



ગુજરાત વેપારી મહામંડળ

Gujarat Chamber of Commerce & Industry



Pathik Patwari
President

Ajay Patel
Sr. Vice President

Yogesh Parikh
Vice President

Anil Jain
Hon. Secretary

Dilip Padhya
Hon. Secretary (R)

Apurva Shah
Hon. Treasurer

21st September, 2022

| 28141

Shri Nitin Gupta, IRS

Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
Government of India,
North Block, New Delhi –110001

Re: Request to rectify the apparent processing error made by CPC in ITR Form- 5 in a case of a retiring partner regarding salary paid/payable to him

Respected Sir,

The GCCI, being a partner in Nation Building, plays a vital role in strengthening the relationship between the taxpayers and the Department, by bringing to the notice of the Department, genuine hardships being faced by the assesseees under the Income Tax Act, 1961 and to ensure timely redressal of the same. Following the tradition, we would like to bring to your kind notice an issue being faced by the assessee while processing the ITR Form 5 in case of an assessee being a retiring partner and salary is paid/payable to him, which is duly reported in ITR Form 5.

ITR Form 5 is applicable to persons other than- (i) Individual, (ii) HUF, (iii) Company and (iv) person filing Form ITR-7 i.e basically residual category and usually filed by partnership firm assesseees among others. Partnership firm assesseees report requisite particulars as per notified Form.

ISSUE:

1. In particular, Partnership Firm assesseees are required to furnish information pertaining to salary/remuneration paid/payable to all partners including retiring partners. In this regard, we have been received certain issues from the tax payers/assesseees that an apparent error is being made by CPC while processing of ITR Form 5 in cases where retiring partner is involved and salary is paid/payable to him. In Part A, Profit and Loss Account of ITR Form 5, assesseees have to furnish total salary paid/payable to partners during the year (including retiring partners, if any) at S. No 46. Further, such assesseees also furnish details of existing partners as on 31st March at Column 9 of Point E of Part A of General information wherein remuneration paid/payable to such partners is again reported.

2. While processing ITR Form 5, CPC is comparing salary of partners reported at Sl. No. 46 of Profit and Loss Account with salary of partners appearing in Point E of General Information and in case of mismatch, the difference is being added to the total income. However, such difference shall be added only in such cases, where there is no change in partnership during the year and more specifically when there is no retiring partner during the year.
3. As per reporting requirements, in Sl.no.46 of P& L A/c, salary reflected is total salary paid to all partners including the retiring partner whereas in column 9 of point E of General information, salary paid/payable to existing partners as on 31st march is being furnished. Looking to the reporting requirement as prescribed in ITR Form 5, the difference would always be there in cases, where there is a retiring partner during the year and salary is paid/payable to him and therefore such information is not comparable and do not match in cases where there is a retiring partner during the year. Hence demand being generated on account of difference as state above despite the fact there is a correct reporting of information as specified in ITR form 5.

RECOMMENDATIONS:

- A. *Automatic processing of ITR form 5 may be revisited w.r.t. matching of remuneration information of existing partners as at the end of financial year being furnished at column 9 of Point E of Part A General information with remuneration information of all partners furnished at S. No. 46 of Part A of Profit & Loss account.*
- B. *In cases, where automatic adjustment has already taken place, the same be rectified voluntarily by the Income Tax Department as error being apparent processing error occurred while processing ITR Form 5 by CPC and thus, needs to be rectified suo motto u/s 154 of the Act in the interest of tax payers.*
- C. *A general information with place for remuneration information of all partners retired as well as continuing, be provided in the ITR.*
- D. *Where adjustment has been made under section 143(1) on account of such mismatch, the same should be revisited and opportunity of being heard may be provided to the assessee to clarify the difference before any such adjustment.*



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For the consideration of above issues and for providing suitable solutions at the earliest, on behalf of all tax payers/assesses, the Chamber will remain ever obliged.

Thanking You,
With Warm Regards,

Pathik Patwari
President.

CA Dr. Jainik Vakil
Chairman
Direct Tax Committee