

TAX FLASH NEWS

6 December 2021

Delhi High Court's directions and tax department's report on standard operating system on refunds

Recently, the Delhi High Court in the case of Intertek India Private Limited dealt with the issue of lack of co-ordination between the Assessing officer (AO) and Centralised Processing Centre (CPC) in refund cases and empowerment of AO at the highest level. The High Court directed the AO to place the entire matter before the Chairman, Central Board of Direct Taxes (CBDT), so that a proper standard operating system is put in place and orders passed by the AO are given effect to within a time frame and no inconvenience is caused to the taxpayer as well as to the High Court. In response to the same, the tax department reported that the existing Standard Operating Procedures (SOPs) for working on system and for co-ordination and feedback between AO and CPC/Systems Directorate ensure consistent and systematic work throughout the department in most of the cases. Further strengthening of existing mechanisms and additional SOPs are being undertaken by the department, in pursuance of the High Court's directives.

Facts of the case

The taxpayer received a rectification order where it was mentioned that refund of the adjusted amount of INR 12 crore was allowed. The order stated that these credits were allowed earlier as well but due to some technical glitch, the same were not allowed by the system.

However, since the taxpayer did not get refund even though rectification order was showing refund amount, the taxpayer filed a writ petition before the Delhi High Court.

The Delhi High Court¹ observed that though the Court and the taxpayer were repeatedly informed that the taxpayer's claim for refund has been allowed, yet the taxpayer is at the same position where he was four years ago. It was repeatedly saddled with applications in

disposed of matters either due to lack of co-ordination between the AO and CPC, Bangalore or due to lack of power or vigilance on the part of the AO to implement its own order.

Taxpayers cannot be made to run from pillar to post for securing their legitimate tax refunds and that too after they have been determined by the revenue itself. This has become a problem as the taxpayers for securing their legitimate refunds have to time and again approach the Courts for their release.

The High Court observed that the issue of lack of co-ordination between the AO and CPC, Bangalore and empowerment of AO needs to be examined at the highest level. Accordingly, the High Court directed the AO to place the entire paper book along with the order of High Court before the Chairman, CBDT, so that a proper standard operating system is put in place and orders passed by the AO are given effect to within a time frame and no inconvenience is caused to the taxpayer as well as to the Court. It was directed that the report of the Chairman, CBDT should be placed on record within four weeks.

Recent order of the Delhi High Court after response given by the tax department²

In response to the above direction, the Commissioner of Tax (Judicial), Delhi, submitted a Report³ on the record. The key observations in the Report are as follows:

- For most of the scenarios, functionalities are already present in the software, which is an integrated platform made up of Income Tax

¹ Intertek India Private Limited v. ACIT [W.P.(C) 6361/2021] (Del) – Taxsutra.com

² Intertek India Private Limited v. ACIT [W.P.(C) 6361/2021] & [CM APPL 21994/2021] (Del) – Taxsutra.com

³ Dated 27 October 2021

Business Application (ITBA), CPC Bengaluru, CPC-TDS, e-Filing, etc. Therefore, the refunds in most of the scenarios can be issued through system. However, for some rare scenarios that cannot be handled through software system, ITBA Assessment Instruction⁴ also provides that refund can be issued by the AO by manual cheque with the approval of Chief Commissioner of Income Tax concerned.

- The system applications mirror Notifications, Circulars or User Manuals are continuously evolving depending on the changes in law or needs of the taxpayers/tax department.
- While the set of guidelines, instructions, circulars or notifications cover most scenarios that any taxpayer or officer may encounter, there may be situations where the systems may not work as anticipated or a situation which may require change.
- In cases where any difficulty arises in working on system, there are dedicated helpdesks manned by the concerned service providers supervised by the department's personnel. The field officers have login access on the helpdesk systems to raise tickets on various issues. For ITBA and CPC related issues, tickets are raised on ITBA helpdesk, which also transfers them to CPC team in case the issue pertains to CPC. In large number of cases, the issues get resolved by the helpdesk. The helpdesk also has various internal levels of escalations for complicated issues.
- In rare cases where issues are of such complications that they are not resolved by helpdesk, the field officers also escalate the same by emails to the office of DGIT (Systems) or concerned verticals of the Systems Directorate. The officers in the verticals then co-ordinate with the technical teams, i.e., service providers, to get the issues resolved expeditiously.
- The department has taken note of the challenge that with rapid pace of computerisation in every sphere of work of direct taxes, the number of system-related issues being faced is naturally likely to increase, especially, in the present transition period. However, as functionalities stabilize and changes are put in place for which work is ongoing, the difficulties will reduce.

- Therefore, while the existing SOPs for working on system and for co-ordination and feedback between AO and CPC/Systems Directorate ensure consistent and systematic work throughout the department in most cases, further strengthening of existing mechanisms and additional SOP is being undertaken by the department, in pursuance of the High Court's directives.

Our comments

Many time taxpayers are facing issues to get their genuine tax refund from the tax department. Sometimes, the tax department's system does not show correct refund amount and the taxpayers are required to chase the tax department for their hard-earned money.

The taxpayers have filed writ petitions before the Courts to get their refunds in time. The directions given by the Delhi High court in this decision will help the taxpayers while getting their refund. The High Court clearly stated that the taxpayers cannot be made to run from pillar to post for securing their legitimate tax refunds.

Though the tax department's report pursuant to the High Court's directive shows various ways to claim the refund, practically some challenges still arise while obtaining the tax refund. It would be helpful, if tax department comes with a one stop solution for genuine refund cases.



⁴ Instruction No. 11, dated 18 June 2019

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