defined under section 144C(15)(b) would show that these are **not two conditions** which are to be satisfied to fall within the definition of eligible assessee.
2. In fact, these are two categories of persons, who are held to be eligible assessee. The word 'means' followed by sub clauses (i) and (ii) clearly indicates that these are the **two categories** and not the conditions to be satisfied to fall within the meaning of eligible assessee. This can be explained with the help of an example; an Indian company can be an 'eligible assessee', where order of Transfer Pricing Officer under section 92CA is passed to determine Arm's Length Price of a transaction with its foreign AE. In such a case clause (ii) of section 144C(15)(b) would not get triggered. The definition of 'eligible assessee' under section 144C(15)(b) does not lay down two conditions but indicate two categories of persons.

*Geopetrol International Inc. v. ACIT(IT) [2025] 175 taxmann.com 808 (Delhi - Trib.)*

**CBDT notified '376' as Cost Inflation Index (CII) for Financial Year 2025-26**

In exercise of the powers conferred by clause (v) of the Explanation to section 48 of the Income-tax Act, 1961 (43 of 1961), the CBDT vide **Notification No. 70/2025, dated 01-07-2025**, has notified '**376**' as the **Cost Inflation Index (CII)** for the Financial Year **2025-26**.

This notification shall come into force on the **1st day of April, 2026** and shall accordingly apply to the **Assessment Year 2026-27 and subsequent years**.

# DESAI SAKSENA & ASSOCIATES

**Where draft assessment order passed under section 144C is not served on assessee in accordance with provisions of section 282 r.w. rule 127, however, assessee has participated in further proceedings, any infirmity in service of notice or order would not impede validity of proceedings: Delhi ITAT**

## **FACTS OF THE CASE:**

1. The assessee had given an email id for service of notice. Whereas, the notice/draft assessment order was sent to another mail id which was not operational.
2. The contention of the assessee was that **since the draft assessment order was served on wrong email id, it was deemed that it was never served on the assessee.**
3. The assessee thus filed instant appeal contending that the assessment proceedings were invalid.

## **DECISION OF THE ITAT:**

1. The provisions regarding service of notice are contained in **section 282.**
2. In the instant case, the contention of the assessee is that the email id on which draft assessment order is communicated is not that of the assessee. It is an undisputed fact that **after conclusion of draft assessment order, the assessee filed objection before the DRP within the time prescribed under the provisions of the Act.** The assessee participated in draft assessment proceedings and thereafter in DRP proceedings. No prejudice was caused to the assessee, in availing the remedy against the draft assessment order.
3. **Once the draft assessment order comes to the knowledge of the assessee and the assessee has taken further steps to seek remedy against the said order within the period of limitation, any infirmity in service of notice or order would not impede the validity of proceedings arising from improper service of notice/order in any manner if the assessee has participated in further proceedings.** The ITAT found no merit in the appeal filed by the assessee, & hence, dismissed the same.

*Geopetrol International Inc. v. ACIT(IT) [2025] 175 taxmann.com 808 (Delhi - Trib.)*

# **DESAI SAKSENA & ASSOCIATES**

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