

Instruction No. 5/2013

Dated 8.07.2013

1. The CBDT issues instructions with respect to processing of Income-tax returns and giving credit for TDS thereon in the case of TDS mismatch. A few of the instructions on this subject issued in previous years are Instruction No. 1/2010 (25-2-2010) for returns pertaining to A.Y. 2008-09; Instruction No. 05/2010 (21-7-2010), Instruction No. 07/2010 (16-8-2010) and Instruction No. 09/2010 (9-12-2010) for returns pertaining to AY. 2009-10; Instruction No. 02/2011 (9-2-2011) for returns pertaining to A.Y. 2010-11; and Instruction No. 1/2012 (2-2-2012) and Instruction No. 04/2012 (25-5-2012) for returns pertaining to A.Y. 2011-12. The instructions gave decisions and the manner in which the TDS claims were to be given credit while clearing the backlog of returns pending processing. In the cases that did not fall under the specific TDS amount limit or refund amount computed, the residuary clause in these instructions gave the manner of processing those returns and it stated that "TDS credit shall be given after due verification".
2. The Hon'ble Delhi High Court vide its judgment in the case *Court On its Own Motion v. UOI and Ors* (W.P. (C) 2659/2012 & W.P. (C) 5443/2012 dated 14-3-2013) has issued seven mandamuses for necessary action by Income-tax Department, one of which is regarding the issue of non-credit of TDS to the taxpayer due to TDS mismatch despite the assessee furnishing before the Assessing Officer, TDS certificate issued by the deductor.
3. In view of the order of the Hon'ble Delhi High Court (reference: para 50 of the order); it has been decided by the Board that when an assessee approaches the Assessing Officer with requisite details and particulars in the form of TDS certificate as an evidence against any mismatched amount, the said Assessing Officer will verify whether or not the deductor has made payment of the TDS in the Government Account and if the payment has been made, credit of the same should be given to the assessee. However, the Assessing Officer is at liberty to ascertain and verify the true and correct position about the TDS with the relevant AO (TDS). The AO may also, if deemed necessary, issue a notice to the deductor to compel him to file correction statement as per the procedure laid down.
4. Thus, the manner laid down by the Hon'ble HC in the above mandamus may be one of the method of due verification as mentioned in the various instructions referred in para (1) above.
5. This may be brought to notice of all Officers working under your jurisdiction for compliance.

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