



New Safeguard for Assessee under Section 148 IT Act

The Government of India, in its attempt to remove arbitrariness in the actions of the Income tax department while issuing notices under Section 148 of the Income Tax Act, 1961, to re-assess the income of the assessee who might have escaped assessment of the chargeable tax income, under Section 147, has introduced Section 148A by virtue of Finance Act, 2021, which came into effect since 01.04.2021.

The newly inserted section requires the Assessing Officer, after securing a prior approval from the specified authority, shall be required to conduct an inquiry, thereafter, provide opportunity of being heard by issuing show-cause notice and decide accordingly on the material available on record. The time fixed by the provision to file reply to the show-cause notice is 1 month or extended time period and for the Assessing Officer to order the re-assessment under Section 147 by issuing notice under Section 148, is 1 month.

The Hon'ble Calcutta High Court in ***Bhagwati Prasad Jalan v. Union of India***¹, placing reliance on various orders granted stay against the notice issued under Section 148, without complying with the mandatory conditions as specified under Section 148A.

Therefore, the safeguard inserted by the legislature is an attempt to ensure non-arbitrariness and reasonability in the actions of the department and protect the assessee from the uncalled proceedings under the provisions of the Act.

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² Majesty legal is law firm and aim of the present article is to provide recent updates in the legal world. The opinions presented in the article are personal in nature and not to be deemed as legal advice.