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Letter no. 1260

Date:23.10.2020

Respected *Maidam Sitkohamanji*

Subject: Extension for due date of Filing Income Tax Returns and Audit Report under the Income Tax Act for Financial year ended 31.03.2020

Madam, at the outset, may I congratulate you on your persistence in the face of the unprecedented challenges placed before us by Coronavirus and for all the efforts made by your good office in providing redressal and respite to the common man. Also congratulations on announcing bonus to employees which would spur growth and set in motion the virtuous cycle of prosperity in India.

Acknowledging the challenges faced by the people due to the spread of Coronavirus, your good office acted swiftly and provided extension for various deadlines under the Income Tax Act through The Taxation And Other Laws (Relaxation Of Certain Provisions) Ordinance, 2020. Further relief to the taxpayers for making various compliances was accorded via Central Board of Direct Taxes (CBDT) vide notification NO.35/2020/F No.370142/23/2020-TPL dated 24/06/2020 which extended the due date of filing of Tax Audit Report (TAR) for assessment year 30/09/2020 to 31/10/2020.

However, I am moved to submit my request for further **general extension for the date of filing Income Tax Returns and Tax Audit reports for the Financial Year 2019-2020 till 31/12/2020.**

To prove the merits of above mentioned request, I have categorised this submission into three categories : i) Current State of Coronavirus in India; ii) Coronavirus

Related Impediment in conducting business; iii) In keeping with related developments

I. Current State of Coronavirus in India

1. The Honourable Prime Minister Shri Narendra Modi in his address to the nation on 20/10/2020 reiterated that the war against Covid is still ongoing and that the public should still continue to take utmost care and follow the self imposed restrictions i.s 'Jab Tak Dawai nahi, Tab Tak Dhilai Nahi'.
2. Honourable Health Minister Shri Harshvardhan also recently admitted that community transmission of Covid-19 was detected in parts of the country. This poses serious threat to life and well being of staff. Higher chances of getting infected have distressed and dissuaded many from venturing too far outside their vicinity.
3. Everyday cases are being reported in tens of thousands and these pose serious threat to life to all which include both auditors and auditees.

II. Coronavirus Related Impediments in conducting business

1. Firstly, work was completely disrupted and disturbed due to the series of lockdowns that were announced to contain the spread of coronavirus.
2. Further, Coronavirus related complications surfaced and the first phase of lockdown was implemented in the month of March which, as is known, is a very hectic and critical month in a Financial year for all audit related activities. It played a significant role in deferring the deadlines.
3. Even as offices switched to work from home models, there are several aspects of audit that require physical verification such as checking cash in hand, stock, etc. that could not be carried out due to curbs on movement.
4. All the companies and associated audit firms restarted their operations in a phased manner but as they were only able to work with 1/3rd staff strength as per Government guidelines, they were not able to perform at optimal efficiency.
5. All the companies and audit firms are also feeling the loss of Article Assistants in their financial staff as they were unable to carry out their responsibilities due to curbs on movement during earlier months and are

now seeking leave for preparation for the CA exams, which has been postponed to the month of November'2020.

6. Several Chartered Accountants and Tax Practitioners themselves have also been infected and have not been able to work for a minimum of 14 days.

III. In keeping with other related developments

1. That due to the current pandemic situation, the last date of holding AGM for corporates has been extended to 31st December, 2020 by your Ministry i.e Ministry Company Affairs. Based on this, the statutory audit can be concluded even beyond 30th November, 2020. Hence, ITR can be filed by the company only after completion of statutory audit under Companies Act 2013 which can be completed upto 31/12/2020. Otherwise, return will be defective.
2. In a case where the Transfer Pricing audit is also applicable, the return shall be filed only after the filing of Transfer Pricing Report in Form No. 3CEB. One may note that since the date of AGM is extended, Annual Returns by the companies will be filed only subsequently. This will delay in getting databases for the purpose of comparables for the Transfer Pricing audits. Adequate time must be provided to comply with the audit and return filing timelines in order to maintain the quality of work.
3. The due date for filing of Annual Return GSTR-9 and Reconciliation Statement GSTR9C for the FY 2018-2019, was also extended to 31/10/2020 which also clashes with the present due date of 31/10/2020 for filing of tax audit reports. These date clashes would actually add further pressure on the businesses and tax practitioners for timely completion of work.

4. This year Income Tax Return forms were released very late and a revision was introduced in Form 3CD i.e. Tax Audit Reports Form in the month of October . Further, the revised schema / utility for Form 3CD was released and updated on 22/10/2020. All reports (including reports ready for signature) after 01/10/2020 need to be accordingly updated in new form. Assesseees are in need for more time to comply with the changes and produce verified reports.
5. In order to provide information of verification under new clauses in Form 3CD the company needs to carry out changes in accounting packages to extract new information before it could be furnished to auditors for audit.

Realising the importance of timely updation of forms, Hon'ble Delhi High Court vide their judgment in the case of Avinash Gupta v. Union of India in W.P (C) No. 9032/2015 dated 21.09.2015 had specifically directed CBDT to ensure *“the forms etc. which are to be prescribed for the Audit Report and for filing the ITR are available as on 1st April of the assessment year unless there is a valid reason therefor and which should be recorded in writing by the respondents themselves, without waiting for any representations to be made”*.

6. The Institute of Chartered Accountants of India would also prepare a guidance note on compliance with revisions introduced in October which is likely to take further two months.
7. Besides, the routine deadline for GST filings for FY 2019-20 is 31st December 2020, but within such a short time, filings cannot be effectively done. Similarly, the clarification in respect of the treatment of certain items to be presented in the GST Annual Return was provided as late

as on 9 October 2020. The GSTN Portal also presents significant difficulties in terms of filing speeds and downtime.

8. The Central Bank has offered relief to borrowers by allowing banks to extend the moratorium and restructure loans in an effort to gear up businesses. Similar initiatives in tax compliance will allow some breathing space to businesses and tax professionals and businesses alike.

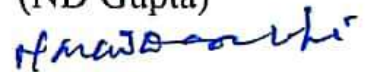
Madam, aforementioned are some of the practical difficulties beyond the control of management and auditors under these special circumstances that are being faced across the spectrum. These challenges are preventing Companies from being able to prepare financial statements, account statements, balance sheets and other requirements. Seeing as certain restrictions continue, public transportation remains largely suspended and businesses are not yet working at full capacity even as we approach the end of October; it may prove counterproductive to expect preparation of ITR on such a tight schedule.

Ma'am, short term compromises are being made in order to fulfill long term goals across the industry. General extension for ITR filing may be viewed similarly as extensions provided for Vivad Se Vishwas Scheme wherein the extension was provided with less than 10 days remaining for deadline and that also in the first phase of Coronavirus lockdown itself. It previously had a due date of 30/03/2020 was also extended 30/06/2020 and was further extended for issuing any notices upto 31/03/2021. Such a move would facilitate accomplishing the intended objective of reducing litigation disputes. In another commendable move, CBDT has extended the due date for filing belated and revised return of income for A.Y 2019-20 on from 30/09/2020 to 30/11/2020, that too suo moto.

In fact, I understand from the Ministry of Parliamentary Affairs that Parliament may not convene for the Winter Session this year owing to high risk due to COVID. If such precautions are being taken for public representatives, then similar caution must be accorded to the common man.

Abovementioned suggestions are in line with PM Modi's motto for improving Ease of Doing Business and I am hopeful that you will consider my submission favourably. You have always maintained a pragmatic approach and considering all the above difficulties brought on by unforeseen circumstances, I earnestly request you to extend the due date for filing of income-tax returns, filing of tax audit reports and transfer pricing reports for all the taxpayers for A.Y. 2020-21 to 31/12/2020;

Warm Regards,
(ND Gupta)



To,
Smt. Nirmala Sitharaman
Honourable Minister of Finance,
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