



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



CA. Raghavendra T.N.
President

CA. Chandrashekara Shetty
Secretary

Date: 27th April 2018

To

The Chairman
Central Board of Direct Taxes
Government of India,
North Block, Vijay Chowk,
New Delhi 110 001.

Respected Sir,

Re: Representation regarding Instructions dated 8th March, 2018 relating to irregularities in Appellate Orders and Instructions dated 28th March, 2018 regarding processing of returns u/s 143(1) which are pushed to Assessing Officers [AOs] by CPC

A. Instructions dated 8th March, 2018 relating to irregularities in Appellate Orders

CBDT has instructed that the CCITs' should conduct regular inspections of the CIT(A) working under them and keep a watch on the quality and quantity of orders issued by the CIT(A).

On one hand, CDBT is inviting suggestions from stakeholders for simplification in tax laws, smoothening of return processing, issue of refunds, timely disposal of appeals etc. However, on the other hand, an instruction has been issued that CCITs should regularly monitor cases taken up by CIT(A) and ensure the quality and quantity of the orders passed by them.

There is a strong apprehension that this step is likely to severely impact the judicial decisions being taken by the CIT(A)s as their decision making is going to be influenced by the CCITs, which is against the principles of judiciary. The very purpose of first appellate authority, being independent judicial functioning, would be defeated if the qualitative aspects of its decision are monitored/influenced by any senior officer of the Department.

It is a welcome step that CCITs should monitor disposal and dispatch of appeals, but that should only be restricted to quantitative aspect.

It is strongly suggested that necessary clarification should be issued that the instructions shall not apply at all to the qualitative aspects i.e. no influence shall be exerted on the judicial decision of the CIT(A).



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B. Lack of criteria for pushing down Returns by CPC to the AOs and Instructions dated 28th March, 2018 regarding processing of returns u/s 143(1) which are pushed to AOs by CPC

1) Lack of criteria for pushing down Returns by CPC to the AOs and adjustment of refunds

- i) Presently, there is no prescribed criteria in public knowledge for pushing down the returns by CPC to the AOs.
- ii) It has been observed and experienced by many assesseees that high refund cases are pushed by the CPC to the AOs and then AOs hold back from processing the returns and issuing the refunds.

We therefore suggest that CBDT should lay down some criteria for pushing down the returns by CPC to the AOs and the same should not be on the basis of high refunds claimed in the returns which is a bit farfetched. This may cause undue intrusion and hindrance in smooth processing of refund and returns.

- iii) It has also been experienced that in many cases, adjustments of refunds are being made by AOs, particularly when return processing are pushed down to the AOs, without giving an intimation u/s 245, in violation of section 245.

CBDT should also issue necessary instructions to lay down strict criteria for adjustment of refunds against any demands along with specific instruction emphasizing that no adjustment should be made unless intimation u/s 245 is given, principle of natural justice being violated.

2) Instructions dated 28th March, 2018 regarding processing of returns u/s 143(1) which are pushed to AOs by CPC

CBDT has rightly directed the AOs to process all tax returns of tax year 2016-17 [AY 2017-18] and onwards which are pushed by CPC to the AOs, on Income Tax Business Application (ITBA Module).

It has also been provided that in exceptional circumstances, whenever returns cannot be processed because of technical difficulties in functioning of the ITBA, the AO can also manually process the return with prior administrative approval of the Pr. CIT.

However, it is noticed that for processing of the returns on ITBA and also when the returns are allowed to be processed manually on account of technical glitch, no time limit has been prescribed for processing the refunds.



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We, therefore, suggest that for processing of the returns on ITBA and also when the returns are allowed to be processed manually on account of technical glitch, there must be a reasonable time line within which the refunds must be processed by the AO to bring in certainty.

We have populated issues and possible solutions in the light of genuine hardships and concerns on the part of practitioners and assesseees. We request your honour to consider this representation favourably.

Thanking you,

Yours sincerely,

For **Karnataka State Chartered Accountants Association ®**

CA. Raghavendra T.N.
President

CA. Chandrashekara Shetty
Secretary

CA. Vijay Sagar Shenoy
Chairman
Representation Committee