

Indirect tax Dispute Resolution Scheme, 2016

Organised by
Borivali Central CPE Study Circle
of WIRC of ICAI

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Purpose



Who is eligible for the Scheme?

- Disputes pending before Commissioner -Appeals as on 1st March, 2016
 - Appeal filed by the assessee 85
 - Order passed by an officer < Commissioner
 - Appeal by the Department 84



Who is not eligible for the scheme

- the impugned order is in respect of search and seizure proceeding; or
- prosecution for any offence punishable under the Act has been instituted before the 1st day of June, 2016; or
- the impugned order is in respect of narcotic drugs or other prohibited goods; or
- impugned order is in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988; or
- any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

When?

- After 1st June, 2016
- Before 31st December, 2016

Procedure

- Application to the designated authority
 - AC and above authorised for the scheme
- Payment of:
 - Tax due
 - Interest
 - 25% of the penalty imposedWithin 15 days of receipt of the acknowledgement
- Intimation with proof of payment
- Order
 - Within 15 days from the day of the receipt of intimation

Immunity from other proceedings

- Appeal shall stand disposed off
- Immunity from all proceedings under the Act, in respect of the indirect tax dispute for which the declaration has been made under this Scheme
- Declaration shall become conclusive on issuance of order
- No matter shall be reopened

Consequences of order made under Scheme

- Amount paid under the Scheme shall not be refunded
- Order shall not be considered as an Order on merits and has no binding effect

Important aspects

- No refund possible
- Can not be considered as an order passed on merits
- No binding effect
- Practical relevance
 - 76(2)
 - 77
 - 78 (3)
 - Possibility of enhancement



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Right advice at right time...



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