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F.No. 225/358/2018/ITA.II
Government of India
Ministry of Finance
Department of Revenue (CBDT)

North Block, New Delhi, dated the 25th of October, 2018

Order under section 119 of the Income-tax Act

The Tax Bar Association, Gauwahati (Petitioner), has filed a representation dated 20.09.18 before the Central Board of Direct Taxes (CBDT) seeking extension of the due date prescribed under section 139(1) of the Income-tax Act, 1961 (Act), being 30th September, 2018, for filing of Income-tax Returns (ITRs) as well as Tax Audit Reports (TARs) pertaining to assessment-year 2018-19. It may be mentioned that taking note of all the relevant issues, CBDT, vide orders dated 24.09.18 & 08.10.18, has already extended the due date for filing ITRs as well as TARs from 30.09.18 to 31.10.18. In this matter, petitioner had also filed a Writ-Petition before the Hon'ble Gauhati High Court. In hearing before the Hon'ble Court, Petitioner stated that the relaxation provided by the CBDT till 31.10.18 may not be sufficient. The Hon'ble Gauhati High Court vide order dated 12.10.18 in WP(C) 7361/2018 while disposing off the petition has directed the CBDT to consider representation of the Petitioner dated 20.09.18 and pass a speaking order in this matter on or before 25.10.18. Accordingly, this order is being passed in consequence to the directions of the Hon'ble Gauhati High Court.

2. In their representation dated 20.09.18, Petitioner has stated that since 01.04.18, many changes/alterations have been made in the Utility & Schema which are essential for e-filing ITRs & TARs thereby reducing the effective time available for e-filing TARs & ITRs by the prescribed due date. It is further stated that due to amendments effected in format of the TAR with effect from 20.08.18, as accountability of the auditors has increased further, the due date should be extended so that quality of audit is not compromised. It is also stated that it may not be practicable to certify the audited accounts under Income-tax Law without auditing the turnover under GST laws in view of due date of Turnover Audit under GST law, being 31.12.18. The Petitioner has also stated that ICAI has already submitted three representations in this matter and it was joining hands with ICAI in the requests made therein.

3. The three grounds in representation of the Petitioner dated 20.09.18 are discussed as under:

3.1 Multiple revisions in Schema/Utility for ITR/TAR:

3.1.1 Findings: The ITR Forms 3, 4, 5 and 6 were notified for assessment-year 2018-19 vide Notification of CBDT dated 03.04.2018 in PDF (readable) format. Thereafter, these ITR Forms were e-enabled and were available for e-filing from 18th, 21st, 26th, 21st May respectively. The Utility for e-

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filing the TARs was available from 01.04.18 itself while facility for uploading of TARs for assessment-year 2018-19 was specifically enabled from 05.04.18. It has been reported that since 01.04.18, a large number of ITRs/TARs were successfully filed by this segment of taxpayers.

3.1.2 Relaxation given: Considering some difficulties expressed by the stakeholders in their representations, the CBDT, has already extended the due date for filing of ITRs & TARs from 30.09.18 to 31.10.18. Thus, this issue stands suitably redressed and no further extension of time is warranted on this ground.

3.2 Amendment in format of Tax Audit Report:

3.2.1 Findings: Vide Notification No. 33/2018 of CBDT dated 20.07.18, TAR Form was amended to ensure reporting of certain transactions in view of changes affected in provisions of the Act in last 3-4 years and also to rationalise reporting of the some of the existing clauses of the TAR. For sake of clarity, amendments in TAR vide Notification No. 33/ 2018 of CBDT dated 20.07.18 are discussed clause by clause in **Annexure** to this order. It emerges that amendments made vide Notification dated 20.07.18 are mostly incremental and routine in nature and do not require any major changes in audit technique applied for reporting in TAR. Further, since most of the amended reporting requirements are factual in nature, they are readily available from assessees records. Also some of changes in the TAR are essentially reporting requirements in respect of certain anti-abuse provisions, being applicable to a limited number of cases only while some of the reporting requirements in respect of international transactions are applicable to the assessees required to file report under section 92E of the Act, wherein the due date for furnishing of ITR /TAR is 30th November, 18.

3.2.2 Relaxation given: (I) Considering the fact that amendments in format of TAR may have some impact on completion of ongoing audits, notification for amendment to TAR issued on 20.07.18 was made effective from 20.08.18 & TARs were allowed to be filed in the old format upto 19.08.18. Therefore, a clear one month time was provided to the tax auditors and stakeholders to complete the ongoing audits on the basis of reporting requirements in the pre-amended TAR.

(II) Further, to ensure that two of the substantive amendments in the TAR Form do not impede the process of filing TARs pertaining to assessment year 2018-19, vide Circular No. 6/2018 of CBDT dated 17.08.18, reporting requirements prescribed under clause 30C (pertaining to General Anti-Avoidance Rules (GAAR)) and under clause 44 (regarding reporting of break-up of expenses in respect of GST) have been kept in abeyance till 31.03.19.

(III) Thereafter, to further facilitate the taxpayers in filing their ITRs/TARs by the prescribed due date, the CBDT, in exercise of its powers under section 119 of the Act, vide orders dated 24.09.18 &

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08.10.18, extended the due date for filing ITRs/TARs for assessment-year 2018-19 from 30.09.18 by one month.

3.3 Reconciliation of Financial Statements with GST Returns:

3.3.1 The last issue mentioned in the representation is regarding need to reconcile information being furnished in the ITR/TAR vis-à-vis Turnover Audit Report under the GST. It is also stated that for rectification of mistakes in claim of input tax credit under the GST, time is available till 20.10.18. It has been further stated in the representation that it is not practical to certify the audited accounts under Income Tax Laws without auditing the turnover under the GST Laws.

3.3.2 Findings: (i) It is pertinent to mention that audit under the Income Tax Act is an independent audit based on the primary evidence in the form of bills/vouchers. Under section 44AB of the Act, an auditor is required to audit the books of accounts of the assessee which are written on the basis of primary documents e.g. invoices, bills, vouchers, bank statements etc. These documents are available with the assessee at the time of the closure of the financial year on 31st March or shortly afterwards.

(ii) Under GST, monthly sales and purchases figures are available in the GSTR-3B Form which was required to be filed by the prescribed date in the following month. Thus, information regarding Turnover for the financial year 2017-18 on the basis of the GST Return for reconciliation with the books of accounts was also very much available with the assessees soon after the closure of the financial year. Further, information regarding input tax credit is also available in the invoices/bills which are already available with the assessees.

(iii) It is noteworthy to mention that this year there is a significant jump in filing of ITRs & TARs by the taxpayers covered under clause (a) of Explanation 2 to section 139(1) of the Act for whom the prescribed due date is 30.09.18. **Last year till 24.10.17, 9.47 lakh ITRs/TARs** were filed whereas **the figure has almost doubled with 18.44 lakh ITRs/TARs being filed till 17.10.18** for this year. Therefore, when a large number of assessees are able to file their ITRs/TARs under Income Tax without any difficulty, there is no valid reason for further extension of due date for the reasons related to GST as stated in the representation of the Petitioner.

3.3.3 Relaxation given: The request for grant of further time for filing of ITRs/TARs stands suitably redressed with extension of prescribed due date for filing ITRs/TARs under the Income Tax Act for assessment-year 2018-19 from 30.09.18 to 31.10.18 vide orders of the CBDT dated 24.09.18 & 08.10.18.

4. It may be mentioned that span of time for revising an ITR & filing a belated ITR has been considerably reduced from assessment year 2017-18 onwards. Now, the time available for filing a

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belated/revised ITR for any assessment year is till the end of the relevant assessment year. Therefore, granting any further extension of the prescribed due date under section 139(1) of the Act beyond 31.10.18 would be detrimental to those assessees who may want to revise their return later on and also defeat the purpose of improving the culture of tax-compliance in the country.

5. As concerns of the assessees have been suitably redressed with extension of due date by one month (i.e. till 31.10.18), representation of the Tax Bar Association, Guwahati dated 20.09.18, requesting for further extension of due date for filing ITR/TAR beyond 31.10.18 is hereby rejected.

Enclosure: as above

R.Rajarajeswari 25/10/18

(Rajarajeswari R.)
Under Secretary to Government of India

Copy to:

- The President, Tax Bar Association, Guwahati
- Pr. CCIT, North-Eastern Region

R.Rajarajeswari 25/10/18

Under Secretary to Government of India

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ANNEXURE

NATURE OF AMENDMENT	RATIONALE FOR AMENDMENT	COMMENTS
Modification of clause 4 Reporting of GST Number	The existing clause 4 already required reporting of tax identification number in respect of various indirect taxes. In view of the implementation of GST, reporting of the requirement of GST Number has been mandated.	As the requirement is only to report the GST Number which is readily available, no additional compliance is required.
Modification of clauses 19 & 24 Reporting of deduction and deemed income under section 32AD	The existing clauses 19 & 24 already required reporting of deduction claimed and deemed incomes under various sections. As section 32AD was inserted vide Finance Act, 2015, the reporting requirement for the said section has been mandated.	The deduction is based on the investment made in the new plant and machinery which is already reported by the tax auditor under the existing clause 18. No additional compliance is required.
Modification of clause 26 Reporting of outstanding payment to Indian Railways	The existing clause 26 already required reporting of various payments disallowable under section 43B. The payment to Indian Railways has been added to section 43B vide Finance Act, 2016.	The outstanding payment to the Indian Railways shall already be reflected in the balance sheet of the assessee. Hence, no additional compliance is required for reporting under this clause.
Insertion of new clauses 29A & 29B Reporting regarding certain deemed incomes under section 56	The Finance Acts 2014 and 2017 have amended section 56 to incorporate certain deemed income. The reporting requirement in respect of these incomes has been mandated.	These provisions are essentially anti-abuse provisions and would be applicable in a limited number of cases. Further, the transactions to be reported being very specific in nature, no significant compliance is required for reporting.
Insertion of new clauses 30A & 30B Reporting requirement regarding limitation on interest deduction and secondary adjustment.	The Finance Act, 2017 inserted provisions regarding limitation of interest deduction and secondary adjustment. These clauses mandate reporting regarding the same.	These clauses shall be applicable in a very limited number of cases. Further, in most of the cases where these clauses will be applicable, the assessees would be required to furnish the report under section 92E. Hence, the due date for furnishing the Tax Audit Report in these cases shall be 30th November, 2018. Therefore, the Tax Auditor will have sufficient time to report these details.
Insertion of new clause 30C Reporting regarding GAAR	As mentioned, applicability of this clause has been kept in abeyance till 31-03-2019.	
Modification of clause 31 Reporting requirement of prohibited cash transactions	The existing reporting requirement has been rationalised in view of certain ambiguities and insertion of new section 269ST.	The existing reporting requirements in TAR already require examination of cash transactions by the tax auditor for the purposes of reporting of cash expenditure/transactions under section 40A(3), 269SS and 269T. Therefore, no additional compliance is required for reporting under this clause.
Modification of clause 34	The existing clause in the TAR already required reporting of the information	As the tax auditor is supposed examine TDS/TCS returns for

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Rationalisation of the requirement of reporting of TDS/TCS compliance	mandated under the amended clause. However, there was ambiguity regarding reporting in the case where the return has been filed within due date.	reporting under the existing clause 34, no additional compliance is required.
Insertion of new clause 36A Reporting of deemed dividend	The existing clause 36 already required reporting of DDT. However, there was no requirement to report deemed dividends. Hence, the reporting of deemed dividend has been mandated.	As the provisions of deemed dividend are applicable only in the case of specified related party transactions. These transactions being limited in number, no additional compliance is required.
Insertion of new clause 42 Reporting regarding furnishing of certain specified statements	The scope of furnishing of statement of financial transactions (SFT) and other transactions has been widened in recent times. This clause requires reporting of compliance with the provisions regarding reporting of these statements.	The requirement is factual in nature and can easily be verified from the furnished statement. Hence, no significant compliance for reporting is required.
Insertion of new clause 43 Reporting regarding furnishing of Country-by-Country Report	Finance Act, 2016 mandated furnishing of CbCR. This clause mandates reporting regarding the same.	The reporting requirement is totally factual in nature and can easily be reported based on statement filed by the assessee. No additional compliance is required.
Insertion of new clause 44 Reporting of break-up of expenses in respect of GST	As mentioned, applicability of this clause has been kept in abeyance till 31-03-2019.	