

Businesses face tax heat over deductions claimed for cess

CBDT tells I-T officials to nudge entities; move could help garner over ₹5,000 cr

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The Central Board of Direct Taxes (CBDT) has asked top income-tax officers to nudge entities that had claimed deduction on account of cess or surcharge over the past several years to voluntarily pay the differential tax to avoid penalties.

The deadline to resolve and rectify tax returns is March 31.

After March 31, the amount claimed or taken will be treated as “under-

reported” income and subject to a 50 per cent penalty.

The directive was among the key items taken up by the CBDT in its Tuesday meeting, chaired by Chairman Nitin Gupta.

Besides, the apex body took stock of tax collection in FY23, tax deducted at source (TDS), the cases disposed of by the commissioner of income tax (appeals), pending taxpayers’ grievances, and so on.

The exercise could earn the tax authorities ₹5,000



TAXING TIMES

■ The deadline for assessee to resolve/rectify tax returns will end on March 31

■ After that, deductions claimed for cess or surcharge in the past will be treated as ‘under-reported’ income

■ Such income will attract 50% penalty

■ Govt last year brought retrospective amendment under Section 40 (a)(ii) of the I-T Act to prevent its misuse



crore, according to rough estimates. This could further shore up the direct tax revenue kitty for 2022-23.

“We need to ensure proper collection from assessee who had misused cess deduction claims under I-T provisions,”

said an official privy to the discussion.

“The tax payable amount however would depend on the number of applications seeking rectification of returns in the past years,” the person said. Turn to Page 6 ▶

vehicle share stands at 41 per cent, as against 43.4 per cent in FY22 and the peak share of 52 per cent in April 2021.

“We see Maruti’s financials improving further, aided by operating leverage and better (product) mix,” Singh said.

At the recently concluded Auto Expo 2023 in Greater Noida, the company unveiled three SUVs: Concept electric vehicle eVX, off-roader Jimny, and compact Fronx.

On Tuesday, Shah said he expected the domestic PV industry to record double-digit volume growth in FY23 and FY24, which would support the company’s business.

“Moreover, sales of premium products would further increase. MSIL would enjoy the benefit of higher market shares in CNG variants, as preference for CNG vehicles has been rising,” Shah added.

Tax heat...

“We expect assesseees to file them by February-end to save penalties,” the official, privy to the discussion, added.

The government had last year brought retrospective amendments to Section 40 (a) (ii) of the Income-Tax Act. This was aimed at preventing misuse of the provision, especially by business entities that have treated it as exemption or business expenditure.

This Section says any amount paid on account of any rate or tax levied on the profits or gains of any business or profession is not “allowable expenditure”.

“This is win-win window for taxpayers. They could get an opportunity to rectify tax returns by settling tax differences claimed earlier as deduction. The benefit to the government is acceleration in tax collection,” said Sudhir Kapadia, senior tax partner, EY India.

The rule came into effect in assessment year 2005-06. The Income-Tax Department under the rule needs to re-compute the income and amend its

assessment order for prior financial years. To avail themselves of the opportunity, taxpayers have to move an application electronically on or before March 31. Applications will seek re-computing the income of the previous year without allowing a deduction of surcharges/cess. Following the application, a tax officer will re-compute the income and issue notice specifying the period within which the tax has to be paid.

Before the amendment, there was a long-standing dispute on allowing cess and surcharges as deduction. The reason was that the provision was ambiguous because it did not specify the term “cess”.

“There are a plethora of decisions in various courts in the context of whether cess is regarded as income-tax. In some cases it is held that cess is part of the tax, whereas in some it has been observed that cess and tax are separate,” said chartered accountant Naveen Wadhwa.

The Finance Act, 2022, has clarified the term “tax” includes and will be deemed to have always included any surcharge or cess in any name.

Google...

The reason is security and malware issues, which Google will not be able to control. Google declined to comment on the issues and discussions with OEMs.

Sources say that Google has told mobile device makers that it already allows sideloading. For example, the apps of many gaming companies can be downloaded from their websites. Google has a pop-up warning telling users of possible harm to the device or personal data. The CII order says this must end.

Sources in the know say OEMs will now have choices. They can distribute only the Play Store without the suite of Google apps; they can agree to continue with the current bundling model; or they can