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INCOME TAX SCRUTINY ASSESSMENT IS ONE OF THE VITAL TOOL FOR COLLECTION OF REVENUE TO THE CENTRAL GOVERNMENT.

Dattatray Maruti Khune

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ABSTRACT :

The concept of total income is very important under the Income Tax Act 1961. The Tax liability determined by the assessee before filling of Income Tax Return computed with considering the Total Income. The assessee computed the Gross Total Income of the financial year and there after the deductions available under chapter VIA taken into consideration with the maximum ceiling limit available for the particular financial year. Chapter VIA of the Income Tax Act particularly given the various sections regarding the deductions available from the Gross Total Income. The Government of India promoted the Investments and savings through this Chapter VIA such as investment in pension plan, SukanyaSamruddhi Account Scheme, National Saving certificates, Contribution made for Life Insurance premium etc. There are certain sections available to the assessee where the expenses made for the promotion of education of their children, it includes the available deductions in respect of repayment of loan taken for higher education, Tuition fees paid to the educational Institutes etc.

KEYWORDS : Assessee, Scrutiny Assessment, Income Tax Returns, Disallowances of Expenses.

INTRODUCTION:

The Income Tax Act 1961 also promoted the Deduction for the promotion of Health Insurance. It includes the deductions available to the assessee in respect of Medical or Health Insurance premium, expenditure on account of the medical treatment of assessee and the medical treatment of parents also. This chapter VIA also allowed the deductions in respect of donation to the Charitable Trust, Donation to the Government, Donation to the Prime Minister National Relief Fund, Donation to The Chief Minister Earth Quake Relief Fund – Maharashtra etc.

The assessee filed his income tax return of any financial year in the form of ITR Forms specified for the respective assesses. As per the income tax Act 1961 the basic provisions laid down for the filling of income tax return is that, the assessee file only one income tax return form even though the assessee earned the various source of incomes in particulars financial year. In ITR Form the assessee offered the following source of incomes of any Assessment Year.

The following are the heads of Income of Assessee for computing the Gross Total Income. In other words, there are Five Important Heads of Sources of Income of Assessee under the Income Tax Act 1961.

1. Income from Salaries
2. Income From House Property
3. Income from Profits and Gains of Business or Profession
4. Income from Capital Gain

5. Income from Other Sources

Filing of Income Tax Return by the Assessee is the first step of Assessment procedure for determination of income tax liability. There are different types of firms specified in the Rule 12 of Income Tax for filing the Income Tax Return. Normally the Income Tax return forms specified by the Central Government every year is subject to changes in the Income Tax Return details under Section 139 (1) of Income Tax Act 1961 the voluntary return to be filed by a person under the statutory obligations.

ITR FORMS AND SIGNING AUTHORITY OF RETURN

Under the Rule 12 of Income Tax Rules 1962 the prescribed return forms to be filed by the assessee while filing the Income Tax Return u/s 139 (1). The basic precaution to be taken by all assessee for filing the return of income to used the ITR forms as per their specifications. The following are the various forms of ITR for the filing of Income Tax Return.

Types of Forms	Particulars of Assessee
ITR-1 (Sahaj)	Individual Assessee having income from salary/ one house property income/income from other sources
ITR -2	Individual and HUF not having business/professional income
ITR – 3	Individual/ HUF being partner in the firm and not carrying out any business or profession under any proprietor business.
ITR – 4	Individual and HUF having Income from proprietor business or profession
ITR – 5	Any Firm, AOP and BOI or Artificial Judicial Person
ITR – 6	Company other than companies claiming exemption u/s 11 of the Act
ITR -7	For person including companies required to furnish return u/s 139 (4A), (4B), (4C) i.e. non profit making organizations.

The above returns shall be signed by the authorized person, as per section 140 of income tax act. The return of income tax u/s section 139 shall be signed and verified by the assessee or the representative of assessee. signing of Income Tax Return is compulsory by the assessee or their representative or executive required by the Act. In the case of *Khialdas & Sons v. CIT 225 ITR 960 (MP)*, *National Insurance Co. Ltd. v. CIT 213 ITR 862 (Cal.)*, the unsigned return is an invalid return filled by the assessee. In other words return filled by assessee within the time but the return is not signed by the assessee, it shall be treated as invalid return.

In the case of *CIT v. Moni Ram (Deceased) [2009] 316 ITR 321 (P&H)* Punjab & Haryana High Court held that return filed with the signature of the assessee after his death was not a valid return. The Court also state that assessment made of any invalid return is also invalid.

TYPES OF INCOME TAX RETURNS:

In the Income Tax Act 1961, the various types of returns specified as per the section such as voluntary return of Income tax, belated return of Income tax, revised return of Income tax, Defective return of Income tax etc., The details regarding this returns are as under :

1. Voluntary Return under section 139(1) :

Every assessee file their Income tax return voluntarily to the income tax department on the dates specified in the act. The assessee voluntarily decided the tax liability and paid off the Income tax with the proper challan. In this return the assessee declared their Income under the various sources and the self assessment made by the assessee himself. The tax credit considered such as TDS, TCS, Prepaid taxes taken into account while finalizing their self assessment tax.

2. Return of loss under section 139(3) :

The return of loss can be filled within the dates mention in the act. The return of loss should be filled in

prescribed form, the following losses cannot be carried forward for the next assessment year if the return of loss is not submitted in time.

- a) Business loss includes speculative loss or otherwise,
- b) Capital Loss includes long term capital loss or short term capital loss,
- c) Loss from activity of owning and maintaining the horse races,

3. Belated return under section 139(4) :

If the assessee is not furnished the Return of income within the time allowed under section 139(1) or within the time allowed of notice issued under section 142(1) the person may file the belated return before the assessment is made or before the end of one year from the end of relevant Assessment year. If the return is submitted after due date the assessee will have to pay the interest under section 234A of the act and few losses cannot be carried forward, however CBDT has power under section 199(2) to condone the delay in case of if the assessee claim the carry forward of losses Ref. Lodhi property Company Ltd. Vs. Department of Revenue (2010) 191 Taxman 74 Delhi and Bombay Mercantile Co-operative Bank Ltd. Vs. CBDT (2010) 195 Taxman 106 Bombay.

4. Revised Return under section 139(5) :

The assessee can file revised return within 1 year from the end of the assessment year or before completion of assessment year.

The certain conditions are specified in the Act as per section 139 (5), these are as under:

- a) The revised return can be filled only in case of the assessee is furnished the return under section 139(1) or the return filled as per the notice issued under section 142(1) of the act.
- b) The belated return cannot be revised.
- c) In the revised return the assessee corrected any omission or wrong statement given in the original Return.
- d) This section is not applicable to concealment of Income or false statement.
- e) The revised return should be filed within 1 year from the end of relevant assessment year but before the completion of assessment. The important provision regarding Electronic filing of Income Return is that if any assessee filed his original return on Electronic mode then he shall be revised his return on electronic mode only. The assessee can file the revised return as many number of times as it is within the limitation period and the assessee discover any omission, arithmetic mistake or wrong statement therein. Revised Return takes place the original return or the earlier Revised return if the original return was submitted before the due date prescribed under section 139 (1), therefore all losses are carry forward accordingly. There is no any provision in Income tax act to seek the permission to revise the Income tax return in other words it is the right of the assessee to submit such returns. Ref. CIT Vs. Samson distilleries Pvt. Ltd. (2006) 9 Sot 24 Bangalore.

5. Defective or Incomplete Return under section 139(9) :

The assessing officer considers that the return of Income furnished by assessee is incomplete and if any schedule of the relevant form is not submitted properly then it will be treated as defective return. The assessing officer may intimate the defect to the assessee for the rectification. The assessing officer may give an opportunity to rectify the defect within the period of 15 days from the date of such intimation. If the defect is not rectified by assessee then the assessing officer shall treat the return of Income as an invalid return and provisions of Income tax Act would apply as if the assessee had not filled the income tax return.

INCOME TAX ASSESSMENT:

The Assessee himself made the assessment of income before the filling the Income tax return. The assessee decided the total tax due along with the interest and takes the proper credit of TDS and TCS while filling the returns. On the same line after the filling the Income tax returns regular assessment made by the assessing officers. For the regular assessment the assessing officer issue the proper notice and collected the information while completing the scrutiny assessment. The following are the procedure and the types of assessments given

below:

a) Self assessment under section 140A :

It is the assessment made by assessee himself by on his own capacity. Every assessee file their Income tax return voluntarily to the income tax department on the dates specified in the act. The assessee voluntarily decided the tax liability and paid off the Income tax with the proper challan. In this return the assessee declared their Income under the various sources and the self assessment made by the assessee himself.

Statement showing Self Assessment Tax:

Sr. No.	Particulars	Rs.	Rs.
1.	Gross Total Income Less : Deduction under chapter VI A under section 80 C to 80 U	XXX XXX	XXX
	Total Income		XXX
2.	Tax on Total Income including Surcharge and education cess Add : Interest i) Under section 234A ii) Under section 234 B iii) Under section 234C	XXX XXX XXX XXX	XXX
	Total Tax and Interest Due		XXX
3.	Less : Tax Credit i) TDS ii) TCS iii) Prepaid Taxes / advance tax iv) Relief under section 89 and 90	XXX XXX XXX XXX XXX	XXX
4.	Self Assessment Tax Paid		XXX
5.	Balance tax Due		NIL

b) Summary Assessment without calling to assessee under section 143(1) :

Under section 143(1) the assessing officer can complete the assessment of the financial year without passing a regular assessment order; this assessment is completed on the basis of return submitted by the assessee under section 139 or in response to a notice under section 142(1).

The total Income of assessee shall be computed under section 143(1) after making the adjustment to the Total income in the return.

- 1) Any arithmetical calculation error in the return.
- 2) Any incorrect amount of claim or deductions availed in the return.

The intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by the assessee or amount of refund due to the assessee. While generation of intimation the tax credit given such as TDS amount, TCS amount, advance tax paid and any tax paid on self-assessment. An Intimation shall be sent to the assessee specifying the sum so payable and such intimation shall be deemed to be a notice of demand issued under section 156.

The intimation for tax or interest due should not be sent after the expiry of one year from the end of the financial year in which such return was made.

c) Assessment in response to notice under section 143(2) Scrutiny assessment:

The basic object behind this section is to protect the interest of revenue and to reduce the temptation of tax payers to evade taxes. Scrutiny assessment empowers to income tax authorities to scrutinize the return of income file by the assessee. In the process of scrutiny assessment assessing officers called the required information, clarification, documentation and the proof of the deductions and exemptions claim by the assessee. The assessing officer straight way deny any deduction or claim of exemption if the assessee not

submitted the proper evidences for the same. If the assessee not providing the proper documents, information declarations or any other statements relating for the scrutiny assessment then the assessing officer can call the informations from the various parties in support of such scrutiny assessment.

The assessing officer issue the scrutiny assessment notice to the assessee and has to be served to the assessee. If such notice under section 143(2) send to the assessee by registered post on the last day of period of the intimation and the notice served to the assessee few days later beyond the period of limitation then such notice cannot be said as valid notice served to the assessee. Reference - Aadarsh Traders v. CIT (2003) SOT 12 Delhi (SMC II).

After the notice serve to the assessee under section 153 (1) of the income tax act the scrutiny assessment must be completed within 2 years from the end of the assessment year in which the income was first assessable or 1 year from the end of the financial year in which the return or revised return relating to the assessment year is file under subsection 4 or subsection 5 of section 139.

d) Base Judgment Assessment under section 144:

The base judgment assessment is also known as 'Ex-Parte Assessment'. The assessing officer after considering all relevant and required material which he has gathered is under an obligation to make an assessment of total income or loss of assessee to the best of his judgment in the following cases:

- i) Any person fails to make a return required under section 139(1) or has not made a return or a revised return under sub section 4 or 5 of that section.
- ii) If any person fails to comply the required information of notice under section 142(1) or fails to comply the direction given for accounts to be audited under section 142 (2A).
- iii) If any person fails to comply the required information of notice under section 143(2) such as his presence or production of evidences and documents.
- iv) If the assessing officer is not satisfied with the completeness of accounts of assessee or if the assessee has not regularly adopted the proper method of accounting.

While doing the base judgment assessment the additions of expenses in the income or deny of exemption claimed by assessee must be on reasonable basis. In other words all estimates must be honest and fair. Reference – Brij.Bhushan Lal Pradumankumar v. CIT 1978 15 ITR 524(SC).

e) Reassessment under section 147:

The completed assessment cannot be disturbed unless the requirement of the law is satisfied. Since the re opening of assessment is power of extra ordinary nature given in the act, under section 147 the assessing officer has reason to believe that the taxable income of assessee has escaped. The case of reopening assessment of assessee cannot be reopen merely based on the comment of third party like auditor or some other Assessing Officer.

The provision of section 147 are given below –

- 1.If the Assessing officer has reason to believe that any income chargeable to tax has escaped by assessee of assessment made for any assessment year.
- 2.Assessing Officer may assess or reassess such escaped income.
- 3.Once an assessment has been reopened and the Assessing Officer subsequently noticed that the assessee has income escaped then such escaped income shall be included in the assessment.

There are two conditions for Re- assessment:

- i)The Assessing officer must have reason to believe that income or profit or gains chargeable to income tax had escaped assessment.
- ii)The Assessing Officer must also have reason to believe that such escapement had occurred by reason of either omission or failure on the part of the assessee to disclose fully or truly all material fact necessary for his assessment of that year.

Both these conditions should be satisfied if the original assessment was made under section 143(3) and the Assessing Officer wants to take action after the expiry of 4 years from the end of the assessment year. The assessing officer is free to initiate proceeding under section 147.

The commissioner of income tax-5 (CIT V) is one of the major Revenue contributing area in Commissioner of Income Tax Pune. The researcher had proper dialogue with assessing officers and collected the essential statistical information for research work. The study of research enables to the researcher, to conclude research work in more systematic and proper manner. The policy and procedure of implication of the study is important not only to the common assessee but also to the Government.

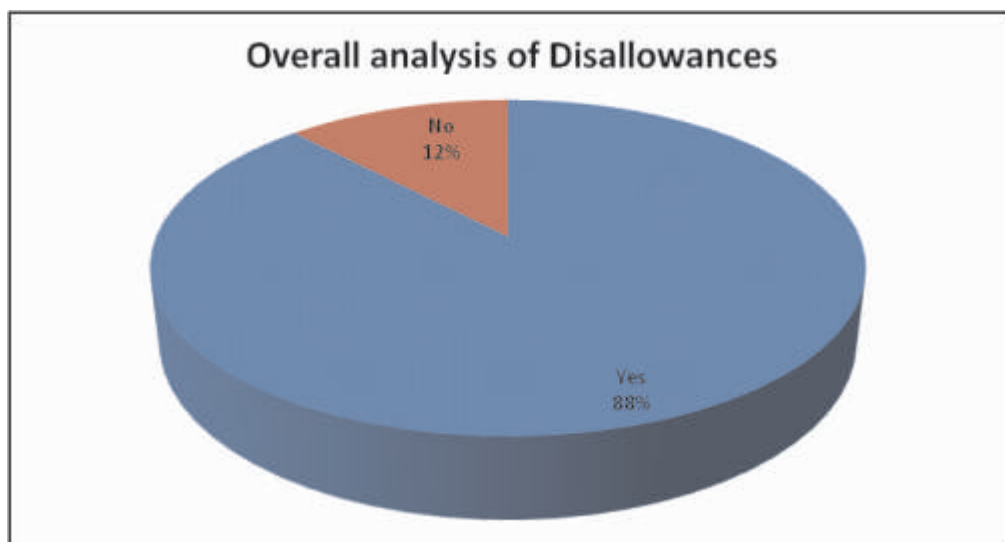
The study of research is mainly based on direct dialogues with the Assessing Officers and the information and data collected from the competent authority of CIT V. A detailed questionnaire had been distributed to the Income Tax Assessing Officers and collected first hand information for research study. Proper tabulations and statistical analysis of primary data have been ensured, accurate and logical inferences in the area of various aspects of research study.

The researcher studied the following number of scrutiny assessment cases of the particular assessment years.

OVERALL ANALYSIS OF DISALLOWANCES

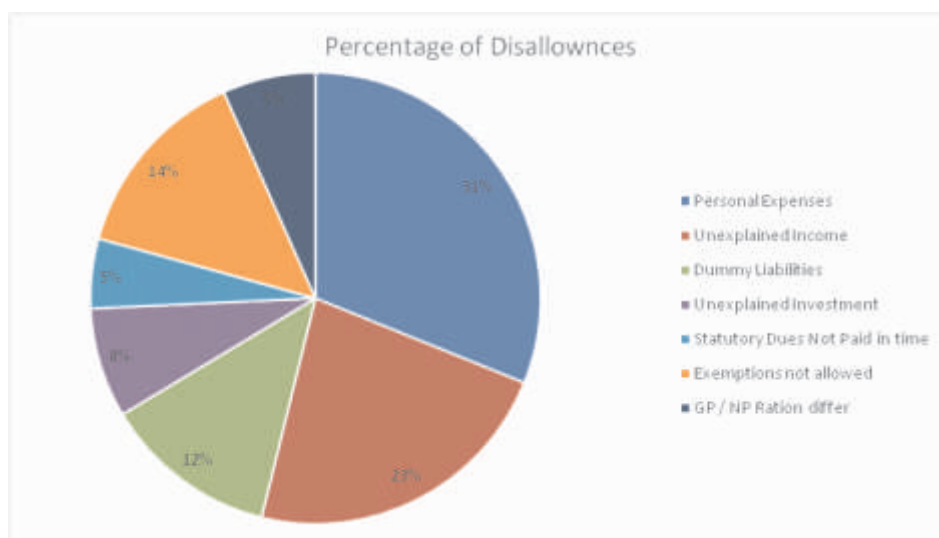
Year	No. Cases studied	Total disallowances	Percentage
2005-06	157	137	87.26%
2006-07	184	163	88.59%
2007-08	191	168	87.96%
2008-09	182	159	87.36%
2009-10	201	177	88.06%
Total	915	804	87.87%

The Overall analysis of disallowances from 87.88% cases the additions were made by the assessing officers in the total income of assessee. In other words 12.12% cases were accepted by the assessing officers as it is as per the returns filed by the assessee.



The researcher analyzed the above scrutiny assessment cases and presented the data as under.
Study of Statistical Mix of Disallowances of different Years:

Disallowances	2005-06	2006-07	2007-08	2008-09	2009-10
Personal Expenses	73	76	81	75	82
Unexplained Income	51	52	61	57	62
Dummy Liabilities	24	33	31	32	36
Unexplained Investment	17	21	20	19	21
Statutory Dues Not Paid in time	11	13	12	14	12
Exemptions not allowed	30	34	36	38	37
GP / NP Ratio differ	13	17	18	16	19



CONCLUSIONS OF RESEARCH STUDY

- 1) Out of the total studied scrutiny assessment it was found that average 31% assessee charged personal expenses such as personal telephone bill, domestic expenses, personal traveling expenses, domestic house rent, personal electricity bills, domestic water charges bills etc, to the profit and loss account for reducing the income of a particulars financial years.
- 2) It was found that average 23% of assessee could not explain the proper source of income while scrutiny assessment therefore assessing officer added such types of income in the total income of assessee for the particulars Assessment Year.
- 3) It was found that 12% of assessee created the dummy liabilities in the financial statements. The assessee could not explained reason for such liabilities incorporated in the balance sheet therefore assessing officers added in the total income of assessee for the particulars Assessment Year.
4. It was found that the average 8% cases, the assessee had invested the major portion of his income in the fixed deposit, purchase of properties and shares and securities etc which was not incorporated in the books thus the assessing officer added such unexplained investments in the total income of assessee and charged at highest flat rate @ 30% without allowing any deductions from such income.
5. It was found that the average 5% cases, the assessee claimed in the financial statement that the statutory dues paid in time or on or before the due date of filing of income tax return but while scrutiny they could not produced the proof for statutory dues paid in time, thus the assessing officers disallowed the statutory dues liabilities and added back in the total income of assessee.
6. It was found that the average 14% cases, the assessee claimed the exemptions from income in the financial statement of that particular year but assessing officers notice that such claimed exemptions are not properly supported or as per the provisions of Income Tax Act hence such types of exemption claimed by the assessee disallowed in the scrutiny assessment.
7. It was found that the average 7% cases, the assessing officers finalized the scrutiny assessment on the basis of GP/NP ratios. In this case expenses claimed by assessee to profit and loss account not considered separately and

scrutiny assessment finalized with comparing the GP/NP ratio of last 2-3 years.

8. It was found that the average 12% cases, were accepted by the assessing officer as it is as per the income tax return filed by the assessee. There is no any additions made by the assessing officers while scrutiny assessment, in other words 12% assessee proved that the expenses claimed, liability created, and the investment incorporated in the financial year are properly supported with the documents.

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