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Newsflash: CBDT clarifies the scope of prima facie adjustments by tax authorities - Based on receipt / income appearing in Form 26AS / Form 16A / Form 16

Instruction No. 10/2017

THE POWER OF BEING UNDERSTOOD



1.0 Background

- Section 143 (1) of the Income Tax Act, 1961 ('the Act') provides for prima facie adjustments to a return of income filed by the assessee, while processing the return of income.
- The ambit of prima facie adjustment was expanded by the Finance Act, 2016. Accordingly, CPC, Bangalore was empowered to make preliminary adjustment while processing the return under section 143(1) if discrepancy was found between the income reflected in forms [Form 26AS or Form 16A or Form 16 (the three Forms)] and income offered for tax in the tax return. [Section 143 (1)(a)(vi).]
- This led to several doubts on the nature, extent and scope of comparison of information as contained in the return of income with the three forms which might lead to issuance of intimation proposing adjustments to the returned income.
- Earlier, the Central Board of Direct Taxes ('CBDT') vide instruction 9/2017 had provided clarification with regards to processing of ITR-1 under section 143(1)(a) for Form 26AS, Form 16A, Form 16 discrepancies.
- Now on similar issue, CBDT vide Instruction No. 10/ 2017 has issued certain clarifications in respect of ITR-2, 3, 4, 5 & 6 and the same have been dealt with in the subsequent paragraphs of this newsflash.

2.0 CBDT clarifies the scope of prima facie adjustments - Based on receipt / income appearing in Form 26AS / Form 16A /Form 16

ITR Form	Head of Income	Whether section 143(1)(a)(vi) will be invoked?	Guidance to CPC, Bangalore and AO
ITR 2 and 3	Salary	Yes	Since income from salary as shown in ITR is comparable on gross basis with information in the three forms. Thus, section 143(1)(a)(vi) shall be invoked.
ITR 4	Salary / House Property Income / Other sources Income	No / Yes in certain cases	Such Income may be shown on net basis in ITR and complete information may not be available and thus, comparison may not be feasible. Accordingly, section 143(1)(a)(vi) shall not be applicable. However, the said section will be invoked if, the income reflected in forms is altogether omitted from ITR
	Only Presumptive income u/s 44AD / 44ADA	Yes	Where presumptive income u/s 44AD or 44ADA is disclosed in ITR and if gross receipts in ITR is less than gross receipts as per the three Forms, Section 143 (1) (a) (vi) shall be invoked.
	Only Presumptive income u/s 44AE	No	Where only presumptive income u/s 44AE is disclosed in the return, there will be difficulty in correlation of information in the return with the information in the three Forms. Thus, Section 143 (1) (a) (vi) shall not be invoked.
	Presumptive income under both Section 44AD and 44AE	No	Where presumptive income under both these sections is disclosed in ITR, it will be difficult to correlate the receipts in the return with information in the three Forms. Hence, section 143 (1) (a) (vi) shall not be invoked.

ITR Form	Head of Income	Whether section 143(1)(a)(vi) will be invoked?	Guidance to CPC, Bangalore and AO
ITR 2	House property Income	Yes	Since receipt /income as shown in the return are comparable with information available in the three forms on a gross basis.
ITR 3, 5 and 6	House property income / Income from other sources	No	Receipts may be treated as House property income or Income from other source or Business income. Under these circumstances, difficulty may arise in comparing the information. Thus, section 143 (1) (a) (vi) shall not be invoked.
	Business income	No	Since comparison of information in the ITR vis-à-vis in the three Forms would be difficult.
ITR 2, 3, 5 and 6	Income from other sources	Yes	Certain types of income are only taxable under the head “Income from other sources”. In such scenario, in case of mismatch at gross level, adjustment under section 143 (1) (a)(vi) may be invoked.
ITR 2, 3, 5 and 6	Capital gains	No	Since comparison of information in the ITR vis-à-vis in the three Forms would be difficult.

3.0 Our Comments

The above guidelines laid down by the CBDT will be binding on CPC / AO and thus, adjustment under section 143(1)(a)(vi) of the Act can be invoked only in cases where direct comparison of information in the ITR vis-à-vis in the three Forms is possible. From taxpayers’ standpoint, while there are likely to be genuine reasons for discrepancy between the two figures, in cases covered by this instruction it would be important to take into account the receipt/ income and the details of the taxes paid as reflected in Form 26AS/ Form 16A / Form 16 while e-filing the return of income.

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This newsflash is general in nature. In this newsflash, we have summarized the CBDT instruction no. 10/2017 clarifying the scope of prima facie adjustments - Based on receipt / income appearing in Form 26AS / Form 16A / Form 16. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said instruction and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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