

Faceless taxation regime: Are you being heard by the tax authorities?



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- Consultation with taxpayers should happen round the year, not just during budget time

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One of the biggest challenges that a taxpayer faces under the faceless taxation regime is to ensure that he is given a fair hearing during the assessment process as well as during the appeals process. Similarly, with electronic centralized processing of tax returns, taxpayers have to often bear the brunt of mistakes, without having adequate opportunity of putting across their views. The other challenge often faced by taxpayers is that tax laws are framed unilaterally, without considering their views. The counter to this by the government and the Income Tax (I-T) department is that during assessment and appeals, taxpayers are given an opportunity to present their case, and that pre-budget and post-budget consultations are held with various bodies to discuss the tax provisions. Is this really effective in practice?

In a large number of cases before the High Courts challenging assessment and appeal orders, the courts have set aside the orders solely on the ground that taxpayers were not given an opportunity of being heard. Tax proceedings are quasi-judicial proceedings, where justice has to be done, and where the right to be heard is one of the principles of natural justice. Denial of such right violates this principle, and renders the entire proceeding invalid.

Even in those rare cases where this right of hearing was provided, the final order generally did not reflect any of the taxpayer's arguments, or address any of the objections raised. Therefore, such hearings seem to be a mere formality, without a real intention to actually understand or address the concerns of the taxpayer.

Similarly, while processing the returns of income, very often taxpayers receive e-notices or intimations either proposing to treat the tax returns as defective, or raising demands by not giving credit for tax deducted at source or taxes paid. The response or rectification application filed is often ignored or summarily brushed aside by the centralized processing centre for no valid reason. This results in taxpayers having to necessarily file appeals to get justice.

Around a month back, the finance minister actually told the tax authorities to take the time out to speak with taxpayers and understand the problems they face with tax laws. This was in response to complaints about the ambiguity of certain provisions of the tax laws. Many representations are made both pre-budget and post-budget regarding the proposed amendments to tax laws. Many of the representations pertain to drafting errors which need to be corrected or would otherwise result in litigation or have unintended consequences. Unfortunately, one rarely finds any corrective action being taken when the budget is ultimately passed, resulting in multiplication of litigation in subsequent years.

Consultative process needed

In all these situations, while the tax authorities seem to be going through the motions of hearing taxpayers, such meetings often seem to be taking place with a closed mind, where the outcome is pre-decided. Unless tax authorities approach such meetings with an open mind, and regard it genuinely as a consultative process and not just a process to be gone through to tick off a box, taxpayer dissatisfaction will continue.

One of the essentials of the faceless tax processing regime is an easily accessible procedure for taxpayers to convey their grievances to the right person, and not just to a call center that only addresses superficial grievances. In faceless assessments and appeals, taxpayers need to get the assurance that justice is really being done by not only giving them a hearing, but ensuring that all their concerns are really addressed and that orders are passed in a fair and judicious manner.

Framing of tax laws should also be more of a consultative process, with a proper understanding of the ground realities and difficulties being faced by taxpayers. What may look good in theory may often create huge practical difficulties – compliance problems need to be kept in mind while finally framing the laws. While one heard a few years back that compliance costs that taxpayers have to incur would be weighed against the tax benefits while proposing tax amendments, the amendments in recent years do not seem to have considered such a cost-benefit analysis. If this has been done, it is essential that such analysis be made public, so that taxpayers understand the significant offsetting benefits perceived by the Government.

The consultation process with taxpayers should also not be restricted only to the time of the budget, but should be an ongoing process throughout the year to address genuine taxpayer grievances. This will result in more productive taxpayers which can really boost tax collections.

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