

# TAX FLASH NEWS

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## Appeal can be filed directly to CIT(A) against an intimation issued under Section 143(1) by Centralised Processing Centre (CPC) even if the taxpayer has not approached CPC for the rectification

### Background

Recently, the Agra Bench of the Income-tax Appellate Tribunal (the Tribunal) in the case of Dixit Rice Mill<sup>1</sup> (the taxpayer) held that an intimation under Section 143(1) of the Income-tax Act, 1961 (the Act) issued by the Centralised Processing Centre (CPC) is an appealable order under Section 246A<sup>2</sup> of the Act [appeal before Commissioner of Income-tax (Appeal)] and the CIT(A) ought to have adjudicated the issue on merits.

### Facts of the case

During the assessment year (AY) 2016-17, the taxpayer filed its return of income along with audit report. The CPC issued an intimation under Section 143(1) disallowing certain expenditure indicated in audit report which resulted in a demand to be payable by the taxpayer. The taxpayer was not provided an opportunity, by the CPC, before making such disallowance. Against such intimation, the taxpayer filed an appeal before the CIT(A) contending that the disallowance made by the CPC was liable to be deleted.

The CIT(A) did not consider the appeal filed by the taxpayer and dismissed the appeal. The CIT(A) observed that in the intimation sent by CPC, it was specifically mentioned that if the taxpayer was not satisfied with the computation of income, he should file an 'online rectification application' for necessary correction. However, instead of filing a rectification application the taxpayer filed an appeal. In view of the procedures that exist for computerised

processing, the taxpayer was advised to first file a rectification application online and contact its jurisdictional Assessing Officer for follow up only after the online return gets pushed to AO for necessary corrections.

### Tribunal's decision

The Tribunal observed that an appeal lies with the CIT(A) from an order passed by the CPC under Section 143(1) of the Act if the taxpayer denies his liability in pursuance to the order passed under Section 143(1) of the Act.

The CIT(A) in its order had wrongly mentioned that no appeal lies against the intimation issued by the CPC under Section 143(1) of the Act unless the taxpayer approaches the CPC for rectification. There is no such requirement in law to approach the CPC for rectification of the order, if the taxpayer is aggrieved by the order and denies his liability as per the intimation received by it under Section 143(1) of the Act.

Accordingly, the Tribunal remanded the matter back to the CIT(A) for fresh adjudication on merits as the appeal lies before the CIT(A) against the order passed under Section 143(1) of the Act by the CPC. Admittedly, the taxpayer was affected by the order/intimation of the CPC as was clear from the facts of present case. Accordingly, the appeal filed by the taxpayer was allowed.

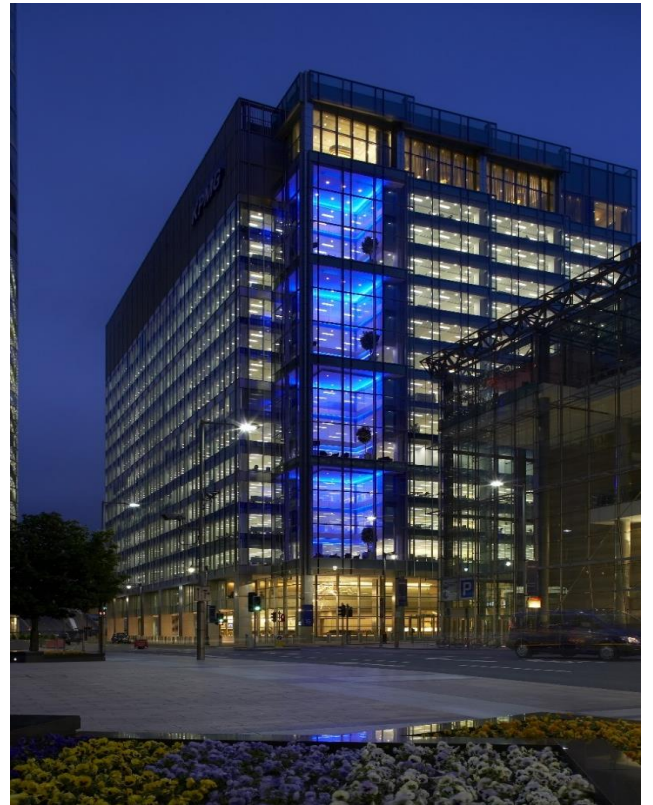
### Our comments

In the instant case, the issue before the Tribunal was whether the taxpayer can file an appeal against an intimation issued under Section 143(1) issued by the CPC even if the taxpayer has not approached CPC for the rectification and whether the CIT(A) has to accept such appeal.

<sup>1</sup> Dixit Rice Mill v. DCIT (CPC) (ITA No. 373/Agra/2018)

<sup>2</sup> This decision deals with a case pertaining to Assessment Year 2016-17 when Section 246A was operative. However, it seems that the Honorable Tribunal inadvertently referred to Section 246 of the Act in the decision.

The Agra Tribunal observed that the CIT(A) in its order had wrongly mentioned that no appeal lies against the intimation issued by the CPC under Section 143(1) of the Act unless the taxpayer approaches the CPC for rectification. The Tribunal observed that there is no such requirement in law to approach the CPC for rectification of the order. If the taxpayer is aggrieved by the CPC order and denies his liability as per the intimation received by him under Section 143(1) of the Act, it can file a direct appeal before the CIT(A).



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