



## ARE YOU FILING OF RETURN OF INCOME FOR THE ASSESSMENT YEAR 2018-19? - KNOW THE RELEVANT PROVISIONS UNDER INCOME TAX ACT/RULES

**CMA NIRANJAN SWAIN**

Senior General Manager (Finance), Odisha Power Generation Corporation Ltd

### 1. **Compulsory Filing of Income Tax Return Sec 139(1)**

It is mandatory for every taxpayer to communicate the details of his income of an assessment year to the Income-tax Department. These details are to be furnished in the prescribed form known as return of income. In any of the following situations under provisions of Income Tax Act), it is mandatory for a person to file an Income Tax Return in India:

- Gross total income (before allowing any deductions under section 80C to 80U) exceeds Rs.2,50,000. This limit is Rs 3,00,000 for senior citizens ( who are more than 60 years old but less than 80 years old) or Rs 5,00,000 for super senior citizens (who are more than 80 years old)
- A company or a firm irrespective of whether has income or loss during the financial year.
- For claim an income tax refund.
- For carry forward a loss under a head of income (optional for income from house property).
- For persons who has exempted from long term capital gains from – sale of equity shares in a company OR sale of unit of equity oriented mutual funds, OR sale of unit of business trust, of more than Rs 2,50,000 in a financial year. Even though these gains are exempt from tax, such persons have to mandatorily file an income tax return. {effective FY 2016-17 - AY 2017-18}
- Return filing is mandatory if a person is a Resident individual and have an asset or financial interest in an entity located outside of India. (Not applicable to NRIs or RNORs)Or if you are a Resident and a signing authority in a foreign account. (Not applicable to NRIs or RNORs)
- A person who is required to file an income tax return when income received is derived from property held under a trust for charitable or religious purposes or a political party or a research association, news agency, educational or medical institution, trade union, a not for profit university or educational institution, a hospital, infrastructure debt fund, any authority, body or trust.
- A foreign company taking treaty benefit on a transaction in India
- A proof of return filing may also be required at the time of applying for a loan or a visa.

### 2. (a) What are the prescribed forms used for filling return of Income?

Different forms of returns of income are prescribed for filing of returns for different Status and Nature of income. These forms can be downloaded from [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in). Following are the Forms prescribed for filling of return of income for the year 2018-19 by different assesses. Below table provides the information about use of prescribed forms by different assessee having different sources of income.

<b>Individual and HUF</b>				
Nature / Source of income	ITR 1* (Sahaj)	ITR 2	ITR 3	ITR 4
Income from salary/pension (for ordinarily resident person)	✓	✓	✓	✓
Income from salary/pension (for not ordinarily resident and non-resident person)		✓	✓	✓
Income or loss from one house property (excluding brought forward and carried forward losses)	✓	✓	✓	✓
Income or loss from more than one house property		✓	✓	
Agricultural income exceeding Rs. 5,000		✓	✓	

Total income exceeding Rs. 50 lakhs		✓	✓	✓	
Dividend income exceeding Rs.10 lakhs taxable under Section 115BBDA		✓	✓		
Unexplained credit or unexplained investment taxable at 60% under Sections 68, 69, 69A, etc.		✓	✓		
Income from other sources (other than winnings from lotteries and race horses or losses under this head)	✓	✓	✓	✓	
Income from other sources (including winnings from lotteries and race horses or losses under this head)		✓	✓	✓	
Capital gains/loss on sale of investments/property		✓	✓		
Interest, salary, bonus, commission or share of profit received by a partner from a partnership firm.			✓		
Income from business or profession			✓		
Income from presumptive business as prescribed under different sections of income tax act				✓	
Income from foreign sources or Foreign assets or having Signing authority in any account outside India		✓	✓		
Income to be apportioned in accordance with Section 5A		✓	✓	✓	
Claiming relief of tax under sections 90, 90A or 91		✓	✓		
<b>* Note: An Individual, who is an ordinarily resident in India, can file income-tax return in Form ITR-1.</b>					
<b>Other Assesseees</b>					
<b>Status of Assessee</b>		<b>ITR 4</b>	<b>ITR 5</b>	<b>ITR 6</b>	<b>ITR 7</b>
Firm excluding LLPs opting for presumptive taxation scheme		✓			
Firm including LLPs			✓		
Association of Persons (AOPs)			✓		
Body of Individuals (BOIs)			✓		
Local Authority			✓		
Artificial Juridical Person			✓		
Companies other than companies claiming exemption under Sec. 11				✓	
Persons including companies required to furnish return under section 139(4A), section 139(4B), section 139(4C), section 139(4D), section 139(4E) and section 139(4F)					✓

## 2.(b) Following important points also be noted

(i) **ITR-1 (Sahaj):** Return in ITR 1 can be filed by an individual (not HUF), if his total income includes: Salary or pension Income from 1 house property (provided there is no brought forward loss or loss to be carried forward), Income from other sources (other than income from lottery, race horses, dividend income in excess of Rs. 10 lakhs or unexplained Income, etc., as referred to in section 115BBE). **If income of another person (spouse, minor child, etc.) is to be clubbed with the income of taxpayer, return in ITR-1 can be filed only when such income falls in any of the above categories.**

**Return of ITR 1 cannot be filed by an individual**

- ❖ Who is Non-resident or Not Ordinarily Resident
- ❖ Whose total income exceeds Rs. 50 lakhs
- ❖ Who has income from more than 1 House Property or if there is brought forward loss or loss to be carried forward
- ❖ Who has any of the following income:
  - Income from lottery or race horses
  - Dividend income exceeding Rs. 10 lakhs
  - Capital Gains
  - Unexplained income, etc., as referred to in Section 115BBE
  - In Income from Business or Profession
  - Income from Business or Profession
  - Income from any source outside India
  - Loss under the head Income from other sources
- ❖ Who wants to claim relief under Section 90 or 91
- ❖ Who has any assets (including Financial Interest in an entity) located outside India
- ❖ Who has any income to be apportioned in accordance with provisions of Section 5A

**(ii) ITR-2:** Return in ITR 2 can be filed by an individual and HUF if his/its total income includes:

- ❖ Salary or pension
- ❖ Income from 1 or more house properties (including losses)
- ❖ Income from capital gains
- ❖ Income from other sources (including income from lottery or horse races or losses under this head)

If income of another person (spouse, minor child, etc.) is to be clubbed with the income of taxpayer, return in ITR-2 can be filed only when such income falls in any of the above categories.

**(iii) ITR-3:** Return in ITR 3 can be filed by an Individual or HUF who has income from business or profession  
Return in ITR 3 cannot be filed by any person other than an individual or a HUF. Further, return can be filed in ITR-3 if individual or HUF has no income from business or profession.

**(iv) ITR-4 (Sugam):** Return in ITR 4 (Sugam) can be filed by an individual or HUF or a Firm (other than a LLP) if his/its total income includes, presumptive Income computed as per provisions of Sections 44AD, 44ADA and 44AE

- ❖ Salary or pension
- ❖ Income from 1 house property (provided there is no brought forward loss or loss to be carried forward)
- ❖ Income from 1 house property (provided there is no brought forward loss or loss to be carried forward)
- ❖ Income from other sources (other than income from lottery, race horses, dividend income in excess of Rs. 10 lakhs or unexplained Income, etc., as referred to in section 115BBE).

If income of another person (spouse, minor child, etc.) is to be clubbed with the income of taxpayer, return in ITR-4 can be filed only when such income falls in any of the above categories.

**Who can't file return in ITR - 4 (Sugam)?**

- ❖ Total income of assessee including
  - Income from more than 1 house property or if there is brought forward loss or loss to be carried forward
  - Income from lottery or race horses
  - Dividend income exceeding Rs. 10 lakhs
  - Capital Gains
  - Unexplained income, etc., as referred to in Section 115BBE
  - Agriculture Income of more than Rs. 5,000
  - Income from Business or Profession
  - Income from any source outside India
  - Loss under the head Income from other source
  - Income from speculative business and other special incomes
  - Income from agency business or commission or brokerage
  - Income from any source outside India
- ❖ If relief under Section 90, 90A or 91 is to be claimed.
- ❖ If taxpayer has any assets (including financial interest in any entity) located outside India or has signing authority in an

account located outside India

- ❖ If taxpayer is eligible for presumptive taxation of Section 44AD or Section 44AE, or Section 44ADA but he does not opt for presumptive taxation, then he require to maintain Accounts and get those audited

#### (v) ITR-5,6,7 and ITR-V:

ITR – 5	This Form can be used by a person being a firm, LLP, AOP, BOI, artificial juridical person referred to in section 2(31)(vii), co-operative society and local authority. However, a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4C) or 139(4D) or section 139(4E) or section 139(4F) shall not use this form (i.e., trusts, political parties, institutions, colleges, investment fund etc.)
ITR – 6	It is applicable to a company, other than a company claiming exemption under section 11 (exemption under section 11 can be claimed by charitable/religious trust).
ITR – 7	It is applicable to a persons including companies who are required to furnish return under section 139(4A) or 139(4B) or 139(4C) or 139(4D) or section 139(4E) or section 139(4F) (i.e., trusts, political parties, institutions, colleges, investment fund, etc.).
ITR – V	It is the acknowledgement of filing the return of income.

### 3. Due date of filing of return of income:

Sr. No	Status of the taxpayer	Due date
1	Any company other than a company who is required to furnish a report in Form No. 3CEB under section 92E (i.e. other than covered in 2 below)	September 30 of the assessment year
2	Any person (may be corporate/non- corporate) who is required to furnish a report in Form No. 3CEB under section 92E	November 30 of the assessment year
3	Any person (other than a company) whose accounts are to be audited under the Income-tax Law or under any other law	September 30 of the assessment year
4	A working partner of a firm whose accounts are required to be audited under this Act or under any other law.	September 30 of the assessment year
5	Any other assessee	July 31 of the assessment year

Normally, the income-tax department continues its operation during the last days of filing of income-tax return even if the last day eventually falls on Sundays or on holidays. As taxpayers are required to file return of income electronically, it would be not be relevant for them if Dept. is not working on the last day of the Financial Year which happens to be a public holiday. However, if department is closed on the last due date, then the immediately next working day of the department would be considered as the last date of filing of income-tax return.

### 4. Modes of filing return of income:

(i) Return of income can be filed in two modes that are, in **paper mode or in e-filing mode**. If return of income is filed through electronic mode, then the assessee has following three options:

- E-filing using a Digital Signature (DSC)
- E-filing without a Digital Signature
- E-filing under Electronic Verification Code (EVC)

If the return of income is filed without using DSC or without EVC, the assessee shall send the signed copy of ITR V on the address **"Income Tax Department - CPC, Post Bag No.-1, Electronic City Post Office, Bangalore -560100, Karnataka"** within 120 days of uploading the return either by ordinary post or by speed post only. However If the return of income is filed using a DSC or under EVC, then there is no requirement of sending the signed copy, ITR V (i.e., acknowledgement of return filed electronically) to Bangalore CPC.

(ii) Who are required to file return of income electronically?

The general rule is that electronic filing of return of income is mandatory for all assessees. However, a person can furnish the return of income in paper form in ITR 1 or ITR 4 in any of the following circumstance:

- Taxpayer is an individual and his age is 80 years or more during the previous year.
- Taxpayer is an Individual, HUF or Partnership Firm and his/its income during the previous year does not exceed Rs. 5 lakhs and no refund is claimed in the return of income.

#### 5. Consequences of not filing return of income within due date:

If the return of income is not filed within due date, following are the consequences the defaulting assessee is to face.

(i) Penalty u/s 271F: This penalty provision has been abolished in relation to the return of income required to be furnished for any assessment year commencing on or after the 1st day of April, 2018. A new section 234F has been introduced which provides that a fee for delay in furnishing of return shall be levied for the assessment year 2018-19 and onwards.

Amount	Remarks
Rs 1000/-	Where the total income of the person does not exceed Rs. <b>five lakh</b> .
Rs 5000/-	Where return is furnished on or before the 31st day of December of the assessment year ie AY 2018-19.
Rs 10000/-	In any other case.

(ii) **Interest u/s 234A:** If there is any unpaid income tax, penal interest @ 1% per month or part thereof will be charged till the date of payment of taxes.

(iii) **Non-Carry Forward of Losses:** Following losses cannot carry forward if return of loss is not filed in time.

- Business loss, capital loss, loss from the activity of owning and maintaining race horses.
- Exemptions/deductions under sections 10A, 10B, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE are not available.

However, the loss under the head "Income from house property" can be carried forward even if the return of income/loss of the year in which loss is incurred is not furnished on or before the due date of furnishing the return, as prescribed under section 139(1).

(iv) **Best judgment assessment (Assessment under section 144):** The Assessing Officer is under an obligation to make an assessment to the best of his judgment in the following cases: –

- If the taxpayer fails to file the return required within the due date prescribed under section 139(1) or a belated return under section 139(4) or a revised return under section 139(5).
- If the taxpayer fails to comply with all the terms of a notice issued under section 142(1).

This is an assessment carried out as per the best judgment of the Assessing Officer on the basis of all relevant material he has gathered.

(v) **Claim of Refund of Taxes:** When tax deducted at source from payment made to an assessee is more than tax payable on his / its income, the refund only to be claimed by filing return of income and eligible for Interest @ 6% on refund amount as per Section 244A.

(vi) **Penalty for Concealment of Income:** If an assessee is having taxable income and do not file the return of income may end up paying penalty for concealment of Income. Till A.Y 2016-17, there was penalty u/s 271(1)(c), this penalty was for Failure to furnish returns, comply with notices, concealment of income, etc.

However a new section 270A was introduced in the Finance Act'2016 for imposition of penalty for under-reporting and misreporting of income.

(vii) **Prosecution for Failure to Furnish Return of Income:** Section 276CC provides for following rigorous imprisonment for a term up to 7 years and fine where a person **fails to**

- File the return of the income tax act u/s 139(1)
- Where a notice u/s 142(1)(i) or section 148 or section 153A has been issued to the assessee and assessee fails to file the return in response to such notice.

Tax sought to be evaded	Minimum Imprisonment	Maximum Imprisonment
Exceed 25 Lakhs	6 Months	7 Years
Other cases	3 Months	2 Years

It may be noted that, the above imprisonment shall be in addition to the fine u/s 234F. Further, the Assessee shall not be proceeded against under this section due to failure to furnish return u/s 139(1) if:

- The Return furnished by him before the expiry of the assessment year up to (31st March, 2019) ; or
- The tax paid by him under the regular assessment after deduction of advance tax and TDS Return does not exceed Rs.3000/-

#### 6. Belated return 139(4):

If the person fails to file the return of income within the time-limit prescribed as above, then as per section 139(4) he can file a belated return. A belated return can be filed at any time before –

- (i) the expiry of one year from the end of relevant assessment year or before completion of assessment, whichever is earlier (applicable up to AY 2016-17).
- (ii) the end of relevant assessment year or before completion of assessment, whichever is earlier (applicable up to AY 2017-18).

#### 7. Filing of Revised Return of Income Section 139(5):

From the assessment year 2018-19, return of income can be revised (original return is filed on or before due date of after due date) at any time during the assessment year or before the assessment made whichever is earlier. If original return has filed in paper format or manually, then technically it cannot be revised by online mode or electronically. If a person is furnished original return and finds any mistake, omission or any wrong statement, then return should be revised within prescribed time limit.

#### 8. Is it necessary to attach any documents along with the return of income:

Return of income in the prescribed formats is required to be filed without any attachment. Hence, the taxpayer is not required to attach any document (like proof of investment, interest / principal payment certificates in case of claim in house property income, TDS certificates, etc.) along with the return of income (whether filed manually or filed electronically). However, these documents should be retained by the taxpayer and should be produced before the tax authorities when demanded in situations like assessment, inquiry, etc.

**Note:** As discussed above, no documents are to be attached along with the return of income, however, in case of a taxpayer who is required to furnish a report of audit under section 10(23C)(iv), 10(23C)(v), 10(23C)(vi), 10(23C)(vii), 10A, 10AA, 12A(1)(b), 44AB, 44DA, 50B, 80-IA, 80-IB, 80-IC, 80-ID, 80JJAA, 80LA, 92E, 115JB or 115VV or to give a notice under section 11(2)(a) shall furnish it electronically on or before the date of filing the return of income.

#### 9. Following points may be kept in mind while filing return of income:

- ❖ Choose correct return format
- ❖ Precaution in filling Personal Informations

- **Name:** Has to match the PAN database
- **Date of Birth:** Mistakes here will result in computation of higher taxes in case of senior citizens
- **Address:** House/Flat no, City, PIN Code, are mandatory fields. Non filling will result in refund delays
- **E mail Address:** Needs to be filled correctly, is the basis of all communication from CPC. Mistake will result in non-receipt of all intimations from CPC. Use of Auditor/Tax practitioner's ID may be avoided.
- **Mobile No:** Full Mobile No without use of +91 needs to be entered. This is essential for all SMS based communication.
- **Sex:** Should match the PAN database. If PAN database is wrong, it results in mistakes in computation.
- **Status :** Should be correctly filled
- **Residential Status –** the status of NOR and NRI should be mentioned only where applicable as they are not eligible for certain benefits available to resident assessee.

- ❖ Disclose all income in the return, take in computation and pay income tax which includes.

- Interest from bank deposits or NSC certificates should be disclosed
- Income of spouse or minor child may have to be clubbed with the income of taxpayer
- Gifts received
- Exempted incomes
- Sale of property or stocks or Mutual Funds

❖ Check Tax Credit Statement (Form 26AS)

*This is a tax credit statement which shows TDS/ TCS deposited by the payers from payments made in respect of which TDS provisions applicable, payments are done by your employer, by your banker on interest, advance and self-assessment tax paid by you. The TDS amount appearing in your Form 16 and Form 16A (if any) must tally with the Tax credit in Form 26AS. If there is a discrepancy, we suggest you to sort this out before filing your income tax return. In case TDS as shown in 26AS is lesser than TDS in Form 16, there is every chance of getting notice from Income Tax department.*

- ❖ Deposit of differential taxes
- ❖ Compile and carefully study the documents to be used while filing the return of income like bank statement/passbook, interest certificate, investment proofs for which deductions is to be claimed, books of account and balance sheet and P&L A/c (if applicable), etc.
- ❖ Carefully provide all the information in the return form. Confirm the calculation of total income, deductions (if any), interest (if any), tax liability/refund, etc.
- ❖ After filling all the details in the return of income and after confirmation of all the details, one can proceed with filing the return of income. In case return is filed electronically without digital signature and without electronic verification code do not forget to post the acknowledgement of filing the return of income at CPC Bangalore within 120 days of filing return of income or make e-verification as the facility is now available.

For details on e-filing please log on to [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in) / [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in)