

Instruction No. 001/2015

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

North Block, New Delhi, dated the 13th January, 2015

Subject- Clarification regarding applicability of Section 143(1D) of Income-tax 1961-reg.

Sub-section (1D) of section 143 of the Income-tax Act, 1961 ('Act') provides that where a notice has been issued to a taxpayer under sub-section (2) of section 143 of the Act, it shall not be necessary to process the return in such a case.

2. Some doubts have been expressed, in view of the words "*shall not be necessary*" used in the said sub-section, as to whether this provision permits processing of returns having a refund claim, where notice under section 143(2) of the Act has been issued.

3. The matter has been examined by the Board . Sub-section (1D) of section was introduced by the Finance Act, 2012 With effect from 01.07.2012. The purpose of introduction of this sub-section has been stated in the Explanatory Notes to the Finance Act as under:

"Under the existing provisions, every return of income is to be processed under sub-section (1) of section 143 and refund, if any, due is to be issued to the taxpayer. Some returns of income are also selected for scrutiny which may lead to raising a demand for taxes although refunds may have been issued earlier at the time of processing.

It is therefore proposed to amend the provisions of the Income tax Act to provide that processing of return will not be necessary in a case where notice under sub-section (2) of section 143 has already been issued for scrutiny of the return."

Thus, in cases where an unprocessed return is selected for scrutiny, the legislative intent is to prevent the issue of refund after processing as scrutiny proceedings may result in a demand for taxes on finalisation of the assessment subsequently.

4. Considering the unambiguous language of the relevant provision and the intent of law as discussed above, the Central Board of Direct Taxes, in exercise of the powers conferred under section 119 of the Act hereby clarifies that the processing of a return can not be undertaken after notice has been issued under sub-section (2) of section 143 of the Act. It shall, however, be desirable that scrutiny assessments in such case are completed expeditiously.

5. This may be brought to the notice of all concerned for strict compliance

6. Hindi version to follow

(Rohit Garg)
Deputy Secretary to the Government of India

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

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