

EVER CHANGING RULES AND DIGITAL PROCESSING A MAJOR CONCERN FOR TAXPAYERS



POWER
POINT

GAUTAM NAYAK

We welcome your views and comments at
mintmoney@livemint.com

The income tax department's online tax return filing and processing system has proved to be a vast improvement over the old manual system.

However, more than a decade after the online system was launched, taxpayers continue to face difficulties, best exemplified by a recent Supreme Court order.

In this case, the taxpayer received a demand of ₹2.01 crore from the Centralized Processing Centre (CPC) due to an incorrect calculation of the surcharge on income tax at 37%.

Subsequently, the person challenged this incorrect demand in the Delhi High Court, which dismissed the writ petition, saying the taxpayer had an alternative remedy of filing an appeal against the order. The taxpayer then filed a special leave petition in the Supreme Court against the order.

The apex court noted that the taxpayer had faced a similar demand of ₹1.33 crore for the previous year. In a writ petition to

the high court that year, the tax department had agreed to cancel the incorrect demand.

In this case, too, the tax department again submitted before the apex court that it had rectified the incorrect computation for the year in question.

However, the Supreme Court observed that the story did not end there. While the matter was pending before the top court, a demand of ₹63 lakh was raised for the following year, again due to an incorrect computation of the surcharge at 37%.

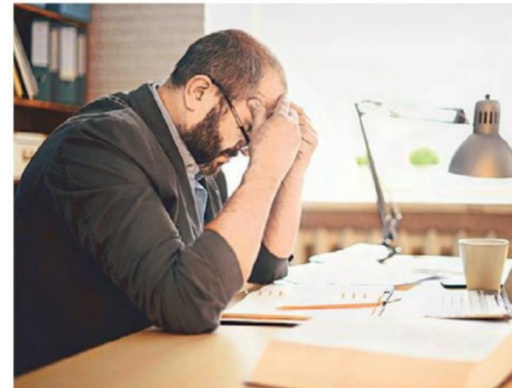
The tax department explained that this error occurred because the Centralized Processing Centre had not adopted the mechanism of deleting excess calculation, as it was programmed to calculate and raise demand.

The apex court stated that the technological impediment could not be a reason for harassing a taxpayer year after year and that the income tax department must take immediate steps to update the software or take other steps to ensure that such a mistake does not occur in the future.

Directing the cancellation of this new demand within six weeks, the court directed the Central Board of Direct Taxes (CBDT) also to take necessary steps to rectify the software.

A perennial problem

In this case, the demanded amounts were large enough for the taxpayer to take up the matter in the court and pursue the case up to the Supreme Court. There are thousands of cases of taxpayers with smaller demands, where their applications for rectifying the system's mistakes go unheeded. They are, therefore, often left



ISTOCKPHOTO

with no choice but to file appeals against such incorrect demands.

This results in unnecessary waste of money and time for taxpayers. Not only that, appeals remain undecided for years on end, leaving the threat of outstanding demand hanging as a sword over the taxpayers.

Besides, often, notices are received to make payment for such demands or to adjust them against subsequent years' refunds, which have to be responded to promptly.

These are, in most cases, blatant mistakes in processing the tax

returns, such as not giving credit for tax deducted at source (TDS) that appears in Form 26AS or incorrectly calculating some deduction or interest.

At least if the software cannot be correctly designed—for which there can be no reason other than the lack of sufficient understanding, care, or testing before the launch—the process of rectifying mistakes should be simple, smooth and efficient.

The process should not lead to taxpayers scratching their heads trying to figure out how they can ensure they are charged only the rightful tax due by them. Should this not be the least taxpayers deserve?

The software problems highlight yet another underlying problem—complex tax computation provisions, with frequent annual changes to the tax laws through the budget. There are so many permutations and computations—e.g. the old tax regime and the new tax regime, with differing conditions—that even India's best software companies cannot figure out ways to correctly compute taxes.

Do we actually require more than 100 amendments every year in the Union budget, which would necessitate frequent updates to the software? Can't we really have a stable, unchanged tax system for at least five years so that we could have a robust tax return processing system?

Gautam Nayak is a partner at CNK & Associates LLP.