

Income Tax Advisory on Updated Returns

7-Mar-2024

An Updated return can be furnished u/s 139(8A) of the Income Tax Act 1961 by any person, whether or not he has furnished a return under sub-section (1) or sub-section (4) or sub-section (5), for an assessment year (herein referred to as the relevant assessment year), of his income or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year, in the prescribed form 61 at any time within twenty-four months from the end of the relevant assessment year.

The provision of section 139(8A) shall not apply, if the updated return,—

- (a) is a return of a loss; or
- (b) has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5); or
- (c) results in refund or increases the refund due on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5), of such person under this Act for the relevant assessment year:

Further, a person shall not be eligible to furnish an updated return under this sub-section, where—

- (a) a search has been initiated under section 132 or books of account or other documents or any assets are requisitioned under section 132A in the case of such person; or
- (b) a survey has been conducted under section 133A, other than sub-section (2A) of that section, in the case of such person; or
- (c) a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person; or
- (d) a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person, for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and any assessment year preceding such assessment year:

No updated return can be furnished by any person for the relevant assessment year, where—

- (a) an updated return has been furnished by him under this sub-section for the relevant assessment year; or
- (b) any proceeding for assessment or reassessment or recomputation or revision of income under this Act is pending or has been completed for the relevant assessment year in his case; or

(c) the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976) or the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988) or the Prevention of Money-laundering Act, 2002 (15 of 2003) or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or

(d) information for the relevant assessment year has been received under an agreement referred to in section 90 or section 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or

(e) any prosecution proceedings under the Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of furnishing of return under this sub-section; or

(f) he is such person or belongs to such class of persons, as may be notified by the Board in this regard:

Provided also that if any person has sustained a loss in any previous year and has furnished a return of loss in the prescribed form within the time allowed under sub-section (1) and verified in the prescribed manner and containing such other particulars as may be prescribed, he shall be allowed to furnish an updated return where such updated return is a return of income:

Provided also that if the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under sub-section (2) of section 32 or tax credit carried forward under section 115JAA or under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of return of income under this sub-section for a previous year, an updated return shall be furnished for each such subsequent previous year.

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