

F.No. 225/207/2015/ITA.II

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

North Block, New Delhi, dated the 29th September, 2015

Order under section 119 of the Income-tax Act

The Karnataka State Chartered Accountants Association ('KSCAA') has filed a representation dated 15.09.2015 in Central Board of Direct Taxes ('CBDT') seeking extension of date for filing returns from 30th September, 2015. Subsequently, KSCAA filed a PIL in Hon'ble Karnataka High Court seeking intervention of the Court in this matter. Hon'ble Karnataka High Court, vide its order dated 28.09.2015 disposed the PIL without passing any orders on merits. However, Hon'ble Court has directed the CBDT to consider the representation of the petitioner, peremptorily by 29th September, 2015. This order is being passed as a consequence of the directions of the Hon'ble Court.

2. In the representation, it is stated that since the relevant Income-tax Returns which are used by the taxpayers who are required to file the return of income on 30th September, 2015 were notified late by the CBDT for the Assessment Year 2015-2016, the said 'due-date' should be extended.

2.1 In this regard, it is pertinent to mention that taxpayers who are required to file the return on 30th September, 2015 as per clause (a) of Explanation 2 to section 139(1) (with exception of taxpayers who are required to file their return on 30th November as a consequence of having either a international transaction' or a 'specified domestic transaction'), consist of:

- Company;
- Any person whose accounts are audited under the Income-tax Act or any Act;
- Working Partners of Firms whose accounts are audited under the Income-tax Act or any other Act.

2.2 Income-tax Return Forms ('ITR Forms') Nos. 4, 5 and 6 pertaining to Companies, Firms etc., the due-date for which is 30th September, 2015 were notified for A.Yr. 2015-16 vide Notification of CBDT dated 29.07.2015 in PDF (readable) format. These Forms were e-enabled and available for E-Filing on 1st, 2nd and 7th August respectively. While the ITRs pertaining to Companies, Firms etc. may have been notified in July, 2015, the process of E-Filing of reports of audit were available to the taxpayers without any hindrance whatsoever in the intervening period. For A.Yr. 2015-16 since there has been no modification in the Forms pertaining to audit reports, these were available for E-Filing on the website even prior to the Notification of ITRs 4, 5 and 6.

2.3 In cases pertaining to Companies, Firms etc. requiring audit, essentially, after closure of the Financial Year on 31st of March, the accounts have to be consolidated, examined and finalized by the taxpayer concerned. This process has to be undertaken by these taxpayers mandatorily as per provisions of the Companies Act, 2013. Thereafter, in cases requiring audit of the accounts as per provisions of the Income Tax Act or any other Act, the process of getting the accounts audited is initiated thereafter. The requirement to file the report of audit and ITR by the prescribed due-date u/s 139(1) of the Act arises only subsequently. Since facility of E-filing of audit report was functioning smoothly as stated in para above, ample time was available to the

taxpayer for E-Filing the e-enabled return of income within the prescribed due-date of 30th September, 2015 even though there might have been slight delay in notifying the Forms.

2.4 Therefore, there is no merit in contention of the Petitioner that since the ITRs and relevant Utilities have been made available late, the 'due-date' for filing should be extended. It may be stated that it is not merely an issue of extending the due-date for filing the tax-return. Any such modification in due-date by way of extension has to be given effect in Business Processes by change in return preparation software to handle modification in Interest liability computation under section 234A/234B of the Act. Similar changes have to be made in processing software to calculate the Refund accurately which requires substantial changes to be made in business rules and which in turn also delays the process of handling and processing of returns and its consequential actions. Granting extension of date for filing the tax return has implications on revenue collections of the Government also since payment of Self-Assessment tax under section 140A of the Act is also delayed as a consequence of such an extension.

3. It has been stated by the petitioner that since the date for filing return in case of Individuals and HUFs was extended till 7th September from 31st July and tax professionals being occupied with these cases, they may not get sufficient time to complete the cases having due-date of 30th September.

3.1 The Government, over a period of time, has greatly reduced the complexities in the process of filing Income-tax returns especially in those cases where the tax return is to be filed by the Individuals/HUFs. Thus, requirement to seek professional advice in such cases has reduced greatly due to procedural simplification. Therefore, for Assessment Year 2015-2016, though the due-date in such cases was extended from 31st July to 07th September, 2015, the same would have hardly any bearing on returns which are required to be filed by 30th September, 2015. Further, as per guidelines of ICAI, a practicing Chartered Accountant, as an individual or as a partner in a firm, can conduct only upto 60 tax audits u/s 44AB. This guideline ensures that the work of conducting audit while filing tax-returns is not uneven and constitutes a manageable workload for the professional concerned. Thus, the practicing CAs have a limited, pre-known and well-defined workload and with proper management, the audit work should not face any time constraints. Therefore, for these reasons, there is no merit in the argument that CAs are not getting sufficient time for finalizing and filing the audit reports as far as returns for A.Yr. 2015-16 having due-date of 30th September are concerned.

4. It is submitted by the petitioner that the tax audit report and ITR form require elaborate disclosures and lot of changes have been made in the recent past.

4.1 It is worthwhile to mention that in A.Yr. 2015-2016, as compared to the earlier A.Yr. 2014-2015, only some minor modifications have been made in the ITR-5, 6 and 7 Forms and the relevant Schema. Therefore, there does not exist any greater compliance difficulty or any additional burden on the taxpayers this year as compared to the last year. Moreover, the process of compulsorily E-Filing the report of audit has also stabilized since its introduction with effect from 01.04.2013. Thus, as the basis of preparation of the audit report and Income-tax return is more or less similar to the pattern existing in the last year, there is no basis whatsoever, to further extend the date merely for the reason that ITRs for A.Yr. 2015-2016 were notified in July, 2015.

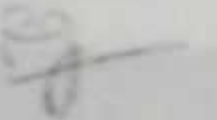
5. The association has also given reasons such as disruption of normal life due to two public holidays in September, proposed Karnataka bandh on 26th September and unscheduled power cuts for seeking postponement of the date for filing tax returns.

5.1 The above grounds have been considered. However, the public holidays are declared in advance. Further, any 'bandh' or other such disruption for just one day cannot be a basis for allowing extn. of date. The E-Filing can be done from a place of convenience or even from

office/home without getting affected from external factors. Further, over the past few years, there has been a tendency to rush for filing at the last moment while the same could have been done earlier without waiting for the fog end towards the due-date. Therefore, in absence of any exceptional circumstances, the extension of date cannot be granted for these reasons.

6. From above, it emerges that case of 'genuine or significant hardship' as stated in the representation does not arise. I am therefore directed to state that representation of KSCAA seeking extension of date for filing the return of income in case of assessee's under compulsory audit and companies, is hereby rejected for the reasons stated in paras above.

7. This issues with the approval of the Chairperson (CBDT).



(Rohit Garg)

Deputy-Secretary, IT(A-II)

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- Pr. CCIT, Karnataka & Goa
- CIT(Judicial), Bengaluru