**PROJECT INTEGRATED E-FILING AND CPC (IEC 3.0)**

**SUGGESTIONS FOR IMPROVISING CPC PROCESSING OF RETURNS**

**INDEX**

| **Sr. No.** | **Particulars** | **Page No.** |
| --- | --- | --- |
|  | Digitisation of process of obtaining approvals for recognised provident fund, superannuation fund and gratuity fund | 20-21 |
|  | Rationalization of Central Processing Centre (CPC) processes | 21 - 28 |

| **Sr. No.** | **Subject** | **Comments / Recommendations** |
| --- | --- | --- |
|  | Digitisation of process of obtaining approvals for recognised PF, SAF and Gratuity Fund | **Background**   * Over a period of one and half decade, the Income Tax Department has successfully converted most manual processes and interactions between taxpayers and Tax Department into digitised/faceless manner which has resulted in efficiency and transparency * In the last Budget, the Hon’ble Finance Minister announced that the process of application and disposal of rectification petitions and order giving effect to appellate orders will also be digitised. * In this regard, we are happy to note that some charges in Mumbai have moved to centralised digital entry of tapal through Aayakar Seva Kendras (ASK) as informed by Hon’ble PCCIT of Mumbai.   **Issue**   * However, there are still certain compliances which are required to be made in manual mode. One of them is the process of obtaining approvals for recognised provident fund, superannuation fund and gratuity fund u/s. 36(1)(iv)/(v). * Many taxpayers face difficulty of their applications for approval being pending for a very long time. Often, old records are difficult to retrieve both at the Tax Department’s end and Taxpayer’s end.   **Recommendation**   * Hence, we recommend that the process for obtaining approvals for recognised provident fund, superannuation fund and gratuity fund may also be converted into digital process. * Digitisation will enable monitoring of the applications and faster disposal by the Tax authorities. |
|  | Rationalization of Central Processing Centre (CPC) processes | **Background**   * Currently, income tax returns e-filed by taxpayers are centrally processed at CPC, Bangalore u/s 143(1) of the Income Tax Act (Act). The objective for establishing CPC was to expeditiously determine the tax payable or any refund due to the taxpayers or check for any mistakes apparent in the income tax return. * Statutorily, the return processing framework is governed by s.143(1) to s.143(1D) of the Act and Centralized Processing of Returns Scheme. S.143(1)(a) permits CPC to make following adjustments while processing the ITRs:-  1. any arithmetical error in the return 2. an incorrect claim apparent from any information in the return. This is defined to mean a claim, on the basis of an entry, in the return -    1. of an item, which is inconsistent with another entry of the same or some other item in such return;    2. in respect of which the information required to be furnished under the Act to substantiate such entry has not been so furnished; or    3. in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction 3. disallowance of loss claimed, if return of the tax year for which set off of loss is claimed was furnished beyond the due date specified u/s. 139(1) 4. disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return 5. disallowance of deduction claimed u/s. 10AA or Chapter VIA-C if the return is furnished beyond due u/s. 139(1)  * The first proviso to s.143(1) casts statutory obligation on CPC to give prior intimation of proposed adjustment to taxpayer and consider taxpayer’s response before making such adjustment. It further provides for minimum thirty days time for taxpayer to provide response to the proposed adjustment. * However, there are various hardships being faced currently by taxpayers in such processing which are summarized below:- * Anomalies in ITR utility * Anomalies in CPC return processing software * Non-provision of statutory opportunity of prior intimation before making adjustment * Non-consideration of taxpayer’s response to prior intimation – adjustments are mechanically made * Delays or refusal in carrying out rectifications * Non-redressal of adjustments made u/s. 143(1) in scrutiny assessment * Each of them are explained and illustrated in following paras.   **Rationale**   1. Anomalies in ITR utility  * It is often seen that ITR utility contains anomalies which lead to adjustments u/s. 143(1). For instance, if there is no change in method of valuation of closing stock, the ITR utility does not permit reporting of figures of increase or decrease in profit due to s.145A adjustments for adding the amounts of taxes, duties, etc. This leads to s.143(1) adjustment based on number reported in tax audit report (TAR) towards increase in profit as part of s.145A adjustment by ignoring the numbers reported towards decrease in profit. The ITR forms do not contemplate deemed LTCG u/s. 54F(3) on transfer of residential house within a period of 3 years which is taxable at 10%/12.5% u/s. 112A where the original capital gains from which s.54F exemption was claimed was in respect of listed shares u/s. 112A. The ITR utility provides for taxation of deemed LTCG at 20% rate alone which is incorrect.  1. Anomalies in CPC return processing software  * The CPC return processing software merely picks up adjustments leading to increase in total income by ignoring the adjustments reported in audit report leading to decrease in total income on the same issue. It is true that s.143(1)(a)(iv) permits CPC to make adjustment in respect of disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return. But it is submitted that such adjustments should be with respect to net figure of disallowance of expenditure or increase in income as reported in audit report and not the gross figure * As another illustration, Clause 25 of tax audit report requires reporting of amount of profit chargeable to tax u/s. 41 even if it is already credited to P&L. But it is again added by CPC ignoring that the said amount is already credited in books of accounts under “Other Income” and is offered to tax in the return form. * In Schedule MAT, the amount of tax (net-off of deferred tax) is required to be added back to compute the book profit. However, in Schedule Part A – P&L, the amount of current tax and deferred tax are to be reported separately. Ideally, the addition made in Schedule MAT should be compared with total amount of current tax + deferred tax reported in Schedule Part A – P&L. However, in cases where the deferred tax amount is negative, the addition made in Schedule MAT is compared with current tax only, and an addition is being made to book profit computed as per section 115JB. Such adjustment ought not to be made, and suitable changes be made to the CPC return processing software. * It may be noted that role of tax auditor as explained by ICAI in its Guidance Note on Tax Audit u/s. 44AB is to furnish the facts required by the Assessing Officer to determine whether or not disallowance is required. The tax auditor’s opinion about disallowance of expenditure or taxability of receipt is not binding either on taxpayer or Assessing Officer. Hence, it is submitted that the power to make adjustment u/s. 143(1)(a)(iv) with respect to disallowance of expenditure or increase in income indicated in audit report must not be used indiscriminately to make adjustments merely because it is indicated so in the tax audit report. The power must be used with appropriate care and caution to make adjustments only in respect of patently is allowable items or inadvertently missed incomes after affording proper opportunity of hearing to taxpayer.  1. Non-provision of statutory opportunity of prior intimation before making adjustment  * It has been experienced that various unilateral adjustments as illustrated above are being made by CPC without even affording an opportunity to the taxpayer for some of the adjustments thereby even violating the principles of natural justice. It is also contrary to express statutory requirement of first proviso to s.143(1) to give prior intimation to taxpayer and consider his response before making any adjustment. * There have been instances where details of the proposed adjustments are not shared with the taxpayer apart from the mention of the schedule of the return of income where unexplained adjustment has been carried out.  1. Non-consideration of taxpayer’s response to prior intimation – adjustments are mechanically made  * Even where prior intimation is given for response of the taxpayer, it is noticed that simple and straight forward response of the taxpayers are not considered at all while issuing final intimation under section 143(1). There is no express mention why taxpayer’s response is not considered/rejected by CPC. It is not clear whether taxpayer’s response is considered by a competent officer who can easily identify the erroneous nature of adjustment proposed or by software algorithm or by a person not equipped to deal with such issues. There is no opportunity of personal hearing to taxpayer to explain the issue. In fact, Rule 12 of Centralised Processing of Returns Scheme specifically prohibits any personal appearance before CPC. This makes it difficult for the taxpayer to explain why a particular proposed adjustment is not warranted. * Also, it is observed that, in certain cases, sufficient time is not provided to the taxpayer to furnish its response to the adjustments proposed to be carried out which is against the statutory requirement of granting 30 days from issue of intimation of proposed adjustments as provided under second proviso to section 143(1) (a) of the Act.  1. Rectification of mistakes  * It is noticed that rectification application filed by taxpayers against the erroneous adjustments made under section 143(1) of the Act are not considered and as a result the rectification applications are kept pending constraining the taxpayer to approach the appellate authorities for seeking appropriate relief. The taxpayer continues to receive reminders and notices for coercive actions for outstanding demands despite pendency of disposal of rectification petitions. * Where erroneous adjustments are proposed by the CPC in 143(1) order, during the 143(3) proceedings, the AO has, in some cases, not been able to rectify such errors resulting into undue hardship to the Assessee. In certain cases, the rectification rights are transferred to Jurisdictional AO whereas the assessment is done by Faceless AO. Accordingly, such errors do not get rectified by the Faceless AO and separate channel gets opened with the Jurisdictional AO. In few other cases, rectification rights are not transferred to the Jurisdictional AO and stay with the CPC and the income tax portal also does not reflect the actual status of the same. * It may also be mentioned that the CPC does not respond to taxpayer’s communication despite sending several reminders.  1. Non-redressal of adjustments made u/s. 143(1) in scrutiny assessment  * Where adjustments are made on processing returns u/s. 143(1) and the case is subsequently picked up for regular scrutiny or reassessment, it is noticed that the Faceless Unit/AO starts with total income after s.143(1) adjustments and not total income as per return. The Faceless unit/AO does not give opportunity to taxpayer to explain why adjustments made u/s. 143(1) against which rectification petitions or appeals are pending should not be perpetuated in the regular assessment/reassessment order. In fact, the Faceless Unit/AO who are statutorily required to give personal hearing to the taxpayer are best placed to understand and rectify the erroneous adjustments whether arising out of anomalies in ITR utility or CPC return processing software or due to inadvertent mistakes by taxpayer while filing ITR. * The adjustments being made under section 143(1) of the Act are leading to unnecessary harassment to the taxpayer forcing the taxpayer to approach appellate authorities over trivial matters and resulting in waste of time and resources over such matters for both taxpayers and Government, thereby increasing tax litigation. Majority of the appeals filed before CIT(A) are now appeals against s.143(1) intimations since taxpayers file both appeal and rectification application so as not to miss out on time limit for filing appeals. If the adjustments are carried out in rectification, the appeals are withdrawn. This course of action leads to increase in number of both pending appeals and pending rectification petitions.   **Recommendations**  In order to achieve desired objectives of section 143(1) of the Act and CPC Scheme 2011, following measures are recommended for kind consideration of CBDT:-   * The anomalies in ITR utility and CPC return processing software as pointed out in foregoing part of these representations may be addressed at the earliest. There may be many such anomalies experienced by large number of taxpayers across the country. While there exists helpline and email support on ITR filing portal, in many cases, taxpayers face difficulty in explaining the issues over a call or on email. It would be good if DGIT (Systems) or relevant offices in CPC hold regional camps to interact with taxpayers and professional/industry chambers to understand such anomalies and appropriate way to address them. * Alternatively, just like facility is presently made available on income tax portal for providing suggestions for comprehensive review of Income Tax Act with a view to simplify it, it is recommended to make a similar facility available on income tax return filing website for stakeholders to point out defects in ITR utilities. The CPC may consider them and provide response to the suggestions. If accepted, ITR utility/form may be changed. This process of interaction will build trust between the taxpayers and Tax Department. * Scope of processing of income tax returns by CPC should strictly be limited to determination of any tax payable or refund due to the taxpayer or determination of any mistake apparent from the record and not beyond the same. It must be clarified that the scope of jurisdiction of CPC u/s. 143(1) is the same as jurisdiction u/s. 154 to rectify errors apparent from record and not delve into debatable issues. * Instructions may be given to CPC to clarify that adjustments in respect of disallowance of expenditure or increase in income indicated in audit report can be made only in respect of patently disallowable items or inadvertently missed incomes after affording proper opportunity of hearing to taxpayer. In particular, no such disallowance or addition can be made where the issue is covered in taxpayer’s favour by any judicial precedent. * There should be proper service level escalation framework of CPC communicated to taxpayers to ensure transparency and accountability in functioning of CPC. The CPC (included outsourced agency) staff should be adequately trained to identify debatable issues for which adjustments cannot be made and there should oversight of experienced senior officials to keep a check on unwarranted adjustments. * Any adjustment proposed to be made by the CPC should only be made after providing complete details of the adjustment as well as sufficient time as per law for the taxpayer to furnish a response. The response must be considered by competent officer who can understand the technical and legal nuances of issues involved. * Rule 12(i) which prohibits personal appearance before CPC may be amended to permit personal appearance through video conferencing for the limited purposes of explaining why proposed adjustment or rectification prejudicial to the taxpayer should not be made. This is very critical since one cannot expect algorithms and data processors to appreciate the nuances of income tax law. A personal interaction with taxpayer to understand the issue enables faster resolution of the issue and avoids repetitive reminders and rectification applications. * Rectified applications or rectified return of income filed electronically should be disposed off within reasonable time which will surely eliminate the need to unnecessarily approach the appellate authorities seeking redressal of the unwarranted adjustments. There should be clarity on who can make the rectification and the taxpayer should not be made to shuttle between CPC/Faceless Unit and Jurisdictional AO. * Furthermore, as a measure of building trust between Taxpayers and Tax Department, the “rules” or “logics” built into the return processing software on interpretational issues (like priority of set off loss, permissibility of set off of loss, restricting profit linked Chapter VIA deduction to income of such nature forming part of Gross Total income, etc) may be published for stakeholders’ comments. This will provide opportunity to taxpayers and professionals to point out flaws in the rules or logics which are contrary to the express provisions of the Act or Rules or constitute debatable issues which are outside the scope of s.143(1) adjustments. It will lead to improvision of the return processing software and minimisation of incorrect adjustments which will reduce the need for repetitive rectification applications or appeals before CIT(A). * Before adopting the total income as per s.143(1) intimation as start-point for regular assessment, the AO must follow the same process as adopted for making additions in regular assessment i.e. after giving proper opportunity of hearing to the taxpayer including personal hearing where so desired by the taxpayer. |