

## **Income Tax notices can be sent to old address, says Supreme Court**

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### **The rule applies if the new address has not updated in the PAN database**

If you have not updated the address in the PAN (Permanent Account Number) database, then the Income Tax Department has every right to send any notice at your old address and complete the assessment accordingly.

In an important judgement recently, the Supreme Court has made it clear that the notice sent to the wrong address of the assessee due to non-updating of new address in PAN is not 'bad in law.'

This is a major relief for the Income Tax Department. With this, it has set aside orders passed by the High Court, Commissioner of Income Tax (CIT-Appeals) and the Income Tax Appellate Tribunal (ITAT), holding the assessment order bad in law on the ground that notices were served at the old address.

"We are of the opinion that mere mentioning of the new address in the return of income without specifically intimating the Assessing Officer with respect to change of address and without getting the PAN database changed, is not enough and sufficient," a division bench of Justice M R Shah, Justice U U Lalit and Justice Indira Banerjee said.

It added that in absence of any specific intimation to the Assessing Officer, with respect to the change in the address and/or change in the name of the assessee, the Assessing Officer would be justified in sending the notice at the available address mentioned in the PAN database of the assessee, more particularly when the return has been filed under EModule scheme.

The bench mentioned that notices under section 143(2) of the Income Tax Act are issued on selection of case generated under automated system of the Income Tax Department which picks up the address of the assessee from the PAN database.

"The change of address in the database of PAN is must., in case of change of the name of the company and/or any change in the registered officer of the corporate office and the same has to be intimated to the Registrar of Companies in the prescribed format (Form 18) and after completing with the said requirement, the assessee is required to approach the Department with the copy of the said document and the assessee is also required to make an application for change of address in the departmental database of the PAN, which in the present case the assessee has failed to do so," the bench said.

## **The case**

The assessee had filed the Income Tax Return for the assessment year 2006-07 in December, 2006 under E-Module scheme. This return was processed a notice was issued in October 2007. This notice was sent at the assessee's address available as per the PAN database. Then, intimation for further hearing and three more notices were sent at the same addresses. Finally, the assessee appeared before the tax authority but challenged the notices saying that these were not served upon as it never received those notices and subsequent notices served and received by the assessee were beyond the period of limitation prescribed under the law.

Meanwhile, assessment was completed and it went against the assessee after which it approached the first level of appeal which is CIT (Appeal). There it got the relief after assessment order was declared bad in law. Tax authority then moved to ITAT where its appeal was dismissed. Further, the High Court confirmed the order passed by CIT (Appeal) and ITAT. Then the matter reached apex court, which ruled in the favour of the tax department.