

Direct Tax Alert

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Supreme Court revives extension of limitation period for judicial and quasi-judicial proceedings

Given the resurgence of third wave of COVID-19, the Supreme Court has further extended the period of limitation for judicial and quasi-judicial proceedings up to 28 February 2022.

Background

- The Hon'ble Supreme Court ('SC') taking suo-motu cognizance of the situation arising due to the pandemic and difficulties faced by the litigants in filing petitions/ applications/ suits/ appeals/ all other quasi proceedings within statutory the time limit, vide order dated 23 March 2020, extended the period of limitation applicable for judicial and quasi-judicial proceedings from 15 March 2020 until further orders.
- Thereafter, the relaxation in period of limitation was curtailed to 2 October 2021

given that the pandemic situation was returning to normalcy.

- However, given the resurgence of the third wave of COVID-19, the SC has now restored its earlier order dated 15 March 2020 and the period of limitation is now further relaxed until 28 February 2022.

Relaxation provided by the SC

- Pursuant to the SC order, the period from 15 March 2020 until 28 February 2022 shall be excluded for the purpose of period of limitation in respect of all judicial or quasi-judicial proceedings under any general or special laws.



- The balance period of limitation remaining as on 3 October 2021, if any, shall become available with effect from 1 March 2022
- In cases where the period of limitation would have expired between 15 March 2020 and 28 February 2022, a period of 90 days from 1 March 2022 shall be granted to all persons.
- However, if the actual balance of limitation period as on 1 March 2022 is greater than 90 days, such longer period would be available from 1 March 2022.
- The time period from 15 March 2020 till 28 February 2022 shall also be excluded in computing the periods prescribed under Arbitration and Conciliation Act, 1996, Commercial Courts Act, 2015, Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.
- proceedings before CIT(A) would also be subject to the benefit under this order.
- The limitation period in respect of filing rectification applications, revision applications, appeals, refund applications, etc. under the Act would be extended in pursuance of SC order.
- Furthermore, the benefit of SC order for proceedings before Dispute Resolution Panel ('DRP') could be possibly explored. The Delhi High Court in case of *Vodafone Essar Ltd. v. DRP [2012] 340 ITR 352 (Del)*, passed an order treating DRP as quasi-judicial authority. Hence, arguably, one could take a stand that DRP is also quasi-judicial authority and therefore eligible for relaxation in period of limitation per the SC order. Furthermore, whilst the Assessing Officer ('AO') may not be regarded as a quasi-judicial authority, the extension of time limit in proceedings before DRP may unsettle the time limit of passing final order by the AO which indirectly would also get extended.

Applicability of aforesaid relaxation for proceedings under Income-Tax Act, 1961 ('the Act')

- The Income Tax Appellate Tribunal ('ITAT') is a quasi-judicial authority and hence, all the proceedings before the ITAT would be eligible for the relief envisaged under the SC order.
- The Central Board of Direct Taxes, vide *Circular no. 10/2021 dated 25 May 2021*, clarified that the limitation in respect of filing of appeal before the CIT(A) would be subjected to relief under SC order dated 27 April 2021. Accordingly, the
- Any petition for revision either under section 264 of the Act or a petition under section 273A, to be filed before the administrative authorities like Principal Commissioner / Chief Commissioner / Commissioner could also be considered as an application before a quasi-judicial authority and entitled to extension of limitation period under the SC order.
- It may be noted that the SC, in all its orders, has dealt only with period of limitation in judicial or quasi-judicial proceedings (including filing of appeals, etc.) and not for any other compliances



under the Act. Other compliances under the Act such as furnishing of tax return, tax audit report, transfer pricing certification, quarterly statements of tax deducted at source/tax collected at source etc. shall continue to be governed by the time limit prescribed under the Act or as extended by the CBDT.

- The time limit which imposed by a Court for the purpose of compliance of certain conditions by the taxpayer / Department should arguably not get impacted by the SC order.
- In situations where the time limit for filing any appeal against intimations /

assessment orders / appeal orders arise during this period but appeals have not been preferred either due to omission or there are fresh situations which warrant filing appeals now on new grounds / contentions like claim of education cess as a deduction or similar matters arising due to any judicial decisions, new interpretations, etc; then this opportunity should be availed by the taxpayers.

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