

Budget 2024: The TCS credit against TDS on salary is a toothless provision

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Summary

The budget announcement that a provision relating to tax collected at source, or TCS, will be amended to benefit taxpayers, in fact, doesn't offer any relief at all. The tax deducted at source, or TDS, doesn't get actually reduced with this new amendment.

When the rate of Tax Collected at Source ("TCS") was increased from 5% to 20% last year, there was a large opposition to the amendment. One serious objection was that this would result in a cash flow blockage for taxpayers who went on foreign tours or remitted funds overseas under the Liberalised Remittance Scheme ("LRS").

TCS credit would be collected at the time of payment or remittance and be available while filing the income tax return. If the TCS was higher than the net tax liability as per the income tax return, then the taxpayer would get a refund of the TCS.

The problem is more acute for salaried taxpayers, where tax is deducted at source on the salary. For such taxpayers, it is only tax on other income that has to be paid separately, and against which such TCS and TDS on the other income can be adjusted.

The TCS credit can be absorbed only if the tax payable on other income is higher than the amount of TCS, in which case the taxpayer reduces his advance tax and self-assessment tax payments to factor in such TCS.

If the TCS is higher than the tax on other income, a refund claim has to be made in the income return, and the refund will be received subsequently. This, therefore, requires funding of TCS in addition to the foreign tour amount or amount of remittance for an average period of around a year when the tax on other income is not adequate to absorb the TCS.

Salaried taxpayers were therefore happy to hear finance minister Nirmala Sitharaman announce in her budget speech that credit of TCS is proposed to be given in the TDS on salary. This would mean that the cash flow problem gets resolved, as the employer would deduct lower TDS on salary to factor in the TCS, and the employee would, therefore, get a higher net salary to the extent of the TCS.

Is this however the correct position and the end of the matter?

If one examines the nitty-gritty of the proposed actual amendment, this permits the taxpayer to provide details of TDS and TCS to his employer along with details of his other income. The employer is then required to take into consideration (along with salary) such other income, TDS on such other income, and TCS, and apply TDS on salaries accordingly.

The catch, however, lies in a proviso (exception) to this provision. This states that while doing so, the TDS on salaries cannot be less than the amount of TDS on salaries that would have been deductible had such other income and TDS on other income and TCS not been considered.

In other words, the TDS on salaries cannot be reduced by such TDS and TCS. What such TDS and TCS can be adjusted against is only the tax on income other than salaries.

The employee is, therefore, not better off in any manner post this amendment. While he would earlier adjust such TCS against the advance tax and self-assessment tax payable on such other income, now the adjustment would continue to be against the same tax, but only by the employer!

To understand better, take an instance of an employee with a taxable salary of ₹30 lakh, and other income of ₹1.5 lakh, on which there is TDS of ₹10,000. On the salary, his TDS would be about ₹5.75 lakh. If he has spent ₹5 lakh on a foreign tour, TCS of ₹1 lakh would also have been paid by him.

Prior to the amendment, he would compute the tax payable on his other income of ₹45,000 (ignoring cess), and not pay advance tax of ₹35,000, which would otherwise be payable given the fact that TCS of ₹1 lakh has already been paid by him. While filing the return of income, he would claim a refund on the excess TCS of ₹65,000 over and above his net tax liability.

After the amendment, he would declare the other income of ₹1.5 lakh, TDS of ₹10,000, and TCS of ₹1 lakh to the employer. The employer would continue to deduct TDS of ₹5.75 lakh on the salary income. The employee would then file his tax return and claim a refund on the excess TCS of ₹65,000 over and above his net tax liability. Effectively, no difference!

This is another instance of what we have been seeing happening over the years—the announcement of an amendment with so-called benefit to taxpayers but wording the provision in such a manner that really no benefit flows to taxpayers at all.

Taxpayers these days are far better informed and would sooner or later realise how they are being taken for a ride. The least one expects is that if really no benefit is being provided, please don't announce it as a benefit.

What purpose do such amendments serve other than making the law complicated? If this is really a drafting mistake, can one expect that while passing the budget, the so-called benefit announced for taxpayers is implemented in reality by amending the proposal so that TDS on salaries can actually be reduced?

That would be the true test of whether the government really intended to provide a benefit or not.

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