



Rawani & Co.
Chartered Accountants



TRACES Site and Issues in Deemed, Recovery & online resolution

07/04/2017

Compiled by CA Avinash Rawani



- The material contained in the ensuing slides is for general information, compilation is from various websites, views of the experts and the views of the speaker compiled purely for general discussion at the seminar and it should not be construed and binding either on the part of the Speaker or the Forum. It is not intended to be legal advice or opinion on any particular matter. Since the features of the website are dynamic in nature, it is advised in your own interest to refer to Government publications including the Direct Tax Laws and Rules before arriving to any final conclusion. Participants are requested to refer to the Act, Laws, Rules and decisions of the various courts of law from time to time depending on a particular case to case as may be applicable to them or to their client.



07/04/2017

Compiled by CA Avinash Rawani

STATISTICS



07/04/2017

Compiled by CA Avinash Rawani

STATISTICS

Name and Address				
Web Information Manager Mrs. Jyoti Yadav jyoti_yadav@tdscpc.gov.in Aayakar Bhawan , Sector 3, Vaishali, Ghaziabad, U.P. - 201010	CPIO (CPC-TDS) & Feedback Handling Officer Mrs. Amita Sharma amita_sharma@tdscpc.gov.in Aayakar Bhawan , Sector 3, Vaishali, Ghaziabad, U.P. - 201010	Appellate Authority (CPC-TDS) Sh. Sarvesh Chandra Katiyar sarvesh_chandra_katiyar@tdscpc.gov.in Aayakar Bhawan , Sector 3, Vaishali, Ghaziabad, U.P. - 201010		
Processing related Statistics	FY 2016-17		FY 2017-18*	
	Received	Processed	Received	Processed
Original Statements	63,95,259	63,95,259	49,11,205	49,08,293
Correction Statements	22,69,346	22,69,346	12,58,823	12,57,563
Online Corrections	18,12,937	18,11,213	12,76,953	12,76,766
Download Request Type	FY 2016-17		FY 2017-18*	
	Unique Deductors using the facility	Download Requests	Unique Deductors using the facility	Download Requests
Form 16A	16,83,154	24,80,00,223	14,03,249	30,20,613
Form 16	4,98,079	4,29,97,919	5,00,231	6,85,165
Form 16B	1,98,844	5,08,513	1,19,318	2,45,379
Justification Report	6,17,362	40,16,068	4,28,295	11,31,370
Consolidated File	7,86,909	57,36,173	6,04,145	24,75,381

07/04/2017

Compiled by CA Avinash Rawani

STATISTICS

Registration Statistics		FY 2017-18
Deductors Registered - Govt.		1,81,560
Deductors Registered - Non-Govt.		17,51,628
Tax Payer		8,53,838

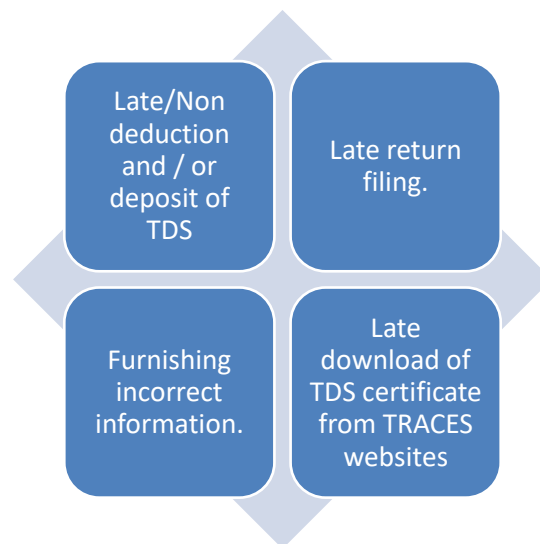
Grievance related Queries	FY 2016-17	FY 2017-18*
Inbound Calls	5,99,774	3,24,477
Grievances through email	1,17,725	61,692
Grievances through Post	13,827	6,343
Online Grievances	55,943	23,954

26AS Views	FY 2016-17	FY 2017-18*
Total Views	17,33,13,621	11,04,77,661
Distinct Taxpayers viewing 26AS	3,39,85,776	2,97,75,549

07/04/2017

Compiled by CA Avinash Rawani

Why Defaults Happen



07/04/2017

Compiled by CA Avinash Rawani

Categories of Defaults :

SUBSTANTIVE :

- Deduction of tax at source :
 - Failure to deduct tax at source
 - Delay in the deduction of whole or part amount of tax
- Payment of tax deducted at source :
 - Failure to deposit the whole or part of TDS (non-deposit)
 - Delay in the payment of whole or part amount of TDS (short deposit or late deposit)

07/04/2017

Compiled by CA Avinash Rawani

Types of TDS Defaults :

PROCEDURAL :

III. Failure to furnish or delay in furnishing the prescribed statements u/s 200(3)

- The provisions of quarterly statements of TDS have been introduced in the statute vide section 200(3) w.e.f. 01/04/2005.
- Every person responsible for deducting tax is required to file quarterly statements of TDS for the quarters ending on 30th June, 30th September, 31st December, and 31st March in each Financial Year.

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

> Consequences on failure to comply with TDS/TCS provisions under the Income-tax Act, 1961 are as follows :

- Non allowance of expenditure u/s 40(a)(i) / 40(a)(ia).
- Being treated as an assessee in default u/s 201
- Simple interest payable u/s 201(1A) on account of failure to deduct or pay tax.
- Penalty payable when assessee is in default in payment of tax u/s 221.
- Assessee liable to pay fee u/s 234E for delay in furnishing statement.
- Penalty u/s 271C/CA for failure to deduct tax at source or collect at source.
- Penalty u/s 271H for failure to furnish the statements of tax deducted at source.
- Penalty for failure to furnish a certificate as required by section 203 or 206C.
- Prosecution u/s 276B on failure to pay tax to the credit of Central Government under Chapter

07/04/2017

Compiled by CA Avinash Rawani

Notice from TDS Department- Not to Ignore

- For Interest on delay remittance of TDS, pay the same after verification and file Revised Return.. Such payment should be under the category of Tax on Regular Assessment..
- For short deduction, verify the contents and file revise return accordingly;
- Send reply to the Notice of the Assessing Officer with a copy of the receipt of filing Revised Return.

07/04/2017

Compiled by CA Avinash Rawani

Defaults... Whether Legal

- It is stated that the defaults generated and displayed on the TDS-CPC website is deemed to be the NOD;
- If the errors are not rectifiable by filing e-Revised TDS Return, then to ensure that the necessary correspondence be done with the TDS Assessing Officer/TDS-CPC to avoid penalties;

07/04/2017

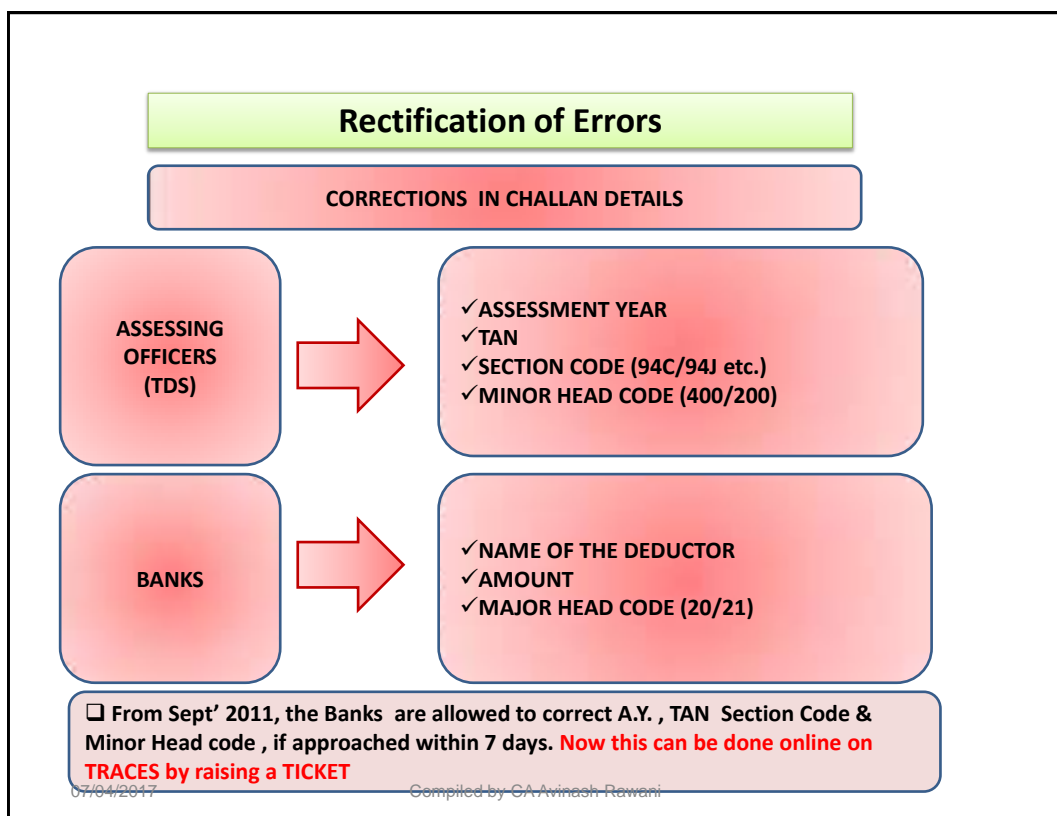
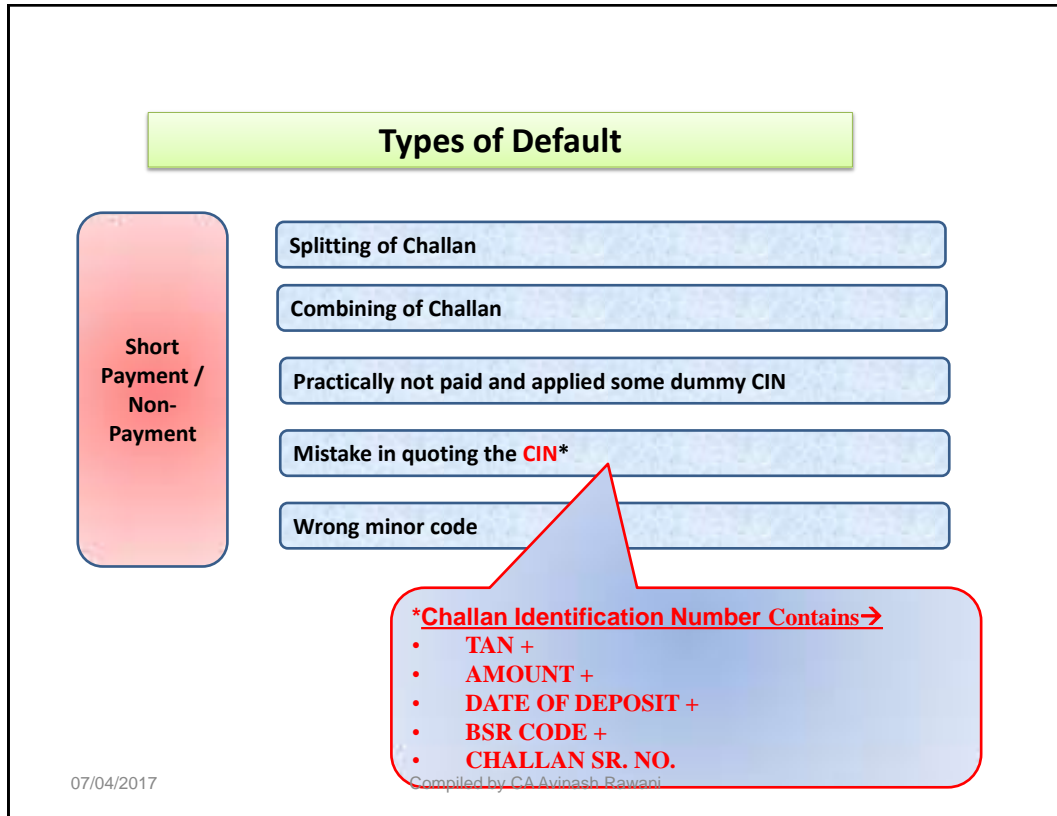
Compiled by CA Avinash Rawani

DEVELOPMENT OF STANDARD OPERATING PROCEDURES

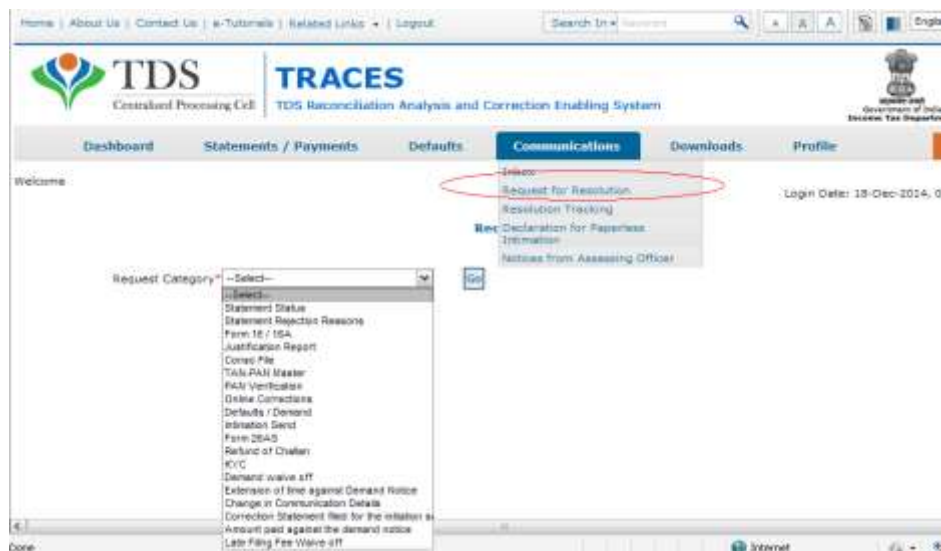
- Matching the unconsumed challan.
- Top Deductors paying less/no tax with respect to previous financial years.
- Resolvable/Collectible TDS Demand.
- G-OLTAS reconciliation.
- Corporate connect for TDS compliance

07/04/2017

Compiled by CA Avinash Rawani



Reply to Online Communication From TDSpc



07/04/2017

Compiled by CA Avinash Rawani

Rectification of Errors: Consolidated TDS/TCS File

- Available to registered TANs at TIN
- **Mandatory from June 2010-11** to prepare correction return with consolidated TDS/TCS file generated each time.
- Available on online request and successful verification
- Consolidated file provided by TIN includes
 - all the updates done vide correction statements (accepted at TIN central system) filed by deductor/ collector
- Consolidated TDS/TCS file is
 - emailed at email ID in TAN account
 - available for instant download
- eTutorial on TAN registration and Consolidated file request on TIN website

07/04/2017

Compiled by CA Avinash Rawani

TDS / TCS – Good Practice

- Insist for PAN of deductee / employee, with a copy of **PAN CARD**
- **Verify PAN of deductee / employee** before quoting in TDS/TCS return
- **Report all transactions** where tax is deducted/collected
- In case **PAN of the deductee / employee is not available;**
 - deduct tax at higher rate
 - report such transactions in the TDS/TCS return with flag 'C' indicating tax deducted at higher rate
 - File correction statement to update deductee / employee PAN if provided subsequently
- Deduct tax as per the latest prescribed rates and correctly report the same in the TDS/TCS statement

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

- Issues :

1. Will short deduction result in disallowance of expenditure?
2. What is the position in regard to sums deducted and paid during the year but beyond the time as prescribed in chapter XVII B?
3. What is the position in regard to the provisions where payees have been identified? Will there be a difference if the payees have not been identified?
4. What is the meaning of the term “deduction”?

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

B. Tax deductor deemed to be an assessee in default u/s 201

- If an assessee fails to deduct tax at source or having deducted fails to pay, then such person shall be deemed to be an assessee in default.
- Simple interest u/s 201(1A) at the rate of 1% or 1.5% shall be payable who does not deduct or after deducting fails to pay the tax.
- Interest to be paid from the date on which such tax was deducted to the date on which such tax is actually paid.
- Form 26A to be obtained from the Practising Chartered Accountant in the specified format for allowance for expenses. (As per Finance Act, 2012 effective 1.4.2012)

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

Section 201 (contd..) Saving

- As per the Proviso inserted by Finance Act, 2012--
 - any person who fails to deduct tax, but
 - is not deemed to be an assessee in default in respect of such tax provided if the resident payee—
 - a. Has furnished return of income u/s 139;
 - b. has taken into account such sum for computation of income;
 - c. Has paid the tax due on income
 - d. A certificate to that effect is issued by his “accountant”

Issues :

- Is the insertion of the proviso retrospective?
- What is the position in case of a return of loss by the payee?
- In case of such a return of loss by the payee is the assessee still to be treated as an assessee in default?

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

C. Penalty payable when tax in default u/s 221

- Penalty u/s 221 is payable when an assessee is in default or is deemed to be in default in making the payment of tax and fails to pay the tax.
- The Assessing Officer may direct an amount of penalty payable.
- The total amount of penalty shall not exceed the amount of tax in arrears.
- The assessee shall be given a reasonable opportunity of being heard.
- No penalty shall be levied where the assessee proves to the satisfaction of the Assessing Officer that the default was for good and sufficient reasons.

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

C. Fee for default in furnishing statements u/s 234E

- Fee payable for failure to deliver a statement within the time prescribed in section 200(3) or the proviso to sub-section (3) of section 206C.
- A sum of rupees two hundred shall be payable for every day during which the failure continues.
- The amount of fee shall not exceed the amount of tax deductible or collectible, as the case may be.
- The amount of fee shall be paid before delivering or causing to be delivered a statement as per section 200(3) or the proviso to sub-section (3) of section 206C.

07/04/2017

Compiled by CA Avinash Rawani



Consequences of TDS Defaults

- The provisions of this section shall apply to a statement which is to be delivered for TDS or TCS, on or after the 1st day of July, 2012.

Issues :

- Is the payment of “Fee” mandatory ?
- Is this payment for default in the nature of “Fee” as is understood or will it partake the character of a Penalty ?

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

C. Penalty for failure to deduct tax at source u/s 271C

- Failure to deduct the whole or any part of the tax—
 - As required under the provisions of Chapter XVIIIB, or
 - As required under section 115-O(2) or
 - As per second proviso to section 194B
- Penalty of the sum equal to the amount of tax which was required to be deducted or paid shall be payable.
- Any penalty imposable shall be imposed by the Joint Commissioner.
- Issue : Can a penalty be levied under both the sections, i.e., section 221 & section 271C ?

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

C. Penalty for failure to collect tax at source u/s 271CA

- Failure to collect the whole or any part of the tax under the provisions of Chapter XVIIIBB.
- Penalty of the sum equal to the amount of tax which was failed to be collected shall be payable .
- Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner.

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

G. Penalty for failure to furnish the statements u/s 271H :

- A person shall be liable to pay penalty, if—
 - He fails to deliver a statement within the time prescribed in section 200(3) or the proviso to sub-section (3) of section 206C or;
 - Furnishes incorrect information in the statement which is required to be delivered
- The penalty payable shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

- Penalty shall not be payable u/s Sec.271H(3) if the quarterly statements for TDS or TCS were delivered before the expiry of a period of one year from the time prescribed.
- The provisions of Sec.271H are applicable in respect of the quarterly returns filed on or after 1st day of July 2012.

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

H. Penalty u/s 272A(2)(g) for failure to furnish a certificate as required by section 203 or 206C :

If any person fails –

- to furnish a certificate as required by section 203 or 206C,
- he shall pay by way of penalty, be liable to pay a sum of Rs.100 for every day during which the failure continues.

07/04/2017

Compiled by CA Avinash Rawani

Consequences of TDS Defaults

- **I. Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B (Prosecution u/s 276B) :**
 - Failure to pay to the credit of the Central Government, -
 - (a) the tax deducted at source as required by or under the provisions of Chapter XVII-B ; or
 - (b) the tax payable by him under sub-section (2) of section 115-O ; or as per second proviso to section 194B,
 - Punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

07/04/2017

Compiled by CA Avinash Rawani



Consequences of TDS Defaults

I. Failure to pay the tax collected at source (Prosecution u/s 276BB) :

- Failure to pay to the credit of the Central Government, the tax collected by him as required under the provisions of section 206C
- Punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

07/04/2017

Compiled by CA Avinash Rawani

Compounding of offences

- Power to compound offences u/s 279(2)
 - Any offence under this Chapter may, either before or after the institution of proceedings, be compounded by the Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General.
- Compounding of interest at the discretion of the authority, based on the category and nature of demand.
- Compounding according to the guidelines issued by the CBDT from time to time.
 - Prosecution initiated under IPC cannot be compounded;
 - Classification of Application under various categories of offences as per Section

07/04/2017

Compiled by CA Avinash Rawani

Non-Filing Reasons can be given

Dashboard Statements / Payments Defaults Communications Downloads

Welcome You have logged in on

Declaration for Non - Filing

Provide details below to add the statement details for non - filing

Financial Year* 2013-14 Quarter* Q1 Q2 Q3 Q4 Form Type* 24Q 26Q 27Q 27EQ

Reason* --Select--

Not Liable to deduct
No Payment made / c
Temporarily Business
Permanently Business
Payment Below Thre
Any Other Reason

Add Statement Details

07/04/2017

Compiled by CA Avinash Rawani

TDS Assessment procedure Notified

- CP of STDS Scheme notified on 15/01/2013;
- The guidelines are as per normal assessment proceedings;
- Notices to come by way of e-mail only;
- Monitoring through e-mail and communication only and no personal interference on the part of the Department or Assessee

07/04/2017

Compiled by CA Avinash Rawani

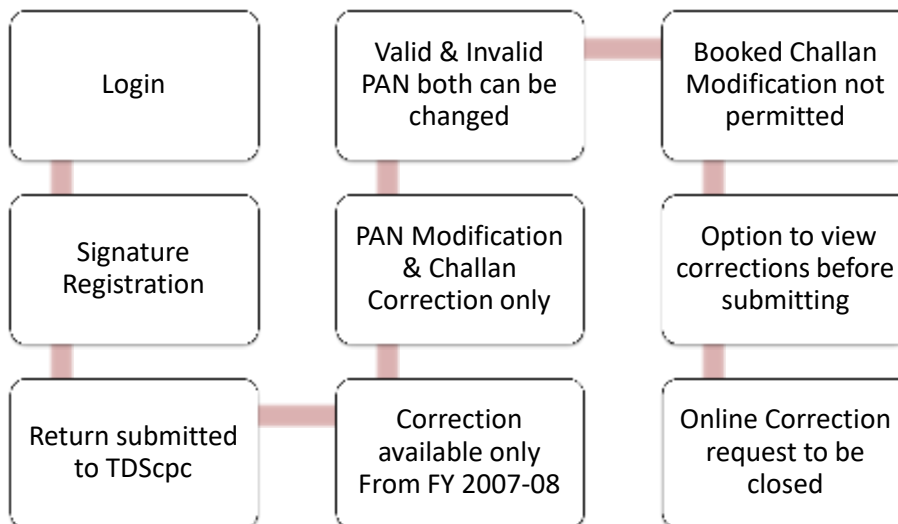
Actions for Demands

- Download the latest Justification Reports
- Use Challan ITNS 281 to pay the demand
- Submit a Correction statement without any further loss of time for closure of the outstanding demand.
- Use Online Corrections facility
- In case of Short Payment Defaults due to Unmatched Challans, use Tag Unmatched Challan facility using Online Corrections.
- In case of Short Payment Defaults due to Insufficient Challans, please use Move Deductee facility using Online Corrections. With use of this feature, a portion of the Deductee Rows can now be moved to any other Unconsumed OLTAS challan with adequate balance.
- For any further assistance, registered deductors can raise online grievance through "Request for Resolution" under communication tab or call our toll-free number 1800 103 0344.

07/04/2017

Compiled by CA Avinash Rawani

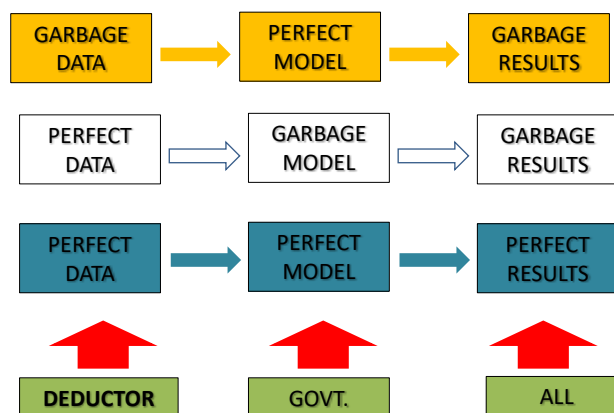
ONLINE CORRECTION SYSTEM AT GLANCE



07/04/2017

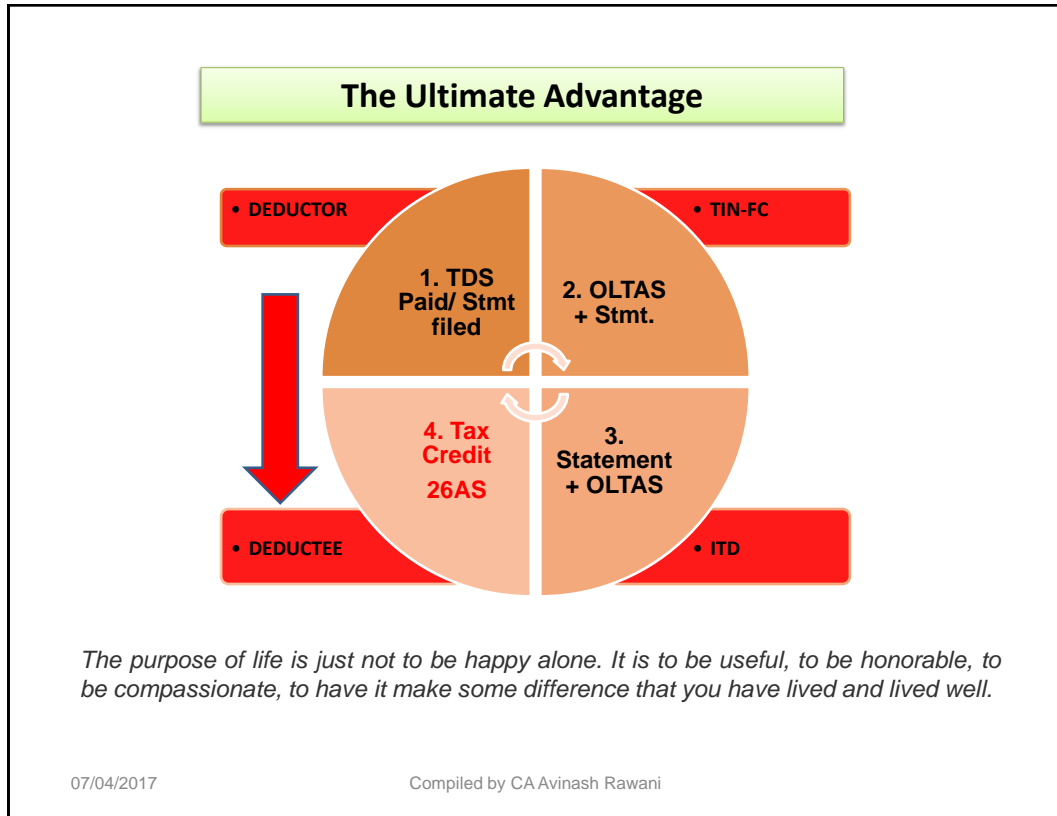
Compiled by CA Avinash Rawani

In Nutshell.....Garbage In → Garbage Out



07/04/2017


Compiled by CA Avinash Rawani



Forgiveness

The TDS Returns should be filed in such a way that is should not make

our **Life TeDious**



07/04/2017 Compiled by CA Avinash Rawani

Compiled by CA Avinash Rawani
Rawani & Co,
Chartered Accountants
801, Flyedge, At the Junction of Kora Kendra Flyover &
S V Road, Borivali West,
Mumbai 400092
E-mail : avinash@carawani.com
Website: www.carawani.com

- The views stated in the material and also discussed are purely of the compiler for the discussions at the Study Circle and should not be used for any legal interpretation. Any decision to be taken by the user of this information is to be taken after studying the requisite provisions of the respective Act and specific applications to particular client. Neither the compiler nor the study circle shall be responsible for the same.

07/04/2017

Compiled by CA Avinash Rawani