

**File No. 142/20/2013-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes**

Dated, the 19th November, 2013

Sub: Clarification in respect of Circular No.5/2010 – F. No. 142/13/2010 –SO (TPL) dated 03.06.2010- regarding.

Section 144C, providing for reference to Dispute Resolution Panel (DRP), was inserted in the Income-tax Act, 1961 by Finance (No.2) Act, 2009. Sub-section (1) of section 144C reads as under:

“The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereinafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee.”

2. Explanatory Circular for Finance (No.2) Act, 2009 i.e. Circular No. 5 of 2010 dated 03.06.2010, in para 45 has explained the said new section 144C and the consequential amendments made in other sections of Income-tax Act.

Para 45.5 of the Circular No.5/2010 dated 03.06.2010 reads as under:

“45.5 Applicability: These amendments have been made applicable with effect from 1st October, 2009 and will accordingly apply in relation to assessment year 2010-11 and subsequent assessment years. The Dispute Resolution Panel Rules have been notified by S.O. No. 2958 (E) dated 20th November, 2009.”

In the above extracted Para 45.5 there has been an inadvertent error in stating the applicability of the provisions of section 144C inserted vide Finance (No.2) Act, 2009 that amendments will apply in relation to the assessment year 2010-11 and subsequent assessment years. Accordingly, para 45.5 is replaced with the following:

“45.5. Applicability: Section 144C has been inserted with effect from 1st April, 2009. Accordingly, the Assessing Officer is required to forward a draft assessment order to the eligible assessee, if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee. In other words section 144C is applicable to any order which proposes to make variation in income or loss returned by an eligible assessee, on or after 1st October, 2009 irrespective of the assessment year to which it pertains. Amendments to other sections of the Income-tax Act referred to in para 45.3 of the circular 5/2010 dated 3rd June, 2010 shall also apply from 1st October, 2009”

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[Ashis Mohanty]
Under Secretary [Tax Policy & Legislation-IV]

Copy to:-

1. PS to FM/OSD to FM/OSD to MoS(R).
2. PS to Secretary (Revenue)/OSD to Advisor to FM.
3. The Chairperson, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Chief Commissioners/Director General of Income-tax – with a request to circulate amongst all officers in their regions/charges.
5. DGIT (International Taxation)/DGIT (Systems)/DGIT (Vigilance)/DGIT (Admn.)/DGIT (NADT)/DGIT (L&R).
6. Media Co-ordinator and Official spokesperson of CBDT.
7. DIT (IT)/ DIT (RSP&PR)/DIT (Audit)/ DIT (Vig.)/ DIT (Systems)/DIT (O &MS)/ DIT (Spl. Inv.)
8. The Comptroller and Auditor General of India (30 copies).
9. Joint Secretary and Legal Advisor, Ministry of Law and Justice, New Delhi.
10. The Institute of Chartered Accountants of India, IP Estate, New Delhi.
11. All Chambers of Commerce as per usual mailing list.

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[Ashis Mohanty]
Under Secretary [Tax Policy & Legislation-IV]