

Opinion | Why income-tax department needs to streamline the reassessment process

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Verification of information needs to be conducted in a transparent and fair manner

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With increasing computerisation of the income tax department, and the collection of data, based on Permanent Account Numbers, the tax authorities have been moving to a system of verification of such information, and taking action if such verification shows that the relevant income has not been offered to tax.

The verification seems to have been carried out in many cases for financial year (FY) 2011-12. Where income has not been offered to tax in the return of income, a notice is issued for reassessment. Since reassessment can't happen after seven years from the end of the relevant FY (six years from the end of the assessment year), except where it is on account of foreign income and assets, the tax authorities seem to have focused on cases where the time limit for reassessment was running out.

This is absolutely fine and the correct thing to do, in order to detect cases of tax evasion. Unfortunately, as in the past, the problem lies in the implementation. The manner in which some of these enquiries have been conducted and reassessment proceedings commenced leaves much to be desired.

Very often, the time given to the taxpayer to respond to the notices is very short, at times, just about a week. Given the fact that much of this information pertains to events which occurred six years ago, the time limit of one week is too short for a taxpayer to retrieve old records and verify the correctness of the information. In such cases, where the taxpayer asks for time to provide the information, in many cases, given the limitation for initiation of reassessment proceedings, the tax authorities prefer to err on the safer side by issuing notices for reassessment.

At times, reassessment proceedings are also initiated where the tax officer carrying out the verification does not fully comprehend the nature of the transaction. In an actual case, a taxpayer invested in Fidelity Mutual Fund but did not retain the

statements. When asked for the statements, she obtained and furnished them, but since Fidelity had been acquired by L&T Mutual Fund, the statements were on the stationery of L&T Mutual Fund, which the verifying officer refused to accept, and initiated reassessment proceedings. This was despite the fact that an order from the Securities and Exchange Board of India, confirming the takeover, was provided to him.

This creates a nuisance for genuine taxpayers, who have disclosed such income but have not been given adequate time to respond and have to face reassessment proceedings for no fault of theirs. In these proceedings, the assessing officer is free to go through the entire income and ask for details and supporting documents. Given the fact that the proceedings are taken up later, retrieving seven- or eight-year-old documents for a large number of transactions becomes a daunting task even for the most systematic and compliant taxpayer.

While detection of tax evasion is necessary, it is also important to ensure that, in the process, genuine taxpayers are not unduly harassed. Can the tax authorities not initiate these enquiries well in time or even a year before, so that the enquiry is not conducted in a cursory manner without adequate opportunity being given to the taxpayer? Ideally, such enquiries should be conducted within a couple of years of the occurrence of the transactions. Such verification obviously requires more income-tax staff.

Tax authorities need to be mindful of the fact that reassessment proceedings are not just meant to conduct enquiries, but only to bring to tax such income that has not been taxed. In other words, there should already be a prima facie view formed by the tax authorities that certain taxable income has not been disclosed, before reassessment proceedings are initiated. Reassessment proceedings cannot be a substitute for making enquiries.

Tax authorities should also keep in mind that reassessment proceedings result in considerable inconvenience to taxpayers, and also take considerable efforts and time on the part of the tax authorities. They should, therefore, ensure that it is only in cases of where income has not been offered to tax that reassessment proceedings are resorted to, and not in cases where they have yet to complete the process of verification.

Verification also needs to be conducted in a transparent and fair manner, and should be monitored by senior tax officials, such as commissioners, to ensure that there is no misuse of power or unnecessary reassessments recommended by the verification team. As this form of verification and reassessment would be resorted to in more cases in the future, with the growth in the collection of information, it is all the more essential that these steps be taken to ensure that proper verification is conducted without undue harassment of innocent taxpayers.

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