

Queries Related to Return Filing

1- Query

We have noticed following error in the ITR 2 Java utility of Income Tax Department.

Income from Other Source entered in Point 1-5 of Sch OS which is taxable at Normal Rates is linked in Par B TI point 4(a).

Point 4(a) of Part B TI as per Notified ITR is

*"Net income from other sources chargeable to tax at **normal applicable rates** (6 of Schedule OS) (enter nil if loss) "*

	c Total capital gains (5av + 5biv) (enter nil if loss)		5c
4	Income from other sources		
a	Net income from other sources chargeable to tax at normal applicable rates (6 of Schedule OS) (enter nil if loss)	4a	
b	Income chargeable to tax at special rates (2 of Schedule OS)	4b	
c	Income from the activity of owning and maintaining race horses (8e of Schedule OS) (enter nil if loss)	4c	
d	Total (4a + 4b + 4c) (enter nil if loss)	4d	

and as per Java Utility, it is:

*"Net income from sources chargeable to tax at **special rates** (6 of Schedule OS) (enter nil if loss)"*

4	Income from other sources		
a	Net income from sources chargeable to tax at special rates (6 of Schedule OS) (enter nil if loss)	4a	
b	Income chargeable to tax at special rates (2 of Schedule OS)	4b	
c	Income from the activity of owning and maintaining race horses (8e of Schedule OS)(enter nil if loss)	4c	
d	Total (4a + 4b + 4c) (enter nil if loss)		

It seems that there is error in the utility, income taxable at normal rates is shown as taxable at special rates.

2- Query

IFSC Code Error

1) While submitting e-return ITR 2, error messages comes that the Bank IFSC code of other bank details are not as per RBI data base. Name of Bank is Bank of Maharashtra whose IFSC code are correct as available on bank passbook as well as online verified by me which are a) MAHB0001214 & b) MAHB0000311

Firstly, while filing an Income Tax Return for an NRI (ITR-2), a mandatory field is required to be filled regarding Taxpayer's Identification Number (TIN) of that foreign country in which such person is resident. In this case, if the foreign country is a tax haven and the NRI's do not possess any such identification number, what should be the correct option to fill this mandatory tab ?

Note: The e-filing portal does not provide an option for pre-validating NRE bank account.

Residential Status Errors

As per new ITR Forms for A.Y. 2019-20 Assessee's have to select their Residential status like Resident, RNOR and NR.

In the case of Non-resident one has to mention additional like Country of Residency along with Tax Identification number of that country.

In case of Indian Citizen or Person of Indian origin further additional details to be provided which are 1) No of Days Stay in India during P.Y. and 2) No of Days Stayed in India in preceding 4 P.Y.

What Assessee has to mention details in case where He is a Seafarer and there comes any of the two situation

A) Assessee is Employed with an Indian Shipping Company and he is out of India for more than 182 days in P.Y. Indian Company do not deducted TDS as assessee fulfills condition laid down u/s. 6(1)(a) as well as Explanation 1 to section 6(1)(c).

Now as the assessee was most of the time in international water and does not have any other country as Residency for Tax purpose as well as Tax Identification number.

In this case what is to be mentioned in the newly introduced fields.

B) Assessee is Employed with a Foreign Flagged Shipping Company (say Singapore) in paid in Foreign currency and he is out of India for more than 182 days in P.Y. Foreign Company do not deducted any kind of Taxes,

Assessee fulfills condition laid down u/s. 6(1)(a) as well as Explanation 1 to section 6(1)(c).

Now as the assessee was most of the time in international water and does not have any other country as Residency (in this case Singapore) for Tax purpose as well as Tax Identification number.

In this case what is to be mentioned in the newly introduced fields as the said fields are made mandatory to be filled for filing of Income Tax return.

Also fulfills all the conditions laid down u.s, 6(1)(a) & 6(1)(c) along with Explanation 1 & 2.

However assessee does not become Tax resident of any foreign country as per that country laws due to which assessee is not having any Tax Identification No. and the valid XML is not being generated for filing as it asks for mandatory Tax Identification Number in such cases.

Secondly, the issue relating to pre-validation of Bank Account. How should an NRI (being 2nd holder) holding an NRO / NRE Bank Account in India pre-validate bank account for claiming refund ?

3- Query

We are in receipt of Notice u/s 143(1)(a) for one of our client. Copy of the same is attached herewith.

In the said notice following adjustments are proposed:

1. Addition of Depreciation u/s 32(1)(i)

Income tax department have proposed to add back the depreciation claimed under 32(1)(i) citing reason that we have not mentioned the power generation business in nature of business.

We have duly disclosed the power generation business in the nature of business. Code 05001 - Production, collection and distribution of electricity is mentioned in the nature of business.

2. Loss of AY 2011-12

Income Tax department proposed to disallow the loss claimed of AY 2011-12 stating that date of return filing is 19.4.18

We had filed a return us 148 for the same year on 19.4.18. However the original return is filed on 6.9.11 which is well within the due date.

Please guide in respect of above proposed adjustments.

4- Query

Firstly, while filing an Income Tax Return for an NRI (ITR-2), a mandatory field is required to be filled regarding Taxpayer's Identification Number (TIN) of that foreign country in which such person is resident. In this case, if the foreign country is a tax haven and the NRI's do not possess any such identification number, what should be the correct option to fill this mandatory tab ?

Secondly, the issue relating to pre-validation of Bank Account. How should an NRI (being 2nd holder) holding an NRO / NRE Bank Account in India pre-validate bank account for claiming refund ?

Note: The e-filing portal does not provide an option for pre-validating NRE bank account.

5- Query

Because of Capital gain & income u/s 44AD – which return to be filed ?

In case of returns filed under presumptive basis, IT department is sending the defective mail even if the assessee has filled item no. 6 of schedule Part A BS (No accounts case) and Gross receipts of 44ADA income in item no. 62 of Part A-P&L in ITR.

6- Query

Capital Gains [Sch CG] related to LTCG other than shares :

Illustration :

- a) LTCG on sale of Land : Rs. 100,000
- b) LTCL on sale of Building : Rs. (75,000)
- c) LTCG on sale of Jewellery : Rs.200,000

Assessee has made investment of Rs.100,000/- in long term specified asset eligible u/s 54EC against sale of land.

There is a variance in the final LTCG figure due to the set off methodology adopted during the course of processing the ITR which is illustrated as under:

As per ITR Processed at CPC:

Particulars	As per CPC
Capital Gains on Sale of land	

As per the Act,1961:

and building :	
LTCG on sale of Land	100,000
LTCL on sale of Building	(75,000)
Net LTCG on Sale of Land and Building	25,000
LTCG on Sale of Jewellery	200,000
Total	225,000
Less : 54EC	(25,000)
Partible LTCG	As per 200,000, 1961
Capital Gains on Sale of land and building :	
LTCG on sale of Land	100,000
Less : 54EC	(100,000)
Capital gain on Sale of Land	NIL
LTCL on sale of Building	(75,000)
Net Long Term Capital Loss on Sale of Land and Building	(75,000)
LTCG on Sale of Jewellery	200,000
Taxable LTCG	125,000

Income Tax

7- Query No.

In the rectification application filed with CPC, for rectifying the TDS credit not allowed by CPC it was observed that in the rectified order received credit for Self-assessment tax paid and Advance tax paid was not allowed which was duly allowed in the original intimation u/s 143(1) of the Income Tax Act,1961. Credit for the Self – Assessment tax paid and Advance tax paid was duly reflected in 26AS of the assessee.

8- Query No.

Senior Citizens having only share of profit from firm which is exempted u/s 10(2A) of the Income Tax Act, 1961 is not required to pay advance tax if he does not have any business Income. However in the Intimation received it is observed that interest is levied u/s 234B and u/s 234C of the Income Tax Act , 1961.

9- Query No.

In the case where assessee has other taxable income in addition to income u/s 44AD/ u/s. 44ADA of the Income Tax Act, 1961, for calculation of interest u/s 234C income u/s 44AD/ u/s 44ADA is not to be considered except for the March Installment. At the time of processing it is observed in the intimation that interest is calculated on proportionate basis on the entire income (including income u/s 44AD/ u/s. 44ADA).

10- Query No.

Adjustment is proposed u/s 143(1)(a), where employees PF is deducted and deposited late but before the due date u/s 139(1). Even after objecting to the proposed adjustment the return is not processed without adjustment.

11- Query No.

Tax payers are in receipt of notice u/s 139(9) of the Income Tax Act, 1961 pertaining to TDS and corresponding income appearing in 26AS. Corresponding income is proposed to be added even if the assessee has offered the income as per the provisions of the Income Tax Act, 1961 and method of accounting followed.

For E.g.

- a) Cash system of accounting is followed by the assessee.
- b) GST – TDS deducted on GST amount
- c) Assessee is a builder following project completion method.

12- In case of a non – discretionary trust wherein the income is distributed amongst the beneficiaries and is taxed in the hands of the beneficiaries. The TDS refund is not allowed to the trust and the return is considered as defective on the ground that TDS credit is claimed but no corresponding income is offered.

13- **Query**

143(1) – Cash System – Not permitting the TDS credit for earlier years – what is the solution ?

14- Query No.

It is observed that there is a delay in processing the Income Tax Returns of the assessee wherein large refunds are involved.

15- Query

In case of belated return of charitable trust – 143(1) – processing entire receipt is taxed – disallowing the entire expense – can one consider filing ITR 5 which is prescribed for AOP ?

16- Query

While processing return u/s 143(1) – adjustment for mismatch in Return and Tax Audit Report is treated as income – legally the adjustment is possible ?

Double disallowance of the same expense.

17- Query

In case of delayed payment of PF – after due date as per PF Act but before the due date as per income tax Act – addition is made under 143(1) processing – what is the way out ?

Bombay high Court ruling –

18- Query

If a person has invested in REC bond – whether the investment can be withdrawn – only available for land & building ?

19- Query

Shares in unlisted company disclosure

- a. Date of purchase of shares / date of allotment / date of transfer ?
- b. Reconcile the data disclosed from by the Company and the shareholder ?

20- Query

- 1) Loan substantial business – what is substantial ?

Company advancing loan The ramification

21- When it has to be tested whether a person is owning shares in an unlisted company ?

- a. Any time during the year
- b. Start of the assessment year
- c. End of the assessment year ?

22- If a person is director in a company he has to furnish Name of the Company, PAN No., his DIN & whether the company is listed or not. Whether the disclosure are to be made even for foreign company ?

Please note that furnishing of PAN and DIN is not mandatory in case of a foreign company.

23- Details of shares of unlisted company

Sl. No.	Name of company	PAN	Opening Balance		Shares acquired during the year					Shares transferred during the year		Closing Balance	
			No. of shares	Cost of acquisition	No. of shares	Date of subscription / purchase	Face value per share	Issue price per share (in case of fresh issue)	Purchase price per share (in case of purchase from existing shareholder)	No. of shares transferred	Sale consideration	No. of shares	Cost of acquisition

What if the detail is not available ?

Whether the Assessing Officer question that the details have to be substantiated ?

24- Sale of immovable property

Sl. No.	Name of Buyer	PAN of Buyer	Percentage share	Amount	Address of Property	PIN Code
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Share of each co-owner is not stated in the document – how to state that ?

Details are mandatory or not ?