



Date: 14<sup>th</sup> March, 2020

To  
**The Chairman,**  
Central Board of Direct Taxes,  
Ministry of Finance,  
Government of India,  
New Delhi

**Sub: Request to provide services of I.T. Officer for prompt and smooth redressal of CPC issues**

Respected Sir,

At the outset, we would like to place on record our sincere appreciation to your good office for coming up with various initiatives to promote digitization and the robust online platform pertaining to Income Tax and TDS have eased the tax filing procedures and also reduced the use of paper. Your empathy towards tax payers by ensuring that assessment and verification of IT returns would be done through electronically anonymised tax systems has boosted the tax payer's and professional's faith in the government machinery. We are confident that slew of taxpayer friendly measures planned by the Government will address several intricate problems relating to taxation, synchronously fulfil its vision of faceless assessment, appeals and minimal interaction between tax payers and tax authorities.

**Gujarat Chamber of Commerce and Industry ("GCCCI")** hereby takes the privilege to address the concern of its members, being members of trade and industry, Chartered Accountants, Advocates and Tax Practitioners, on Issues in Implementation and Compliance with Income Tax Laws, which needs to be addressed by your good office on utmost priority.

The primary objective of GCCCI is not only to work for the cause of the trade but also to educate the public at large and to act as a catalyst between citizens and the government authorities. The Direct Tax Committee of GCCCI is one of the most important committees of GCCCI which is engaged in the matters related to direct taxes and makes representations to the Government, Central Board of Direct Taxes and at other appropriate forums from time to time on various legislative amendments and issues concerning direct taxes and endeavours to be a bridge between the tax payers and the tax administration.

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**We are writing this letter to your goodself to request you to address certain issues pertaining to intimation u/s 143(1)(a), TDS and other compliance related matters that require immediate consideration:**

1. Adjustment of refund against demand is a common practice adopted by the Income-tax Department to recover the due taxes. The Honorable Delhi High Court in the case of Court on its Own Motion v. UOI [2012] 25 taxmann.com 131 (Delhi) held that the Department must send prior intimation to the assessee and an opportunity is to be given. After considering the stand and pleas of assessee, the department can order for adjustment of refund with tax payable. **The CPC sends mere intimations to taxpayers by way of a Notice under Section 245 informing them that demand appears as outstanding in their case as per departmental records and that the same would stand adjusted against the refund due to them.** There is no mechanism whereby a taxpayer can lodge his response to the notice under Section 245 received from the CPC. It is suggested that the taxpayer must be provided with an opportunity to upload his response in protest of such notice under Section 245 and no adjustment of refund should be made by the CPC without appropriately dealing with the taxpayer's response. In this connection, any communication received by the CPC from the Assessing Officer in regard to the proposed adjustment should also be communicated to the taxpayer, so that he can effectively meet with the same.
2. The option of attaching the documents online should be allowed in any submissions relating to intimation u/s. 143(1)(a) or rectification u/s. 154 or adjustment u/s 245 or similar such submissions. At present, except the comment option against adjustment under section 143(1)(a), no attachment is allowed. Under section 154, only revised or rectified return is allowed to be submitted.

There are many instances where the assessee is unable to highlight the problem and reason for rectification if attachments are not uploaded. For example, in Audit cases under section 44AB, audit report is required to be uploaded before filing of return. On the date of upload of Audit, the assessee couldn't deposit the VAT/GST dues related to the previous financial year and the auditor highlighted the same in his Audit report. But as per requirement of section 43B, the assessee deposited tax before filing of the return (there is no column to highlight the same in return) and also before due date of return, the return was filed. The CPC sent the notice for adjustment of such taxes not paid as per Audit report and after ignoring the assessee reply, added the amount to the income and demand was made. Since

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no attachment is allowed to CPC notice, the assessee **could not attach tax paid challans**. The assessee was not left with any other option but to go to CIT (Appeals) for redressal, which results in unnecessary litigation, resulting into no revenue gain for department and harassment for assessee. Further not giving the assessee, opportunity of being heard before addition is made is violation of law of natural justice.

3. The CPC processes the returns and sends intimations u/s. 143(1)(a). In numerous cases demands have been raised, when full tax was paid and such tax is reported in 26AS, but CPC has not given full credit of such tax (advance tax as well as self-assessment tax). The similar situation is also with TDS. As per law, any tax demand arising on account of TDS mismatch could not be recovered from assessee, where assessee has considered the corresponding income in its return. **Such demands have been adjusted from the refunds of other periods.** It is proposed that against each PAN, tax ledger should be created and all tax should get reflected there and at the time of filing of return, necessary amount of tax gets debited to such ledger. Separate online form should be introduced to claim refund; otherwise the assessee can use the balance lying in his account for subsequent years. Refunds of large amount of past and current years have been blocked for more than 3 years now.
4. Taxpayers will receive their income tax refund only if their bank account is linked with their PAN (Permanent Account Number). For this purpose, one has to pre-validate his bank account on the income tax e-filing page and after validation of bank details, one can send request of refund. But sometimes due to some reasons, the validation process is not completed within expected time limit which leads to delay in sending refund request. It is recommended that the reason of such delay in validation process should be displayed (bank delay / KYC not updated in bank / etc.) so that the assessee can solve the same at the earliest.
5. Notices are being issued by the CPC for AY 2007-08 and even earlier years for which no documents or records are available with assessees. In many cases even refunds are issued for subsequent years. As per sub section (3) of section 44AA read with Rule 6F of the Income Tax Act, 1961, books of accounts should be kept and maintained for a period of six years from the end of the relevant assessment year. Moreover, Section 128 of the Companies Act, 2013 read with the Companies (Accounts) Rules, 2014 states that every company must keep books of account, important papers and statements for a period of not less than 8 years. In Addition to the above, Standard on Quality Control (SQC) 1 “Quality Control for

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Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements” state that documents and working papers of audit should be retained for a period of not less than 7 years.

Accordingly, an assessee will not have maintained books of accounts and other relevant documents for a period of more than 8 years so when CPC issues notices for earlier years, it becomes almost impossible to produce the required documents and assessing officer also does not have any records except demand showing unpaid in their records. In absence of such papers, no demand should be raised or forwarded to CPC.

Sometimes rectification / appeal effect order is passed but demand is not reduced and thus the demands remain outstanding in the record of the assessing officer.

6. When a LLP is required to get its accounts audited as per LLP Act, the due date of filing of income tax return would be 30<sup>th</sup> September but while processing of return of LLP which is required to get audited under LLP Act and not under Income Tax Act, CPC considers the due date of filing of return as 31<sup>th</sup> July and interest and late filing fees are levied. This issue pertains even after filing necessary rectification requests. Only at CIT(A) forum, on producing necessary documents, the demand is nullified. Thus intention of reducing pending appeals is defeated and new unnecessary appeals are filed which increases the work of appellate authority. The system should be updated to consider this and if needed can ask for documents for clarification on case to case basis. On similar lines, the due date of filing return for a partner (whose firm is required to get the books of accounts audited) is 30<sup>th</sup> September but erroneously considered as 31<sup>st</sup> July by CPC, which needs rectification / appeal to resolve.
7. In many cases, the government departments deduct TDS on work value + GST. As such the amount including GST is reflected in form 26AS, though the assessee has offered only work value as turnover in his return of income, resulting into mismatch in turnover as per 26AS and IT return and un-necessary demand, as CPC adds the difference to the income. Further in this regard, we suggest that necessary training/ TDS workshops at government departments to educate them about correct procedure. Circular from the department may be issued to all such departments.

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8. TRACES is a web-based application of the Income Tax Department that provides an interface to all stakeholders associated with TDS administration which makes whole TDS administration work faceless. However, there are various issues pertaining to TDS portal which are not satisfactorily answered by the helpline.

For any correction to be made in challan (other than online challan correction), a request needs to be sent to assessing officer for correction. The jurisdictional officer or officer authorized under the departmental for OLTAS after receiving such application can make the correction in challan data in genuine cases. But to make application and the procedure to correct challan are extremely time consuming.

In order to address the above issues, we would like to recommend your good self to **appoint a dedicated nodal officer for TDS** in each region who will do such corrections / modifications and give required guidance to the assesseees for all matters pertaining to TDS.

9. The Lower/no tax deduction certificate issued u/s. 197 has been made online. However, the officers block the issue if some demand is pending, which is in dispute/appeal. The certificate is for future payments and cases covered by section 10 should be considered differently. Instructions should be issued to field officers to issue lower/non deduction certificate for cases falling u/s. 10 without delay.
10. The late fee charged u/s. 234E for delay in submission of Quarterly TDS return should be modified. There should not be any late filing fee for Q1/Q2/Q3 even the returns have been filed late as the uploaded data do not serve any purpose of deductor. However delay in Q4 return should attract late fees and such delay will automatically invite penalty for delayed submission of other quarterly returns. Similarly the late filing fees in case of ITR should be relaxed for the current year and no late fees should be charged till submission of returns till December 2019. The interest may be levied as per norms. The concept of automatic penalty (in new avatar of late filing fees) defeats the canon of equity. There may be genuine reasons for delayed compliance and the provisions should not be made such water tight and should have a humane angle built in it.

This will be a policy decision and it can be done by changing the particular section.

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11. The TDS/TCS is the major source of tax collection. This onerous task puts several liabilities on the assessee acting on behalf of the government. The consequence of some fault acts as triple whammy for the assessee (disallowance of expense+ interest for late payment+ late fee for filing of TDS return+ prosecution u/s.276 for violating the provisions). The quarterly return compliance burdens very small assessee's with timely filing of returns. We request you to kindly issue such challan wherein the details of deductee are filled at the time of payment and no further TDS return is required. For procedural difficulty, the number of persons in a challan can be restricted to 5 to 10. Similar process is there in case of deduction made against payment made for buying property.
12. The government should introduce some scheme in line with Vivad se Vishwas introduced in this budget for bringing down disputed demands and infructuous litigation. It is proposed that in case of TDS Return filing defaults, the late fee levied for past years upto 2009-10 should be waived and for cases relating to later years the disputes should be resolved on payment of 25% of outstanding demand. Further Section 200A was amended w.e.f. 1st June, 2015 to charge late fee u/s 234E. So, all outstanding demands for late fee raised upto 31<sup>st</sup> May, 2015 should be dropped by the department to reduce unnecessary litigation.
13. In view of above difficulties faced by tax consultants and assesses it is suggested that returns which could not be rectified as per objection of the assessee, such returns should be immediately transferred to the assessing officer with a direction to rectify mistake within 15 days under intimation to CPC. This order should be passed online which will remain in the portal of the assessing officer for future verification.

**We would want to organise open house sessions with the TDS officers to discuss the glitches in TDS portal and other TDS related issues as faced by all stakeholders.**

We would be very grateful if your goodself would take an early action in this regard and have a positive consideration of our requests. This will be very useful for the taxation fraternity and also for the trade and industry. In conclusion, we request that suitable orders / clarification may be issued to this effect at the earliest.

With warm regards,

Sincerely,

**Jainik Vakil**

**Chairman-Direct Tax Committee Co-Chairman, Direct Tax Committee**

**Bakul Parikh**

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1. **Smt. Nirmala Sitharaman**, Hon'ble Finance Minister, Govt. of India
2. Principal Chief Commissioner of Income Tax, Gujarat

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