



## Bombay Chartered Accountants' Society

*Harnessing Talent and Providing Quality Service*

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19<sup>th</sup> December, 2019

Shri Pramod Chandra Mody  
Chairman,  
Central Board of Direct Taxes,  
New Delhi

Dear Sir,

### **Sub: Representation on Processing Returns for AY 2019-20**

### **Ref: Section 143(1)(a) and section 139(9)**

The Centralized Processing Centre, Bengaluru has started processing the returns of Income for AY 2019-2020 under Section 143(1)(a) of the Income-tax Act, 1961 [the Act]. While doing so, hundreds of tax payers have been sent notices to the effect that either the income shown in the return is wrong or the return itself is defective. The main reasons mentioned in these notices are explained below.

## **1. Section 143(1)(a) – Adjustments in Processing Returns of Income**

### **Adjustments relating to capital gains:**

With regards to the same, CPC has been making / proposing to make adjustments to Capital Gains for AY 2019-20 which reflect a higher income as compared to what has been disclosed in the return.

As per the Finance Act, 2018 the Long Term Capital Gains from listed shares and units of equity oriented mutual funds are to be computed as per the provisions of Section 112A of the Act read with Section 55 (2)(ac).

In order to compute the Long Term Capital Gains arising due to transfer of capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred in Section 112A, acquired on or before 1<sup>st</sup> February, 2018, cost of acquisition shall be higher of -

- i. Cost of acquisition of such asset or
- ii. Lower of
  - (A) Fair Market Value of such asset &
  - (B) Full value of consideration received/accruing

Hence, while computing the Long Term Capital Gains mentioned in Section 112A of the Act, each transaction of sale has to be computed scrip wise. Only if the total capital gains as computed in this manner is more than Rs. 1 lakh then the Long



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Term Capital Gain after adjusting the brought forward capital loss, if any, would be charged to tax @ 10%.

However, Schedule CG in the ITR for AY 2019-20 (first released on 5.4.2019) did not provide for such calculations scrip wise, compelling the taxpayer to file the ITR and offer LTCG by manual entries. The ITR utility which was released in August 2019 provided an option to the assessee to either enter the Long Term Capital Gain scrip wise or on totality basis.

As the due date was around the corner, most of the taxpayers or tax professionals have gone for the second option based on the workings available with them and filed the ITR with amounts offered on totality basis in Schedule CG.

While processing the returns u/s 143(1)(a), CPC has picked up Cost of Acquisition as Higher of (i) and (ii) as mentioned above, which is based on TOTALS and not scrip wise transaction wise. This has led to computation of an income under Capital Gains much higher than what it is as per the provisions of Section 112A, 55(2)(ac) and FAQs (dated 4.2.2018).

Besides, Intra Head Capital Loss and Brought Forward Capital Loss are not considered by CPC and are ignored, reflecting even higher income under the head Capital Gains.

One more issue in respect of LTCG computation is that the system is considering LTCG from shares acquired between 1-2-2018 to 31-3-2018 without deduction of cost of acquisition, i.e. the whole of sale consideration is considered as gains. For eg. If you were allotted shares in an IPO after 1-2-2018 for Rs.2,000/- and sold the same on say 15-3-2019 for Rs.4,000/-, then system is considering the whole of Rs.4,000/- as LTCG.

### **Adjustments relating to mismatch of income & Form 26AS:**

There are cases where TDS is deducted u/s.194I, where the coverage is very wide, and such income is offered under the head "Income from other sources". Notices are received u/s.139(9)/143(1) for treating such income as Income from House Property and even when explanations are given that such income is offered to tax under income from other sources, same are not accepted and adjustments are made u/s.143(1)(a).

Similarly, in case of contractors or builders where income is offered under percentage of completion basis or in case where TDS is deducted on incomes received in advance, adjustments are proposed and also adjustments are made u/s.143(1)(a) without considering the explanations offered.



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## 2. Charging of late filing fee of Rs. 5,000 in case of partners

The Return of Income for firms subjected to tax audit and their Partners were to be e-filed by 31<sup>st</sup> October, 2019 as per Section 139(1) of the Act. Despite the Firm and Partners of such firm e-filing their returns of income before 31<sup>st</sup> October, 2019, CPC has levied a penalty of Rs. 5,000 as Late Filing Fees under Section 234F of the Act.

## 3. Section 139(9) – Defective Return

CPC has also issued notices u/s 139(9) in a large number of cases where it has mentioned that despite the turnover as per books of accounts of the taxpayer in the ITR being more than 1 crore, the taxpayer has not filed the tax audit report in Form No. 3CD.

Such notices are being received even by those tax payers who have filed the tax audit report in time and the date of furnishing of the Form 3CD has been duly mentioned in the ITR.

All the above are causing unnecessary harassment to tax payers and resulting in waste of national resources in terms of having to file applications for rectification.

We humbly request your good self to take immediate action in the matter so that genuine tax payers do not suffer on account of such issues.

Thanking you.

Yours faithfully,

**For Bombay Chartered Accountants' Society,**

**Manish Sampat**  
President

**Ameet Patel**  
Chairman – Taxation Committee