

Sections 206AB and 206CCA - Thorn in the Flesh for Taxpayers?

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The Finance Act, 2021 has proposed insertion of two new sections - 206AB and 206CCA with effect from July 1, 2021.

The proposed sections require persons deducting (206AB)/collecting (206CCA) tax at source, to do so at higher of 5% or twice the rates, specified or in force, while deducting/collecting tax at source from persons who have:

- a) not filed tax returns for two immediate previous years; and
- b) subjected to tax deduction/collection at source in aggregate amounting to INR 50 thousand or more in each of such two immediate previous years

It appears that that intention of the Indian government to introduce these sections is with a view to increase (notoriously low) tax regulations compliant population base in India.

However, it could cause genuine hardship to taxpayers and particularly for small taxpayers and micro, small and medium businesses/enterprises, who are likely to be most affected by these regulations.

Equally so, for the tax deductors/collectors who may be subjected to additional litigation, if they are unable to be sufficiently demonstrate compliance with these regulations.

Some Potential issues

Documents to be submitted/collected - Would an Affidavit suffice? Or ITR V (proof of filing) and Form 26AS? (proof of tax deduction/collection)? Authenticity of such documents? Acceptance of such documents by Income tax authorities, during assessment?

Confidential information - ITR V and Form 26AS contain confidential business information (profitability/ pricing/customers etc.)

Delayed/Reduced receipts - Impact on cash flows detrimental for survival of small taxpayers and micro, small and medium businesses/enterprises and consequential interest implications for tax deductors for delayed payments, if any to such persons

Probable solution

Since Income Tax Authorities have the data readily available, notify a PAN linked standardized form which taxpayer can apply for and generate from the tax filing portal, as evidence of compliance.

To further reduce bureaucracy, Income Tax Authorities can auto-generate the standardized form which

taxpayer can receive on email/download from tax filing portal (similar to Gold/Silver/Bronze certificates being issued by Income Tax Authorities).

Provide facility for tax deductor/collector to independently verify the authenticity of such form (similar to existing facility for Form 16/Form 16A).