

Can India's tax systems override its tax laws?



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Many taxpayers are facing a peculiar situation, with small demands raised on processing of their tax returns, generally due to difference in interest, TDS (tax deducted at source), etc. In such cases, the taxpayers generally pay off the demand online. Normally, the system adjusts such payments against the demand, and eliminates or reduces the tax demand accordingly.

In the past few months, taxpayers who have paid off their demands are not only still seeing these demands as outstanding, but are receiving notices from the Centralised Processing Centre (CPC) of the income tax department asking them to settle the outstanding demands. When the issue is taken up with the CPC call centre, the taxpayer is advised to either file a revised return or a rectified return.

Under the law, a revised tax return can only be filed if a person notices an omission or a wrong statement in his tax return. When the return was filed, there was no omission or wrong statement—at best, it was an incorrect computation.

Further, the tax paid subsequently was not paid at the time of filing of the original return—non-reflection of such tax is not an omission in the original tax return. Therefore, as per law, a taxpayer cannot file a revised tax return in such cases. Further, a revised tax return can only be filed up to 31 December and not thereafter.

In law, there is no concept of a rectified tax return. Besides, if one tries to file a rectified tax return, late fees is automatically added to one's tax liability. Such late fees is not payable at all since the original return was filed well within time. Therefore, one is unnecessarily penalized if one files a rectified tax return.

The only option in such cases is to file a rectification application before the jurisdictional tax officer. The difficulty that the tax officer faces is that the rectification rights are not transferred to him by the CPC for months together, delaying an otherwise simple resolution.

The taxpayer therefore has to live with these notices for a few months till the rectification is carried out by the jurisdictional tax officer.

Should not the tax system be designed in accordance with the tax laws? Why should small individual taxpayers be asked to compensate for defects in the system by burdening them with unnecessary additional work of filing a rectified or revised tax return when the law does not mandate it?

Another serious system problem is in the processing of tax returns. In many cases, one is faced with a demand, due to defective processing of the tax return. There are basic processing mistakes, like not permitting current year long-term or short-term capital losses to be adjusted against long term capital gains, not granting of foreign

tax credit or TDS credit, etc. Very often, where one asks for reprocessing of the return, at times, one is faced with a higher tax demand! Taxpayers are forced to file appeals against such intimations. Most of the appeals filed today are against the intimation raised on CPC processing of the tax returns.

Can such simple mistakes not be addressed by ensuring the robustness of the tax processing software, and by permitting rectification at the level of the CPC itself? Is it fair for the tax system to be burdened with a large number of appeals because of mere defects in the processing of the tax returns?

The new tax portal has been in existence for one-and-a-half years. After the initial hue and cry over its malfunctioning, the portal was rectified, and is generally operating properly. It is now time for the tax department to look at these problems with the centralised tax processing software, and this anomaly of demands continuing to appear as outstanding even after being paid.

One method of resolving this issue of removing incorrect tax demands would be making a provision in the system for a taxpayer to upload details of payment of such outstanding demands and consequent deletion of the tax notices. The faster release of rectification rights to the jurisdictional tax officers would also permit such blatant mistakes to be corrected.

These steps need to be taken at the earliest, so that incorrect tax demands do not continue to clog the system.

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