

Finance (No. 2) Act, 1998

Section 95 - Scheme Not to Apply in Certain Cases

The provisions of this Scheme shall not apply--

(i) in respect of tax arrear under any direct tax enactment.--

(a) in a case where prosecution for concealment has been instituted on or before the date of filing of the declaration under section 88 under any direct tax enactment in respect of any assessment year, to any tax arrear in respect of such assessment year under such direct tax enactment or in respect of a person who has been convicted for concealment on or before the date of filing the declaration;

(b) in a case where an order has been passed by the Settlement Commission under sub-section (4) of section 245D of the Income-tax Act or sub-section (4) of section 22D of the Wealth-tax Act, as the case may be, for any assessment year, to any tax arrear in respect of such assessment year under such direct tax enactment;

(c) to a case where no appeal or reference or writ petition is admitted and pending before any appellate authority or the High Court or the Supreme Court on the date of filing of declaration or no application for revision is pending before the Commissioner on the date of filing declaration;

(ii) in respect of tax arrear under any indirect tax enactment.--

(a) in a case where prosecution for any offence punishable under any provisions of any indirect tax enactment has been instituted on or before the date of filing of the declaration under section 88, in respect of any tax arrear in respect of such case under such indirect tax enactment;

(b) in a case where show cause notice or a notice of demand under any indirect tax enactment has not been issued;

(c) in a case where no appeal or reference or writ petition is admitted and pending before any appellate authority or the High Court or the Supreme Court or no application for revision is pending before the Central Government on the date of declaration made under section 88;

(iii) to any person in respect of whom prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Foreign Exchange Regulation Act, 1973, the Narcotic Drugs and Psychotropic Substance Act, 1985, the Terrorist and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988, or for the purpose of enforcement of any civil liability has been instituted on or before the filing of the declaration or such person has been convicted of any such offence punishable under any such enactment;

(iv) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974;

Provided that--

- (a) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or
- (b) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9 of the said Act; or
- (c) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or
- (d) such order of detention has not been set aside by a court of competent jurisdiction;
- (v) to any person notified under sub-section (2) of section (sic) of the Special Court (Trial of Offences Relating to Transaction in Securities) Act, 1992.
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