



POWER
POINT

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TAX DEMAND STAYS OFFSET FACELESS ASSESSMENT GAINS

Adverse tax assessments by tax authorities often result in additional tax liabilities, commonly known as “tax demand.” Under the Income Tax Act (IT Act), 1961, taxpayers are required to pay the tax demand within 30 days of receiving the demand notice to avoid interest and penalty consequences. While they have the right to challenge an adverse order before a higher forum, navigating the appeals process while managing the tax demand remains an independent challenge—one that requires urgent attention due to procedural delays and administrative hurdles.

The assessing officer (AO) has the discretion to grant a stay on the tax demand while an appeal is pending before the commissioner, provided the taxpayer demonstrates valid grounds. However, obtaining a stay order is often a cumbersome and inefficient process, riddled with delays. Taxpayers frequently need to follow up multiple times or make repeated visits to the tax office, facing uncertainty. The lack of automation, coupled with the absence of a legally defined timeframe for processing stay applications, significantly undermines the efficiencies gained through faceless assessments.

To secure a stay, the AO may require the taxpayer to pay up to 20% of the disputed tax upfront. In specific cases, the AO can demand a higher percentage, but only under well-defined circumstances and with documented reasons and prior approval from superiors. These requirements are outlined in the Central Board of Direct Taxes (CBDT) guidelines, which state that a stay may generally be granted once 20% of the tax demand is paid while filing an appeal with the Commissioner of Income Tax (Appeals) [CIT(A)].

Yet, in practice, even after meeting this requirement, taxpayers often do not receive a formal stay order on time. Consequently, the outstanding demand continues to reflect on the taxpayer’s account, enabling the tax department to automatically adjust future refunds against it—regardless of the pending appeal. This issue arises because the grant of stay orders is still a manual and time-consuming process, whereas refund adjustments are automated through the Centralized Processing Centre (CPC), often leading to the full tax demand being collected despite the taxpayer’s right to a stay.

Given the government’s emphasis on leveraging tax technology and improving compliance, it is time to digitize and streamline the stay application process, reducing reliance on physical paperwork and manual intervention. An integrated online platform would not only simplify submissions for taxpayers but also enhance transparency, efficiency, and accountability.

Additionally, the government should introduce a statutory time limit for tax officers to act on stay applications, ensuring timely decisions and minimizing inefficiencies. Mandating a specific timeframe for processing would make the system more responsive and provide taxpayers with quicker relief from disputed tax demands.

While CBDT’s circular on the stay of demand is objective, its execution remains inefficient and inconsistent. Taxpayers have a reasonable right to a stay in most cases after paying up to 20% of the demand, as per the circular. However, this right is often compromised when future refunds are automatically adjusted against the disputed tax demand—an unfair and arbitrary practice that needs urgent correction to uphold taxpayer rights.

To address these concerns and ease the burden on taxpayers, the government must take decisive steps to modernize the stay application process and eliminate procedural inefficiencies. One potential solution is the creation of an independent authority with PAN-India jurisdiction to oversee the consistent implementation of CBDT’s guidelines on tax demand stays. This authority would be responsible for reviewing applications, ensuring compliance with existing rules, and providing timely and transparent decisions on stay requests.

While efforts have been made to reduce taxpayers’ physical interactions with the tax department, digitizing and standardizing the stay process would further build trust. An online system would minimize arbitrary rejections or inaction on stay applications and safeguard taxpayers’ right to obtain a stay of demand until the matter is sub-judice.

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