

KCO BLOGS 2021

This blog is written by **Mr. Saif Uddin Khilji**. Please read this blog and provide your valued comments

NOTICE UNDER RULE 44(4) OF INCOME TAX RULES 2002

This notice has become a norm and nearly every withholding agent is receiving this and being asked by the department to provide reconciliation under Rule 44(4) of the Income Tax Rules, 2002. Accordingly, the notice received by the taxpayer requires amounts mentioned in income tax return/ financial statements to be reconciled with the ones mentioned in the withholding statements. Some taxpayers have even received notices for multiple taxpayers who were not served with the notice to provide reconciliation for earlier tax years.

These notices are appropriately responded by providing the requisite information to the tax officer along with a 'Legal objection on reconciliation under Rule 44(4) of the Income Tax Rules, 2002' whereby we emphasize that the taxpayer is required to reconcile the figures mentioned in the withholding statements with the figures in the return of income (including other documents like financial statements), therefore, the appropriate reconciliation methodology is to pick the figures from the monthly withholding statements filed by the taxpayer and explain availability of said figures with the amounts mentioned in the tax return/ financial statements because tax return & financial statements contain a number of figures which are notional/ payable/ accrual and/or not subject to withholding tax.

The above is a valid Legal Objection, however, in my opinion even if we go the other way, i.e., reconcile the figures mentioned in the withholding statements with the figures in the return of income, the differential transactions or reconciling items would have been same. Therefore, even if our Legal Objection is accepted by the department, we have to submit the reconciliation along with differences and their documentary evidences.

In order to cater these notices in an easiest & quickest possible way without going for adjournment requests and several hearings, it is suggested that the Quarterly Withholding Statements should contain all the payments made during the quarter irrespective of their taxability threshold and nature, hence, including payments of BTLs, prepayments, payables, purchase of assets, etc.

Accordingly, Withholding Statement should be reconciled at the end of each Quarter with the Financial Statement whereby each reconciling item should be separately identified as BTL, prepayments, etc along with documentary evidences. A separate file for each Quarter can be maintained and kept for onward submission when 'Notice for reconciliation under Rule 44(4) of the Income Tax Rules, 2002' is received. An additional benefit of reconciling payments quarterly is that the taxpayer is also able to identify any occurrence of non-compliance before initiation of proceedings and could avoid default surcharge by paying that tax amount in a timely manner.

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