

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

North Block, New Delhi, the 15th of November, 2017

Order under section 119 of the Income-tax Act, 1961

Subject: Processing of income-tax returns filed in Forms ITR-2, 3, 4, 5 & 6 under section 143(1) of the Income-tax Act-applicability of section 143(1)(a)(vi)-reg.-

Sub-clause (vi) of clause (a) of sub-section (1) of section 143 of the Income-tax Act, 1961 ('Act') as introduced vide Finance Act, 2016, w.e.f. 01.04.2017, while processing the return of income, prescribes that the total income or loss shall be computed after making adjustment for addition of income appearing in Form 26AS or Form 16A or Form 16 (the three Forms) which has not been included in computing the total income in the return.

2. In this regard, while processing income-tax returns filed in Forms ITR-2, 3, 4, 5 & 6, doubts have arisen regarding the nature, extent and scope of comparison of information as contained in the return of income with the three Forms which might lead to issuance of intimation proposing adjustments in the returned income. It has also come to notice that some of the information so available in the ITRs is incomparable with information contained in the three Forms. In this backdrop, it has become imperative to lay down suitable guidelines for CPC/AOs so that provisions of section 143(1)(a)(vi) of the Act are invoked only in appropriate cases.

3. After examining the matter, Central Board of Direct Taxes (CBDT), in exercise of its powers under section 119 of the Act, hereby lays down following guidelines regarding applicability of section 143(1)(a)(vi) of the Act while considering returns for processing pertaining to ITR Forms 2, 3, 4, 5 & 6:

3.1 For purposes of section 143(1)(a)(vi) of the Act, only the information so contained in the three Forms specified therein, would be taken into consideration.

3.2 In returns filed in ITR-4 Form, information about a particular head/item of income under the heads 'salary', 'income from house property', or 'income from other sources' is only on net basis and thus, complete data/information may not be available therein which may enable any comparison with the data/information as contained in the three Forms. Therefore, section 143(1)(a)(vi) shall not be applicable in such instances. However, if the receipts under these heads are completely omitted from the return, then the provisions of section 143(1)(a)(vi) shall be applicable. Further in ITR-4, wherever in the return Form, presumptive income under both Sec. 44AD and 44AE is disclosed, it will be difficult to correlate the receipts in the return with the information in the three Forms. Hence, any likely difference in the receipts under these items in the return with the receipts in the three Forms under this scenario would be excluded from the purview of Sec. 143(1)(a)(vi). Similarly, it will be difficult to correlate the

income under sec.44AE in the return with the information in the three Forms. However, where the presumptive income from business either u/s 44AD or profession u/s 44ADA alone are reported in the return and the gross receipts from presumptive business or profession shown in the return is less than the gross receipts as per the three Forms, intimation proposing adjustment would be issued.

3.3 For returns in Forms ITR-2 & 3, as receipts/income under the heads 'salary' is comparable with information available in the three Forms on a gross basis, provisions of section 143(1)(a)(vi) of the Act may be invoked in such cases wherever applicable.

3.4 In ITRs 3, 5 & 6, in respect of income under the heads 'income from house property' or 'income from other sources', there may be difficulties in ascertaining whether the receipt being shown in the three Forms is getting reflected under the head 'income from house property' or 'income from other sources' in the ITR Form or is being treated as business income under the head 'income from business or profession' by the concerned assessee. Under these circumstances, any likely difference in income shown under the head 'income from house property' or 'income from other sources' as contained in ITRs 3, 5 & 6 with the three Forms, being difficult to verify under section 143(1)(a)(vi) of the Act, would be excluded from purview of intimations proposing adjustments. However, there are certain types of income which are only taxable under the head 'income from other sources', in such situations, in case of mismatch at gross level, adjustments u/s 143(1)(a)(vi) of the Act shall be proposed. In respect of income under the head 'income from house property' being shown in ITR-2, as receipts/income are comparable with information available in the three Forms on a gross basis, provisions of section 143(1)(a)(vi) of the Act may be invoked.

3.5 In case of business receipts being taxable under the head 'income from business or profession' which are reported in ITRs 3, 5 & 6 Forms, comparison of such receipts in the three Forms with data in ITR at gross level may not be possible as receipts shown in the three Forms would get subsumed in the consolidated income in P&L A/c. Further, items in the P&L a/c such as commission, interest etc may be shown at a net basis whereas the details in the three forms are reported on a gross basis. Hence, any likely difference in business receipts as contained in ITRs 3, 5 & 6 with the three Forms is excluded from the purview of intimations proposing adjustments under section 143(1)(a)(vi) of the Act since they may not be comparable.

3.6 In case of income under the head 'capital gains' being shown under any of the ITR Forms i.e. 2, 3, 5 & 6, for purposes of section 143(1)(a)(vi) of the Act, the information of payment, which may span multiple years, being reflected in the three Forms and the information being captured in the ITRs may not be comparable. Therefore, section 143(1)(a)(vi) of the Act shall not be applicable in case of income under the head 'capital gains' being shown under any of the ITR Forms i.e. 2, 3, 5 & 6. However, the credit for tax which is deducted at source and paid to the credit of the Central Government shall be governed by section 199 of the Act read with Rule 37BA of I.T.Rules, 1962. Further, information in the three Forms regarding TDS on immovable property in the case of persons engaged in real estate etc. may be in the nature of business income, such cases being covered under para 3.5 above, section 143(1)(a)(vi) would not be applicable on them.

4. This instruction may be brought to the notice of all concerned.
5. Hindi version to follow.

Ankita
15.11.17

(Ankita Pandey)
Under Secretary (ITA.II), CBDT

(F.No. 225/333/2017-ITA.II)

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Ankita
15.11.17

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