87A Rebate Claims Rejected in Revised ITRs Despite High Court's Relief – A Critical Concern for Taxpayers & Professionals!

Description

Rejection of 87A Rebate Claims in Revised ITRs despite High Court's Interim Relief!! Must Read for all professionals interested in 87A issue!!

📌Revised ITRs filed during the extended period granted by the Income Tax Department in compliance with the Interim Order of the High Court—allowing assesses to claim the 87A rebate—are now being processed with the rebate being denied.

📌This outcome was somewhat expected since, in its Final Order, the court emphasized that the department cannot restrict the utility or ITR form in a way that prevents an assesses from claiming any rebate or deduction.

Key Issue: Eligibility of 87A Rebate on Special Rate Income

📌The court heard detailed arguments from both sides for four hours each. It acknowledged that both arguments held merit. (In my view, certain arguments favoring the rebate were strong enough that the opposing side had no effective counter) However, instead of delivering a definitive ruling, the court stated that this matter is debatable and that it is up to the Income Tax Authorities to decide the eligibility of 87A rebate during the assessment process and further adjudication.

Practical Consequences

While the court's ruling appears to provide a fair opportunity for both assesses and the department to present their arguments post-filing, in practical terms, it favors the department.

This is because ITRs are initially processed automatically through the CPC system, which denies the rebate outright—without any opportunity for argument or representation.

As a result, crores of taxpayers who legally claimed the 87A rebate on special rate income (specifically, STCG under Section 111A) are now facing automatic rejections, which was never the court's intent.

Court's Intent vs. Current Implementation

A picture of the relevant portion of the order highlights the court's clear intent in Point 38, where it states:

📌If the department believes an assesses has incorrectly claimed a rebate/deduction, it may issue a notice under Section 143(1a). The assesses would then have an opportunity to either accept the discrepancy or reject it with an explanation.

However, at present, no such notices are being issued. Instead, claims are being outright rejected, without providing any opportunity to respond.

📌**Further, Point 39 of the order clearly suggests that:**

Just because few returns are selected for scrutiny, the department cannot restrict assesses from making a legitimate claim that has two possible interpretations. The court cited other claims that may not be legally tenable yet remain unchallenged due to scrutiny selection policies, thereby benefiting some taxpayers.

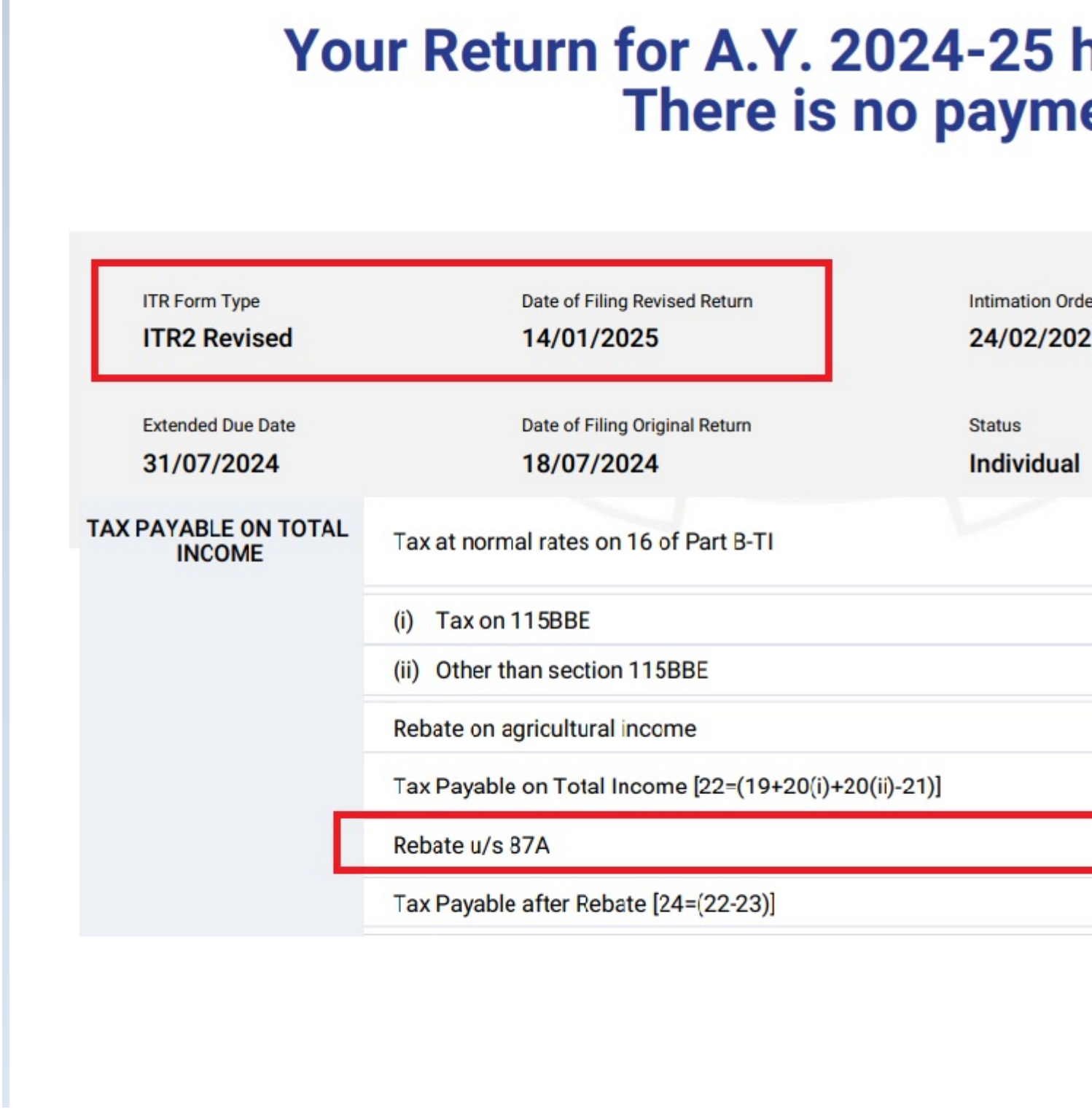
This implies that assessees should be allowed to make their claim while filing the return, and any dispute should be examined during scrutiny assessment under Section 143(3), which is a selective process.

The court did not suggest rejecting claims automatically under Section 143(1), which is a mechanized, non-discretionary assessment.

Call for Action!!

It is crucial that Hon. Bombay High Court takes cognizance of this issue and the challenges faced by crores of taxpayers due to the current misalignment between the court's order and its implementation

by Income tax India.



38. Assuming that an assessee makes a claim expressly prohibited or debarred by the Act, there is a provision under Section 143(1)(a) by which an adjustment can be made to the income of the assessee

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followed by raising the demand along with interest and consequential penalties/prosecution, etc. The provision of Section 143(1)(a) itself contemplates and accepts the fact that an assessee may make an incorrect claim, but in such a scenario the provisions of the Act take care by disallowing such claim and raising the demand. However, using technology for filing and processing the return does not empower any authority under the Act to prevent/restrict an assessee from making a claim which may not ultimately be found tenable.

39. There is no denying the fact that although the selected few cases are picked up for scrutiny, every return is certainly processed under Section 143(1) of the Act, in which case certainly the incorrect claim is expressly barred by the Act could be added to the total income. Merely because few selected cases are picked up for scrutiny does not mean and would not authorise any authority under the Act to prevent an assessee from making the claim on which more than one view is possible. The circumstance that only a few cases are selected for scrutiny applies across the board. There are bound to be instances where an assessee's claims may not be tenable but have escaped scrutiny because of the policy adopted and applied across the board. But, this cannot be a ground to tweak the utility to prevent at the very threshold, an opportunity to raise a claim on a debatable issue based upon the interpretation of the provisions in Section 87A and 115 BAC of

Category

1. Income Tax

Date Created
03/03/2025
Author
abhashh