



(REGISTRATION No. 1635/1974-75)

ESTD : 1949

# NATIONAL CHAMBER OF INDUSTRIES & COMMERCE, U.P.

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**NCIC/24/2021-22/**

**14<sup>th</sup> December 2021**

**To,**

**The Hon'ble Chief Commissioner of Income Tax,(OSD)**

**Agra**

**Subject- Memorandum In Respect Of Problems On Income Tax Portal , Faceless Assessment & Appeals**

**Hon'ble Sir,**

We once again welcome Your Good Self to the City of Taj on behalf of more than approx. 1600 members of this Chamber, which consists of traders and industries of not only of Agra but also of nearby areas and we hereby Congratulate You for being promoted as Chief Commissioner Of Income Tax. We take this opportunity to submit before You some problems regularly being faced regarding New Income Tax Portal, which was launched on 7<sup>th</sup> June,2021 and Faceless assessment/appeals due to which taxpayers are confronting compliance issues and inability to file Income Tax Returns. The issues are summarized as below:-



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**1) Glitches in the New Income Tax Portal:-**

- a) The Portal is still very slow. It takes a lot of time to login in the site and to upload various returns/forms in it. Many times even login also does not happens.
- b) We are not able to register new assessee on the site. It gets rejected.
- c) DSC (Digital Signatures) are not getting registered smoothly. Sometimes the Portal asks for change in PIN, Sometimes it says PAN mismatch, Sometimes server error is shown. Even when the DSC is registered, while using the DSC for verification, a lot of problem is encountered especially while using DSC of Karta/Director/Partner etc.
- d) OTPs are not coming on mobile phones. Even if they come, they come after they are expired.
- e) Tax Audit Report are not getting uploaded smoothly. The assessee's are not able to accept the uploaded tax audit report, as a result the subsequent filing of returns can also not happen.
- f) UDIN- Unique Document Identification Number, which CA's have to quote while issuing various forms/reports are not getting updated on the portal

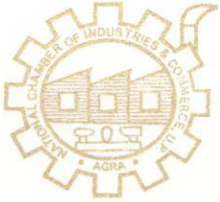


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- g) Data Mismatch /overlapping of data is happening in the tax audit reports/returns filed and downloaded.
- h) Tax audit report is not getting properly auto-plated
- i) In some cases attachments in Form 35 are not opening post submissions.
- j) Validation of bank accounts is not happening smoothly, as a result refunds are stuck
- k) Outstanding Demand is not shown correctly
- l) There is no tab available on portal regarding rectification to be filed against CIT(appeals) order
- m) Various FORMS like 10IC, 29B, 10B etc are either not available and if available than they are not getting filed smoothly.
- n) Old intimations are not getting downloaded

## 2) **Faceless Assessments/Penalty:-**

- a) Initially when the cases are taken up for scrutiny than notices are issued, requisite replies are filed. Then for months no notice is issued by the department. Close to the period of limitation big questionnaires/show cause notices are issued, giving just 2-3 days to reply. The assessee cannot give replies upto the



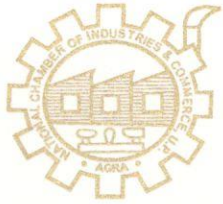
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satisfaction in such a small span of time, which results in high – pitched assessments made.

- b) Many assessment orders have been passed without giving draft assessment orders.
- c) In Penalty cases, repetitive notices are being issued even when compliances of earlier notices have been done by assessee.
- d) Many times assessee get notices on mails after the expiry of the time period given to file response.
- e) In many cases assessment orders are passed before the expiry of time given in the notice provided to assessee to file his reply, irrespective of the fact that the assessee has filed his reply or not.

### **3) Faceless Appeals:-**

- a) In many cases submissions are filed since months and no order have been passed
- b) In many cases, repetitive notices are being issued even when compliances of earlier notices have been done by assessee.



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- c) Jurisdictional High Court decisions should be considered while passing an appeal order. For e.g. Many ESI/PF disallowances u/s 43B have been upheld by the NFAC, even when jurisdictional High Court and jurisdictional ITAT is in favour of assessee.
- d) As per the department's own stand in Hon'ble SC, they are bringing modification in faceless appeal system. The same should be implemented as early as possible. Till that time demand should not be pressed by department.
- e) Personal hearing opportunity if asked by the appellant should be provided without discretion.
- f) There is no mechanism for request for early hearing of appeal
- g) The orders are passed without going through the whole case record e.g. In one of the case, the appeal was filed late with a prayer for condonation of delay, the appeal was admitted by an order passed by NFAC, subsequently the appeal has been dismissed on the ground of not granting condonation of delay, without discussing on merits.



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h) In few cases orders of appeal have been filed before the expiry of time period given to file the response.

**4) Processing of Returns :-**

a) CPC is not processing the returns correctly. The technical irregularities in the Portal are creating absurd demands, which is resulting in unnecessary litigation.

b) If possible, some human interference should be made on some issues which are repetitively happening or where there is a huge deviation between returned income and processed income.

**5) Dedicated Grievance MAIL id and helpline number**

a) Toll free number does not connect to the telecaller even after punching correct PAN and Date of Birth.

b) The dedicated mail ids made for grievances and chat numbers don't provide any concrete solution to the problems faced.

**6) FORM 5 – Vivad Se Vishwas - FORM 5 is pending for issuance since long.**



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However, so far the New Income Tax Portal has disappointed the tax payers as they have been facing numerous bugs and glitches. The issues range from long logging in time to inability to make compliances and file Income tax Returns. The pandemic has also added to the miseries of the taxpayers where the taxpayer is financially and medically downtrodden. Since the due date of filing of Income tax Returns is approaching and the Income Tax Portal is still not functioning properly, it is requested that the due date of corporate and non-corporate assessee shall be extended till 31.03.2022

Thanking you,

Yours sincerely,

(MANISH AGARWAL)  
PRESIDENT

(ANIL VERMA)  
CHAIRMAN – INCOME  
TAX CELL

(CA - PRARTHANA JALAN)  
MEMBER – INCOME  
TAX CELL



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NCIC/24/2021-22/

14<sup>th</sup> December 2021

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To,

**Smt. Nirmala Sitharamanji,  
Hon'ble Union Minister for Finance  
Govt. Of India  
New Delhi,**

**Through  
The Chief Commissioner of Income Tax, (OSD)  
Agra**

## Subject- PRE-BUDGET MEMORANDUM

**Hon'ble Madam,**

On behalf of more than approx. 1600 members of this Chamber, which consists of traders and industries of not only of Agra but also of nearby areas, we are submitting before You this Pre-budget Memorandum, for Your kind consideration, which is as follows:-

### **1) Tax Slabs Should Be Revised**

Though the Government has given the option of 2 tax regimes (old and new) to the tax payers to choose as per their desire, but most of the tax payers are still opting for old regime only. The new tax regime, should be made more attractive, the basic exemption limit of tax also needs revision seeing the inflation trend and covid crisis.





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## **2) Rate Of Tax On Firms/LLP S Needs Rationalization.**

The existing rate of tax on firms/LLP is more than corporate tax rate therefore, it is suggested that the rate on Firm/LLP should be reduced.

## **3) 80C Deduction Limit Should Be Enhanced**

Seeing the pandemic that we all have gone through, savings are necessary for the people as we don't have any social security also. Limit of 80C deduction should be increased.

## **4) Social Security Package For Tax Payers**

In our country the income tax is paid by less than 3% of the population, it is necessary that the Government should come out with some kind of a social security package and the instrument for same can be given additional benefit u/s 80C. This is of utmost important looking at the present scenario, when Covid era is still prevalent.

## **5) Allowability Of CSR Expenditure**

The spending of the net profits on Corporate Social Responsibility as per The Companies Act 2013, should be an allowable expenditure under the provisions of Income Tax Act 1961. In the



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previous budgets the Government has mentioned that CSR expenditure would not be allowed u/s 37 of the Income-tax Act, 1961. Owing to compulsion made by the Companies Act, 2013 it is suggested that CSR expenses should be allowable u/s 37 of the Income-tax Act, 1961.

## **6) Deduction Of Employee's Contribution To Provident**

### **Fund Etc. – Section 43B**

Deduction for employee contribution to PF should be allowed even if the employee contribution is deposited after the statutory time limit but before the due date of filing the return of income, which has been changed in last year budget.

## **7) Taxability Of Unsold Flats In The Hands Of Real Estate**

### **Developers**

In case of real estate developers, most of the developers have unsold stock which also includes a chunk of finished flats, apartments and units etc. Such unsold construed flats as per the specific exclusion to be provided in Section 22 of the Act would not attract tax under the head 'income from house property'. Due to covid the real estate industry is suffering a lot.

## **8) Section 43CA Needs Reconsideration**

The harshness of the provision of section 43CA, for real estate



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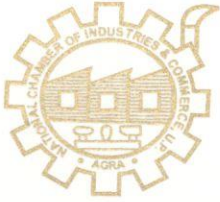
developers and general public at large, wherein sales consideration of the immovable property is substituted by circle rate should be mitigated by providing sufficient safeguards for the genuine transactions.

### **9) Proposed Amendment In Section 56**

Section 56 of the Income-tax Act, 1961 brings to tax all such properties which have been purchased by Individuals & HUF at a price lower than the Circle Rate. This provision is causing genuine hardships as assessable value under stamp duty act in many states are not yet rationalized and far are more than the market value of property.

### **10) Non Taxability Of Genuine Inter-Corporate Loans And Advances As Deemed Dividend**

Section 2(22)e of the Income-tax Act, 1961 considers certain transaction within the ambit of deemed dividend specially the ones done between the shareholder having more than 10% of the shareholding of the company. It is suggested that genuine inter corporate loans and advances should be deleted specifically from the said section.



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**11) Section 54 Should Be Amended To Incorporate More Than One House**

Long-term capital gains deduction for investment in one residential house is available as per the provisions of Section 54 of the Income-tax Act, 1961. Looking at the current scenario and the living standards of the people of the country. The limit should be increased to 2 houses.

**12) Claim Made During The Assessment Proceedings**

It should be suitably clarified in the Act that the tax officer is duty bound to allow the legitimate claim of the taxpayer made before him during the course of the assessment proceedings and assess the total income/ loss after allowing the said claim.

**13) Time Limit For Completion Of Appeals By Appellate Authorities**

The Act does not specify any time limit within which the appeals filed before the appellate authorities must be disposed of. This results in undue hardship and never ending litigation cost to the taxpayer



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**14) Rate Of Interest On Tax Refunds – Sec 244A**

The interest for nonpayment of tax is charged at the rate of 12% whereas the interest given on refund to the assessee is merely 6%. Uniform rate of interest of either 6% or 12% p.a. both for refunds and tax dues payable by the Government and taxpayers respectively may be prescribed.

**15) Standard Deduction For Salary Class**

The standard deduction amount should be enhanced to at least Rs. 100,000 to ease the tax burden of the employees and keeping in mind the rate of inflation and purchasing power of the salaried individual,

**16) Section 80TTA To Cover FDR Interest**

At present deduction u/s 80TTA is provided of Rs. 10,000/- to individual and HUF who earn interest income from saving bank interest. It is suggested that the scope of the said deduction should be enlarged and should also cover FDR interest within the ambit.

**17) Minor Child Income Exemption To Be Atleast  
Rs. 10,000/-**

Under the provisions of Act the income of the Minor child is clubbed



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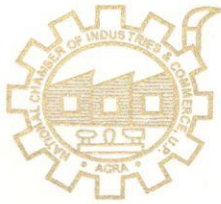
in the income of the parent. A deduction of Rs. 1500/- is received by the parent in whose income the income of the minor child is clubbed. It is suggested that the limit of exemption under Section 10(32) of the Act should be raised to at least Rs. 10,000 for each minor child

**18) Enhancement Of Limits For TDS - Section 194C**

As per the provisions of Section 194C the TDS has to be deducted if payments of individual transactions is Rs. 30,000/-. It is suggested that owing to the inflationary trends the individual transaction limit should be increased to at least Rs. 50,000/- and the aggregate transaction limit also.

**19) Agriculture Activities Carried By Corporate To Be Taxed**

Though as per section 10 of the Act agriculture income is exempted from tax. It is suggested that many corporate are showing agricultural income in their books of accounts in order to change their black money into white money. It is suggested that agricultural activities by the corporate should be suitably taxed.



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**20) Advance Payment Of Tax Limit -30,000/-**

It is suggested that the advance payment of tax limit from the current Rs. 10,000/- should be increased to Rs. 30,000/-

**21) Sec 234E- Should Be Scrapped**

Owing to a lot of litigation and also stay put in by many High Courts across the Country the fees charged u/s 234E for non filing of TDS statement should be scraped as it leads to double penalization of the offence by the assessee as interest is also charged for the same default.

**22) 44AB- Increase InThreshold Limit From 5 Cr To 10 Cr.**

This limit needs revisit as audit is necessary to curtail frauds and manipulations.

**23) Reduction In Time To File Belated And Revised Income Tax Return Forms.**

The time limit for filing belated/revised return has been curtailed to 31<sup>st</sup>December, of AY from the end of the AY. It will cause genuine hardship to taxpayers.



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**24) Newly added section 194Q needs reconsideration.**

Though many clarifications has been issued but still section 194Q is conflict with compliance of existing section 206C(1H) and it is leading to unnecessary conflicts and will increase litigation in future.

**25) Faceless proceedings in ITAT**

The regime of faceless asesements and faceless appeals are still not settled and a lot of procedure and otherwise issues are cropping up.For the moment the concept of Faceless ITAT should be kept in abeyance.

**26) Sec 44ADA- Limit Of 50 Lakhs Should Be Increased And Rate Of 50% Should Be Reduced.**

For professionals the limit of 50 lakhs u/s 44ADA should be increased to 1 crores and the rate of tax should be reduced to 30%.

**27) Rule 9B needs reconsideration**

Rule 9B of income tax is leading to double taxation on firms and is in a way acting as hindrance for new entities to be set up in form of firms/LLP.This rule should be scrapped.





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We have full confidence that Your Good Self would consider our aforesaid points.

Thanking you,

Yours sincerely,

(MANISH AGARWAL)  
PRESIDENT

(ANIL VERMA)  
CHAIRMAN – INCOME  
TAX CELL

(CA - PRARTHANA JALAN)  
MEMBER – INCOME  
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