

July 26, 2022

To,
Shri Nitin Gupta Ji,
The Honorable Chairman,
Central Board of Direct Taxes,
Ministry of Finance, Govt. of India,
North Block, New Delhi - 110001.

Subject:- Seeking an appointment for personal meeting of our AIFTP National President and Secretary General and Direct Taxes Representation Committee of AIFTP with your honour to discuss suggestions on various important direct taxes issues to reduce tax litigation and to improve tax payer friendly measures and ease of doing business.

Honorable Sir,

Our Organization, **All India Federation of Tax Practitioners ('AIFTP')**, is one of the largest professional bodies of tax practitioners comprising of Tax Professionals, Advocates & CAs and Tax Practitioners and corporates etc.. AIFTP was established 45 years ago in the year 1976 in the presence of **Former Chief Justice of India, Hon'ble Justice J. C. Shah** and distinguished **Jurist Shri. Nani Palkhivala**. Having its Headquarter at Mumbai, the main object of the Federation is to spread education in matters relating to tax laws, other laws and accountancy.

We at AIFTP organize since many decades seminars and conferences and webinars and publishing magazines and study materials for tax professional and trade associations and business and industry community.

We at AIFTP send suggestions to government on tax matters time to time and we are glad that many of them are accepted by government. We act as bridge between government and the stakeholders.

Presently government has taken very much taxpayer friendly steps in recent past and which has resulted in increased number of taxpayers and has resulted in increased tax being voluntarily deposited.

Still few suggestions we want to make towards making the system robust and more taxpayer friendly and hassle free and for ease of doing business. In this regard we seek an appointment for personal meeting with your honour preferably on 5th August, 2022 and some of the suggestions are hereunder :-

- 1. Why date extension request from income tax payers/ tax professional every year :** Root cause needs to be taken care of:- The taxpayers have to reach every year to Honourable Finance Minister, Revenue Secretary, Chairman CBDT, and later on to high courts by way of writ petition for date extension, the root cause has to be analysed why the taxpayers has to reach to courts and why they have to demand date extension every year.

If once there is a long date extension of the first due date of ITR i.e. if 31st July due date is extended for long period then it becomes necessary to extend subsequent due dates (company audit and audited ITR due dates) and thereafter for the remaining period of the whole year the imbalance of working starts and results in useless and unwanted work load in some subsequent months where many of the due dates of ITR, AUDITS, GSTRs, ROC etc. coincides, consequently other due dates also have to be extended, therefore if the root causes are treated then there will not arise any date extension requirements and there will not be any subsequent date extensions for other further due dates.

Every year taxpayers have to demand the date extensions, the permanent solution being there is needed some legislative amendments and automatically create an atmosphere and environment to timely file income tax returns.

Since the persons who are deducting TDS have been allowed more time to deposit TDS challans of the TDS deducted in the month of March, such TDS presently can be deposited upto 30th April i.e. 30 days time is allowed to deposit challan, and thereafter the deductors are to furnish TDS statement in form 24Q, 26Q etc. upto 31st May i.e. 31 days time is further allowed after the date of deposit of TDS Challans.

Then after that within 15 days from the end of due date of filing of TDS statement deductors are to issue form 16 and 16A etc.. from this it clearly reflects that the person from whom TDS is deducted has to wait for more than 75 days (two and half month) to get his TDS certificate in form 16 and 16A etc.

If in any case the TDS statement filed by the deductor in form 24Q/26Q is containing some mistakes or mismatch or any correction is required in the duly furnished TDS statement then it will further and again spoil next month of the deductor and deductee, the deductee will have to wait for a following next month to get reflected his TDS details in his form 26AS, only when everything happens correct.

Thereafter how it can be possible that the deductee who has received the TDS certificate on 15th Jun or later, will file his return of income on the same day, he may also take time of 15 days to move to his tax consultant i.e. he will go to his tax consultant in July and then in the month of July tax professionals are flooded with lot of tax returns to be filed diligently and following various procedures and rules regulations law and various reconciliations and matching/mismatching issues etc.

The taxpayers who are required to file the income tax return in July mostly comprise of two categories i.e. one is the Salaried employees and the other is small business and professionals covered in no accounts case or presumptive taxation.

In conclusion if the due date of deposit of TDS challan is preponed and due date to furnish TDS statement in form 24Q and 26Q etc. is preponed then this will prevent wastage of more than 2 and half months of the poor/helpless taxpayer who has to seat idle and tax professionals also have to wait and have to seat idle for 2 and half month waiting for his TDS certificates in form 16 and 16A. It is true that the government makes responsible the person who is responsible to make payment of any sum only to a person who is not a very small in all respect i.e. it is generally seen that the tax deductors are big assesseees equipped with technology, computer systems, sufficient staff and having various desired softwares in their organisations, so they can do the work of TDS depositing, TDS statement furnishing in a very timely and quick manner. Nowadays there are not much year end adjustment or journal entries and even if there is any, has no connection with TDS matters, therefore the due date of TDS depositing, TDS statement furnishing must be preponed, and importantly the requirement to issue form 16A and form 16 must be dispensed with. In a regime more than 15 years there was non-availability of form 26AS so the deductee could not find his TDS details online, therefore he had to wait for the form 16 and 16A etc. but nowadays form 26AS are equipped with proper details of tax deduction details being populated from the TDS statements filed by the deductors in from 24Q and 26Q etc., therefore practically there is no need of issuing and getting form 16 and 16A and no need to wait form form 16 and 16A for which government has also fixed a penalty of Rs. 500 per day per form for the delay issue of form 16 and 16A, which is actually not practicable and not required.

The TDS statements in form 24Q, 26Q etc. of Jan and Feb. every year may be prescribed to be filed within 15 days from the end of the month of February. And the TDS amount deducted in the month of March may prescribed to be deposited within 5 days from the end of the month of March and then TDS statement in form 24Q/26Q etc. of the month of March month may be prescribed to be furnished upto 15th April. And

there will not be any need to issue form 16/16A because these details already get reflected in the form 26AS of the deductee.

2. Filing of TDS/TCS statement needs to be simplified and less time consuming:- The filing system of TDS/TCS statement is too cumbersome and much time consuming, longer time taking procedures and not much user friendly therefore this also needs to be improvised and to be made simpler and quite user friendly and less time consuming. TDS statement correction system must also be made simpler and easier and user friendly, so that deductee get reflected his rectified TDS details quickly and timely in his form 26AS to enable him to file his income tax return well in time.

3. Preparing returns of small taxpayers also takes long time :-

Preparing of returns of persons who are covered in no accounts case is not so easy even if they are covered in no accounts case and even not required to maintain books of accounts as per section 44AD, 44ADA, 44AA. Because in those cases practically the tax consultant himself has to ascertain the gross turnover of the taxpayers from his bank accounts and from his supporting documents and from his GSTR data and GST turnover as reflected in 26AS/AIS has to be reconciled from actual turnover as per his sales/receipts invoices.

Capital gain calculations has to be done in case of sale of immovable properties and shares and mutual fund transactions. Nowadays transactions in sale of immovable properties and shares and mutual fund transactions have increased manifold, which also consumes a lot of time in preparing even a single income tax return. Therefore for the tax professionals it is not possible to file ITR only in one month i.e. in July itself. More than 95% of income tax returns are filed with the help of tax professionals, therefore tax professionals have to file ITR in a very systematic manner and have to do and have to follow various procedures to compile ITR in no accounts case or in case of salaried employee.

4. Taxpayer does not intend to earn Interest from department :-

Presently income tax returns are getting processed instantly even within 10 minutes or earlier and refunds are also being issued at the earliest, even though Government is having to pay interest U/s 244A of the income tax act for the period even prior to the filing of income tax return, the department doesn't delay the return processing not even by an hour but has to pay interest U/s 244A of the act only because the TDS credits get reflected more than 2 and half months delay in every case. Therefore if the root cause of quick reflection of TDS credit is repaired then the government will also save hard earned money of small taxpayers resulting in useless and unwanted and undesired payment of interest by way of Section 244A interest. No one intends to earn interest from income tax department on income tax refund. Income tax department is paying interest on money which was not in the hands of the income tax department in the month of April every year, because deductor deposit on 30th April as per time allowed under law, which was deducted on 31st March and department starts paying interest U/s 244A from 1st April itself. Government is paying interest of many crores of rupees on income tax refunds for period of the month of April during which generally money is not lying with the income tax department because TDS deducted in March is deposited on 30th April of the just following year. Government has to pay much more interest U/s 244A of the act for other reasons also. Therefore if certain things are looked into government may save interest by quickly getting filed ITRs by improving certain measures and promoting quick filing of ITRs in refund cases, then due to timely and quick filing of ITR, taxpayers will not every year demand date extension.

5. Processing of return of income U/s 143(1)(a) may be kept on hold at the request of taxpayer until TDS credit reflects in form 26AS :-

Many of the taxpayers are so much punctual and much quick so that they want to file their income tax return even on the 1st Day of April but they are helpless because they cannot get information in 26AS, if they file their

income tax return on the basis of information available with them and they enter TAN of deductor and the relevant TDS details in their ITR which has not got reflected in form 26AS reason being the deductor is yet to furnish his form 24Q, 26Q etc. for the last quarter of the year, then the taxpayer assessee is issued notice of mismatch by CPC-Bengaluru U/s 143(1)(a) disallowing TDS credit etc.

Therefore there may be an option to the person who is filing return even in April or May and still information in his 26AS is yet to be updated, he should give an option in his ITR that processing of his return of income U/s 143(1)(a) of the act may be kept on hold till 15th June or upto when the TDS credit is reflected in his form 26AS and as and when the TDS credit will be reflected in 26AS then the assessee will electronically confirm and give consent through OTP etc. to proceed further to process his ITR now as per 26AS.

6. TDS Challan and TDS credit doesn't get reflected on real time basis:-

If any person deposits the TDS challan then it doesn't immediately get reflected in TDS portal and even if TDS statement is filed the corresponding entry in the 26AS doesn't get update/reflected in the 26AS of the deductee on real time basis, it takes a 3-4 days time. So it delays filing of TDS/TCS statement by deductor/collector and filing of ITR by deductee/collectee.

7. Appeals in Faceless manner before CIT Appeals :- It is being informed by many tax professionals that hearing and appeal order process is very much slow or ignored in faceless CIT appeal forum, which needs to be expedite.

8. Legal heir registration on income tax portal quite difficult and sometimes impossible :- Many of the individual taxpayers in India are

facing difficulty in registering themselves as legal heir in case of death of their any family member for whom they are legal heir.

To overcome this difficulty Income tax department through its portal may allow taxpayers to nominate legal heir during his own lifetime with the electronic consent of the person who has been nominated as legal heir for income tax purposes.

Because in recent past there are many of the case where reassessment or assessment orders have been passed in case of deceased taxpayer and his family member are even not able to file appeal against those assessment orders because the survivor who is legal heir is not allowed on the portal to register himself as legal heir. Many legal heirs are unable to file returns in case of refund case or in case of tax payable for want of legal heir registration on the income tax portal.

The process to get registered as legal heir on the income tax portal is quite difficult and near to impossible if the legal heir has no succession certificate or not having registered will.

Therefore either the income tax portal may itself allow a taxpayer to register his will/testament on the income tax portal itself in accordance with applicable laws, as a socio economic measure and as a special help from government to the taxpayer and survivors.

9. Condone delay in filing various appeals :- During last 3-4 years income tax department is fastly digitized and almost all processes in the income tax are in digital mode, the taxpayers in India could not fully keep pace in desired manner and due to this many of the assessment order passed exparte or processing of income tax returns U/s 143(1)(a) of the act with undesired disallowance or returns of income have been held to be defective U/s 139(9) of the act, but many of the taxpayers are not aware of

these actions due to many reasons and due to changes in the income tax portal systems and presentation of portal, therefore they could not timely take corrective action, the victims of these instances were mainly various religious trust and institutions and senior citizens and taxpayers living in mofussil areas and person who are not much conversant with technology.

Therefore it is suggested that government may come out with a benevolent circular condoning delay in filing of appeals before CIT Appeals or before ITAT or condone delay in filing rectification applications U/s 154 of the act or allow to file a return again, if any of the income tax return of the taxpayer has been held to be defective U/s 139(9) of the act.

- 10. Condonation needed for new registration system of charitable and religious trust and institutions etc. U/s 10(23C)/12AB/80G etc. :-** Many of the charitable and religious trust or institutions etc. could not file in time form 10AB or requisite forms to get themselves re-register under new registration system made applicable on income tax portal U/s 10(23C) or 12AB or 80G etc. Because 31st March, 2022 was the last date to file the requisite forms but since the tax professionals were busy in filing income tax returns and audit returns of their clients upto 15th March, 2022 therefore they got only 15 days time to file new registration forms for trust and institutions and during which many tax professionals missed the deadline or due to reluctance of office bearers of trust and institutions. The government has introduced new system for which public is ready to adopt but due to genuine reasons they missed to keep pace, therefore there should be allowed a one time relaxation to get registered the trust or institutions who missed due to genuine reasons or circumstances.
- 11. Faceless systems :-** For A.Y. 17-18 and onwards there are large number of ex-parte orders more due to ignorance rather than design. Cases have been reopened on the basis of bank deposits and even where the deposits

coupled with withdrawals show a consistent business trend the entire credits are assessed u/s 68/69A

For example in case of a vendor selling cold drinks, any eatables etc in a thela, who used his bank account for making purchases of eatables, cold drinks etc had total transactions of about 30 lacs during the year with meager balance at the end of the year. He came to know of ex-parte order when his bank account was attached. Somehow the appeal was filed and written submissions with evidences uploaded in 2020 itself. The appeal is still undecided though atleast 5 notices u/s 250 are visible on the portal and every time the same submissions are repeated with request for expeditious disposal.

To add insult to injury penalty orders have been passed u/s 271F and 272A(1) **without any notice visible on the portal**. The orders mention that notices are sent to the registered e-mail address. Further the portal does not permit filing of appeal u/s 272A(1).

Please appreciate a poor hand to mouth thela wala who is absolutely unaware of computers, who is not required to file returns at all as his income, even by mandatory parameters of 44AD, is below taxable has been thrown in cesspool of litigation and unwarranted liabilities and the appeals are not being decided.

There are hundreds of such cases which have been victim of department's casual approach in assessing bank deposits as unexplained income and in all such cases the department must come out with a clear practical expeditious disposal policy.

Please also suggest what is the remedy for penalty u/s 272A(1) which does not have the option of appeal also

12. Sec. 139(9) defective returns- CPC Bengaluru has no authority in this regard:- There have been lakhs of income tax returns held defective during earlier years by CPC Bengaluru even if sec. 139(9) of the act does not allow CPC for it, because section 139(9) of the act does not state prescribed authority.

As also Section 143(1A) does not allow to held any return as defective, because of limited power conferred thereunder. Therefore CPC must be instructed not to hold any return as defective U/s 139(9) of the act until the law empowers.

There are so many other discussions and suggestions which needs immediate attention to avoid any frivolous tax litigations, in this regard we seek an early appointment preferably on 5th August, 2022 to have a personal meeting with Honorable Chairman CBDT and TPL.

We trust your honour will spare your valuable time and convey us your convenient meeting time to us in this regard.

Thanking you,
Yours faithfully,

For **ALL INDIA FEDERATION OF TAX PRACTITIONERS**



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