

Date: 19th July, 2024

To,

1. **Smt. Nirmala Seetharaman,**
Hon. Finance Minister of India,
New Delhi.

2. **Shri Ravi Agarwal,**
Hon'ble Chairman,
Central Board of Direct Taxes, North Block,
Delhi – 110 001

3. **The Director General of Income-tax (Systems)**
ARA Centre, Ground Floor,
E-2 Jhandewalan Extension,
New Delhi

Respected Sirs / Madam,

Sub: Mistake of not allowing Rebate u/s. 87A in the utility for Return of Income – Request to take corrective steps

The Chamber of Tax Consultants, established in 1926, is one of the oldest non-profit organizations of tax practitioners, having Advocates, Chartered Accountants and Tax Practitioners as its members spread across Pan India. The Chamber is on the cusp of its Centenary year which will be commencing from July 2025. Many senior tax professionals who regularly appear before ITAT, High Courts and the Supreme Court are its Past Presidents. The Chamber has been making regular representations before various government agencies.

The Chamber regularly takes up initiatives to act as a bridge between stakeholders and concerned regulatory bodies in order to convey and help in resolving genuine grievances or effectively implement the laws.

The first due date for filing of Income Tax Returns falls on Wednesday 31st July 2024. Many of the assesseees and practitioners are keen to file their returns well in time to avoid the last week rush in the matter. The department has also been sending regular reminders through Email, SMS, for this.

Recently we have received information from our members/taxpayers about issue faced by individual taxpayers in respect of rebate u/s 87A not calculated correctly in ITR utilities available on Income Tax Portal and in turn resulting in calculation of incorrect tax liability/refund receivable. The issue is explained briefly hereafter:

The provisions of section 87A as amended by the Finance Act, 2023, read as under :

Rebate of income-tax in case of certain individuals

“An assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent of such income-tax or an amount of twelve thousand and five hundred rupees, whichever is less.

Provided that where the total income of the assessee is chargeable to tax under sub-section (1A) of section 115BAC, and the total income—

(a) does not exceed seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing for the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to one hundred per cent of such income-tax or an amount of twenty-five thousand rupees, whichever is less;

(b) exceeds seven hundred thousand rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds seven hundred thousand rupees”

On a perusal of the section 87A, it will be observed that individual taxpayer with a total income up to Rs 5 lakhs under the old regime and up to Rs 7 lakhs under the new regime is entitled to a rebate of Rs 12,500 and Rs 25,000 respectively. There is no restriction in relation to rebate being available against the income being subjected to special rates of tax.

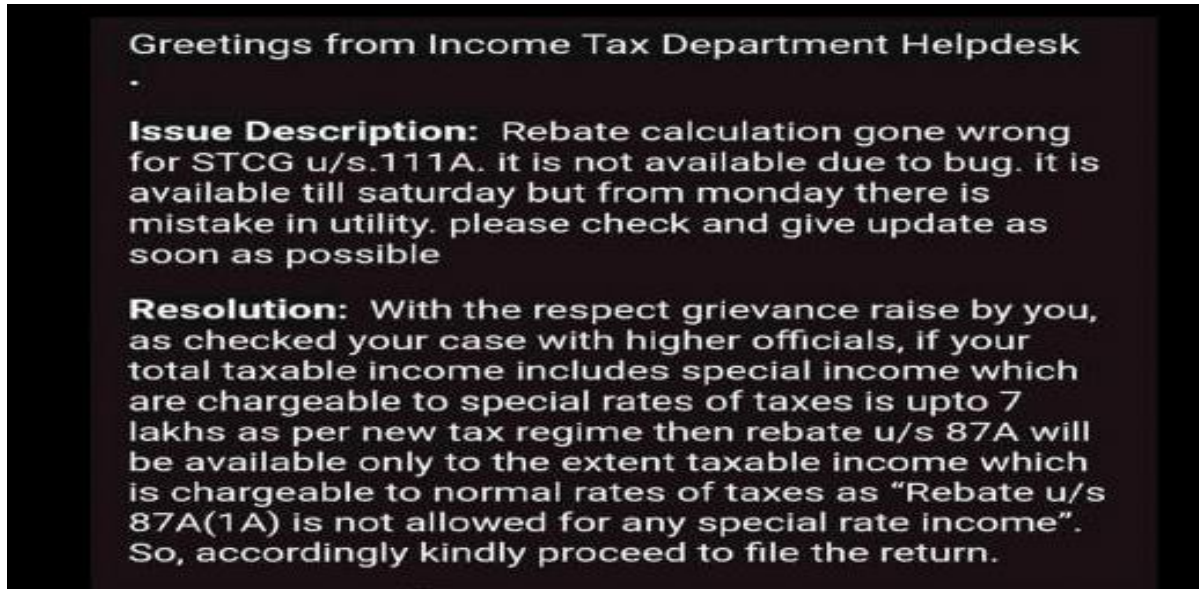
Attention is drawn to the fact that amongst the sections specifying special rate of tax, only section 112A which provides for Tax on long-term capital gains on transfer of listed equity shares and equity oriented mutual funds @ 10% carries a restriction that rebate under section 87A would not be granted in respect of tax payable on capital gains charged under that section. Such express restriction is not imposed under any other section providing for special rate of tax. For example Section 111A providing for tax on short term capital gains @ 15% or section 112 providing for tax @ 20% on long term capital gains do not have any such restriction as regards availability of rebate u/s. 87A against such tax.

As against the above provisions of law, the utility for preparation of Return of Income has suddenly stopped allowing the rebate u/s. 87A against the incomes taxable at special rate. It would be appropriate to note that upto 5th July, 2024, ITR utility made available on Income Tax Portal was functioning correctly and rebate under section 87A was calculated correctly as

per provisions of section 87A. However, from the said date, new ITR utility made available on Income Tax Portal is not granting rebate under section 87A for all types of incomes taxable at special rates under Schedule SI which is not in accordance with provisions of Section 87A and/or other provisions of the Act.

In view of the above issue, taxpayers with total incomes up to Rs 5 / 7 lakhs under the old / new regimes are not able to file their returns without payment of tax liability which is incorrect and on higher side or have to file their return of after accepting reduction in refund due to them which is creating great inconvenience and hardship for the genuine taxpayers.

Aforesaid issue seems to have cropped up because of incorrect interpretation of law which is apparent from the below message received by taxpayer on raising issue with the Income Tax Department Helpdesk



On a perusal of the aforesaid message, it will be observed that the Department has interpreted provisions of Section 87A incorrectly and mentioned that rebate under section 87A is not allowable in respect of tax payable at special rates which is not correct as explained hereinabove. It is unfortunate to note that the same section which was interpreted in the correct manner under the earlier utility is now being interpreted in a completely different manner under the new utility. You will appreciate that interpretation of a provision of law cannot be left to the functioning of the utilities provided to file the Return of Income. Such interpretation also leads to inequality between two tax-payers. Whereas the tax-payers who had filed their return of income prior to 5-7-2024 could avail the correct amount of rebate, the tax-payers filing their return of income now are not getting the correct rebate for no valid reason.

Keeping in view the provisions of the Income Tax Act, 1961, inconvenience and hardship faced by the genuine taxpayers and fast approaching deadline for filing return of income (31st July,

2024), it is our sincere and humble request to take cognizance of above issue and immediately take appropriate action to resolve the issue at the earliest.

Our above request is in continuation of our letter dated 13th July, 2024 wherein we had highlighted various other issues faced by the taxpayers/consultants with respect to filing return of income. You will appreciate that without resolutions of the issues highlighted earlier and also now, the returns cannot be uploaded or filed.

We trust that the above difficulties will be sorted out at the earliest to avoid inconvenience and frustration to assesses and consultants who are enabling the filing of returns to the assessee. The corrective steps taken in this direction at the earliest will help in getting the compliance done in time and will also avoid the need for extension of the due dates for filing the Return of Income.

We at the Chamber, always advocate timely compliance by the taxpayers and firmly believe that it is in the interest of not just the taxpayers but also the country as a whole to get the returns and other forms filed in time and also pay the taxes in time. However, we also believe that it is the duty of the regulator to provide the suitable mechanism in achieving the above objective and therefore we are making this request for your kind consideration.

We look forward for your kind consideration to the genuine request.

Yours Sincerely,

For **The Chamber of Tax Consultants**

Sd/-

Vijay Bhatt
President

Sd/-

Ketan Vajani
Chairman
Law and Representation Committee

Sd/-

Apurva Shah
Co-Chairman