Circular No. 24 /2019

F.No.285/08/2014-IT(Inv. V)/349
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)
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Room No. 515, 5th Floor, C-Block,
Dr. Shyama Prasad Mukherjee Civic Centre,
Minto Road, New Delhi -110002.
Dated: 09.09.2019

Subject: Procedure for identification and processing of cases for prosecution under Direct Tax Laws-reg.

The Central Board of Direct Taxes has been issuing guidelines from time to time for streamlining the procedure of identifying and examining the cases for initiating prosecution for offences under Direct Tax Laws. With a view to achieve the objective behind enactment of Chapter XXII of the Income-tax Act, 1961 (the Act), and to remove any doubts on the intent to address serious cases effectively, this circular is issued.

2. Prosecution is a criminal proceeding. Therefore, based upon evidence gathered, offence and crime as defined in the relevant provision of the Act, the offence has to be proved beyond reasonable doubt. To ensure that only deserving cases get prosecuted the Central Board of Direct Taxes in exercise of powers under section 119 of the Act lays down the following criteria for launching prosecution in respect of the following categories of offences.

i. **Offences u/s 276B: Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.**

Cases where non-payment of tax deducted at source is Rs. 25 Lakhs or below, and the delay in deposit is less than 60 days from the due date, shall not be processed for prosecution in normal circumstances. In case of exceptional cases like, habitual defaulters, based on particular facts and circumstances of each case, prosecution may be initiated only with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers as mentioned in Para 3.

ii. **Offences u/s 276BB: Failure to pay the tax collected at source.**

Same approach as in Para 2.i above.

iii. **Offences u/s 276C(1): Wilful attempt to evade tax, etc.**

Cases where the amount sought to be evaded or tax on under-reported income is Rs. 25 Lakhs or below, shall not be processed for prosecution except with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers as mentioned in Para 3.

Further, prosecution under this section shall be launched only after the confirmation of the order imposing penalty by the Income Tax Appellate Tribunal.

iv. **Offences u/s 276CC: Failure to furnish returns of income.**

Cases where the amount of tax, which would have been evaded if the failure had not been discovered, is Rs. 25 Lakhs or below, shall not be processed for prosecution except with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers as mentioned in Para 3.

3. **For the purposes of this Circular, the constitution of the Collegium of two CCIT/DGIT rank officers would mean the following-**

As per section 279(1) of the Act, the sanctioning authority for offences under Chapter XXII is the Principal Commissioner or Commissioner or Commissioner (Appeals) or the appropriate authority. For proper examination of facts and circumstances of a case, and to ensure that only deserving cases below the threshold limit as prescribed in Annexure get selected for filing of prosecution complaint, such sanctioning authority shall seek the prior administrative approval of a collegium of two CCIT/DGIT rank officers, including the CCIT/DGIT in whose jurisdiction the case lies. The Principal CCIT(CCA) concerned may issue directions for pairing of CCsIT/DGIT for this purpose. In case of disagreement between the two CCIT/DGIT rank officers of the collegium, the matter will be referred to the Principal CCIT(CCA) whose decision will be final. In the event that the Pr.CCIT(CCA) is one of the two officers of the collegium, in case of a disagreement the decision of the Pr.CCIT(CCA) will be final.

4. The list of prosecutable offences under the Act specifying the approving authority is annexed herewith.

5. This Circular shall come into effect immediately and shall apply to all the pending cases where complaint is yet to be filed.

6. Hind version shall follow.

Encl: As above

(Mamta Bansal)
Director to the Government of India

Copy to:

1. P.S. to Finance Minister
2. P.S. to Revenue Secretary
3. The Chairman and all the Members, CBDT
4. All the Pr. Chief Commissioners/Chief Commissioners /Pr. Director Generals/ Director Generals of Income-tax
5. All the officers of the rank of Joint Secretary/CIT and above in the CBDT
6. CIT(Media and Technical Policy), CBDT
7. ADG (Systems)-4/ Web Manager for placing it on www.incometaxindia.gov.in
8. Addl. CIT, Data Base Cell- for placing it on www.irsofficersonline.gov.in
9. The Guard File

Director to the Government of India

Annexure

Section	Nature of default	Approving Authority
275A	**Contravention of order made under section 132(1) (Second Proviso) or 132(3)** in case of search and seizure	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
275B	**Failure to afford necessary facility to authorized officer to inspect books of account** or other documents as required under section 132(1)(*iib*)	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276	**Removal, concealment, transfer or delivery of property to thwart tax recovery**	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276A	**Failure to comply with provisions of section 178(1) and (3)** – reg. company in liquidation	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276AB	**Failure to comply with provisions of sections 269UC, 269UE and 269UL** reg. purchase of properties by Government	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276B	**Failure to pay to credit of Central Government** (*i*) **tax deducted at source** under Chapter XVII-B, or (*ii*) **tax payable u/s 115-O(2)** or second proviso to section 194B -	-
	(a) where non-payment of TDS exceeds Rs. 25 lakhs	Sanctioning Authority
	(b) in other case	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276BB	**Failure to pay to the credit of Central Government the tax collected a source** under section 206C -	-
	(a) where non-payment of TCS exceeds Rs. 25 lakhs	Sanctioning Authority
	(b) in other case	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276C(1)	**Wilful attempt to evade tax, penalty or interest or under-reporting of income** -	-
	(*a*) where tax which would have been evaded exceeds Rs 25 lakh	Sanctioning Authority
	(*b*) in other case	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276C(2)	**Wilful attempt to evade payment of any tax, penalty or interest** -	-
	(a) where payment of any tax, penalty or interest exceeds Rs 25 lakhs	Sanctioning Authority
	(*b*) in other case	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276CC	**Wilful failure to furnish** returns of fringe benefits under section 115WD/115WH or **return of income under section 139(1) or in response to notice under section 142(1)(*i*) or section 148 or section 153A** -	-

	(*a*) where tax sought to be evaded exceeds Rs 25 lakhs	Sanctioning Authority
	(*b*) in other case	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276CCC	**Wilful failure to furnish in due time return** of total income required to be furnished by notice u/s **158BC(*a*)**	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
276D	**Wilful failure to produce accounts and documents under section 142(1) or to comply with a notice under section 142(2A)**	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
277	**False statement in verification or delivery of false account or statement etc -**	-
	(*a*) where tax which would have been evaded exceeds Rs 25 lakhs	Sanctioning Authority
	(*b*) in other case	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
277A	**Falsification of books of account or document, etc, to enable any other person to evade any tax, penalty or interest chargeable/leviable under the Act**	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers
278	**Abetment of false return, account, statement or declaration relating to any income or fringe benefits chargeable to tax -**	-
	(*a*) where tax, penalty or interest which would have been evaded exceeds Rs 25 lakhs	Sanctioning Authority
	(*b*) in other case	Sanctioning Authority with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers

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