



**6<sup>th</sup> August, 2020**

To  
Shri Pramod Chandra Mody,  
Chairman  
Central Board of Direct Tax  
North Block,  
New Delhi  
Email – chairmancbdt@nic.in

Respected Sir,

**Subject: Representation for relaxation from levy of interest u/s. 234A on payment of self-assessment tax for A.Y. 2020-21 within extended due date of 30 November 2020**

**ABOUT C.V.O. CHARTERED & COST ACCOUNTANTS' ASSOCIATION (CVOCA)**

C.V.O. Chartered and Cost Accountants' Association is a four decade old, non-profit professional organization established in 1973. It has acclaimed a premier position in society. Its objective is to disseminate knowledge in the field of Taxation, Accounting, Finance and Allied laws. It has membership strength of more than 1600 members. Members of the Association have acclaimed respectable position in the CA practice and industry where they serve. It also organizes general public awareness program. One of the flagship programs is on Union Budget, which is organized in Gujarati Language for general public. The Association also publishes monthly Newsletter which is called 'CVO CA News & Views'. Besides these activities Association also supports students who are pursuing CA, CS & CWA by providing them financial assistance in the form of scholarships and interest free loans.

**BACKGROUND:**

Whole world is going through unprecedented times in facing the pandemic of Covid-19. In response to the situation, Ministry of Finance vide notification no. 35/2020 dated 24-06-2020, extended the due dates for compliance for filing the return of income. However, with a rider that in cases where Self-Assessment Tax exceeds Rs One lakh, the Assessee would be liable to pay interest under section 234A

In continuation to the above relief, we would like to make further suggestions for the changes to be made in scheme for charging interest under section 234A.



## **ISSUES & SUGGESTIONS:**

### **Issue:**

The notification no. 35/2020 issued on 24-06-2020 has extended time limit for filing of income tax return for the assessment year 2020-21 upto 30-11-2020 for all the assessees. This has been a huge relief for tax payers. However, though the due date for filing the return has been extended from 31st July / 31st October to 30th November, there is no relief provided from the interest chargeable under section 234A if the self-assessment tax liability exceeds Rs. one lakh. An assessee having self-assessment tax (SA tax) liability of a taxpayer exceeds Rs. one lakh, taxpayer would be liable to pay interest under section 234A from the expiry of original due date for filing the return of income i.e. 31-07-2020/31-10-2020, as the case maybe. As a result, this provision is causing undue hardship to assessees.

Interest under section 234A is payable for delay in furnishing the return of income within the specified due date. The interest is charged at the specified rate on the amount of tax payable on the total income, as reduced by the amount of advance tax, TDS/TCS, any relief of tax allowed under section 90 and section 90A. If there is no SA tax payable, no interest is payable under s.234A even if the filing of the return is delayed. Whether self-assessment tax shall also be reduced from the tax liability or not, the provisions of Section 234A is silent in this regard. This issue was settled down after the Apex Court's judgment in the case of CIT v. Pranoy Roy [2009] 179 Taxman 53 (SC) and a Circular 02/2015, dated 10-02-2015 subsequently issued by the CBDT. The Court held that the self-assessment tax paid before the due date of filing of return of income shall also be reduced from the tax liability while computing the interest under Section 234A.

However, second proviso to the Notification no. 35/2020 prevents the normal operation of consequential impact of extension of return filing due date. It provides as follows :-

*“Provided further that the extension of the date as referred to in sub-clause (b) of clause (i) of the first proviso shall not apply to Explanation 1 to section 234A of the Income-tax Act, 1961 in cases where the amount of tax on the total income as reduced by the clauses (i) to (vi) of sub-section (1) of the said section exceeds one lakh rupees”*



The Press Release dated 24 June 2020 has explained the impact of above proviso as follows :-

*“In order to provide relief to small and middle class taxpayers, the date for payment of self-assessment tax in the case of a taxpayer whose self-assessment tax liability is upto Rs. 1 lakh has also been extended to 30th November, 2020. However, it is clarified that there will be no extension of date for the payment of self-assessment tax for the taxpayers having self-assessment tax liability exceeding Rs. 1 lakh. In this case, the whole of the self-assessment tax shall be payable by the due dates specified in the Income-tax Act, 1961 (IT Act) and delayed payment would attract interest under section 234A of the IT Act”*

**Suggestions:**

It is submitted that the above referred Notification requires a review since it has resulted in causing unintended hardship to the taxpayers. The reasoning, in support of our submissions is as follows:-

- 1) To compute the self-assessment tax payable, the taxpayer needs to collate relevant information from multiple sources. The most common source to determine the amount of tax deducted at source is Form 26AS. Owing to the pandemic situation, due date to file TDS returns has been extended to 31 July 2020 and to issue TDS certificate by 15 August 2020. This has led to situations where Form 26AS has not been updated till 31 July 2020 and the taxpayers having original due date for filing their return by 31 July, are not in a position to determine the amount of tax deducted at source and their ultimate tax liability by this date.
- 2) In case of taxpayers having income from multiple sources in other countries, the difficulties increase further. Sourcing of relevant information from such country may take longer time due to the pandemic situation prevalent in those jurisdictions also, and some of them may be under partial lockdown. The Indian tax liability in relation to income from other countries can be determined only after receipt of the relevant information and evaluation of tax treaty provisions and benefits.
- 3) Since the taxpayers are finding it difficult to compile relevant information for working out the tax liability, consequently, they are also unable to compute their SA tax liability accurately.



- 4) In the case of CIT v. Pranoy Roy [2009] 179 Taxman 53 (SC), the Apex Court held that if taxes were paid in full, interest cannot be levied u/s. 234A for delayed filing of return. Applying this principle, the taxpayers should not be fastened with the liability to pay interest under section 234A within the extended deadline to file the return of income.
- 5) Many taxpayers are coping with stress due to actual or fear of loss of jobs, unpredictable business scenarios, increased cost of operations for complying with other advisories, meeting regular fixed costs & borrowing costs, risk of getting infected by the virus, medical costs, etc. These factors understandably prevent the taxpayers from compiling relevant information required to compute their incomes, taxes and fill up return forms.
- 6) Also, it may be appreciated that interest under section 234A is payable in case of default in furnishing the return of income within the specified due date. As you are aware, the online utility for filing the return of income have been available on the income tax portal belatedly-

<b>Income tax return</b>	<b>Date on which utility was released</b>
ITR 1	08-07-2020
ITR 2	20-07-2020
ITR 3	31-07-2020
ITR 4	08-07-2020
ITR 5	Not released*
ITR 6	Not released *
ITR 7	Not released *

*\*Till the date of this representation*



	Count from 01-April to 30-June*		% of Reduction in filing of returns
	AY 2019-20	AY 2020-21	
ITR 1	40,24,013	9,74,520	75.78%
ITR 2	4,39,492	3,362	99.24%
ITR 3	7,24,861	0	100.00%
ITR 4	17,02,817	3,84,829	77.40%
ITR 5	27,525	0	100.00%
ITR 6	0	0	0
ITR 7	1,243	0	100.00%

\* As per data available on the site [incometaxindiaefiling.gov.in](http://incometaxindiaefiling.gov.in)

The fact that even the Income tax department is facing challenges amidst the pandemic crisis which has led to long delay in issuance of the return utility proves that the situation is beyond everyone's control and needs a compassionate approach. It may be appreciated that even the Income tax department could not come out with the return utilities and schemas in time, how could the taxpayers be expected to compute their tax liability and pay it by the original due dates to avoid interest under section 234A amidst the current extraordinary circumstances.

It is unjust to levy interest u/s. 234A in such situation, particularly when return filing due date has been extended. For delay in payment of advance tax, the taxpayers are already required to pay interest u/s. 234B and 234C from which there is no relaxation. In any case bulk of the tax collection takes place through withholding of taxes and advance payment of taxes. Thus, levying interest u/s. 234A defeats the very purpose of extending time lines for filing return of income.



## CONCLUSION

The current pandemic crisis has added to the economic crisis of the businesses which were already struggling due to economic slowdown prior to the lockdown.

It is, therefore, prayed that the Notification no. 35/2020 may be amended to omit the said second proviso in order to provide consequential relief from interest under s.234A upto the extended time for filing return of income.

Thanking you in anticipation of favourable consideration of the above genuine prayer,

Yours sincerely,

**JIGAR**  
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**CA Jigar Ratilal Gogri**  
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