



## DISPUTE RESOLUTION COMMITTEE (DRC)

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Earlier, The Income Tax Settlement Commission was constituted by Central Government to settle disputes at an early stage, which ceased on 1.2.2021, and in order to dispose of pending cases, the CG constituted Interim Boards. However, it is necessary to prevent tax disputes and settle the issues of small and medium taxpayers. The Dispute Resolution Committee is formulated with effect from 1<sup>st</sup> April, 2021.

The CBDT has issued a significant order dated 14th Aug 2023 which pertains to the constitution and operational modus of the Dispute Resolution Committee (DRC). The issuance of this order is a direct response to the notification of the e-Dispute Resolution Scheme, 2022, enacted under section 245MA of the Income Tax Act.

### Constitution and Composition of DRC

The Central Government has power to constitute one or more Dispute Resolution Committees to resolve dispute arising from any variation in the **specified order** in case of specified persons or class of persons **who fulfill the specified conditions** [S.245MA].

Rule 44DAA of the Income Tax Rules, introduced through Notification No. 26/2022 dated 05/04/2022, outlines the structure of the DRC.

CG shall constitute DRC in every region. Each DRC shall consist of 3 members:

- a. 2 members shall be retired officers from IRS (Income Tax) who have held the post of Commissioner of Income tax or higher post for 5 years or more;
- b. 1 member serving officer not below the rank of PCIT (Principal Commissioner of Income tax) or CIT (Commissioner of Income Tax)

Members shall be appointed for 3 years, and decisions of DRC shall be by majority. CG may remove any member after giving them an opportunity of being heard [Rule 44DAA].

Rule 44DAB: DRC allow applications for specified order who fulfill the specified condition with an application **fee of Rs. 1000**.

Application to be filed in the Form No. 34BC.

#### A. Specified order:

Specified order means:

- ❖ Any Draft order u/s 144C;
- ❖ An intimation u/s 143(1) or 200A(1) or 206CB(1) of the act where the assessee or the deductor or the collector objects to the adjustments made in the said order;
- ❖ An order of assessment or reassessment, except an order passed in directions of Dispute Resolution Panel;
- ❖ A rectification order passed u/s 154;

❖ An order made u/s 201 or 206C(6A) of the act i.e. a person as an assessee-in-default for failure to deduct/collect tax at source or remit the same, and in respect of which the following conditions are satisfied:

1. The Aggregate sum of variation made or proposed in such order does not exceed Rs. 10 Lakhs;
2. Such order is not based on:
  - A search u/s 132 or a Requisition u/s 132A in case of assessee or any other person; or
  - A survey u/s 133A; or
  - Information received under an Agreement referred to in S.90/90A.
3. If ROI has been filed then the total income as per ROI does not exceed Rs. 50 Lakhs.

#### B. Specified Conditions:

Specified conditions in relation to a person means a person who fulfills the following condition:

##### He is not a person:

- against whom detention order has been made under conservation of foreign exchange and prevention of smuggling activities act
- against whom prosecution has been instituted and convicted for any offence under:
  - a. Indian Penal Code
  - b. Unlawful Activities (Prevention) Act
  - c. Narcotic Drugs and Psycho tropic Substances Act
  - d. Prevention of Benami Transaction Act
  - e. Prevention of Corruption Act
  - f. Prevention of Money laundering Act
- against whom prosecution has been initiated by Income Tax Authority under Income tax Act
- who is notified u/s 3 of special Court Act

Proceeding under black money (undisclosed foreign income and assets) and imposition of tax act, 2015 have not been initiated for AY for which resolution for sought

#### C. Time Limit for Application:

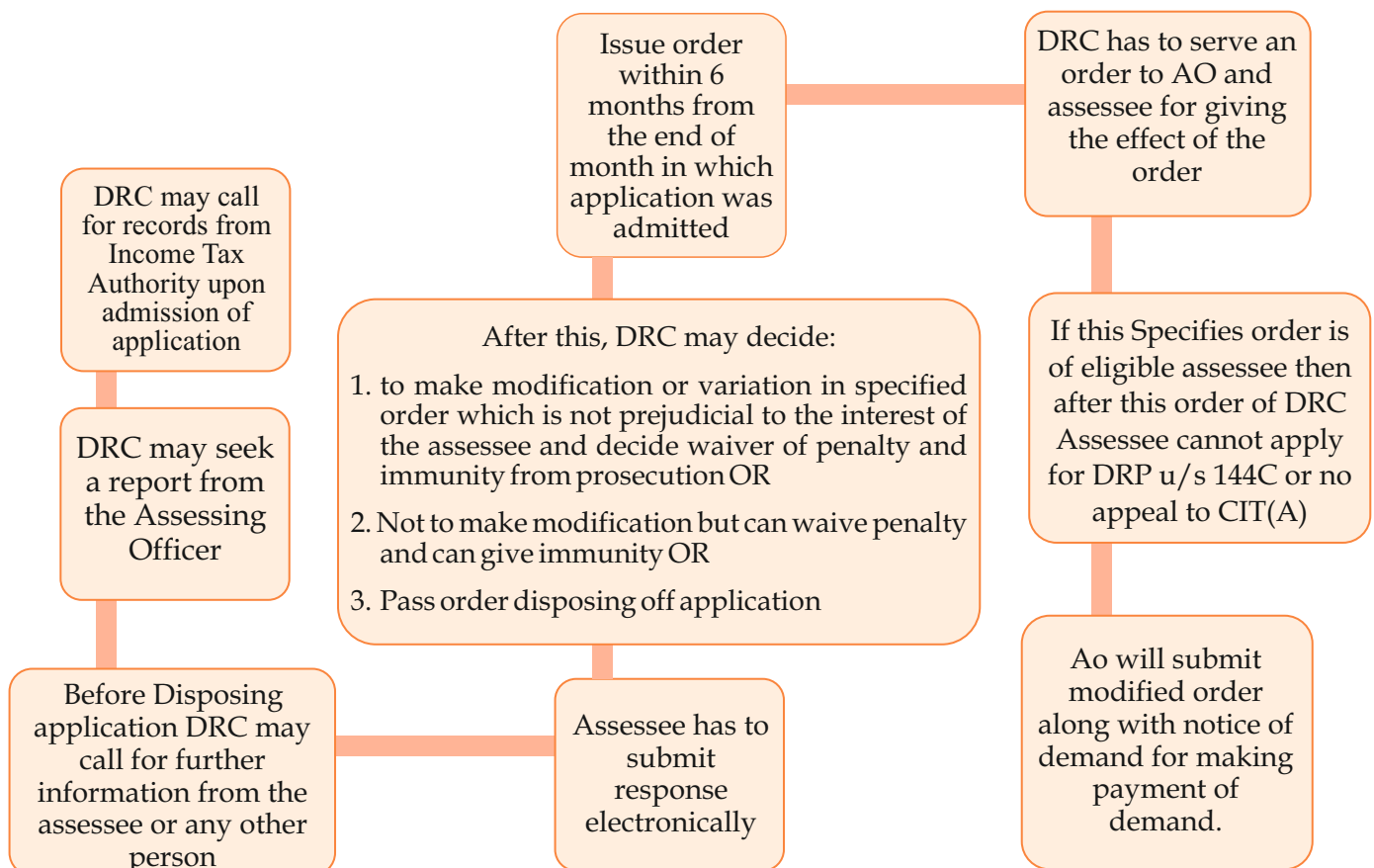
In case appeal has been filled and pending before CIT(A)	As specified by Board
In any other case	Within 1 month from date of receipt of specified order

**D. Screening of Application:**

- DRC has to examine the application, and upon examination, DRC can accept or reject the application.
- If DRC is of the opinion that application for Dispute Resolution should be rejected, it has to serve a show cause notice to the assessee as to why his application should not be rejected, specifying the date and time to file a response along with an opportunity of being heard has been provided to assessee through telephony or VC.
- On response furnished by assessee, DRC can reject or proceed the application. If response is not furnished, then DRC has the right to reject the application.
- If application is rejected, then assessee has the right to file an appeal to the CIT(A) against that specified order and time taken in process of DRC shall be excluded.
- The decision of DRC whether accepted or rejected the application for dispute resolution shall be communicated to assessee, and within 30 days of such communication of admitted application, assessee has to submit proof of withdrawal of appeal.

**E. Remuneration and allowances:**

Retired DRC members receive a sitting fee of Rs. 5000 per day, alongside a case wise fee of Rs. 5000 for each case. However, the monthly Remuneration is not more than Rs. 1.10 Lakhs. Remuneration is subject to revision after approval from the CBDT.

**F. Process to be followed by DRC:**

- No Appeal against such modified order
- On receipt of payment of demand DRC shall give waiver of penalty or immunity.

**G. Termination of proceedings:**

DRC can terminate the proceeding by reason to be recorded in writing and after giving an opportunity of being heard in following cases:

- If assessee fails to incorporate in the proceedings;
- If assessee fails to respond;
- If assessee fails to submit information in regards of notice issued.
- If DRC is of the opinion that assessee has not disclosed any material fact,
- If assessee fails to pay demand as per modified order.

**H. Power of DRC [S.245MA(2)]:**

In case of person whose dispute is resolved by DRC, DRC can:

- i. Reduce or waive off any penalty imposable under the Income Tax Act;
- ii. Grant immunity from prosecution from any offence under Income Tax Act.

Rule 44DAC:

1. DRC should grant waiver of penalty or immunity from prosecution upon confirmation of payment of demand from assessee and id assessee has made an application if it is satisfied that such person has paid the tax due on the returned income and co-operated with DRC.
2. No immunity would be granted in such cases where prosecution has been initiated before proceedings.
3. If there are violations of any conditions then such immunity granted shall stand withdrawn and on such withdrawal all provisions of IT Act would apply.

**Time limit for passing an order:**

Assessing Officer shall, in conformity with the directions contained in order of DRC, pass an order within 1 month from the end of month in which such order was received.

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