Need to enforce new tax charter at the earliest

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Tax department should provide accurate information to ensure proper compliance

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The release of the Taxpayers' Charter by the Prime Minister on 13 August 2020 was an important development for taxpayers. This Taxpayers' Charter now has the backing of law, unlike the earlier Citizens' Charter issued by the income tax department. While the Central Board of Direct Taxes (CBDT) can issue orders, instructions, directions or guidelines for the administration of the charter, no such orders have been issued so far. In the meanwhile, taxpayers have been asking if the new charter is being observed.

Take the recent controversy regarding a schedule inserted in the tax returns, making it mandatory for taxpayers to declare complete details of all individual transactions of sale of listed shares held for more than one year (long-term capital assets or LTCA) where the concessional rate of tax of 10% is applicable. Filling up all these details in the tax return filing utility is quite an onerous task.

When certain news reports pointed this out, a press release was issued by the CBDT on 26 September 2020. It stated that in computing long-term capital gains (LTCG) on such shares, substitution of market value as on 31 January 2018 is required, and the taxpayer may not claim or wrongly claim the benefit of such grandfathering due to lack of understanding of the provisions.

According to the CBDT, if such scrip-wise details are not given, they will not be able to check the correctness of the claims, requiring many returns to be audited, leading to unnecessary grievances or rectifications at a later stage. The release also stated that scrip-wise details are not required to be given in cases where such grandfathering is not claimed. The fact, however, is that such scrip-wise details have to be given for all cases of LTCG in listed shares.

The logic given in the press release seems to spring from a mistrust of taxpayers, and directly contradicts the provision in the Taxpayers' Charter, which states that the department shall treat every taxpayer as honest unless there is a reason to believe otherwise. If the department's logic is that we trust the taxpayer, but that he may make mistakes, why does that logic not apply to cases of other LTCA where the taxpayer is permitted to substitute fair market value as on 1 April 2001 if the asset was acquired before that date? There are so many other computations where the taxpayer has to do complex calculations, but such extensive details are not required to be provided. Besides, who is responsible for burdening the taxpayer with such a complicated provision where the taxpayer is likely to make mistakes? Surely, if trust is really reposed in taxpayers, the form need not ask for details of each and every transaction. An overall check is available to tax authorities, as to whether all transactions are included or not, by comparing the total sales proceeds disclosed in the return with information received from the stock exchanges.

But the more glaring aspect is the violation of the statement in the Taxpayers' Charter that the department shall duly take into account the cost of compliance. Since this is part of the department's commitment to taxpayers, this obviously refers to the cost of compliance of taxpayers, and not that of the department. Of course, the tax authorities may counter this with the fact that these tax returns were finalized and notified in April itself, well before the issue of the Taxpayers' Charter.

The fact, however, remains that over the past few years (and decades), an increasing burden has been placed on taxpayers to give more and more details in the tax return forms. Is it now high time that a study is done by the government on the amount of time taxpayers spend in compiling and entering the information required in the tax return, filing the tax return and then endlessly applying for rectification of mistakes, while at the same time responding to emails pointing out that tax dues raised on account of such mistakes are outstanding. This will certainly bring out the fact that the cost of tax collection in the country (costs of the tax department) is primarily on account of the huge burden of compliance cast on obliging taxpayers.

Every time additional disclosure requirements are added to tax returns, a study of compliance cost of such disclosures must be carried out. Not only that, the results of such studies must be made publicly available to all taxpayers, so that they are aware of the burden that is being placed on them. This will also ensure that another promise of the Taxpayers' Charter is met, that the department shall provide accurate information for fulfilling compliance obligations under the law.

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