

Power to reduce or waive penalty, etc., in certain cases.

273A. (1) Notwithstanding anything contained in this Act, the [***] Commissioner may, in his discretion, whether on his own motion or otherwise,—

(i) [***]

(ii) reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section (1) of section 271; or

(iii) [***]

if he is satisfied that such person—

(a) [***]

(b) in the case referred to in clause (ii), has, prior to the detection by the Assessing Officer, of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars,

(c) [***]

and also has, in the case referred to in clause (b), co-operated in any enquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation [***].—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a nature as not to attract the provisions of clause (c) of sub-section (1) of section 271.

[***]

(2) Notwithstanding anything contained in sub-section (1),—

(a) [***]

(b) if in a case falling under clause (c) of sub-section (1) of section 271, the amount of income in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

no order reducing or waiving the penalty under sub-section (1) shall be made by the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be.

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order :

Provided that where an order has been made in favour of any person under sub-section (1) on or before the 24th day of July, 1991, such person shall be entitled to further relief only once in relation to other assessment year or years if he makes an application to the income-tax authority referred to in sub-section (4) at any time before the 1st day of April, 1992.

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the [***] Commissioner may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the

assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

- (i) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and
- (ii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him:

Provided that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be.

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.

(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.

(7) Notwithstanding anything contained in sub-section (6), the provisions of sub-section (1), sub-section (2), or, as the case may be, sub-section (4) as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989), shall apply in the case of reduction or waiver of penalty or interest in relation to any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year, with the modifications that the power under the said sub-section (1) shall be exercisable only by the Commissioner and instead of the previous approval of the Board, the Commissioner shall obtain the previous approval of the Chief Commissioner or Director General, as the case may be, while dealing with such case.