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Request for omission/amendment of Section 122(5) to prevent unintended hardship

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To

The Hon'ble Finance Minister of India

Ministry of Finance

Government of India

New Delhi

Subject: Request for Deletion/Amendment of Section 122(5) of the Income Tax Act, 2025

Respected Madam,

I write to respectfully draw your kind attention to the newly introduced provision in the Income-Tax Act, 2025 (No.30 of 2025) —Section 122(5)—which, in its present form, is likely to operate harshly against the corporate and other business taxpayers and may cause avoidable litigation.

The Issue

New section 122(5) provides that no deduction under Part C of Chapter XII shall be allowed where the assessee:

(*a*) fails to furnish the return of income within the due date prescribed under Section 263(1); or

(*b*) omits to make a claim for deduction in such return of income.

While the first limb is broadly aligned with the earlier Section 80AC, the second limb—that denial of deduction shall follow if it is not claimed in the original return—marks a drastic departure from settled law. In other words, this law will completely foreclose deductions merely because they weren't claimed in the original return.

2. Departure from Existing Law

Under the present regime, failure to claim a deduction in the original return did not cause the claim to lapse. Tax authorities were duty-bound to compute the correct taxable income after considering all admissible deductions.

The Bombay High Court in *Western Arch Developers* v. *Pr. Commissioner of Income tax- (Central)*[2025] 177 taxmann.com 313) emphasized the consistent position in this matter while stating that assessment proceedings are the

stage at which claims for deduction must be examined, and genuine lapses or errors should not extinguish substantive rights. Further in condoning the delay the High Court also said that just because an assessee was guided by professionals, same could not mean that there was no possibility of errors or delay by the taxpayer.

3. Why Therefore Section 122(5) Is Problematic

(*i*) **Denial of substantive rights**

Legitimate deductions, otherwise available under the law, would stand foreclosed due to a procedural omission.

(*ii*) **Contrary to principles of fair taxation**

Article 265 mandates that "no tax shall be levied or collected except by authority of law." Levying tax without granting lawful deductions effectively results in taxation of income that is not "real income.

(*iii*) **Global practice**

Taxpayers are permitted to amend returns and claim omitted deductions within prescribed time limits. In no any tax jurisdiction there is any law that completely foreclose deductions solely because they were not claimed in the original tax filings.

4. Prayer

Chapter C essentially mark various deductions available to business community and corporates who contribute significantly to taxes and would be forced to be burdened with litigation in the times to come.

In view of the above, it is earnestly requested that the Ministry may consider omitting section 122(5) in newly passed 2025 Act to remove its unintended hardship and ensure that the law strikes the right balance between protecting revenue interests and taxpayers' rights.

Such an amendment will not only reduce litigation but also strengthen faith in the India's tax administration policy machinery.

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