



Ayana Legal

THE BUZZ

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Section 276CC of Income Tax Act

Section 276CC provides for imprisonment in case of failure to file the return of income. As per this section for:

- Failure to file the return of income as per section 139(1) and
- Failure to file the return of income in response to a notice issued under section 142(1)(i) or section 148.

The punishment will be as follows:

- i) Rigorous imprisonment which shall not be less than 6 months but which may extend to seven years and with fine where tax sought to be evaded exceeds rupees twenty five hundred thousand.
- ii) In any other case, rigorous imprisonment which shall not be less than 3 months but which may extend to two years and with fine in other cases.

INCOME TAX RETURNS

The deadline for filing income tax returns for the Financial Year 2020-21 was extended for the second time to the 31st of December, 2021 the initial deadline being the 31st of July which was subsequently extended to the 30th of September.

This issue of “The Buzz” discusses the legal provisions relating to filing income tax returns and consequences of delayed filing.

Due Date & Last Date

Generally, the due date for filing of income tax returns is the 31st of July. If one fails to submit their income tax returns by the due date they have time until the last date - 31st December to do so. For Financial Year 2020-21 the dates were extended. The due date was the 31st of December 2021 and the last date is the 31st of March 2022.

Consequences of not filing by due date

Section 234A of the Income Tax Act discusses interest for default in filing tax return.

As per this section, if income tax returns have not been filed by the due date, the assessee will be charged a simple interest of 1% per month or part of the month on the outstanding tax amount.

Proviso - The taxpayer shall not be proceeded against under this section if:

- (a) the return is furnished by him before the expiry of the assessment year; or
- (b) the tax payable by him (not being a company) on the total income determined on regular assessment, as reduced by advance tax and TDS, if any, does not exceed Rs. 3,000.

Sasi Enterprises v. Assistant Commissioner of Income Tax 2014 [5] SCC 139

It was held that the proviso to Section 276CC would not apply after detection of the failure to file the return and after a notice under Section 142(1) (i) or 148 of the Act is issued calling for filing of the return of income.

Thank You

In these unpredictable times, we hope that you are taking care of yourself. Team Ayana Legal thanks you for the trust. Till we are back with our next edition, stay safe and keep smiling.

Disclaimer

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This interest will be calculated from the due date for filing of return till the date that you actually file your return.

Further, a late fee will also be levied as per Section 234F of the Act.

As per the section if a person fails to furnish their return within the due date, a sum of five thousand rupees will be levied as a late fee and “if the total income of the assessee does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.”

The late fee was reduced from Rs. 10,000/- to Rs. 5000/- by the Finance Act, 2021.

Further it is also to be noted that any losses incurred would not be allowed to be carried forward and set off against future gains.

Filing income tax return once expenditure amount exceeds prescribed threshold limit

The Finance Act, 2019 introduced the 7th proviso to Section 139(1) of the Income Tax Act which makes it mandatory to file income tax returns once the expenditure amount exceeds the prescribed threshold limit. These include persons who during the previous year:

“1) have deposited an amount or aggregate of amounts exceeding Rs 1 crore or more in one or more accounts maintained with a bank or co-operative bank;

2) Those who have incurred an expenditure of an amount or aggregate of amounts exceeding Rs 2 lakh for them or any other person for travel to a foreign country;

3) Those who have incurred expenditure of an amount or aggregate of amounts exceeding Rs 1 lakh towards electricity consumption.”