Tax ombudsman

In case a person does not receive his tax refund even after filing the correct application the person can approach the tax ombudsman and file a complaint against the tax department.

The tax ombudsman is an independent body that has been set up by the government to address the grievances of the people with respect to the income tax department. The ombudsman is comprised of former Income tax officials or officials from the Indian revenue Service. The ombudsman provides the public with a platform to the taxpayers to address their grievances and the officials have the authority to resolve the same by taking the matter up with the highest authority. Any individual who has grounds alleging deficiency in the working of the Income Tax department may file a complaint with Ombudsman.

The tax ombudsman functions independently from the jurisdiction of the income tax department and acts as an arbitrator in the dispute. There are currently twelve ombudsman offices in the country in the cities of Ahmadabad, Bangaluru, Bhopal, Chandigarh, Chennai, Hyderabad, Kanpur, Kochi, Kolkata, Mumbai, New Delhi and Pune.

However you cannot approach the ombudsman in case where the matter is being taken up as a revision, reference, appeal or writ by an appellate authority, income tax authority, tribunal or court.

Before approaching the ombudsman however the person should have submitted a written complaint about non receipt of the refund to his Income Tax officer. It is only if the complaint has not been satisfactorily addressed by the officer, has been rejected by the officer or if the person has not received any reply within 30 days of the complaint can the issue be raised to the ombudsman. The complaint should be filed with the ombudsman within one year, after the 30-day wait for a response from the Income Tax official.

When the complaint is being submitted to the ombudsman it should consist of Name, address and the PAN of the complainant, facts and details of the grievance with a timeline of the events such as the complaint filed, response received etc., name of the office and the official of the income tax department against whom the complaint is made, copy of the complaint to the income tax officer, other documents supporting the complaint such as proof of income etc, and finally the relieve being sought from the ombudsman.

The Ombudsman acts as an intermediary between the complainant and the Income Tax Department. It tries to hasten the process and resolve the issue. It forwards the complaint that it receives to the concerned officer or authority and try to resolve the issue through mediation. In cases where the issue has not been resolved within a period of one month through an agreement, from the date of submission of the complaint, the ombudsman can pass a decision called an award. All decisions taken would be in line with the prevailing tax laws and only if the submitted documents are deemed fit. The decision of the Ombudsman thus has to be abided by the Income Tax Department and the tax payer.

After the ombudsman gives its decision the complainant has to express their acceptance of the decision and the settlement within the allowed time frame of receiving the letter stating the ombudsman decision as stated in the letter itself. If such an acceptance is not expressed the decision of the ombudsman would lapse and the award would not come into effect. The decision of the ombudsman is binding on the complainant and the Income Tax department.

The Income Tax Authority complained against should, within one month from the date of the award, comply with the award and intimate compliance to the Ombudsman.

In case the complainant is unsatisfied with the decision of the ombudsman, she can appeal against it through a writ petition in the high court under article 226 of the constitution or to the Supreme Court under article 32 of the Constitution.

In the case of C. Padmakumar v. The Deputy Commissioner of Income the petitioner had not received the refund from the Income Tax department and so he filed a complaint in the Income Tax Ombudsman however it was rejected. Following which the petitioner filed a writ petition in the High Court. The Kerela High Court in this decision held that in case a person files his tax returns and claims refund the Assessing Officer has to either accept the return, or reject the same and proceed against the assessee for completing an assessment under Section 143(3) of the Income Tax Act. The provisions of the Act do not envisage a situation where the assessing officer can ignore, or refuse to act upon, a return received by him. The court then directed the Income Tax department to refund the amount that the petitioner had paid in excess of his assessment.

So in cases where a person does not receive his tax refund he has to first complaint against this delay to the Income Tax officer, in case his complaint is not addressed within 30 days he can register a complaint to the Income Tax Ombudsman who will either resolve the issue through an agreement or pass an award. In case the complaint is rejected or the complainant is not satisfied with the award he can file a writ petition in the court to address his grievances.