



The Chamber of Tax Consultants

Mumbai | Delhi

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3rd July, 2019

To,
Shri P. K. Dash
Special Sectary & Member,
Government of India,
Ministry of Finance
Department of Revenue,
Central Board of Direct Taxes,
New Delhi - 110001

Respected Sir,

Re: Processing of returns by CPC – problems encountered by Filers

The Chamber of Tax Consultants (CTC), Mumbai was established in 1926. CTC is one of the oldest (about 92 years) voluntary non-profit making organizations in Mumbai formed with the object of educating and updating its members on Tax and other Laws. It has a robust membership strength of about 4000 professionals, comprising Advocates, Chartered Accountants and Tax Practitioners. The Chamber also has created a niche with the government and other regulatory agencies, where representations by the Chamber are received with all seriousness.

Our members have been facing issues with the processing of returns by the Central Processing Centre (“CPC”) and we bring the same to your attention with a request that these be sorted out in a suitable manner for which we shall be obliged.

Some of the issues faced and collated are reproduced hereunder. We have mentioned the appropriate action that in our view needs to be taken – and suitable quick action will help to avoid reprocessing as well as litigation on smaller repetitive issues which would overburden the litigation set up of the Revenue.

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

This would be a system error and may please be rectified.

2. **Senior Citizens** having only share of profit from firm which is exempted u/s 10(2A) of the Income Tax Act, 1961 are not required to pay advance tax if they do not have any taxable 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.

The system would need re-programming for this. This causes a lot of anxiety to Senior Citizens.

3. 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).

The system would need re-programming for this.

4. 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. The said issue is a legal issue and covered by High Court judgements and should not be a 143(1) adjustment. Not rectifying this would result in an overload of litigation having to be filed.

The system would need re-programming for this.

5. 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) Assessee is a builder following project completion method.
- c) 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.

The system would need re-programming for this.

7. ITR forms provide for option to **transfer TDS credit** to other person/allowing claiming TDS Credit which is deducted in the hands of other person. However while processing of return the credit of the same is not given to the assessee thereby raising demand to the assessee. The purpose of transfer of credit is still not resolved inspite the details being filled in both the returns – transferor and transferee. Tax credits are still given only based on form 26AS.

The system would need re-programming for this.

8. In case of **merger/amalgamation** or any other mode of restructuring the tax credits appearing in erstwhile companies are not being transferred to existing company, thereby denying the tax credit and hence the large outstanding demand being raised. The details of restructuring is already being provided in ITR form. There should be automated process of tax credit transfer in case of amalgamation where details of amalgamated companies with is provided in ITR form.

The system would need re-programming for this.

9. Entities where tax payable is as per MAT were receiving emails from department that Form 29B was not uploaded, despite the same having been done. On confirmation with CPC it was confirmed that if it is already done, such mails should be ignored. The same was applicable for trusts as well – for filing form 10B.

This would be a system error and may please be rectified.

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

An issue is being faced with the sequence of processing Capital Gains claim as illustrated under:

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

Assesee 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 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)
Taxable LTCG	200,000

As per the Income Tax Act,1961:

Particulars	As per I.T Act , 1961
Capital Gains on Sale of land and building :	
LTTCG 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)
LTTCG on Sale of Jewellery	200,000
Taxable LTTCG	125,000

The system would need re-programming for this.

11. Assessee not required to maintain books of accounts are required to furnish certain information in respect of P&L – Gross Turnover, Gross profit, expense & net profit and balance sheet items – sundry debtors, sundry creditors, cash on hand & closing stock. Despite the information being submitted accurately there arose processing errors from the department stating the required details have not been furnished and hence return may be treated as defective.

This would be a system error and may please be rectified.

12. Trusts claiming income tax exemption have received intimations showing that the amount of income and expenditure as processed, besides tax deducted at source (TDS), are nil. The tax returns have been correctly filed, but there have been errors in processing them. Effectively, this has resulted in denial of refund to these trusts.

This would be a system error and may please be rectified.

13. Income tax exemption has been denied to trusts in respect of their income, thereby raising huge tax demands. The intimation clearly shows that the assessee have furnished full details of their registration for exemption, besides having complied with the requirement of filing the audit report.

This would be a system error and may please be rectified.

14. It is observed that there is a delay in processing the Income Tax Returns of the assessee wherein large refunds are involved. Some income tax returns are taking longer time for processing even if the time for processing have been elapsed. On contacting CPC, the only information we get is that return is under processing. No additional information is made available. The Act also specifies the time limit for processing the returns even though the processing is not done within the time limit.

This would be a system error and may please be rectified.

15. The refund to foreign companies/non-resident are not processed in definite time. Even after disclosing foreign bank account details in case of non-residents, while issuing refunds the refunds gets rejected with reason – “Bank account is of incorrect length” or “IFS code does not match”. The refund then needs to followed up with AO and get the cheque issued by AO. The mechanism should be in place to issue refund through CPC by cheque.

Issues Related to Filing of Return of Income:

1. Aadhar linking with PAN

As the status of Private trust is that of ‘Individual’ FORM ITR-2 can be used to file. But due to Aadhar linking with PAN and providing Aadhar number in IT return is mandatory it is not possible for private trust to fill ITR -2 & have to fill ITR-5. The status then changes to that of AOP and not individual thereby losing the benefits as available to Individual. Due to Aadhar linking the trusts shall again be facing the same issue that was faced couple of years ago. The return filing is not possible despite the trustee’s Aadhar already linked to his account. A separate category for private trusts should be introduced whereby Aadhar is not applicable or mandatory linking of Aadhar should be exempted for trusts and the status of trust should be identified based on status in PAN as appearing on database.

2. The returns schema is being updated on continuous basis. The returns were released in April- May and it has been noticed that schema is updated till today. Once the return is prepared and ready to file the same cannot be uploaded since the schema has undergone the change.

We hope suitable corrective action is taken expeditiously for which we would be obliged.

Thanking you,

Sincerely,

For **The Chamber of Tax Consultants**

Sd/-	Sd/-	Sd/-
Hinesh R. Doshi President	Mahendra Sanghvi Chairman Law & Representation Committe	Apurva Shah Co - Chairman