The Chamber of Tax Consultants
Estd. 1926
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Date: 26th September, 2019

To,
Mr. Pramod Chandra Mody
The Chairman,
Central Board of Direct Taxes
Ministry of Finance,
North Block, Parliament Street,
New Delhi – 110 001

Respected Sir,

Sub: ITR - 6

The Chamber of Tax Consultants (CTC), Mumbai was established in 1926. CTC is one of the oldest voluntary non-profit making organizations in Mumbai – in its 93rd year - formed with the object of educating and updating its members on Tax and other Laws. It has robust membership strength of about 4000 professionals, comprising Advocates, Chartered Accountants and Tax Practitioners. The Chamber also has created a niche with the government and other regulatory agencies. It is the one of the leading institution for making effective representation with respect to Income Tax and Allied laws. It acts as catalyst for bring out necessary change both from the perspective of Government as well as Tax payers.

The CBDT, vide notification dated 1st April, 2019 notified Income Tax Return (ITR) Forms for A Y 2019-20. The department utility for ITR-6 has been made available on 8th July 2019.

The Income Tax Return Form ITR-6 applicable to companies for AY 2019-20 substantially increases the disclosure requirements. Companies are facing difficulties in compiling some of the information required by the said form. Also, there are cases of repetition / duplication of reporting at many places in the return. Certain information which is already available with the Government and there is no incremental purpose served in seeking the same again is also asked for – but it does increase the compliance burden of the assesse. Further, most of this information has no relevance with the computation of taxable income of a company and hence ought not to have been sought in the ITR-6.

It is our earnest representation that providing of information in the following schedules be kept optional for the A Y 2019-20 and a decision be taken thereafter while notifying the form for A Y 2020-21 whether there is a need for such voluminous information which is cumbersome to compile and does not have any effect on computation of total income or is already available with other regulators.

1. Reporting of Shareholding information:

1.1 ITR-6 Requires the reporting of shareholder, particularly for unlisted companies at various places in the income tax return. These are;

a. PART A-GEN => HOLDING STATUS:

Reporting of Holding Company of the assesse, if any

b. PART A-GEN => SHAREHOLDERS INFORMATION:

Reporting of Particulars of persons who were beneficial owners of shares holding not less than 10% of the voting power at any time of the previous year

c. PART A-GEN => OWNERSHIP INFORMATION: Requires reporting of

i. In case of unlisted company, particulars of natural persons who were the ultimate beneficial owners, directly or indirectly, of shares holding not less than 10% of the voting power at any time of the previous year.

ii. In case of Foreign Company, please furnish the details of immediate parent company.

iii. In case of Foreign Company, please furnish the details of ultimate parent company.

d. SCHEDULE SH-1 => SHAREHOLDING OF UNLISTED COMPANY: Requires reporting of;

i. Details of shareholding at the end of the previous year.

ii. Details of equity share application money pending allotment at the end of the previous year.

iii. Details of shareholders who is not a shareholder at the end of the previous year but was a shareholder at any time during the previous year

From the above following issues arise:

1.2 The same information is being asked at various places and this may be avoided. Repetition need to be avoided.

1.3 There are already steps taken by the MCA on KYC for identifying companies and their directors and hence further details in the ITR6 to this effect should be avoided.

1.4 The data sought can be availed of when needed by accessing the MCA records. Insisting that an assessee compiles this from those records and provide it is an unfair burden and may kindly be avoided.

1.5 Specific issues in Schedule SH-1 as reported by our members-

a. The First Table of Schedule SH-1 required reporting of date of allotment and issue price per share. However, the said information is not available when the existing shareholder would have obtained the shares by way of transfer from previous shareholder, in which case the company has not issued any shares to such existing shareholder and therefore reporting of this information is not possible. The requirement may therefore be done away with or a suitable clarification should be issued if the requirement is not done away with.

b. The relevance of the date of allotment and issue price per share would be there only if any such shares are issued in the previous year and asking for

disclosure of any such issue of shares in earlier years - which may even be 20 years ago or even more than in case of very old companies – it is creating a lot of hardship and collecting data out of the old records would require time and effort and may serve no purpose.

c. Under the "Type of Share", the assesse has to mention whether the shares are Equity Shares / Preference Shares / Right Shares / Sweat Equity Shares / Bonus Shares / Others. This becomes very difficult for the company to determine in the case of Transfer of shares which were issued to the shareholder years ago. Also, when a shareholder is holding multiple types of shares as mentioned above, determination of such an information is a huge task and would need multiple levels of data entry which serves no purpose.

d. The tables in Schedule SH-1 also asks for mentioning the PAN of shareholder / transferor / transferee. However, in many cases the company may not have the PAN, particularly of old/smaller shareholders.

Therefore, we submit that Schedule SH-1 be made optional so as to make the return form less complex.

2. Reporting of details of Assets and Liabilities:

2.1 Another major disclosure requirement introduced in the ITR-6 for AY 2019-20 is

the requirement to disclose the details of the assets and liabilities of the unlisted company in Schedule AL-1.

2.2 Following are the brief headings under which the information has been asked for in the ITR6:

a. Details of building or land appurtenant there to, or both, being a residential house.
b. Details of land or building or both not being in the nature of residential house.
c. Details of listed equity shares.
d. Details of unlisted equity shares.
e. Details of other securities.
f. Details of capital contribution to other entity.
g. Details of Loans & Advances to any other concern (If money lending is not assessee' s substantial business).
h. Details of motor vehicle, aircraft, yacht or other mode of transport.
i. Details of Jewellery, archaeological collections, drawings, paintings, sculptures, any work of art or bullion.
j. Details of loans, deposits and advances taken from a person other than financial institution.

2.3 The similar information for Start-ups has been asked for in Schedule AL-2.

2.4 We hereby draw your attention to the certain specific issues in Schedule AL-1 as reported by our members;

a. At the outset the information that is required to be disclosed in Schedule AL-1 is getting reported in the ITR or Tax Audit report of the assessee maybe in different format or at different time (i. e. time at which the same is relevant for the purpose of computation of income) although the same may not be in as much details as asked for in Schedule AL-1.

b. The aforesaid disclosure has no relevance with the actual Computation of Income. The details applicable for the purpose of Computation flows from the Respective Computation / deduction / exemption Schedules (where all the relevant details are required to be disclosed in detail) to the Final Computation and such disclosure do not affect the computation.

c. The information as asked for in this schedule can always be called for by way of issue of notice under the scrutiny proceedings or even otherwise in the cases flagged by the system or where the authorities have any doubt. Making all the assesses suffer the rigours of such disclosure requirements when such information is already available elsewhere is unfair and causes tremendous loss of productive man hours and is not in line with the commitment for ease of doing business.

d. Unlike in the case of individuals – where such information would otherwise go completely unreported as there is no requirement for maintenance of books of accounts except for business assets / balance sheet. The Companies are

compulsorily subject to audit as per Companies Act and their balance sheet which includes the details of assets and liabilities are duly reported in the ITR. Therefore, it is represented that the requirement of disclosure be made optional.

e. In cases of companies liable for Tax Audit Reporting in Form 3CD, comprehensive reporting is being done by the Tax auditor in Form 3CD which addresses all the relevant allowances and disallowances applicable to that particular assessee. And in case of small size **companies**, where there is no Tax Audit but so much of irrelevant information does not make it feasible for them to devote resources to compiling such voluminous data.

Therefore, such requirement of filling up Schedule AL-1 should be made optional.

f. Without prejudice to our above representation, We, draw your attention to the below mentioned specific issues in the reporting of Schedule AL-1.

   i. Although the companies do maintain the details of Gross Block of the assessee and the same has already been reported on overall basis in the Balance Sheet which is duly audited, however, it is important to note that for the income tax purpose separate block wise details of the assets are maintained as required by law. In the block concept of Fixed Assets as prescribed under the Income tax Act, the identity of an individual asset is lost once it enters the block. Even the manner of computation of gain or

loss in the case of disposal of depreciated assets is completely different in the Income tax Act as compared to the entries in the Books of Accounts. Therefore, asking for the details of assets including cost of acquisition, date of acquisition along with the other details in the case of depreciable assets would never match with any gains or loss to be computed as per the Income tax Act. Further, the said details are already verified and disclosed on overall basis in the Tax Audit Report.

Thus, it is represented that the reporting requirement of assets on which depreciation is required to be charged be made optional.

ii. The field which requires the assessee to specify the purpose for which the asset (Property, Jewellery, and Motor vehicle) is used, consists of a dropdown and the assessee is required to select any one use from the drop down. The said mechanism leads to the following difficulties

   a. There is no option to indicate any purpose other than those specified in the dropdown.
   b. There is no option to specify the mixed use of asset. (e. g. Office Premises which are also partly given on rent).

iii. The Assessees reporting their Foreign Assets and Liabilities in Schedule FA should not be required to once again disclose such Foreign Asset or Liability in Schedule AL in case the said item has already been disclosed

in Schedule FA. Thereby avoiding the overlap of reporting since this causes unnecessary duplication / repetition of reporting of the same disclosure.

iv. Schedule AL also requires reporting of Stock in trade. In this case we submit as under:

a. It is to be noted that the parameters applicable for accounting and record keeping of stock in trade and other assets differ significantly and the reporting requirements cannot be generalized.

b. For example, It is impractical to ask for cost of acquisition or date of acquisition in the case of Stock in trade. This is because the stock in trade would always have a "value" as per the valuation method adopted by the assessee and as permitted by Accounting Standard and ICDS. Such value may not be the actual cost of acquisition and may not be traceable to actual purchase (e. g. Weighted Average Method of valuation).

c. Even in case of other stock valuation methods such as FIFO etc., the calculation of stock value based on particular invoice may not mean that the stock lying is actually from that particular Invoice.

d. It is Even more difficult in deriving the required information in the case of a manufacturer of jewellery or builder.

e. Form 3CD as well as Schedule QD of the ITR already contains the quantitative details of all kinds of inventory.

f. There is an exception given by way of FAQ in case of jewellery / motor vehicle held as stock-in-trade which required the assesse to report the said assets on an aggregate basis and not individual basis. However, such aggregate information has already been reported in Form 3CD and Balance Sheet and Schedule OI. Further, as discussed above reporting of even aggregate "cost of acquisition" is impossible / impractical in the case of stock in trade.

g. There is no exception in reporting vehicle wise details for assesses who may not consider the vehicle as Inventory. However, the motor vehicle is their main business asset and may be in large number. E. g. Rent-a-cab companies or transporters.

h. The answer to Q. 13 of FAQ given by the department on 8th August, 2019 only refers to Jewellery / Motor Vehicle, etc. It is important to clarify that the said exemption should also be applicable to any kind of asset held as stock-in trade e.g. Builder, Bullion, etc. As otherwise, the reporting requirement of stock in trade in case of say builder / developer would be an impractical or impossible task if they have huge number of unsold units on hand.

i. The Schedule does not envisage that the assets or inventories can also be manufactured or constructed.

v. In Schedule AL-2, the motor vehicle is to be reported only if the original cost exceeds Rs. 10 lakh. However, no such exception is provided in Schedule AL-1. Such exception be also made applicable to Schedule AL-1.

vi. In case of Details of Other securities: A clarification is required whether the disclosure is required for aggregate for each type of security or for each individual security. The name / identity of the security is not asked but face value / issue price / purchase price has been asked. (e. g. The assessee may have invested in different schemes of mutual fund – how to report in this scenario is unclear).

vii. Details of capital contribution to other entity: This table asks for reporting of Amount of Profit / loss /interest / dividend debited or credited. How to report if one component (For e.g. Interest or Remuneration) is positive, but other component (e. g. Share of profit) is negative?

viii. Details of Loans & Advances to any other concern (If money lending is not assessee's substantial business): It is not clear whether the requirement is of the advances which are in the nature of loans only are to be given or advances which are in the course of regular business are also to be submitted (E. g. Advance to creditors for goods or services, advances for capital goods, etc.)? A suitable clarification in this regard is required.

ix. Details of loans, deposits and advances taken from a person other than financial institution: As far as details of loans received are concerned, we submit that clause 31 of Form No. 3CD of the Tax audit requires the detailed verification and reporting of each loan or deposit taken or accepted or repaid during the year. Therefore, requiring the assessee to disclose the said details once again in the ITR6 Form should be done away with.

3. Reporting Other Information / Quantitative Details:

3.1 Till last year, reporting under this section was *"optional in a case not liable for audit under section 44AB"* However, in the ITR for AY 2019-20, the instructions has been changed as under:

a. Part A – OI: *"mandatory, if liable for audit under section 44AB, for other fill, if applicable"*

b. Part A – QD: *"mandatory, if liable for audit under section 44AB".*

There is a difficulty in interpreting this change in the wordings i. e. To Fill up the information at items which are applicable. **A suitable clarification in this regard is required.**

3.2 The Instructions to ITR states that the amounts mentioned against those items which are also required to be reported in the tax audit u/s 44AB should match with the information given in the tax audit report.

a. The assesse may have a different view of the matter than the auditor? It cannot be mandated that an amount mentioned as disallowed in the Tax Audit report must necessarily be disallowed by an assessee.

b. Even otherwise, if the government expects that the amounts must be same as appearing in Form 3CD, then there is no purpose of making the assessee repeat the same information again in ITR-6.

c. There can also be some genuine cases where the amounts to be reported can be different e.g. 43B / TDS liability paid by assessee subsequent to Tax audit but before filing ITR.

4. Reporting of GSTIN and Turnover:

4.1 The reporting of such information does not have any relevance in ITR as the amounts can never match in most cases and hence should be removed.

4.2 It is premature to have this information as the final amounts as per GST Return can be derived only from annual return filed by the assessee – which would also require a complete reconciliation with the books.

4.3 All the required details are already available with government in much more detail through the GST returns filed by the assessees.

4.4 Without prejudice to the above, a clarification is required as to

a. which GST Form to be considered?
b. Effect of the amendments carried out pertaining to earlier years in the current year or pertaining to current year in the subsequent year?
c. Effect of the amendments yet to be carried out (which will be carried out in subsequent GST returns)? Or

d. Effect of the Changes as per Annual return?

Conclusion

The entire process of compiling the ITR6 has overburdened the assesse, and a lot of information is sought which is very difficult to collect and disclose for the reasons mentioned above. If such voluminous information is needed, then due notice of at least a year ought to be given so that the same can be duly compiled. It is strongly recommended that this be made optional for A Y 2019-20. The present form is not at all in line with the ease of doing business.

Thanking you,

Sincerely yours,

For **THE CHAMBER OF TAX CONSULTANTS**

Sd/-	Sd/-	Sd/-
VIPUL K. CHOKSI	**MAHENDRA SANGHVI**	**APURVA SHAH**
PRESIDENT	**CHAIRMAN**	**CO-CHAIRMAN**
	LAW & REPRESENTATION COMMITTEE	