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ADVANCED COURSE ON INCOME TAX ASSESSMENT AND APPEALS (ACIAA)

Context Setting



ASSESSMENT MEANING AS PER INCOME-TAX ACT, 1961: – 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 u/s 139. 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”.

Under the Income Tax Law, there are four Types of Assessments: –

Summary Assessment u/s 143(1)

Scrutiny Assessment u/s 143(3)

Best Judgement Assessment u/s 144

Income Escaping Assessment u/s 147

Summary Assessment u/s 143(1) of the Income Tax Act, 1961

Summary assessment under Section 143(1) of the Income Tax Act, 1961, is a preliminary assessment done by the Income Tax Department without calling the assessee, on the basis of ITR submitted by the assessee.

This is to ensure that the information provided in the Income Tax Return (ITR) is accurate and consistent with the department's records.

Key feature of Summary Assessment

- **Automated Process:** The process is largely automated and relies on data processing and fully computerized.
- **No Personal Interaction:** There is no interaction between the taxpayer and the assessing officer during this process.
- **Transparency:** Adjustments are clearly communicated to the taxpayer via intimation.

The purpose of the summary assessment under section 143(1) is to quickly process returns and identify obvious errors or mismatches, ensuring that any tax discrepancies are promptly addressed.

Centralized Processing Center

- With the rapid increase in the number of income tax returns and a jurisdiction-based processing model for all the returns filed, the tax department faced problems leading to delayed processing of income tax returns.
- Therefore, the Finance Act, 2008 empowered the Central Board of Direct Taxes (CBDT) to make a scheme for the centralized processing of returns with a view to expeditiously determine the tax payable by, or the refund due to the taxpayers.
- Based on the recommendations of the Technical Advisory Group, the department adopted the strategy that CPC at Bangalore would process paper and e-returns without any interface with taxpayers and in a jurisdiction free manner.
- CPC project envisaged benefits for the citizens as well as the tax department. For citizens, it led to faster and hassle-free preliminary processing of their returns and also relieved the department from the burden of preliminary assessment that can be computerized, enabling them to concentrate on hardcore activities.
- Any communication from the income tax department creates panic for taxpayers. However, Section 143(1) intimation is not something one needs to worry about.

Key Steps in Summary Assessment under Section 143(1):

- Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—
- The total income or loss shall be computed after making the following adjustments, namely:—
 - (i) any arithmetical error in the return;
 - (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;
 - (iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
 - (iv) 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;
 - (v) disallowance of deduction claimed under [section 10AA or under any of the provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes", if] the return is furnished beyond the due date specified under sub-section (1) of section 139; or
 - (vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

PROCEDURE OF ASSESSMENT UNDER SECTION 143(1):-

- After correcting arithmetical error or incorrect claim (if any), the tax and interest and fee, if any, shall be computed on the basis of the adjusted income.
- Any sum payable by or refund due to the taxpayer shall be intimated to him.
- An intimation shall be prepared or generated and sent to the taxpayer specifying the sum determined to be payable by, or the amount of refund due to the taxpayer.
- An intimation shall also be sent to the taxpayer in a case where the loss declared in the return of income by the taxpayer is adjusted but no tax or interest is payable by, or no refund is due to him.
- The acknowledgement of the return of income shall be deemed to be the intimation in a case where no sum is payable by or refundable to the assessee or where no adjustment is made to the returned income.

What is Intimation under Section 143(1)?

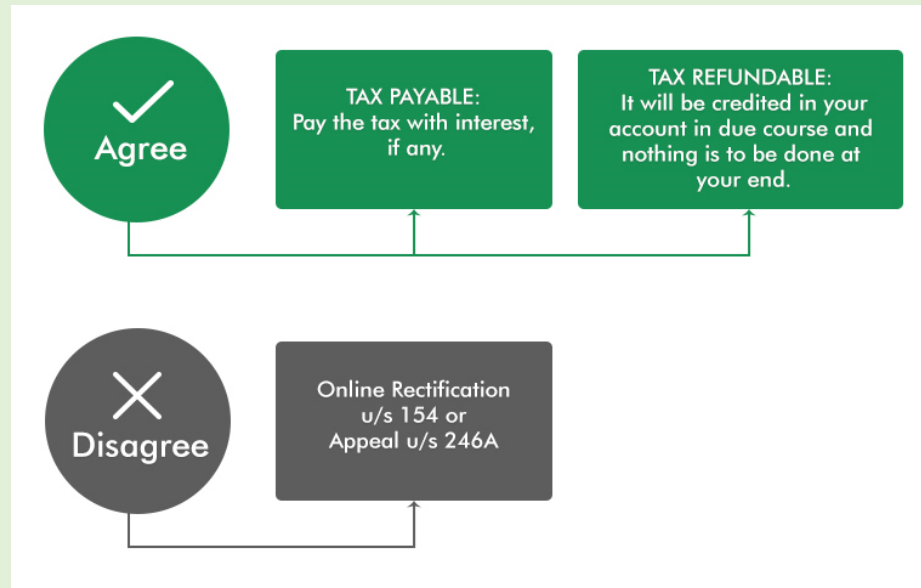
- An intimation under Section 143(1) of the Income Tax Act is a communication sent by the Income Tax Department (ITD) after processing your Income Tax Return (ITR) filing.
- It essentially acts as a summary of the ITD's assessment of your tax liability.
- This intimation details the income you declared, compares it with information received from third parties, and presents the calculated tax amount.
- It also highlights any discrepancies, specifies any tax demand or refund you're entitled to, and includes a processing code indicating the outcome of your ITR processing.

What Does an ITR Intimation Contain?

- Your ITR intimation acts as a summary of the details you filed and the ITD's evaluation. Here's a breakdown of the key information you'll find:
- **Assessee Details:** This section confirms your basic information like name, Permanent Account Number (PAN), and Assessment Year (AY).
- **ITR Filing Details:** It details your acknowledgement number, filing date, and chosen ITR form type.
- **Income Details:** This section compares the income figures you declared with any information the ITD may have received from third parties, such as employers, banks, or investment sources.
- **Tax Calculation:** It presents the tax liability as per your calculations and the ITD's assessment, highlighting any discrepancies.
- **Demand and Refund:** The intimation specifies any tax demand you need to pay or confirms the amount of tax refund you're entitled to receive.

What should be done on receiving intimation u/s 143(1)?

- On receiving the intimation u/s 143 1, there'll be two cases, either you'll agree with the computation done by the department or you'll not.



Time Frame

- The summary assessment must be completed within one year from the end of the financial year in which the return is filed.
- If a taxpayer does not receive any intimation within such period, it simply means there are no adjustments carried out to the return filed by the taxpayer and no change in tax liability/refund, and the acknowledgement filed itself is deemed to be Section 143(1) intimation.

What is a defective return?

- The tax authority sends out a defective return notice when they find mistakes or inconsistencies in your ITR. These mistakes might involve missing or conflicting information, errors in calculations, or other issues. The purpose of this notice is to prompt taxpayers to correct these errors and make sure that their tax return provides precise and complete information.
- Defective return notice is issued under **section 139(9)** via an email to your registered email id. You can also access the same on the income tax e-filing portal.

Situations in which defective return notice will be issued

- The Assessing Officer may consider the below-mentioned reasons, errors or omissions while issuing a defective return notice under section 139(9):
- **1. Incomplete Income Tax Return (ITR):** If the ITR lacks necessary details in its annexures, statements, or mandatory columns, such as income from all sources are not mentioned, etc.
- **2. Missing Tax Information:** If taxes have been paid but their details are omitted in the ITR, including information about TDS, TCS, advance tax, or self-assessment tax.
- **3. TDS and Income Mismatch:** TDS is claimed. but corresponding income is not offered for tax in the ITR.
- Example: If you have earned interest income from term deposits and tax has been deducted by the bank, both interest income and tax deducted should be reported in the ITR.
- **4. Bookkeeping Issues:** Incomplete or non-submission of mandated books of accounts, such as trading accounts, Profit and Loss accounts, Balance sheets, and others may lead to defective return notice.

- **5. Income Tax Audit Concerns:** If an audit is required to be done under section 44AB, the complete audit report, including profit and loss account, Balance sheet and auditors report, should be submitted. In the absence of these documents or submission of an incomplete audit report, you may invite a defective return notice.
- **6. Cost Audit Non-compliance:** Failure to submit 'Cost Audit' details as required by the Companies Act, 2013, can lead to a defective return notice.
- **7. Presumptive Taxation Inaccuracies:** In cases of presumptive taxation, providing inaccurate computation of presumptive income, non-disclosure of relevant details, or mismatched gross receipts can trigger a defective return notice.
- Example: For instance, gross receipts not mentioned in the Profit and Loss account, or the amount mentioned is more than Rs. 2 crore in ITR 4, will lead to a defective return notice.
- **8. Tax Payment Discrepancies:** If taxes are partially paid or the paid amount doesn't align with the tax liability in the ITR, a defective return notice may be issued.
- **9. Incorrect details in ITR:** Filing an ITR with incorrect details regarding turnover, income limits, or inappropriate reporting for a specific head of income can lead to a defective return notice.
- **10. Mismatch in the name:** When the name mentioned in the ITR does not match the name on the PAN card.

How to Respond to Defective Return Notice u/s 139(9)?

- If the Assessing Officer considers the return to be defective, then a notice will be sent to the taxpayer. The taxpayer will have **15 days** time to respond to the notice.
- Revise your return addressing the defects pointed out by the Income Tax Department within 15 days.
- If you are unable to complete these revisions within the given timeframe, you have the option to seek an extension.
- **If the defect is not rectified within a period of 15 days or the extended days allowed, your return may be treated as an invalid return. This could potentially lead to consequences like interest, penalty, non-carry forward of losses and forfeiture of specific exemptions.**

How to respond in Portal

- **Step 1:** Log in to the income tax [e-filing portal](#).
- **Step 2:** Click on the “pending actions” tab and then select the e-proceedings option and select e-assessment.
- **Step 3:** Select adjustment u/s 143(1)(a)
- **Step 4:** Intimation notice details will be displayed; click on the submit button to start the process of responding intimation notice.
- **Step 5:** You will be able to see the mismatch found, select the drop-down next to the response, and submit a response to that particular mismatch.
- **Step 6:** Justify your response and submit the supporting documentation.
- **Step 7:** Your response will be acknowledged after clicking on submit button.
- If you have received an income tax notice from the tax department, don't worry, simply go through the intimation, gather your supporting evidence, and respond!

Challenges in Automated Processing

- Disallowance indicated in Tax Audit Report, is being used more frequently by the CPC in raising demands, in the Intimation Orders.
- Ironically, the Tax Audit Report is very seldom being relied upon by the assessing authorities in allowing a particular claim of the assessee in cases where assessee contends that no adverse reporting has been done by the Tax Auditor in respect of that claim but conversely in making any disallowance, the tax audit reports are considered as a sufficient and self-contained sacrosanct record of the assessee, by the assessing authorities.
- The problem becomes more serious and vital when the mere reporting clauses of the Tax Audit Reports are misinterpreted as 'Disallowance making clauses' and that too, with only selective picking of incomplete and factually misunderstood figures.
- Reporting Clause 13 in the Form 3CD Annexure of the Tax Audit Report, mandates reporting by the Tax Auditor, of all variations between the profits/(loss) as per accounting standards/IND AS and ICDS and the adjustments to be made in profit and loss for compliance with the ICDS.
- It is pertinent to mention here that these adjustments to profits are both plus (increase in profits) and minus (decrease in profits). But mostly other one is considered.

Commitment of IT department

- Last year, CBDT released a press release stating that it is committed to processing the Income Tax Returns (ITRs) quickly and efficiently. The average processing time of ITRs (after verification) has been reduced to 10 days for returns filed for AY 2023-24 compared to 82 days for AY 2019-20 and 16 days for AY 2022-23.
- Less than 1% cases are selected for assessment u/s 143(3)
- There is sharp increase in filing of ITR post implementation of AIS





THANK YOU!