6 July 2020

Re : Representation to refrain from levying interest u/s. 234A for filing return of income for A.Y. 2020-21 within extended deadline of 30 November 2020.

In view of the challenges faced by taxpayers in meeting the statutory and regulatory compliance requirements across sectors due to the outbreak of Novel Corona Virus (COVID-19), the Government brought the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (the Ordinance) on 31 March 2020 which extended various time limits generally till 30 June 2020. As part of first tranche of Covid 19 stimulus measures, the Finance Minister also announced various interim reliefs under direct tax laws on 13 May 2020.

In order to provide further relief to taxpayers from making various compliances, the CBDT has issued Notification dated 24 June 2020 (Notification) under the Ordinance, providing for further extension in the time limits for making various compliances falling due between 20 March 2020 to 31 December 2020.

In relation to deadline for filing return for F.Y. 2019-20 (A.Y. 2020-21), the Notification has extended the time limit for non-corporate taxpayers not liable to tax audit (original due date of 31 July 2020) and taxpayers liable to audit (original due date of 31 October 2020) to 30 November 2020 (Refer clause (i)(b) of proviso of the Notification). There is presently no extension for taxpayers liable to furnish Transfer Pricing audit report for whom return filing due date continues to be 30 November 2020.

Ordinarily, whenever due date for filing return is extended, the interest payable under section 234A for failure to file return on time also gets consequentially deferred to the extended due date. For instance, for individual salaried taxpayer or senior citizen with interest & investment incomes, since the due date is extended from 31 July 2020 to 30 November 2020, ordinarily, they would have been liable to pay interest u/s. 234A only if they fail to file return by extended due date of 30 November 2020.

The interest payable under section 234A is for delay in filing return. It is levied on self assessment tax payable (after reducing all prepaid taxes) along with return. It is payable in addition to interest under s.234B for shortfall in advance tax. If there is no SA tax payable, no interest is payable under s.234A even if return is delayed. This position is based on sound policy rationale. It is well settled that interest is payable as compensation to the Government for depriving the use of funds. In case of CIT v. Dr. Prannoy Roy (2009)(309 ITR 231)(SC), the SC held that if taxes were paid in full, interest cannot be levied u/s. 234A for delayed filing of return.

However, second proviso to the Notification precludes the normal operation of consequential impact of extension of return filing due date. It provides as follows :-

> *"Provided further that the extension of the date as referred to in sub-clause (b) of clause (i) of the first proviso shall not apply to Explanation 1 to section 234A of the Income-tax Act, 1961 in cases where the amount of tax on the total income as reduced by the clauses (i) to (vi) of sub-section (1) of the said section exceeds one lakh rupees"*

The Press Release dated 24 June 2020 has explained the impact of above proviso as follows :-

> *"In order to provide relief to small and middle class taxpayers, the date for payment of self-assessment tax in the case of a taxpayer whose self-assessment tax liability is upto Rs. 1 lakh has also been extended to 30th November, 2020.* ***However, it is clarified that there will be no extension of date for the payment of self-assessment tax for the taxpayers having self-assessment tax liability exceeding Rs. 1 lakh. In this case, the whole of the self-assessment tax***

shall be payable by the due dates specified in the Income-tax Act, 1961 (IT Act) and delayed payment would attract interest under section 234A of the IT Act"

It is submitted that the above referred provision requires review since it is not based on sound policy rationale and will result in hardships for the taxpayers. The reasoning, in brief, in support of our submission is as follows :-

1. The very reason for issue of Notification to extend the timelines for various tax compliances is extraordinary and unprecedented circumstances prevailing in the country as also across the globe due to COVID 19 pandemic.

2. The extension of return filing deadline duly recognises the fact that taxpayers are facing difficulties in making tax compliances in normal manner due to severe restrictions on movement and social distancing norms. Many employees are working remotely from home. There is severe stress faced by many taxpayers due to actual or fear of loss of jobs, taxpayers or their close relatives getting infected by Covid-19, rising medical costs, absence of social interaction, etc. Ensuring safety of health is overriding priority over tax compliances. These factors prevent the taxpayers from compiling relevant information required to compute their incomes, taxes and fill up return forms. The pandemic situation has prompted many states including Maharashtra, West Bengal, and Tamil Nadu to further extend the lockdown to 31 July 2020.

   For expatriates, high net worth individuals, Resident and Ordinarily Resident taxpayers, the situation is further compounded as they may have income from multiple sources in other countries. Sourcing of relevant information from such country may take longer time due to the pandemic situation prevalent there also, and some of them may be under partial lockdown. The Indian tax liability in relation to income from other countries can be determined only after receipt of the relevant information and evaluation of tax treaty provisions and benefits.

3. Resident senior citizens (> 60 years) not having business or professional incomes are exempted from payment of advance tax (Refer, s.207(2) of IT Act). They are required to pay full amount of their tax by way of SA tax after compiling relevant information and making tax computation.

4. The computation of SA tax requires the taxpayer to compile relevant information from various sources. The most common source is interest from banks. Due to extended time line to file TDS return by 31 July 2020 and issue TDS certificate by 15 August 2020, most banks are yet to file their TDS returns. Further, taxpayers are facing difficulty in getting even interest accrual certificates from banks due to shortage of staff at banks. Senior citizens are prevented by government guidelines from moving out of their homes to visit banks or any other place.

5. Since taxpayers are finding it difficult to compile relevant information for doing tax computations, consequently, they are also unable to compute their SA tax liability properly.

6. It is not correct to levy interest u/s. 234A in current extraordinary circumstances when return filing due date has been extended. The Government is adequately compensated for delayed payment of taxes through interest u/s. 234B for which there is no relaxation. Hence, there is no warrant for charging interest u/s. 234A which is levied for late filing of return. Levying interest u/s. 234A defeats the very purpose of extending time line for filing return of income.

7. Considering the above rationale, there is also no justification for making distinction between taxpayers having SA tax liability upto Rs. 1 lakh and those having SA tax liability in excess of Rs. 1 lakh.

It is, therefore, requested that the Notification may be amended to omit the second proviso in order to provide consequential relief from interest under s.234A with extended time line for filing return.