
‘Underwent Business Reorganization - The Clock Is Ticking’

CBDT Approves E-Filing of Modified Returns by Successor Companies for Business Reorganizations from June 2016 to March 2022:

Section 170A of the Income-tax Act, 1961 (‘the Act’), as introduced by Finance Act 2022 and subsequently amended by Finance Act 2023, provides that entities having gone through business reorganization (*amalgamation or demerger or merger*) may furnish modified return of income for any assessment year to which such order of business reorganization is applicable within six months from the end of the month of issuance of order of competent authority (*High Court or Tribunal or an National Company Law Tribunal*) sanctioning such business reorganization.

The introduction of section 170A in the Act was to recognize and enact the ratio laid down by the Supreme Court in the case of *Dalmia Power Ltd. vs. ACIT*: [2020] 420 ITR 339 (SC) wherein it was held that the assessing officer was bound to accept the revised/ modified return of income filed by the successor companies, giving effect to the scheme of business reorganization sanctioned by the National Company Law Tribunal even after the due date prescribed under section 139(5) of the Act. Further, in case of business reorganization pursuant to approved resolution plan under the provisions of Insolvency and Bankruptcy Code, 2016 (‘IBC’), the assessing officer was bound to accept the revised/ modified return of income to give effect to the business reorganization.

In cases where the schemes of business reorganization were sanctioned by the competent authority on or after 01 April 2022, the successor entities could file modified return of income under section 170A of the Act on the income tax e-filing portal. However, in cases where orders of the competent authority were passed on or before 31 March 2022, the successor entities taking recourse to the judgement of the Supreme Court in the case of *Dalmia Power Ltd. (supra)* or the overriding/ binding approved resolution plan under the IBC, manually prepared revised/ modified return of income and furnished the same before the assessing officer. In some cases, the successor entities used to seek approvals/ condonation of delay from Central Board of Direct taxes (‘CBDT’)/ Principal Commissioners of Income-tax /Commissioners of Income-tax (Pr. CsIT/CsIT), Chief Commissioners of Income-tax (CCsIT), Principal Chief

Commissioners of Income-tax (Pr. CCsIT) for filing revised/ modified return of income to give effect to the scheme of business reorganization.

To address the challenges faced by these entities and ease their genuine difficulties, CBDT has vide order dated 13 March 2024 (F. No. 225/5/2021-ITA-II), granted blanket approval to successor companies to furnish the return with modified particulars for the relevant assessment year(s) in accordance with and limited to the order of business reorganization sanctioned by the competent authority by using functionality on e-filing portal “*u/s 119(2)(b) – after condonation of delay/ Court Order or Sanction Order of Business reorganization of the Competent authority issued prior to 01.04.2022*”. Such approval has been granted where orders of the competent authority has been issued after 01 June 2016 but prior to 01 April 2022.

A three-step approach has been provided in the CBDT’s order, which is as follows:

Step 1: The assessee will communicate to the Jurisdictional Assessing Officer (JAO) as per the proforma to enable electronic filing of the return. **This is required to be done on or before 30 April 2024.**

Step 2: The JAO will verify whether the return is resulting from and limited to the order of the competent authority & enablement through ITBA. The taxpayer will receive such information on its e-filing portal within 30 days of the taxpayer’s receipt of communication.

Step 3: Upon receiving such information, the taxpayer can furnish return for the relevant assessment year on the e-filing portal up to 30 June 2024.

VA Comments:

The move is expected to give significant relief to successor companies that have undergone business reorganisation or have been acquired under the Companies Act, 2013 and/ or under the Insolvency and Bankruptcy Code, 2016. It would be advisable for the taxpayers to avail of this short window provided by the CBDT order to file modified return rather than leaving the same to uncertainty after the closure of the timelines.

Considering the stringent timelines involved, entities having undergone business reorganisations wherein approvals from the competent authority have been received between 01 June 2016 to 01 April 2022, are required to furnish applications along with details prescribed in the proforma on or before 30 April 2024.

For any details and clarifications, please feel free to write to:

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