

CBDT issues revised Guidelines for Compounding of Offences

The Guidelines on Compounding of Offences under the Income-tax Act, 1961 have been reviewed by the Board with a view to simplify and facilitate compounding of offences, in supersession of earlier Guidelines issued vide F.No.285/08/2014-IT (Inv. V)/147 dated June 14, 2019. The following are the revisions undertaken in the compounding guidelines for compliance by all:

1. Classification of Offences

Post revision, the under mentioned offences are eligible for compounding:

- Offences u/s 276 (Prior to 01-04-1976) i.e., Failure to make payment or deliver returns or statements or allow inspection referred to under 'Category A' i.e., technical nature offences caused by an act of omission;
- Offences u/s 276 (Prior to 01-04-1989) i.e., Removal, concealment, transfer or delivery of property to thwart tax recovery under 'Category B' i.e., non-technical offences attributed to an act of commission.

Post revision, the under mentioned offences can no more be compounded:

- Section 275A i.e., Contravention of order made under sub-section (3) of section 132;
- Section 2758 i.e., Failure to comply with the provisions of clause (iib) of sub-section (1) of section 132.

2. Eligibility Conditions for Compounding

Prior to the revision, the application for compounding was not allowed to be filed after 12 months from the end of the month in which prosecution complaint, if any, was filed. Now the provisions have been relaxed and application can be furnished even after 12 months but before 24 months with an enhanced compounding charges 1.25 times of the normal compounding charges as applicable to the offence.



3. Offences normally not to be compounded:

- Post issuance of the revised guidelines, **any Offence under Direct Taxes Laws** for which a person was convicted earlier with imprisonment for two years or more with or without fine by a court of law can no more be compounded. Earlier the limit of 2 years of imprisonment was not in existence. Simply stating that any offence under Direct Taxes Laws for which a person was imprisoned for a period of 2 years or more can no more be compounded.
- Offences committed by a person who, was convicted by a court of Law for **an offence committed under any law, other than Direct Taxes Laws**, for which the prescribed punishment was imprisonment for two years or more, with or without fine and which is directly related to the offence sought to be compounded.
- Any offence u/s 276, where the **outstanding amount in recovery has not been deposited** before filing the Compounding application.

4. Relaxation of time in cases where complaint is filed by the Committee

Compounding of an offence in a deserving case (i.e., case where delay should be attributable to reasons beyond the applicant's control) may be relaxed with the approval of the PCIT of the Region wherein the jurisdiction of the case lies, for application filed beyond 24 months but before 36 months from the end of month in which complaint was filed in a court. However, relaxation will be available with compounding charges determined at 1.50 times of the normal compounding charges as applicable to the offence on the date of filing of the original compounding application. In all such cases, compounding charges were earlier restricted to 1.5 times of the normal compounding charges.

5. Compounding Procedure

- **Intimation of acceptance and determination of amount payable by Competent Authority increased to 6 months.** In cases where, the compounding application is found to be acceptable, then the Competent Authority shall intimate the applicant that such application is found to be acceptable along with the compounding charges payable, and other liabilities pending within a period of six months from the end of the month of receipt of the application as far as possible. The time limit for intimation by the Competent Authority was one month prior to the issuance of the revised guidelines.
- **Extension of time limit beyond 6 months for intimating the acceptance of application on reasonable grounds by the Competent Authority** On written request of applicant for further extension of time under exceptional circumstances, the Pr. CCIT/CCIT/ Pr. DGIT/ DGIT may extend this period upto 6 months. Extension beyond 6 months and upto 12 months shall not be permissible except with the previous approval in writing of the Pr. Chief Commissioner of Income tax of the Region concerned. Earlier the time limit was 3 months instead of 6 months.



6. Compounding Charges

- **Percentage increase of compounding charges to 1.5 times.** In all cases where relaxation of time has been provided, the compounding charges has been increased to 1.5 times of the normal compounding charges from the earlier 1.25 times of the normal compounding charges.
- **Percentage decrease in interest rate to 1% & 2% in cases where extension is allowed.** Wherever, extension of time allowed to pay compounding charges is allowed beyond one month from the end of intimation of compounding charges in accordance with Compounding Guidelines, the applicant shall have to pay interest @ 1 % per month or part of month on the unpaid amount of the compounding charges up to three months and thereafter at the rate of 2 % for period beyond three months. Earlier these rates were 2% and 3% respectively.
- **Compounding Fees**

Section	Penal liability prior to revision	Penalty Post Revision
276B & 276BB	Compounding fee shall not exceed the TDS amount and interest u/s 201(1A) taken together, if the default in deposit of TDS is less than INR 1 lac.	The limit of INR 1 lac has now been removed.
276CC & 276CCC	Penalty was determined on the tax amount determined on returned income as reduced by TDS and advance tax.	Post revision, the credit of taxes determined u/s 140A(1) paid at the time of filing the return will also be made available for determining the amount of penalty.

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