



**Notice of Demand, Rectification of Mistake,- E process to be followed
for response to Notice u/s 154. Drafting of Rectification Application
and discussion**



*“Behind Every Successful Business Decision, there is always a **CMA**”*



The Institute of Cost Accountants of India
(Statutory body under an Act of Parliament)
Tax Research Department

Online Certificate Course to AICAA – 6th Batch

By CMA Kedarnath

on 23.04.2023

S. 139(1) ITR filed

↓
S. 143(1) "Intimation" received from CPC

↓
S. 143(2) : ~~issuing~~ Notice for Scrutiny of Assessment -

↓
143(3) : Scrutiny / Regular Assessment.

↓
"Additional Demand" / Refund / no Demand or over refund

↓
"Issue a notice of Demand u/s 156"

↓
Shall be payable within 30 days

↓
Failure to file attract - Interest -

Challenge S. 143(3)

↓
Appeal

↓
CIT(A) u/s 245A

↓
Form - 35

↓
within 30 days
of receipt of assessment order

Introduction to Assessments

- ❖ Every taxpayer has to furnish the details of his income to the Income-tax Department.
- ❖ These details are to be furnished by filing up his return of income.
- ❖ Once the return of income is filed up by the taxpayer, the next step is the processing of the return of income by the Income Tax Department.
- ❖ The Income Tax Department examines the return of income for its correctness.
- ❖ The process of examining the return of income by the Income Tax department is called as “Assessment”.
- ❖ Assessment also includes re-assessment and **best judgment assessment** u/s 144.

Introduction to Assessments

Under the Income-tax Law, there are four major assessments given below:

- ❖ Assessment under section 143(1), i.e., Summary assessment without calling the assessee.
- ❖ Assessment under section 143(3), i.e., Scrutiny assessment.
- ❖ Assessment under section 144, i.e., Best judgment assessment.
- ❖ Assessment under section 147, i.e., Income escaping assessment.

Introduction to Section 144

- ✓ Assessment under section 144 is known as best judgment assessment.
- ✓ This is an assessment carried out as per the best judgment of the Assessing Officer.
- ✓ This assessment is carried out in a case where the taxpayer fails to comply with the requirements specified in section 144

Rectification of Mistake u/s 154

- Sometimes there may be a mistake in any order passed by the Assessing Officer.
- In such a situation, mistake which is apparent from the record can be rectified under section 154.
- As per section 154, any mistake apparent from the record can be rectified by the Income Tax Authorities in following cases:
 - a) Any order passed under any provisions of the Income-tax Act.
 - b) Any intimation or deemed intimation sent under section 143(1).

Order which can be rectified under section 154

With a view to rectifying any mistake apparent from the record, an income-tax authority may, -

- a) Amend any order passed under any provisions of the Income-tax Act.
- b) Amend any intimation or deemed intimation sent under section 143(1).
- c) Amend any intimation sent under section 200A(1) [section 200A deals with processing of statements of tax deducted at source i.e. TDS return].
- d) amend any intimation under section 206CB [processing of TCS statement]

Note:

If due to rectification of mistake, the tax **liability of the taxpayer is enhanced or refund is reduced**, the taxpayer shall be given an opportunity of being heard (**OBH**)

Rectification of order which is subject to appeal or revision

- ❖ If an order is the subject-matter of any appeal or revision,
- ❖ any matter which is decided in such an appeal or revision **cannot** be rectified by the Assessing Officer.
- ❖ In other words, if an order is subject matter of any appeal, then the Assessing Officer can rectify only those matters which are not decided in such appeal.

Rectification of order which is subject to appeal or revision

Example:- Suppose, the A.O.(Assessing officer) has made the following adjustments to the returned income of PQR Ltd.

- i) Certain expenses of Rs. 1,00,000 were disallowed
- ii) Addition u/s 43B made for Rs 1,25,000 as proof of payment was not furnished

Now, following are the current position of assessee i.e. PQR Ltd.

The assessee has already filed an appeal against the first matter of disallowing Rs 1,00,000 expenditure and the appeal is decided against the assessee.

On submitting the rectification application the Assessing Officer rejected the same, giving reasoning that this particular case has already been decided by appellate authority hence, no rectification request can be admitted in such a scenario.

Initiation of rectification by whom

- ❖ The income-tax authority can rectify the mistake on its own motion.
- ❖ The taxpayer can intimate the mistake to the income-tax authority by making an application to rectify the mistake.
- ❖ If the order is passed by the Commissioner (Appeals), then the Commissioner (Appeals) can rectify mistake which has been brought to notice by the Assessing Officer or by the taxpayer.

Time-limit for rectification

- ✓ No order of rectification can be passed after the expiry of 4 years from the end of the financial year in which order sought to be rectified was passed.
- ✓ The period of 4 years is from the date of order sought to be rectified and not 4 years from original order.
- ✓ Hence, if an order is revised, set aside, etc., then the period of 4 years will be counted from the date of such fresh order and not from the date of original order.
- ✓ In case an application for rectification is made by the taxpayer, the authority shall amend the order or refuse to allow the claim within 6 months from the end of the month in which the application is received by the authority.

Procedure to be followed for making an application of rectification

- ✓ The taxpayer should carefully study the order against which he wants to file the application for rectification.
- ✓ Many times the taxpayer may feel that there is any mistake in the order passed by the Income-tax Department but actually the taxpayer's calculations could be incorrect and the CPC might have corrected these mistakes, e.g., the taxpayer may have computed incorrect interest in return of income and in the intimation the interest might have been computed correctly.
- ✓ Hence, to avoid application of rectification in above discussed cases the taxpayer should study the order and should confirm the existence of mistake in the intimation, if any.
- ✓ If he observes any mistake in the order then only he should proceed for making an application for rectification under section 154.

Procedure to be followed for making an application of rectification

- ✓ Further, he should confirm that the mistake is one which is apparent from the records and it is not a mistake which requires debate, elaboration, investigation, etc. The taxpayer can file an online application for rectification of mistake. Before making an online application for rectification the taxpayer should refer to the rectification procedure prescribed at <https://incometaxindiaefiling.gov.in/>
- ✓ For rectification of intimation under Section 200A(1)/206CB online correction statement is to be filed; the procedure thereof is given at <http://contents.tdscpc.gov.in/en/filing-correction-etutorial.html>
- ✓ An amendment or rectification which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the taxpayer (or deductor) shall not be made unless the authority concerned has given notice to the taxpayer or the deductor of its intention to do so and allowed the taxpayer (or the deductor) a reasonable opportunity of being heard.

How to Submit Rectification Request Online

- ✓ Login to www.incometax.gov.in.
- ✓ From the drop down “Services” select “Rectification”
- ✓ Select the rectification request type
- ✓ Enter the information in relevant fields
- ✓ Attach the required documents
- ✓ Click on submit below the screen.

Q&A

Q1. Any mistake which is apparent from the record in any order passed by the Assessing Officer can be rectified under section_____.

(a) 143

(b) 147

(c) 154

(d) 156

Q2. Any mistake apparent from the record in any intimation passed under section 200A(1) can be rectified by the Income Tax Authorities under section 154.

(a) True

(b) False

Q&A

Q3. If an order is the subject-matter of any appeal or revision, then any matter which is decided in such an appeal or revision cannot be rectified.

- (a) True
- (b) False

Q4. The income-tax authority cannot rectify the mistake on his own.

- a) True
- b) False

Q5. No order of rectification can be passed after the expiry of _____ from the end of the financial year in which order sought to be rectified was passed.

- (a) 2
- (b) 3
- (c) 4
- (d) 5

Q&A

Q6. In case of an application made by the taxpayer, the authority shall amend the order/refuse the amendment within _____ from the end of the month in which the application is received by the authority.

- (a) 4 years
- (b) 2 years
- (c) 1 year
- (d) 6 months

Q7. The taxpayer cannot file an online application for rectification of mistake under section 154.

- (a) True
- (b) False

Q&A

Q8. An amendment or rectification which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the taxpayer (or deductor) shall be made after giving the taxpayer (or the deductor) a reasonable opportunity of being heard (OBH).

(a) True

(b) False

Notice of Demand u/s 156

- ❖ When any tax, interest, penalty, fine of any other sum is payable in consequence of any order passed under this Act,
- ❖ The Income-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable.
- ❖ Provided that where any sum is determined to be payable by the assessee or the deductor or the collector under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB, the intimation under those sub-sections shall be deemed to be a **notice of demand for the purposes of this section.**

How to respond to an Outstanding Demand Notice?

Four options are available for a taxpayer to respond against an outstanding demand notice.

Given below are the options:

- ❖ Demand is correct.
- ❖ The demand is partially correct.
- ❖ Disagree with demand.
- ❖ Demand is not correct but agrees to adjustment

Time limit to respond to the demand

- ❖ The assessee shall pay the amount of demand within 30 days from the date of service of notice.
- ❖ However, in some exceptional cases, the assessing officer may reduce the thirty-day period with prior approval of the joint commissioner.
- ❖ An assessee can also apply to the AO to extend the time for payment or allow payment by installment, provided the application should be made before the expiry of thirty days.

Notice of Demand Model Copy



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National Faceless Assessment Centre
Delhi



To,
KINJAL KISHOR YADAV
7A, 33A SEC 7
BHILAI DURG 490006, Chhattisgarh
India

| | | | |
|---------------------------|----------------------------|------------------------------|--|
| PAN: AENPY3388Q | Date: 05/03/2022 | Status: INDIVIDUAL | DIN & Notice No: ITBA/AST/S/156/2021- 22/1040394000(1) |
|---------------------------|----------------------------|------------------------------|--|

Subject: Notice of demand under section 156 of the Income-Tax Act, 1961

1. This is to give you notice that for the assessment year **2015-16** a sum of **Rs. 0**, details of which are given on the reverse, has been determined to be payable by you.
2. The amount should be paid to the Manager, authorised bank/State Bank of India within 30 days of the service of this notice. A challan is enclosed for the purpose of Payment.
3. If you do not pay the amount within the period specified above, you shall be liable to pay simple interest at one per cent for every month or part of a month from the date commencing after the end of the period aforesaid in accordance with section 220(2).
4. If you do not pay the amount of the tax within the period specified above, penalty (which may be as much as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221.
5. If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 227, 229 and 232 of the Income-tax Act, 1961.
6. If you intend to appeal against the assessment, you may present an appeal under Part A of Chapter XX of the Income-tax Act, 1961, to the **NATIONAL FACELESS APPEAL CENTRE (NFAC)** within thirty days of the receipt of this notice, in Form No. 35, duly stamped and verified as laid down in that form.

Yours faithfully,
Additional / Joint / Deputy / Assistant Commissioner of Income Tax/
Income-tax Officer,
National Faceless Assessment Centre,
Delhi

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in.

Signature Not Verified
Digitally signed by Vishesh
Prakash
Date: 2022.03.05 17:01:21 IST

Consequences for Non-Payment of Demand u/s 156

Interest u/s 220(2)

- ✓ Interest at a rate of **1%** per month or part of the month,
- ✓ which is payable after the expiry of 30 days.
- ✓ Such interest shall be payable by the assessee even if the Assessing Officer has approved the application for an extension of the time period for the payment or allowed payment in installments.

Consequences for Non-Payment of Demand u/s 156

Penalty u/s 221

- ✓ A penalty may be imposed by the Assessing Officer up to the amount demanded in demand notice,
- ✓ provided a reasonable opportunity of being heard is given to the assessee.
- ✓ No penalty shall be levied if the assessee proves that the default was for good and sufficient reasons.

Concept of Updated Return u/s 139(8A)

| Late Fee, Additional Tax u/s 140B & Last Date to File Updated Return | | | | | |
|--|--------------------------|-----------------|----------------------------------|----------------------------------|-----------------------|
| Taxation Updates | | | | | |
| A.Y. | Late Fee If Total Income | | Additional Tax u/s 140B | | Last Date to File ITR |
| | up to Rs.5 Lakh | above Rs.5 Lakh | 25% | 50% | |
| A.Y.2020-21 (F.Y.2019-20) | 1,000.00 | 10,000.00 | No Option | From 01/04/2022 to 31/03/2023 | 31/03/2023 |
| A.Y.2021-22 (F.Y.2020-21) | 1,000.00 | 5,000.00 | From 01/04/2022 to 31/03/2023 | From 01/04/2023 to 31/03/2024 | 31/03/2024 |
| A.Y.2022-23 (F.Y.2021-22) | 1,000.00 | 5,000.00 | From 01/01/2023 to 31/03/2024 | From 01/04/2024 to 31/03/2025 | 31/03/2025 |

Concept of Updated Return u/s 139(8A)

| 139(8A) updated return > with in 12m form the end of RAY | | After 12m upto 24m |
|--|---------------------------------|---------------------------------|
| If Tax Liability | Additional Tax @ 25% | Additional Tax @ 50% |
| 10000 | 12500 | 15000 |
| Interest | Yes | Yes |
| Late Fees u/s 234F | TI upto 5 Lakh : Rs 1,000 | TI > 5 Lakh : Rs 5,000 |
| AY 2020-21 | 31-03-2021 12M 31-03-2022 | 31-03-2021 24M 31-03-2023 |
| AY 2021-22 | 31-03-2023 | 31-03-2024 |
| AY 2022-23 | 31-03-2024 | 31-03-2025 >>> 9M 31-12-2025 |



QUESTION ANSWER RELATIONSHIP

CedarBridge Academy, February 2009

*{Arise, awake and stop not until the goal is reached}
- Swami Vivekananda*



By
CA CMA Kedarnath
P Kedarnath & Associates
Chartered Accountants
Mobile No. 9985162155
Pkedarnathassociates@gmail.com