



Orders/Notices without DIN are liable to be quashed [Sec 282 of ITA'61 – Sec 501 of ITA'25]



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Circular No. 19/2019 holds that no communication shall be issued by any income- tax authority unless a computer-generated DIN has been allotted and is duly quoted in the body or such communication -

- (i) Relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc.
- (ii) Issued To the assessee or any other person,
- (iii) Issued On or after the 1st day of October, 2019

Exceptional circumstances for relaxation of the Circular after following the due process and post facto regularization –

- (i) Where non DIN communication is issued due to technical difficulties
- (ii) When non-DIN communication is issued by IT Authorities who is outside the office
- (iii) When due to delay in PAN migration PAN is lying with non- jurisdictional Assessing Officer;
- (iv) when PAN or assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated;
- (v) When the functionality to issue communication is not available in the system,

Para 4 of The Circular is most important to note. It states that "4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued." Furthermore as per Para 7, in all pending assessment proceedings, where notices were issued manually, prior to issuance of this Circular, the income-tax authorities should have identified such cases and should have uploaded the notices in these cases on the Systems by 31th October, 2019.

It is also important to note about the binding nature of CBDT circular on the Income-tax Authorities which has been held as per the decision of Hon'ble Supreme Court in the case of CIT v. Hero Cycles [1997] 228 ITR 463 (SC) wherein it was held that circulars bind the ITO but will not bind the appellate authority or the Tribunal or the Court or even the assessee.

On these grounds, the order u/s 263 of IT Act passed by Commissioner which does not bear DIN was quashed in the case of G.P. TRONICS PVT. LIMITED Vs ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-2(1), KOLKATA [2023-VIL-482-ITAT-KOL]

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