

ASSESSMENT PROCEDURE

RETURN OF INCOME

1. Voluntary Return: [Section 139(1)]

(a) **Firms and Companies:** Every Company and Partnership firm **should furnish** return of income in respect of its income or loss **for every previous year**.

(b) **Others:**

- The Assessee is not a Firm or a Company (I.e. Individual, HUF, AOP, BOI, Artificial Juridical Person)
- The Total Income before giving exemption u/s/OA/10M/IOB/10BA or Deductions under Chapter VI-A exceeds the maximum amount not chargeable to tax.

(c) **Form and Content:** The return of income should be **filed in the prescribed form** containing prescribed particulars within the prescribed time.

2. Prescribed time for filing return of Income:

Assessee	Due date for filling return
(a) Company	30th September w.e.f 1.4.08 31 st July
(b) Non-corporate assessee whose accounts are required to be audited under the Act or under any other law	
(c) Working partner of a firm whose accounts are required to be audited	
(d) Any other assessee	

3. Prescribed Forms:

Forms	Applicability
ITR - 1	Return of Income for Individuals having salary and interest income and no other Income
ITR-2	Return of income for Individuals and HUFs having income from any source except from business or profession
ITR-3	Return of income for Individuals and HUFs being partners in Firms and not having Proprietary business or profession
ITR -4	Return of Income for Individuals and HUFs having Proprietary business or profession
ITR-5	Combined form of Return of Income and Fringe Benefits for Firms/AOP/BOI.
ITR-6	Combined Form for Return of Income and Fringe Benefits for Companies
ITR-7	Combined Form For Return of Income and Fringe Benefits For Charitable/Religious Trusts, Political parties and other Non-Profit Organisations
ITR-8	Stand alone form for Return of Fringe Benefits for persons who are not liable to file Return of income but are liable to file Return of Fringe-Benefits
ITR-V	Return of Income/Fringe Benefits transmitted electronically without digital signatures

FILING OF RETURNS WITH EMPLOYERS - Section 139(1A)

1. Applicability: Individual, who is in receipt of Income chargeable under the head "Salaries"
2. Option: Return of Income of any previous year may be furnished to the employer, in accordance with the scheme prescribed by the Board.
3. Duty of Employer: The employer shall furnish all returns of Income received by him on or before the due date, in such form (including on a floppy diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as may be specified in that scheme.
4. Compliance: In such case, any employee who has filed a return of his income to his employer shall be deemed to have furnished a return of income u/s 139(1).

FILING OF RETURN IN A COMPUTER MEDIA [SECTION 139B]

1. The assessee may at his option furnish a return of income in computer media as per scheme prescribed by the Board within due date u/s 139(1) and such return shall be deemed to be a return furnished u/s 139(1).
2. It is mandatory for Companies and Firms subject to tax audit to file returns in electronic form only. For others, filing return in electronic format is optional.
3. Electronic filing for Companies can be done in any of the following manner
 - (a) **Electronic Form Plus Paper Form:** The Assessee is required to file return online in electronic form in the prescribed format using an XML File before the due date u/s 139(1) and follow the same by a paper return **within 15 days** from the date of submission of return online.
 - (b) **Electronic Form using Digital Certificate:** Assessee can file their return of income online as above digitally signing them using a Digital Signature Certificate. After which they are not required to file any paper returns at all.
4. **Date of Filing Return of Income:**
Using Digital Signature: Date on which filed using **Digital Signature**
Without using Digital Signature:
 - (a) Date on which return submitted online, if—
 - Paper return is submitted within 15 days of online submission, and
 - Paper return tallies with the re-return.
 - (b) Date of furnishing of Paper Return.
5. **Other Consideration:**
 - (a) **No Attachments:** The return filed under the above mode does not require any attachment / annexure i.e. the taxpayers need not enclose the following
 - Computation of Income
 - Financial Statements
 - TDS/TCS Certificate Proof of payment of Advance Tax / Self Assessment Tax
 - Audit Reports Including report u/s 44AB.
 - (b) **Exception:** However, the Assessee is required to furnish audit report u/s 92E i.e. Auditor's Report on Arms Length Price in International Transactions (wherever applicable).

Sec. 139(3): NECESSITY TO FILE THE LOSS RETURN BEFORE THE DUE DATE

1. **Bar on Carry Forward of Losses:** A loss sustained by the assessee in any previous year under the head
"Profits and gains of business or profession or "Speculation business" or "owning and maintaining of home races" or "Capital Gains" can be carried forward only if the return is furnished within the time allowed u/s 139(1).
2. **Exception:** Unabsorbed depreciation u/s 32(2) or Loss under the head "Income from house property" u/s 71B can be carried forward even if the return of income is filed within the belated period.

Sec 139(4): BELATED RETURN:

1. **Belated Return: [Section 139(4)]:** This is applicable to any person who has not furnished his return of income within the time allowed u/s 139(1) or in response to a notice issued u/s 142(1).

2. **Time limit:** The belated return can be filed either before:
 - (a) The expiry of one year from the end of the relevant Assessment Year, or
 - (b) Completion of assessment, whichever is earlier.
3. **Invalid Return:** Return of income filed after belated period will be treated as invalid.

SEC 139(4A): RETURN BY A CHARITABLE TRUST

1. **Obligation to File:** The charitable or religious trust whose income exceeds the maximum amount that is not chargeable to Income tax before giving exemption u/s 11 and 12 should furnish its return within the prescribed period.
2. **Prescribed Period for fmno return:**

Where the trust accounts are subject to audit:	31st October of the relevant Assessment Year
Where the trust accounts are not subject to audit:	31st July of the relevant Assessment Year
3. **Prescribed Form:** Form ITR- 7
4. **Consequence of non-filing of return within prescribed period:**
 - (a) Penalty u/s 272A(2) - Rs.100 for every day during which such default continues.
 - (b) The penalty shall be imposed by ACIT / JCIT after giving an opportunity of being heard.
 - (c) In case of genuine reasons, penalty shall not be imposed.

SEC139(4B):RETURN BY POLITICAL PARTIES

1. **Obligation to File:** If the Total Income of a Political Party exceeds the maximum amount not chargeable to tax before giving effect to the provision u/s 13A and Chapter VI-A Deductions, then it is liable to file its return of Income.
2. **Prescribed Form and Period:** The Chief Executive of every political party should furnish the return of income in the Form ITR-7 within the prescribed due date.

SEC.139 (4C): INSTITUTIONS, WHICH ARE LIABLE TO FILE THE RETURN OF INCOME

The following institutions should furnish their return of Income In Form ITR-7 and verified In the prescribed manner along with the prescribed particulars before the prescribed due date:

1. **Scientific Research Association** referred to in Section 10 (21)
2. **News Agency** referred to in Section 10(226)
3. **Professional Association or Institution** referred to In Section 10(23A)
4. **Khadi and Village Industries Development institution** referred to In Section 10(236)
5. **Fund or Institution** referred to in sub-clause (iv) or trust or institution referred to In sub-clause (v) or any university or **other educational institution** referred to in sub-clause (iiiad),(vi) or any hospital or other medical Institution referred to in sub-clause (IIiae),(vla) of Section 10(23C).
6. **Trade unions** referred to in Section 10(24).

When applicable: If income of the above institution, without giving effect to the provisions of Section 10 and Chapter VI-A Deductions, exceeds the maximum amount which is not chargeable to income tax.

Sec.139(4D): Obligation of Universities, Colleges and other such Institutions to file return of income.

1. **Applicability:** Every University, College or other Institution u/s 35(1)/(2)/(3), who are not required to file return of income or loss under any other Section.
2. **Obligation:** The above persons are required to file their return of income or loss in every previous year.

3. **Other Provisions:** Such a return will be treated on par with a return furnished u/s 139(1) and all provisions of the Act will apply accordingly.
4. **Power of AO:** The Assessing Officer has power to recommend for withdrawal of approval to the Institutions referred u/s 139(4D), who have not carried their activity as per the approved conditions.
5. **Opportunity of being heard:** The Institution will be given a reasonable opportunity of being heard before such recommendation.
6. **Withdrawal of Approval:** The Central Government, on the basis of such recommendation, may withdraw the approval accorded and forward a copy of the order to the concerned Assessee and the Assessing Officer.

Sec.139(5): REVISED RETURN

1. Conditions:

- (a) There should be an omission or wrong statement In the original return Filed.
- (b) The original return should have been filed within the due date u/s 139(1) or within the time limit specified in the notice issued u/s 142(1).

2. Time limit: The revised return shall be filed before

- (a) The expiry of one year from the end of the relevant Assessment Year, or
- (b) Completion of assessment whichever is earlier.

3. Significance of Revised Return:

- (a) The revised return will be **considered as having been filed when the original return was filed.**
- (b) The **effective return for the purposes of assessment** is the return ultimately filed by the assessee.
- (c) A revised return **replaces the original return.**
- (d) The assessee is **entitled to furnish a second revised return** if the assessee discovers any omission or wrong statement in the revised return, provided such second revised return Is filed within the time prescribed above.
- (e) A return **filed in response to notice u/s 158BC cannot be revised.**
- (f) **Intimation made u/s 143(1) will not be treated as assessment** for the purpose of this Section.

SEC.139(6):DETAILS TO BE FURNISHED BY AN ASSESSES IN THE RETURN OF INCOME

The following details are to be furnished by all assessees In the return of income

1. Income exempt from tax.
2. Assets belonging to the assessee of prescribed nature and value.
3. Bank Accounts of the assessee.
4. Credit cards held by the assessee.
5. Expenditure incurred by the assessee under prescribed heads exceeding the prescribed limits.
6. Such other outgoings as may be prescribed.

SEC.139(6A):DETAILS ARE TO BE FURNISHED BY PERSON ENGAGED IN BUSINESS OR PROFESSION

Assessee engaged in business or profession shall furnish the following additional particulars

1. Audit Report u/s 44AB, if applicable.
2. Where report has been furnished prior to the furnishing of the return, a **copy** of such report and the proof of furnishing the report.

3. Particulars of the location and style of the principal place of business and the branches.
4. Names and addresses of the partners, members as the case may be.
5. Extent of share of all such partners/ members in the profits and gains of the business or profession.

SEC.139(9):DEFECTIVE OR INCOMPLETE RETURN:

A return of income shall be regarded as defective In the following cases

1. The anoexures, statements and columns In the return of income has **not been duly filled** in.
2. The return is not accompanied by the following:

(a) General:

- **Computation Statement:** Statement showing the computation of tax,
- **Audit Reports ul s 44AB:** Audit report u/s 44AB or where audit report has been furnished before furnishing the return, copy of such report and proof of furnishing the report,
- **Proof of Tax Payment:** Proof of TDS and TCS, advance tax or self-assessment tax paid,
- **Proof of Deposit:** Proof of the compulsory deposit made under Compulsory Deposit Scheme,
- **Audited Financial Statements:** Audited Profit and Loss account, Balance Sheet and Auditor's Report if the accounts of the assessee have been audited,
- **Audit Report under other Law:** If accounts are audited under any other law, then such audit report.

(b) Where regular books of account am maintained by the assessee:

- **Financial Statements:** Manufacturing Account, Trading Amount, Profit and Loss account, or Income and Expenditure account or similar account and Balance Sheet,
- **Capital Accounts and Personal Accounts or Owner/ Partner/ Member:** In case of the proprietary business, personal account of the proprietor, in case of firm, AOP/BOI, the accounts of the partners / members and also the personal account of the partners/ members in the firm, AOP / BOI

(c) Where regular books am not maintained by the assessee:

- **Statement of Turnover and Income:** Statement indicating the turnover, gross receipts, gross profit, expenses and net profit and the basis of such computation,
- **Statement of Current Assets and Liabilities:** Statement of debtors, creditors, stock-In-trade and cash balance at the end of the previous year.

3. **Not a Defective Return:** The return of income shall not be considered as defective. If It Is not accompanied by a TDS Certificate if:
 - (a) The certificate of TDS or TCS was not furnished u/s 203 or 206C to the person furnishing his return of income.
 - (b) Such certificate is produced within a period of two years specified u/s 155(14).
4. **Rectification of Defect:** The Assessing Officer shall intimate to the assesses the defect in the return and give him an opportunity to rectify the defect.
5. **Time Limit for rectification:** The time limit for rectification shall be 15 days from the date of such Intimation or such extended period allowed by the Assessing Officer on receipt of application from the assessee.

Situation 1: The assesses fails to rectify the defect within 15 days or such extended time limit:

- The return shall be treated as an invalid return
- The provisions of this Act shall apply as if the assessee had failed to furnish the return.

Situation 2: Assessee rectifies the defect after the expiry of 15 days or such extended time but before the assessment is made:

The Assessing Officer can condone the delay. The return shall not be treated as invalid.

6. No attachment/Enclosure [Section 139C] (w.e.f 01.06.2006):

- (a) **Power of the Board:** The Board is empowered to dispense with submission/furnishing of documents, statements, receipts, audit report, etc. (required to be furnished under the Act for any class(es) of persons).
- (b) **Documents to be furnished on demand:** However the documents are to be submitted *I* produced before the Assessing Officer on demand.

CONSEQUENCES OF NON FILLING OF RETURN

1. Consequences for not filing within due date U/s 139(1):

- (a) **Interest u/s 234A** shall be charged at 1% per month or part thereof on tax payable on self assessment,
- (b) The **benefit of carry forward of losses** u/s 72/73/74/74A is lost,
- (c) **The right to revise** the return of income u/s 139(5) is **lost**.

2. Consequences when return is not filed:

- (a) Where the assessee is required to file return of income u/s 139(1) or proviso to section 139(1) and the same is not filed before the end of the relevant Assessment Year, he is **liable to pay a penalty of Rs.5,000** u/s 271F.
- (b) **Best Judgment Assessment** can be made u/s 144.
- (c) **Prosecution** u/s 276CC is also attracted in the following manner–

Tax evaded/payable after TDS/TCS	Punishment
Less than Rs.3,000/- or if return filed before end of relevant Assessment Year	No prosecution can be initiated.
Greater than Rs.3,000/- upto Rs.1 Lakh	Minimum: 3 months, Maximum: 3 years rigorous imprisonment with fine
More than Rs.1 Lakh	Minimum: 6 months Maximum: 7 years with fine.

SEC.139A: PERMANENT ACCOUNT NUMBER (PAN)

1. Persons required to make application for allotment of Permanent Account Number:

- (a) **Total Income:** Any person whose total income exceeds the maximum amount not chargeable to tax before given exemptions u/s 10A / 10AA / 10B / 10BA and deductions under Chapter VI-A.
- (b) **Business Assessee:** Any person carrying on business or profession whose turnover /gross receipts exceeds Rs.5,00,000/- in any previous year.
- (c) **Trust/ Society:** Any person who is required to furnish a return of income of a Trust or Society u/s 139(4A).
- (d) **Fringe Benefits:** Any Person who is liable to file a return of Fringe Benefits if he was not allotted a PAN earlier.
- (e) **Obligation to Pay Tax/Duty:** Any person by whom **tax is payable under Income Tax Act, or any tax or duty is payable under any other law**, including importers and exporters whether any tax is payable by them or not.
- (f) **AO's Discretion:** The Assessing Officer may allot to any other person (W.e.f. 01.06.2006) whether or not tax is payable by him, even without an application.
- (g) **Collection of information:** W.e.f 01.06.2006, any person or class of persons, notified by the Central Government in its Official Gazette for collecting any information.

2. **One PAN Only:** No person who has already been allotted a PAN under the new series shall apply, obtain or possess another PAN.

3. **The PAN should be quoted in the following transactions:**

(a) **Matters relating to Interest of Revenue:** Return / Correspondence / Tax Challan / any other matter in the interest of Revenue.

(b) **All Quarterly returns of TDS / TCS (w.e.f. 01.06.2006)**

(c) **Transactions in Assets:**

- Sale or Purchase of immovable property involving amounts in excess of Rs.5,00,000.
- Sale or purchase of Motor Vehicle other than Two Wheeler.

(d) **Transactions with Banks:**

- Time Deposit in excess of Rs.50,000 with Bank or Post Office Savings Bank.
- Opening of a Bank Account.
- Purchase of pay-order or demand draft or banker's cheque of an amount of RS.50,000 or more by depositing cash on any day.
- Deposit of cash in any bank account of Rs.50,000 or more on any day.

(e) **Transaction in Securities / Bonds / Units:**

- Sale or Purchase of Securities exceeding Rs.1,00,000.
- Purchase of shares from company (public offer) for Rs.50,000 or more during relevant previous year.
- Purchase of mutual funds of Rs.50,000 or more .
- Purchase of bonds or debentures of company of Rs.50,000 or more.
- Purchase of RBI bonds of Rs.50,000 or more.

(f) **Specific Expenses, Applications and Other Documents:**

- Telephone Applications.
- All TDS Certificates.
- All TCS Certificates.
- All Sales Tax Registrations.
- Application for credit cards
- Payment of Hotel Bill exceeding Rs.25,000.
- Expenses in cash exceeding Rs.25,000 towards foreign travel.

4. **The Board has the powers to notify the following:**

- (a) Prescribed Form.
- (b) Categories of transactions to be quoted.
- (c) Categories of business transaction to be quoted.
- (d) Classes of person to whom apply.
- (e) Form for declaration of not having PAN.
- (f) Manner in which quoted.
- (g) Time and manner in which intimated.

5. **Section 139A does not apply to the following class (es) of persons: [Rule 114C]**

(a) Persons who have **agricultural income** and who are **not in receipt of any other income chargeable to income tax** provided that a **declaration in Form No.61** is filed by such persons.

(b) **Non-resident** as defined in Section 2(30). However, Non-resident referred in section 115AC(4) (Le. Non-residents having income from Global Depository Receipts j Bonds etc.), 115BBA(2) (Non-resident sportsmen/association) and 115G (Non-resident Indians having only Investment Income) **are required to intimate their PAN.**

6. **Consequences of non-application of PAN:** For failure to comply with provisions of Section 139A or quoting wrong PAN, **Penalty of Rs.10,000** is leviable u/s 272B.

Sec.139B: TAX RETURN PREPARERS

1. Definitions:

(a) **Tax Return Preparer:**

- Definition: Tax Return Preparer refers to any individual who has been authorized to act as Tax Return Preparer under a scheme authorized under this section.
- **Exclusions:** It does not include Chartered Accountants, Legal Practitioners and Officers of the Assessee's Banker or employees of Specified Class(es) of persons.

- (b) **Specified Class(es) of Persons:** It refers to persons who are required to furnish a return of income. It does not include Companies or Persons, whose accounts are required to be audited u/s 44AB or under any other law for the time being in force.

2. Power of Board: The Board is empowered to frame a scheme for furnishing return of income by any specified class(es) through a Tax Return Preparer.

3. Duty of Tax Return Preparer: Every Tax Return Preparer shall assist the persons furnishing the return of income in such manner specified in the scheme and affix his signature on such return.

4. Structure of the Scheme: The Scheme framed by the Board may provide for the following -

- (a) Manner in which and the period for which the Tax Return Preparers shall be authorized,
- (b) Educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer,
- (c) Code of conduct for the Tax Return Preparers,
- (d) Duties and obligations of the Tax Return Preparers
- (e) Circumstances under which the authorization given may be withdrawn,
- (f) Any other matter which is required to be, specified by the Scheme for the purposes of this section.

5. Approval of House of Parliament:

- (a) Scheme framed u/s 139B should be laid before each House of Parliament for a total period of 30 days, which may be comprised in one session or in two or more successive sessions
- (b) If both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be framed, the scheme shall thereafter have effect, as the case may be.
- (c) Any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.

Sec.139D: FILLING OF RETURN OF INCOME IN ELECTRONIC FORM

The Board may make rules providing for -

1. **Applicability:** Class(es) of persons who shall be required to furnish the return in electronic form.
2. **Prescribed form:** The return in electronic form may be furnished in the prescribed form and manner.
3. **Furnishing of documents:** The documents, statements, receipts or audited reports which may not be furnished along with the return in electronic form shall be produced before the Assessing officer on demand.
4. **Transmission:** The computer resource or the electronic record to which the return in electronic form may be transmitted.

Sec.140: SIGNING AND VERIFICATION OF RETURN OF INCOME

	Signatory
	● Present in India: Assessee himself ● Absent from India: individual himself or person authorized by him (Power of Attorney holder)
Individual	● Mentally Incapacitated: Person competent to act on his behalf or legal guardian ● Other Reason: Person duly authorized by him (Power of Attorney Holder). ● General: By the Karta
H.U.F	Karta absent from India or is mentally incapacitated: Any other Adult Member of the Family General: Managing Director MID not able to Sign or there is no MD: Any other Director
Company	- Company not Resident in India: Holder of a valid Power of Attorney.
Partnership Firm	-Company is in Liquidation or Receiver is appointed: The Liquidator - Management taken over by Government: The Principal Officer -General: Managing Partner - No Managing Partner or Managing Partner not able to Sign: Any other partner not being a minor
Local Authority	Principal Officer
Political Party	Chief Executive Officer
Association of Persons	Any Member or Principal officer
Any other Person	That person or some other person who is competent to sign on his behalf.

Note: The above persons are also authorized to sign and verify the Return of Fringe Benefits u/s 115WD.

SEC.140A:SELF-ASSESSMENT

1. Applicability:

- Filing of Return of income u/s 139 or in response to a notice u/s 142 / 153A / 158BC as the case may be after taking into account the amount of tax, if any, already paid under any provision of this Act
- Filing of Return of Fringe Benefits u/s 115WD or 115WH

2. W.e.f. A.Y. 2009-10, Self Assessment Taxes determined as under

Step	Particulars	Its.
1	Compute Total Income under Income Tax Act	XXX
2	Compute Tax on Total Income as per rates in force	XXX
3	Add: Surcharge (wherever applicable) + EC + SHEC	xx
4	Tax Payable	xxx
5	Less: Amount of Tax, if any, already paid (i.e. Advance Tax)	(xxx)

	Tax Deducted at Source/Tax Collected at Source	(xx)
	Relief of Tax u/s 90 or Deduction u/s 91 for tax paid in a Foreign Country	(xxx)
	Relief under u/s 90A for tax paid in Specified Territory outside India	(xxx)
	Tax credit u/s 115JAA	(xx)
6	Tax Payable before Interest	XXX
7	Add: Interest u/s 234A/ 234BI 234C/115WK	XXX
8	TAX PAYABLE ON SELF ASSESSMENT	

Notes:

1. Proof of Payment of Tax: The return of income should be **accompanied by the proof of payment of tax** and interest.

2. Interest:

- (a) **Section 234A:** Interest shall be computed on the amount of the tax on the total income as declared in the return as reduced by -Advance tax, if any, paid
 - Any Tax Deducted or Collected at Source.
 - Relief of Tax u/s 90 or 90A or Deduction u/s 91 on account of tax paid in a country/specified territory outside India.
 - Tax Credit u/s 115/AA.
- (b) **Section 115WK:** Interest shall be computed on the amount of tax on the value of the fringe benefits as declared in the return as reduced by the advance tax, paid if any.
- (c) **Section 234B:** Interest shall be computed on assessed tax as reduced by advance tax paid.

3. Consequence of failure to pay whole or part of self-assessment tax:

- (a) **Interest u/s 220:** The assessee Is liable to pay Interest @ 1 % per month or part of the month on the tax amount remaining unpaid commencing from the day immediately following 30 days of filing of the return upto the date of payment.
 No interest shall be levied If the assessee proves to the satisfaction of the Assessing Officer that the default was for good and sufficient reasons.
 The above Interest is in addition to any other Interest charged u/s 234A, 234B, and 234C.
- (b) **Penalty u/s 221:** Subject to a maximum penalty of the tax arrears.

4. Where there is shortfall In payment u/s 140A the amount paid shall be first adjusted towards Interest payable and balance shall be adjusted towards tax payable.

ASSESSMENT

Sec.142:

1. Inquiry before assessment:

- (a) **Notice for filing return of income [Section 142{1}]:** Notice is issued to any person requiring him to furnish return of Income If the **said person has not filed the return of income - Within the time allowed** u/s 139(1) or u/s 115WD or before the end of the relevant assessment year. Any notice served for any Assessment Year commencing on or after 01.04.1990 shall be deemed to have been served in accordance with the provision of this Section. Such notice should be **issued after the due date prescribed** u/s 139(1)/115WD has expired.
- (b) **Notice for Inquiry:** The Assessing Officer may serve notice on any person, who has furnished a return u/s 139 /115WD requiring him to-
Produce required accounts and documents: Books should not relate to a period more

than three years prior to the previous year.

Furnish such information in writing including a statement of assets and liabilities as may be required by the Assessing Officer: Prior approval of the Joint Commissioner is necessary before requiring the assessee to furnish a statement of assets and liabilities not included in the books of accounts

2. **Inquiries [Section 142(2)]:** The Assessing Officer can make such inquiries necessary for obtaining full information regarding income or loss of any person.

3. **Audit of accounts: [Section 142(2A)]**

- If the Assessing Officer is of the opinion that having regard to the nature and complexity of the accounts and in the interest of revenue, the accounts should be audited once again.
- Prior approval of the Chief Commissioner or Commissioner should be obtained.
- Assessing Officer can direct the assessee to get his accounts audited under this section even if the accounts are already audited under this Act or under any other law.
- The Chief Commissioner I Commissioner shall nominate the auditor.
- The assessee shall be given reasonable opportunity of being heard before an order for such audit.

4. **Audit Report:**

- The Audit Report containing prescribed particulars must be furnished in the prescribed Form No. 6B duly signed and verified by such accountant.
- The audit report shall be furnished within the period specified by the Assessing Officer.
- The Assessing Officer can grant extension of time limit, on an application made by the assessee.
- The Total Time limit (including such extended time) should not exceed 180 days from the date on which the assessee received the direction for audit.
- Expenses incidental to audit including remuneration shall be determined by the Chief Commissioner or Commissioner and shall be paid by the assessee. For the order directing audit issued on or after 01.06.2008, the expenses shall be paid by the Central Government.
- Default on payment of fees shall be recovered from the assessee as arrears of land revenue.

5. **Opportunity:** The Assessee shall be given a reasonable opportunity of being heard in respect of any material gathered on inquiry and proposed to be used in the assessment,

6. **Consequence of non-compliance of notice u/s 142(1) or direction u/s 142(2A):**

- Best judgment assessment u/s 144,
- Penalty u/s 271(1)(b) of Rs.10,000,
- Prosecution u/s 276D with rigorous imprisonment which may extend to 1 year or with fine which will not be less than Rs.4 or more than Rs.10 for every day of continuing default,
- Issue of order u/s 132 for search and seizure.

Particulars	Tax Audit u/s 44AB	Audit u/s 142(2A)
Applicability	All assesseees who have income under the head business or profession , with turnover or gross receipts exceeding Rs. 40 lakhs or who carry on a profession if the gross receipts or gross income exceeds Rs. 10 lakhs	If the assessing officer is of the opinion that it is necessary to have accounts audit having regard to the nature and complexity of the accounts and the interests of revenue.
Appointment	Appointed by Assessee/Taxpayer.	Nominated by Commissioner Chief/ Commissioner.
Form of report	Form No. 3CA/3CB/3CD	Form No. 6B

Time limit by	On or before 31st October of the relevant Assessment year	Within the period specified the Assessing Officer, which may
Audit under any other law	be extended upto 180 days from It is sufficient that assessee gets the accounts audited under such law within the specified date and furnishes report in the prescribed form	the dat of direction. The accounts have to be audited u/s 142(2A) notwithstanding the fact that the accounts have been audited under any other law.
Expenses of Audit	Fixed by mutual agreement between the assessee and the auditor.	Fixed by the Commissioner and failure to pay the sum may be recovered as arrears of land revenue. W.e.f. 01.06.2008, the expenses shall be paid by the Central Government
Consequences of Non-compliance	Penalty u/s 271B	Best judgment assessment u/s 144, Penalty u/s 271(1)(b) of Rs. 10,000, Prosecution u/s 276D or Issue of order u/s 132 for Search and Seizure

SEC.142A: REFERENCE TO A VALUATION OFFICER THE COURSE OF AN ASSESSMENT

1. Applicability:

- For making assessment or reassessment under this Act,
- To determine the value of any Investment u/s 69 or 69B, or
- To determine the value of any Bullion or Jewellery or other Valuable Article referred In Section 69A or 69B.

2. Procedure:

- The Assessing Officer may refer such valuation to the Valuation Officer.
- The Valuation Officer is vested with all the powers u/s 38A of the Wealth Tax Act, 1956.
- The Assessing Officer shall give the assessee an opportunity for being heard before acting on the basis of Valuation Officer's Report,

Principle of 'Res Judicata'

- General Position:** The principle of 'Res Judicata' **has no application to proceedings under the IT Act**. Hence, the findings reached for one particular Assessment Year **cannot be held to be binding in the assessment proceedings for subsequent years**.
- Exception:** Yet this general rule is subject to the qualification that a finding reached in the assessment proceedings for an earlier year, after due enquiry, **would not be reopened** in a subsequent year if it is not arbitrary or perverse, and **if no fresh facts are found** in the subsequent Assessment Year.
- Basis:** This is on the principle that **there should be a finality and certainty in all litigations**

including litigations arising out of the Income Tax Act,

Distinguish between notice under Section 142(1) and Section 143(2)	
Notice u/s 142(1) It is a notice to file return of income or produce accounts or documents or furnish information as the Assessing Officer may require No assessment is possible by issue of this notice. No time limit is prescribed for service of this notice. Approval of Joint Commissioner is necessary if statement of all assets and liabilities not included in accounts is required Books of accounts can be called for, for a maximum period of 3 years prior to the previous year Notice can be served even if no return of income is furnished.	Notice u/s 143(2) It is a notice for making assessment u/s 143(3). Assessment can be made only if the notice u/s 143(2) is served on the assessee Time limit of 12 months is prescribed for service of this notice. No approval required. No such restriction is there in this case. Notice can be served only if the return of income has been furnished
Sec.144: Best Judgment Assessment (Ex-Parte Assessment)	
Circumstances stipulated u/s 144 Where a person fails to Furnish a return or revised return or belated correctness or completeness of the return u/s 139 (1) or (4) or (5), or Comply with the terms of notice u/s 142(1) Comply with the direction issued u/a142(2A) i.e. Audit of Accounts Comply with the terms of notice issued u/s 143(2)	Circumstances stipulated u/s 145(3) Where the AO is not satisfied about the correctness or completeness of the accounts of the assessee Where the method of accounting has not been regularly followed by the assessee Where the Accounting standards notified by the Central Government u/s 145(2) have not been regularly followed by the assessee

1. Issue of show cause notice:

- The assessee will be **given an opportunity by a show cause** notice as to why assessment should not be completed to the best judgment of the Assessing Officer.
- Opportunity **need not be given** where **notice u/s 142(1) has already been issued.**

2. Assessment:

- Assessing Officer, after **taking into account** all relevant **materials gathered** shall **make the assessment** of the total income or loss to the best of his judgement.
- On the basis of such assessment he shall determine the sum payable by the assessee.

3. Other points:

- The provisions of this section shall apply to reassessment also.
- The **opportunity given** to the assessee must be **real and effective.**
- Where the **assessee** had furnished **only approximate figures** in his return of income without further details, **best judgment assessment can be made.**

- (d) The Assessing Officer must **make an honest and fair estimate of the total income** of the assessee.

Sec.143: Summary Assessment:

1. **Intimation/Summary Assessment [Section 143(1)]**: Where the assessee has furnished a return u/s 139 or in response to notice issued u/s 142(1) and on the basis of the return of Income:

Situation	Intimation
Any tax or interest is payable by the assessee after adjusting towards TDS, Advance tax and self-assessment tax	(a) Intimation shall be sent specifying amount payable. (b) Such intimation shall be deemed to be notice of demand u/s 156.
Refund is due to the assessee	Intimation of refund shall be sent to the assessee
No sum is payable by the assessee or refund is due to him	Acknowledgement of the return of income shall be deemed to be intimation u/s 143(1).

Time Limit: No intimation shall be sent after the expiry of **1 year from the end of the financial year in which the return is made.**

2. **Issue of notice [Section 143(2)]**:

- (a) Situation: To ensure that the assessee has not
- Understated the income
 - Computed excessive loss

Underpaid the tax the Assessing **Officer may serve a notice** on the assessee **requiring him to:**

- (i) **attend his office**, or
(ii) **produce evidence** on which the assessee may rely in support of the return.

(b) **Time limit:** No notice shall be served after the expiry of **12 months from the end of the month in which the return is filed.**

3. **Assessment : [Section 143(3)] - Regular Assessment**

- (a) The Assessing Officer shall take Into account all relevant materials gathered by him and also the evidence produced by the assessee.
- (b) On this basis, he shall make an assessment of the total income or loss of the assessee.
- (c) On the basis of such assessment, he shall determine the sum payable *by* the assessee or refund due to him.
- (d) Where a regular assessment u/s 143(3) or 144 is made :
- Any tax or Interest paid by the assessee shall be deemed *to* have been paid towards such regular assessment.
 - If no refund is due on regular assessment or the amount refunded exceeds the amount refundable on regular assessment, the whole or excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of the Act shall apply accordingly.

4. **For institution u/s 139(4C)**: For institutions required to furnish return u/s 139(4C), the Assessing Officer shall take the exemption allowable u/s 10 into account, while passing the order, unless:

- (a) He intimates the contravention of conditions for exemption to the Central Government or the prescribed Authority, or
(b) The approval or exemption Is already withdrawn.

5. **For institution u/s 35:**

- (a) The Assessing Officer may if he is satisfied that the conditions subject to which approval was granted are not carried out, may recommend withdrawal of approval to Central Government.
- (b) The Central Government may withdraw approval and forward a copy to the Institution and Assessing Officer.

Remedy against Best Judgement Assessment

Remedies available to the Assessee against Best Judgement Assessment without any notice to him -

1. **Appeal u/s 246A:** The Assessee may prefer an appeal against the said judgement
2. **Remedy u/s 264:** The Assessee can also seek revision of the order u/s 264. However, the Assessee can resort to any one of the above remedies and not both.

PROTECTIVE ASSESSMENT:

1. When protective assessment can be made? A protective assessment is made in a case where there are doubts relating to the true ownership of the Income.
2. Discretion of Assessing Officer: If there is an uncertainty about the taxing of an income in the hands of Mr.HARI or Mr. RAGHU, then at the discretion of the Assessing Officer the same may be added in the hands of one of them on protective basis.
3. Reason for protective assessment: This is to ensure that on finality, the addition may not be denied on the ground of limitation of time.
4. Once finality regarding the Identity of the taxpayer to be taxed is established, the extra assessment is cancelled. But the department cannot recover the tax from both the assessee in respect of the same income.

Sec.144A: POWERS OF JOINT COMMISSIONER IN RELATION TO ISSUE OF DIRECTIONS

1. **Circumstances:** The Joint Commissioner can call for and examine the records of any proceeding in which an assessment is pending in the following cases:
 - (a) On his own motion
 - (b) On a reference made to him by the Assessing Officer (c) On an application of an assessee.
2. **Issue Directions:**
 - (a) Having regard to the nature of the case, amount involved or for any other reason, the Joint Commissioner can issue directions to the Assessing Officer to enable him to complete the assessment.
 - (b) The directions issued shall be binding on the Assessing Officer.
3. **Opportunity:** If the directions issued are prejudicial to the assessee, the assessee must be given a reasonable opportunity of being heard.

METHOD OF ACCOUNTING U/S 145 AND 145A:

Profits and gains of business or profession/Other Sources: Cash or mercantile system of accounting regularly employed by the assessee.

Note:

1. The Central Government may notify in the Official Gazette from time to time the accounting standards to be followed by any class or assessee or in respect of any class of Income.

2. The Assessing Officer may make a best judgment assessment as specified in Section 144, in case he is not satisfied about correctness and completeness of books, method of accounting and accounting standards followed by the assessee.

Method of Accounting in certain cases: [Section 145A] Valuation of Purchase and sale of Goods and inventory:

	RS.
Value as per the method of accounting regularly employed by the assessee	XXX
Add: Tax, cess, duty or fee actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the valuation date.	xxx
Value for the purpose of determining Business Income	xxxx

SEC.147: INCOME ESCAPING ASSESSMENT

1. When is Income escaping assessment made?

Where the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any Assessment Year, he may -

- (a) **Assess or reassess such income** and also any other income chargeable to tax, which has escaped assessment.
- (b) ~~Re-compute loss or depreciation allowance~~ or any other allowance for the Asst. Year concerned.

2. Income escaping assessment :	
Situation	Income deemed to escape assessment
No return is filed by the assessee	Income exceeding the maximum amount not chargeable to tax
Assessee has filed a return of income but no assessment has been made	Understated income, excessive loss, deduction, allowance made relief claimed

Assessment has been made **Income chargeable to tax under assessed or assessed at lower rate, excessive relief claimed or excessive loss or depreciation allowance or any other allowance**

3. Issue of notice where income has escaped assessment: [Section 148]:

The Assessing Officer should serve a notice on the assessee requiring him **to furnish return of income** within the prescribed time. ~~Before issuing any notice, the Assessing Officer should record the reasons therefor.~~

4. Time limit for issue of Notice: [Section 149]		
Time Limit From end of Relevant Asst. Year	Assessment completed u/ s 143(3)/147	Any other Case-
Upto 4 years	Any amount of Income escaping assessment. Assessing Officer other than Assistant Commissioner or Deputy Commissioner shall proceed with prior approval of joint Commissioner.	Any amount of Income escaping assessment.
Beyond 4 years upto	Income escaped is Rs.1,00,000 or more with the approval of Chief Commissioner or Commissioner of Income Tax.	Income escaped is Rs.1,00,000 or more with the approval of

Section 150: The above time limit does not apply in case the notice is to give effect to any finding or direction contained in an order passed by -

- (a) Any authority in any proceeding under the Act, by way of appeal, reference or revision, or
- (b) Any Court in any proceeding under any law.

Such notices can be given at any time.

- 5. Time of notice to agent of non-resident [Section 149(3)]: No notice shall be issued to agent of non-resident after expiry of 2 year from the end of the relevant Assessment Year but notice may be issued directly to the non-resident.
- 6. Restriction on Time Limit: No proceeding shall be taken after the expiry of 4 years from the end of the relevant Assessment Year where assessment has been completed u/s 143(3) unless:
 - (a) Return u/s 139 or in response to notice u/s 142(1) or 148 is not furnished,
 - (b) All material facts necessary for the assessment for that Assessment Year are not disclosed.

SEC.153: TIME LIMIT FOR PASSING ASSESSMENT ORDERS

Section	Nature of the Order	Limitation of Time
----------------	----------------------------	---------------------------

153(1): Assessment order u/s 143 or 144 :	Within 21 Months from the end of the Assessment Year in which income was first assessable.
---	--

153(1A): Assessment u/s 115WE or 115WF:	Within 21 Months from the end of the assessment year in which the fringe benefits were first assessable.
--	--

153(1B): Assessment u/s 115WG:	Within 9 Months from the end of the financial year in which the notice u/s
--------------------------------	--

115WH was served.

153(2): Assessment Order / Re-assessment order u/s 147:	within 9 months from the end of financial year in which notice u/s 148 is served.
---	---

153(2A): Assessment order in pursuance of order u/s, 254,263 or 264 setting aside or canceling assessment:	within 9 months from the end of the financial year in which order u/s 250/254/263/ 264 is received/passed by CCIT/CIT
--	---

TIME LIMIT FOR ASSESSMENT where a REFERENCE has been made to the TRANSFER PRICING OFFICER:

The reference should have been made during		the course of the proceedings
-Before 01.06.2008 and no order has been passed till date or		
-after 01.06.2008		
Section	Conditions to be fulfilled	Time Limit
153(1)	Income first assessable w.e.f.A.Y.2005-06	Within 33 months from the end of the Assessment year in which the Income was First assessable.
153(2)	Notice u/s 148 is served on or after 01.04.2006	Within 21 months from the end of the Financial Year in which the notice u/s 148 is served.

- | | | |
|---------|--|--|
| 153(2A) | The order u/s 254 or 263 or 264 is passed on or after 01.04.2006 | Within 21 months from the end of the F.Y in which the order u/s 254/263/264 is received/ passed by the CIT /CCIT |
|---------|--|--|

TIME PERIODS ARE EXCLUDED FROM THE TIME LIMIT FOR PASSING ASSESSMENT ORDERS

The following time periods are excluded from the time limit for passing assessment orders.

1. Time taken in reopening and re-hearing u/s 129.
2. Period for which the assessment proceedings are stayed by any Court.
3. Time allowed for audit u/s 142(2A).
4. Time between date of filing declaration u/s ISSA(1) and date of order u/s ISSA(3) (maximum of 60 days).
5. Time between date of filing application before Settlement Commission and ending with the date of receipt of order u/s 24SD(1) by the CIT.
6. Period commencing from the date on which the Assessing Officer intimates the contravention of conditions to the Central Government or the prescribed authority and ending with the date of receipt of order withdrawing the approval under Sections 10(21), (226), (23A), (236), (23Qiv)/(v)/(vi)/(via).
7. Period commencing from the date on which the application is made before the Authority for Advanced Ruling (AAR) and ending:
 - (a) with the date on which the order rejecting the application, or
 - (b) the date on which Advanced Ruling pronounced by it, received by the Commissioner.

If the balance period available for making the assessment, after deducting the above exclusions is less than 60 days, then such period shall be extended to 60 days.

Sec 154: RECTIFICATION OF MISTAKES

Sub-Sec	Provisions
1	• Error should be apparent from record. It may be a mistake of fact or law but not disputable one. - Only the Income Tax Authority u/s 116 shall rectify the mistake. • It may be any order passed or an intimation u/s 143(1),
1A	The matters, which are not considered or decided in appeal or revision , may be rectified.
2	• The Income Tax Authority can make the rectification (a) on its own motion or (b) on an application made by the Assessee. • CIT (Appeals) can rectify mistake in case it is brought to his notice by the Assessing Officer.
3	Order prejudicial to the interests of the assessee shall not be passed without giving him opportunity of being heard .
4	Rectification order shall be in writing .
5	The authority may make any refund order if so applicable .
6	In case demand is raised the provisions of section 156 shall apply .
7	Rectification order shall be passed within four years from the end of the financial year in which order sought to be amended is assed .
8	Where an application is made by the assessee, the authority shall pass an order within a period of six months from the end of the months in which an application is received by it:

(a) making amendment, or (b) refusing to allow the claim.	
Note: Rectification by;	
Income tax Appellate Tribunal	Income Tax Authority
Rectification u/s 254(2)	Rectification u/s 154

Time limit is Four Years from the **date of the order**

Time limit is Four **Yours from the end of the financial year in which order sought to be rectified, is passed.**

Sec 155: TIME LIMITS FOR RECTIFICATION OF MISTAKE UNDER SPECIAL SITUATIONS		
Section	Situations	Time limit
155(1A) and 155(2)	Amending assessment order of partner of firm or member of ACID /inclusion of correct share from firm/BOL	Within 4 years from the end of the financial year in which final order is passed in case of firm AOP/BOI.
155(4)	Recomputing total income for succeeding year(s) in respect of loss or Depreciation recomputed u/s 147	Within 4 years from end of financial year in which order u/s 147 is passed
155(7B)	Recomputing deemed Capital Gain u/s 47A	Within 4 years from the end of previous year in which capital asset is converted
		into stock in trade or in which parent co./ holding co. ceases to have 100% share-holding in subsidiary company
155(11)	Amending order of assessment so as to exclude unadjusted amount of capital gain exempted u/s 54H.	Within 4 years from the end of the previous year in which compensation was received by the assessee.
155(11A)	Amending order assessment to allow deduction u/s 10A/10B/10BA in respect of income received or brought into in which the income is received or	Within 4 years from the end of the previous year in which the income is received or brought into India
	brought into into India in convertible foreign exchange India subsequently Amendment to give credit for TDS/TCS Certificate not furnished with return	Within 4 years from the end of the financial year in which the TDS/TCS certificate was furnished
155(14)		
	but filed within 2 years from the end of the Assessment Year to which TDS/TCS relates	
155(15)	Re computation of Capital Gains based on value adopted by Stamp Valuation Authority u/s 50C later revised in any	Within 4 years from the end of the previous year in which the order revising the value was passed in that appeal or revision or reference.
155(16)	Reduction or normal or enhanced, compensation received and taxable u/s 45(5) as per Court or Tribunal order and Re computation of income	Within 4 years from the end of the previous year in which such order of reducing the compensation was passed.
155(17)	Withdrawal of deduction u/s 80RRB which was already allowed and subsequently the patent was revoked	Within 4 year from the end of the previous year in which the Controller or Court had passed the order.

or the name of the assessee was
exclude from patent register as patent
either by Controller or by the Court.

SEC.1S8A: SPECIAL PROVISION TO AVOID REPETITIVE APPEALS

1. Applicability :

- (a) There should be a relevant **caw pending before the Assessing Officer** or any **appellate authority**.
- (b) Such case should **involve a "question of law"** In that Assessment Year.
- (c) **Identical issue** of "question of law" should be **pending before any High Court** or Supreme Court in any other Assessment Year.

2. Procedure:

- (a) The Assessee shall make an **application In Form No.8** to the Assessing Officer or appellate authority.
- (b) He **agrees to apply the final decision of the Court** In the relevant case.
- (c) He shall **not raise such question of law once again** In the relevant case In appeal.
- (d) In case the **application** is made **to any appellate authority, a report from the Assessing Officer shall be called for**, on the correctness of the assessee's claim. The Assessing Officer is entitled for being heard.

3. Consequences:

- (a) The Assessing Officer or the Appellate Authority can **admit or reject** the assessee's claim by an order in writing. The **order admitting or rejecting the claim is FINAL** and is **not appeal able** under any circumstances.
- (b) If the assessee's claim is admitted:
 - The relevant caw shall be disposed of without awaiting the final decision of the Court on the question of law.
 - Assessee is not entitled to appeal against the above order, on the same "question of law".
 - When the final decision is given by the Court, the above order may be amended, if necessary.

SEARCH AND SEIZURE

Sec.132 (1): Authorise to search and seizure and who are the Authorised officials

Authorising Officials:

Joint Director of Income Tax/ Joint Commissioner of Income Tax/Director General of Income Tax/
Director of Income Tax/ Chief Commissioner of Income Tax/Commissioner of Income Tax

Authorised Officials:

Assistant Commissioner of Income Tax/ Assistant Director of Income tax/ Deputy Director of Income Tax/ Deputy Commissioner of Income Tax / Income Tax Officer.

CIRCUMSTANCES TO ORDER FOR SEARCH AND SEIZURE

In consequence of information in their possession and with a reason to believe that:

- 1. The assessee **has not compiled with notice** u/s 131(1) or 142(2), or
- 2. If the notice specified above has been served and the assessee **would not comply with such notice**, or
- 3. The assessee **is in possession of money, bullion**, jewellery or other valuable article or thing and it represents wholly or partly income or property that has **not been or would not be disclosed** under **the Act**. (Undisclosed Income)

POWERS OF THE AUTHORISED OFFICER WITH REGARD TO SEARCH AND SEIZURE

1. **Enter** any building, place, vessel, vehicle or aircraft where he has reason to suspect that undisclosed income or property are kept.
2. Break open lock of any door, box, locker, safe, almirah or other receptacles where keys thereof are not available.
3. **Search** any person who has got out of or is about to get into or is in, the building, place, vessel, vehicle or aircraft and he suspects that such person has secreted undisclosed income of the person on whom search was ordered.
4. Require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined u/s 2(1)(t) of the Information Technology Act 2000, **to afford** the Authorised Officer the necessary **facility to inspect such books** of account or other documents.
5. **Seize** any books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of search.
6. **Place marks or identification** on any books of account or other documents or make or cause to be made extracts or copies therefrom,
7. **Make a note of inventory** of any such money, bullion, jewellery or other valuable article or thing. The following assets shall not be seized u/s 132(1) or constructively seized u/s 132(1) Second proviso: Bullion, Jewellery or other article or thing being stock-in-trade of the business.)
8. **Power to take police or other assistance [Section 132(2)]:** The Authorised Officer may take the assistance of police official or any other official of Central Government or both to assist him during the proceedings u/s 132.
9. **Power to examine on oath [Section 132(4)]:** The Authorised Officers have right to examine on oath any person who is found to be in possession or control of any books of accounts, documents etc. The statement made by such person during such examination may be used as evidence in any proceedings under this Act.

SEC.132 (4A): PRESUMPTIONS WHICH CAN BE MADE IN ANY BOOKS OF ACCOUNT, DOCUMENT, MONEY, BULLION, JEWELLERY IS FOUND IN POSSESSION OF A PERSON IN THE COURSE OF A SEARCH

Where any books of account, other documents, money, bullion, jewellery and other **valuable article is found in possessing or control of any person** in course of a search, the following presumptions can be made-

1. Those books of account, other documents, money, bullion, jewellery and other valuable article or thing **belongs to such person**.
2. The **contents** of such books of account and documents **are true**.
3. The **signature** and every **other part** of such books of account and other documents **which purports to be in the handwriting** of any particular person **are in that person's handwriting**.
4. In the case of **a document stamped, executed or attested**, it was **duly stamped, executed or attested** by the person to whom it purports to have been so executed or attested.

Sec.132 (1): CONSTRUCTIVE SEIZURE OR DEEMED SEIZURE [Second proviso to Sec. 132(1)]

1. **Applicability:** Where it is **not practically possible to take physical possession** of any valuable article or thing and remove it to a safe place due to its volume, weight, other physical characteristics or dangerous nature.
2. The Authorised Officer may **serve an order** to the owner or **on a person who is in immediate possession** of the article or thing that he **shall not remove or part with or deal with it**

without his prior permission.

3. The above action of the Authorised Officer shall be **deemed to be seizure of such valuable article or thing**.

Sec.132B: Rights of the Authorised Officer with regard to application of RETAINED ASSETS

1. **Recovery of Liability under Direct Tax Laws:** The assets seized u/s 132 or requisitioned u/s 132A may be **used to recover** the following amounts:
 - (a) Amount of **any existing liability** under the Income Tax Act, 1961, the Wealth-tax Act, 1957, the Expenditure-tax Act, 1987, the Gift-tax Act, 1958 and the Interest-tax Act, 1974.
 - (b) Amount of the **tax liability on income assessed for the block period** (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is deemed to be in default.
2. **Release of explained assets:** If the **nature and source** of acquisition of any such asset is **explained to the satisfaction** of the Assessing Officer, the **amount of any misting liability referred to in this clause may be recovered out of such asset** and the **remaining** portion, may be **released within 120 days of the last day of search**, with the prior approval **of the CCIT / CIT**.
3. **Money:** If the **assets consist solely of money**, or partly of money and partly of other assets, the Assessing Officer may **apply such money in the discharge of the liabilities** referred to above.
4. **Assets other than money:** The amount **realized by the sale of the assets** shall be **applied towards discharge of liabilities** referred above. Such assets shall be **deemed to be under distraint**. Sale of such assets shall be effected in the manner laid down in the Third Schedule.
5. **Other modes of recovery:** The provisions of this section **shall not preclude the recovery of the amount of liabilities** aforesaid by any other mode laid down in this Act.
6. **Release of excess assets:** Any assets or proceeds thereof which **remain after the liabilities** referred to **are discharged** shall be **forthwith made over or paid to the persons** from whose custody the assets were seized,
7. **Interest:** A **simple rate of interest at 0.5%** for every month or part of a month shall be paid on the amount returned to the assessee. It shall be calculated **from the expiry of 120 days from the date of last day of search** to the date of completion of assessment,

SEC.153A: NEW ASSESSMENT PROCEDURE FOR SEARCH CASES

1. **Applicability:** These provisions shall apply for searches u/s 132/132A initiated after 31st May 2003. The provisions of Section 139,147,148,149,151 and 153 shall not apply to such cases.
2. **Issue of notice to file return:** The AO shall **issue a notice to the assessee to file the return** of income within a specified time.
3. **Period covered:** The returns of income shall be filed **for each assessment year falling within six assessment years Immediately preceding the assessment year** relevant to the previous year in which the search / requisition is made.
4. **Assessment:** The AO shall **assess or reassess the Income of each assessment year** failing within such six Assessment Years.
5. **Abatement of pending assessment:** Any **assessment /reassessment** relating to any of the assessment years falling within such six Assessment Years, which is **pending as on the date of search/ requisition shall abate**.

6. **Other provisions of the Act:** Save as otherwise provided in Sec.153A, 1536 and 153C, all other provisions of the Act shall apply to assessments made under this section.

7. **Rates of tax:** The income of each Assessment Year specified in this section shall be **chargeable at the rate or rates as applicable to such assessment year.**

Sec.1548; Time limit for completion of new search assessment u/s 153A

1. Time limit for completion of assessment:

Financial years in which/1st authorization for research u/s 132 or for requisition u/s 132A was executed.	General Assessment Upto A.Y. 2003-04 A.Y. 2004-05	Reference to TPO A. Y. 2005-06 onwards
---	--	--

Time Limit	2 years from the end of FY	21 months from the end of the FY	33 months from the end of the FY
------------	----------------------------	----------------------------------	----------------------------------

Note:

(a) ~~Relevant date:~~ Relevant date for determining the Financial Year of authorization u/s 132 or execution of requisition u/s 132A, is as under -

In case of search Date of conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued

In case of requisition Date of actual receipt of books of account or other documents or assets by the Authorised Officer.

(b) **Conditions to be fulfilled for Reference to Transfer Pricing Officer:** Reference was made to the Transfer Pricing Officer u/s 92CA during the course of the proceedings

- Before 01.06.2008 and no order has been passed till date.
- On or after 01.06.2008

2. **Time Limit for assessment on person u/s 153C:** In case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as **mentioned in section 153B(l)(a)/(b) or Nine Months from the end of the financial year** in which books of accounts or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, **whichever is later.**

3. **Exclusion of time periods:**

- Time taken in reopening and re-hearing u/s 129.
- Period for which the assessment proceedings are stayed by any Court.
- Time allowed for audit u/s 142(2A)
- Time between date of filing application before Settlement Commission and ending with the date of receipt of order u/s 245D(1) by the CIT.
- The period commencing from the date on which the application is made before the Authority for Advance Ruling (AAR) and ending-
 - with the date on which the order rejecting the application, or
 - the date on which Advanced Ruling pronounced by it, received by the Commissioner.