



ALL GUJARAT FEDERATION OF TAX CONSULTANTS

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INCOME TAX BAR ASSOCIATION

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Date: 15th July 2024

To,
Smt. Nirmala Sitharaman,
Hon'ble Finance Minister
Government of India
North Block,
New Delhi - 110001
E-mail: fmo@nic.in

Respected Madam,

Subject: Representation related to:

- (1) **Incorrect Interpretation of Relief u/s 87A in case of Assesseees having Income chargeable at Special Rate of income tax by utility on the Income Tax Portal as well as by the Helpdesk &**
- (2) **Problems in functioning of Income Tax Portal and update issues in AIS / TIS & Demand for Extension of Due date for filing of Income Tax Returns for AY 2024-25 from 31st July 2024 to 31st August 2024.**

1. About the Associations (AGFTC and ITBA):

All Gujarat Federation of Tax Consultants (AGFTC), founded in 1992, is the apex Regional Body of Advocates, Chartered Accountants & Tax Practitioners of Gujarat, having membership strength of more than 2000 professionals and institutional membership across the State of Gujarat.

Income Tax Bar Association, Ahmedabad (ITBA) is one of the first professional associations founded in 1947 comprising of Tax Professionals, Tax Advocates and Chartered Accountants based at Ahmedabad and having current strength of more than 1100 members.

The prime objective of these associations is not only to work for the cause of their professionals but also educate the public at large and to act as a catalyst between Citizens & Government Authorities. Both the associations regularly organize seminars and lectures on tax advocacy and legal awareness.

2. Representation for Incorrect Interpretation of Relief u/s 87A in case of Assessee having Income chargeable at Special Rate of income tax by utility on the Income Tax Portal as well as by the Helpdesk

(a) Issue:

It is to bring to your kind notice that after update in the ITR online utility post 5th July, the utility is not giving benefit of rebate u/s 87A for the tax on short term capital gain on shares u/s 111A and other special rate incomes. Before 5th July, the same utility and calculator were allowing rebate u/s 87A against the tax on short term capital gain on shares u/s 111A and other special rate incomes other than long term capital gain u/s 112A where such rebate is specifically barred by the sub-section (6) of the section 112A itself.

In our humble opinion and as per the intention of the law in providing the rebate u/s 87A, the behavior of the system is incorrect and the same should be rectified at the earliest considering that it impacts a huge number of taxpayers and especially when the exchequer needs to broaden the taxpayers base in India. During the last days of filing Income Tax Returns for which due date is 31st July, such confusion adds fuel to the fire.

(b) Reasoning by Grievance Resolution of Income Tax Helpdesk:

There is one grievance resolution circulating on social media and claimed to be from Income Tax Helpdesk quoting higher officials, which says that the proviso to section 87A restricts the rebate on special rate income, hence not allowed for tax on short term capital gain u/s 111A. Screenshot of the same is attached below.

Greetings from Income Tax Department Helpdesk

Issue Description: Rebate calculation gone wrong for STCG u/s.111A. it is not available due to bug. it is available till saturday but from monday there is mistake in utility. please check and give update as soon as possible

Resolution: With the respect grievance raise by you, as checked your case with higher officials, if your total taxable income includes special income which are chargeable to special rates of taxes is upto 7 lakhs as per new tax regime then rebate u/s 87A will be available only to the extent taxable income which is chargeable to normal rates of taxes as "Rebate u/s 87A(1A) is not allowed for any special rate income". So, accordingly kindly proceed to file the return.

Your Grievance 17369453 has been Resolved.

(c) Analysis of such action in light of law & intention of law:

Budget Speech 2023:

During the budget speech of 2023, the Hon'ble Finance Minister had declared an increase in the rebate u/s 87A from Rs. 12,500 to Rs. 25,000 in case of new regime as a booster benefit for Taxpayers, without adding any additional restriction. Up to AY 2023-24, rebate u/s 87A was being allowed against tax on STCG u/s 111A and other special rate income (except LTCG u/s 112A).

The excerpts from the budget speech are as under:

Page No. 33, Point No. 146. read as under:

"146. - The first one concerns rebate. Currently, those with income up to Rs. 5 lakh do not pay any income tax in both old and new tax regimes. I propose to increase the rebate limit to Rs. 7 lakh in the new tax regime. Thus, persons in the new tax regime, with income up to Rs. 7 lakh will not have to pay any tax."

Page No. 35 containing Annexure to Part B of the Budget Speech 2023-24, Amendments relating to Direct Taxes, Point No. A.5 read as under:

“A.5 - Resident individual with total income up to Rs. 5,00,000 do not pay any tax due to rebate under both old and new regime. It is proposed to increase the rebate for the resident individual under the new regime so that they do not pay tax if their total income is up to Rs. 7,00,000.”

Intention of Law (Memorandum Explaining the Provisions in the Finance Bill, 2023)

Memorandum Page 12, Point IV. reads as under:

IV. Rebate under section 87A

Under the provisions of section 87A of the Act, an assessee, being an individual resident in India, having total income not exceeding Rs 5 lakh, is provided a rebate of 100 per cent of the amount of income-tax payable i.e., an individual having income till Rs 5 lakh is not required to pay any income-tax.

2. From assessment year 2024-25 onwards, an assessee, being an individual resident in India whose income is chargeable to tax under the proposed sub-section (1A) of section 115BAC, shall now be entitled to a rebate of 100 per cent of the amount of income-tax payable on a total income not exceeding Rs 7 lakh.

[Clause 2, 43, 50, 52, 55, 56 & the First Schedule]

Though the language of the memorandum does not express clearly, the intention seems to provide the rebate in same manner as it is available to individuals having income till Rs. 5 lakhs (under old regime).

Amendment in the Finance Bill 2023

Clause 43 of the Finance Bill 2023 reads as under:

“43. In section 87A of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2024, namely:—

“Provided that where the income-tax payable on the total income of the assessee is computed under sub-section (1A) of section 115BAC, this section shall have the effect as if,—

(a) for the words “five hundred thousand rupees”, the words “seven hundred thousand rupees”;

(b) for the words “twelve thousand and five hundred rupees”, the words “twenty-five thousand rupees” had been substituted.’.”

The wordings in the bill are in line with the intention of the law i.e. increasing the monetary limit for rebate eligibility and rebate amount.

Amendments by the Finance Act 2023 & Introduction of the proviso

In the Finance Act, the proviso was introduced with different wordings (as mentioned below) but that seems to be inserted to give BENEFIT OF MARGINAL RELIEF which was not available till preceding assessment years.

The proviso proposed in Finance Bill was only modified while incorporating in the Act for giving Marginal relief benefit and actually correcting a long-time flaw in tax computations and not for restricting any benefit which is already available.

To wrongly interpret the new proviso for restricting rebate can only be termed as injustice towards lakhs of honest taxpayers.

The clause 44 of the Finance Act reads as under:

“44. In section 87A of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2024, namely:—

"Provided that where the total income of the assessee is chargeable to tax under sub-section (1A) of section 115BAC, and the total income—

(a) does not exceed seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing for the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to one hundred per cent. of such income-tax or an amount of twenty-five thousand rupees, whichever is less;

(b) exceeds seven hundred thousand rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds seven hundred thousand rupees."."

FAQ on the portal

FAQ on New/Old regime on Income tax portal there is a specific query – Is there any difference in tax rebate u/s 87A in old and new regime.

The portal to this query clearly says that the limit is increased from Rs. 12500 to Rs. 25000. No additional difference has been mentioned in working of Rebate u/s 87A w.r.t. old and new regime which means that if in calculating the rebate of Rs. 12500 under old regime benefit is provided for tax on STCG u/s 111A and other special rate incomes, the same benefit would also be available while calculating rebate under new regime.



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Act, 1961. In case, the Taxpayer wants to claim deduction of interest on borrowed capital for SOP, then taxpayer must choose 'Old Tax Regime' by selecting "Yes" in ITR 1 / ITR 2 or "Yes, within due date" option in ITR 3 / ITR 4 / ITR 5 in the field provided for "opting out option" in the ITR Form.

8. I am a senior citizen. In the old tax regime there are special advantages in tax rates for senior citizens. Are there any such advantages in new tax regime?

In the old tax regime, the basic exemption limit for senior citizens is Rs. 3,00,000/- and for super senior citizens, it is Rs. 5,00,000/-. In the new tax regime, no income tax is payable upto the total income of Rs. 7 lakh.

9. Is there any difference in tax rebate under section 87A in old and new tax regime?

In the old tax regime in case of a resident individual, whose total income does not exceed Rs. 5,00,000/- there is rebate of 100 percent of income tax subject to a maximum of Rs. 12,500/-. In the new tax regime, the rebate is increased to Rs. 25,000/- or 100 percent of income tax where the total income does not exceed Rs. 7,00,000/-.

Specific Provision in 112A

Rebate u/s 87A is not available on tax on LTCG u/s 112A and the same has been specifically mentioned in Section 112A(6). Nothing of that sort is mentioned in Section 111A or any other special rate section for that matter.

(d) Wordings of the sub-section (1A) of Section 115BAC

The sub-section (1A) of section 115BAC provides for **the income-tax payable in respect of the total income of a person**, and NOT on the **income of the person at normal rate**.

The total income is inseparable as it comes after inter-head adjustments. Also, the interpretation that is not in line with general nature of calculation of tax on total income for such a long time, is grossly incorrect.

(e) Representation & Request:

In light of the above-mentioned points, we humbly request you to consider the facts and hardship to genuine and honest taxpayers and provide for clarification and immediate amendments in the utility on Income Tax Portal.

We Also, request you to issue an immediate circular to the effect that, the processing of income tax returns shall be done in accordance with the intention of the law in providing rebate u/s 87A in new regime in all special rate incomes including u/s 111A.

3. Problems in functioning of Income Tax Portal and update issues in AIS / TIS & Demand for Extension of Due date from 31st July 2024 to 31st August 2024 for AY 2024-25.

When the new portal was introduced, it had many glitches but during last year, it functioned smoothly and gave satisfactory results. The Tax Professionals & Taxpayers community admired it.

Technical Glitches on the portal:

It is also to bring to your attention that once again the Income Tax Portal is not functioning properly for almost a month by now. There are many glitches like –

- Slow speed of portal in loading each and every page,
- Upload related issues where upload fails with unexpected errors
- Pages becomes non-responsive
- No response from UIDAI for Aadhar based OTP verification etc.

are being faced constantly by the taxpayers.

The department addresses the issues through grievances redressal mechanism and also by providing many answers to the queries raised on the official handle on X (formerly known as Twitter) through its handle **@IncomeTaxIndia**.

There are so many issues where this handle has given standard replies stating *There seem to be some intermittent issues. We have flagged them to the team concerned. The technical team is working to resolve the issues. However, please share your details (with PAN & mobile no.) at orm@cpc.incometax.gov.in for our team to assist.*

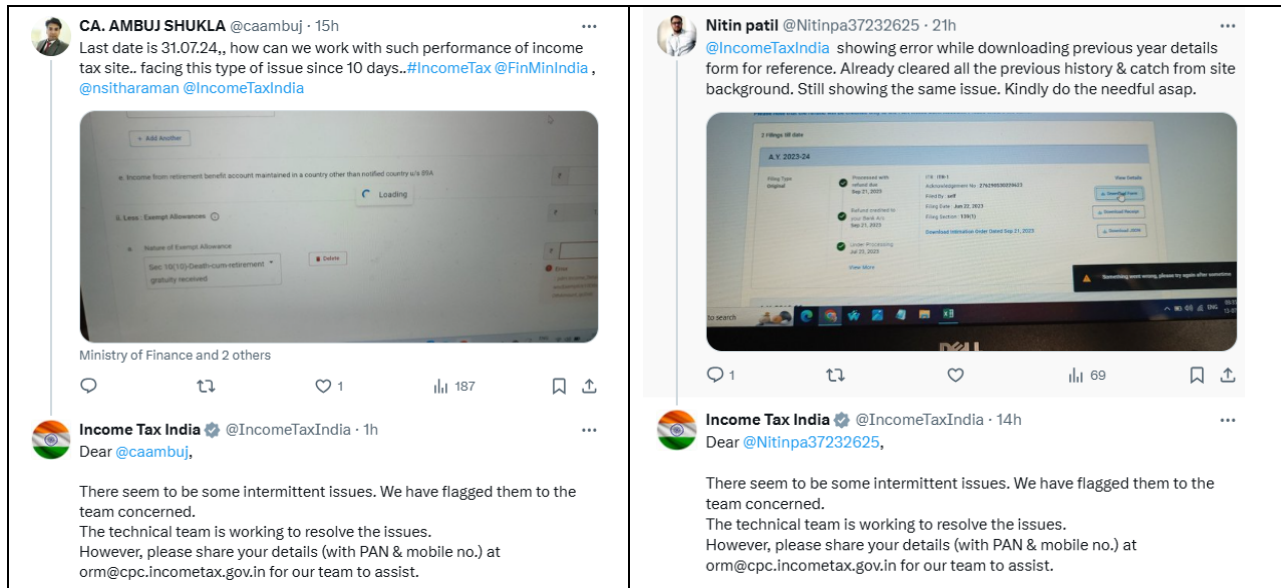
There are so many issues, which can be found in the Replies section on X. Few sample screen shots are as below.

Atul Kumar Singh @NIFT2IIMA · 19h
@IncomeTaxIndia I have been trying to access the site since yesterday, and it's failing. Consistently getting 'Loading', and then nothing happens. Please fix this ASAP.

Income Tax India @IncomeTaxIndia · 2m
Dear @NIFT2IIMA,
There seem to be some intermittent issues. We have flagged them to the team concerned.
The technical team is working to resolve the issues.
However, please share your details (with PAN & mobile no.) at orm@cpc.incometax.gov.in for our team to assist.

HydTechie @HydTechie · 17h
#Grievances page is not working on #esteemed #incometaxreturn #IncomeTaxDepartment @IncomeTaxIndia When writing messages/labels on the website, it should be in "SIMPLE" "SARAL" language so that common public can understand... Also any Pending Action Item eportal.incometax.gov.in/iec/foservices...

Income Tax India @IncomeTaxIndia · 5m
Dear @HydTechie,
There seem to be some intermittent issues. We have flagged them to the team concerned. The technical team is working to resolve the issues.
However, please share your details (with PAN & mobile no.) at orm@cpc.incometax.gov.in for our team to assist.



It is to bring to your notice that the taxpayers and tax professionals are working hard as now very less time is available for filing Income Tax Returns for the assessee (except audit) having due date of 31st July. This year various issues are witnessed in updating the data in AIS and TIS, which are delayed this year and are still being updated.

Need to Increase Time Limit due to Reporting Requirements & Complexity of Transactions:

In the era when CPC is processing ITRs very quickly and the differences between reporting in AIS / TIS & 26AS v/s Income Tax Return are being communicated as errors or are subject to notices for rectification, it takes time in preparation and filing of returns.

Also, after the introduction of increased limit u/s 44AD up to turnover of Rs. 2 / 3 Crore & proviso to section 44AB having non requirement of audit up to turnover of Rs. 10 Crore in this digital payments' era, the cases where the due date of 31st July is applicable have increased drastically. Moreover, the checking requirements and application of other provisions such as TDS, 269SS/T, 43B, GST etc. are still applicable to such cases, which require considerable time and efforts before filing ITRs. From the current year reporting under 43B(h) related to payments to MSME has also added the need of considerable time to find figures and consider them for preparation of the Income Tax Returns even in non-audit business cases.

No point in getting extension with non-functioning portal:

The smooth functioning of the e-filing portal is critical to filing of Income Tax Returns. Now a days, professionals need to engage with data from portal multiple times before filing Income Tax Return. Verification time has been reduced to 30 days and Aadhar OTP is one of the most preferred mediums for e-verification of returns. From the current year, the need of DSC is removed even in case of audited individuals, where Aadhar OTP is required.

Till the time the portal does not function smoothly, the extension of due date or any other gesture by the government related to relief in late fees or interest are going to be in vain.

In light of the portal not functioning properly and heavy reporting requirements, you are kindly requested to:

(a) Instruct the technical team, the vendor and officials responsible for maintenance of the portal to ensure that it functions smoothly just like the last year which can cater the increasing taxpayer base.

and

(b) Extend the due date for Assessment Year 2024-25 from 31st July 2024 to 31st August 2024.

4. Request

We humbly request you to consider the representation made by AGFTC & ITBA and oblige.

We sincerely hope that the Government under the dynamic leadership of Hon'ble PM Shri Narendra Modi and Hon'ble FM Smt. Nirmala Sitharaman would provide the requisite reliefs to the taxpayers at the earliest.

Yours sincerely,

For and behalf of

ALL GUJARAT FEDERATION OF TAX CONSULTANTS



CA (Dr.) Vishves Shah
President



Adv. Mrudang Vakil
Hon. Secretary



Adv. Ashutosh Thakkar
Sr. Vice President



Adv. Dhires T. Shah
Chairman:
Representation
Committee &
Direct Tax Committee

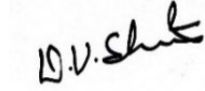
INCOME TAX BAR ASSOCIATION



CA Shridhar Shah
President



CA Kenan Satyawadi
Hon. Secretary



Adv. (Dr.) Dhruven Shah
Chairman: Representation Committee

CC to:

1. Hon'ble Revenue Secretary,
Ministry of Finance,
North Block, New Delhi - 110001
2. Hon'ble Chairman,
Central Board of Direct Taxes,
New Delhi. 110001
3. Hon'ble Pr. Chief Commissioner of Income Tax, Gujarat
Aaykar Bhavan, Income Tax, Navrangpura, Ahmedabad-380009