ITR Filling 2024: What you need to do when your employer does not deposit TDS with I-T Dept

ITR Filing: An employer is required to deduct TDS from an employee's salary and deposit it with the department by the 7th of the following month. Failure to do so will attract penalties. But it can also create troubles for the employee.

Your employer typically calculates your TDS and starts to deduct the amount from your first paycheck (in the accounting year) itself. The TDS deducted is based on the investment (tax-deduction eligible investments) and expenses' (home loan interest) declarations that employees provide. "Based on this information, the employer needs to calculate the annual tax liability of each employee and deduct the TDS at the time of payment of salary on a monthly basis (if applicable). The employer is bound to deposit the TDS with the Central Government by the 7th of the next month (for March, by 30th April) and file quarterly TDS returns," said Yogesh Kale, Executive Director, Nangia Andersen LLP.

Moreover, "towards the end of the year, the employer must collect the proof of actual investments made by the employees and adjust the final tax liability of the employees. That's when the balanced TDS gets calculated and then deducted. Once the TDS return for the last quarter is filed, the employer would issue Form 16 to the employees which includes all details of the respective employees' income and taxes deducted," added Kale.

What if the government doesn't get TDS?

There are multiple consequences for employers who fail to deposit TDS on time.

"The employer is liable to pay interest on the delayed TDS amount under section 201 for the period of delay. The Income-tax Officer has the power to impose a penalty on the employer under Section 271C of the Act as for failure to deduct or deposit TDS. Whereas, in cases of wilful failure to deposit TDS, another section 276B also provides for prosecution, which may result in imprisonment and a fine," said Yeeshu Sehgal, Head of Tax Markets, AKM Global, a tax and consulting firm.

Further, employers may not be able to claim a significant part of the employee's salary as expenses. "30 percent disallowance of salary expenses for resident employees; 100 percent disallowance of salary expenses for non-resident employees in case the TDS is not deposited upto filing of the employer's tax return, interest at 1.5 percent for every month and part of month from date of TDS deduction to date on which such tax is actually paid; penalty equivalent to TDS amount which the employer has not deposited," said Kale.