PENALTIES

Important Notes:

1. No penalty can be levied u/s. 221(1), if the assessee proves that the default in making payment of tax was for good and sufficient reasons.

2. No order levying penalty can be passed for failure u/ss. 271(1)(b), 271A, 271AA, 271B, 271BA, 271BB, 271C, 271CA, 271D, 271E, 271F, 271FA, 271FB, 271G, 272A(1)(c)/(d), 272A(2), 272AA(1), 272B, 272BB(1)/(1A), 272BBB (1)(b), 273(1)(b), 273(2)(b)/(c). if the person or the assessee proves that there was a reasonable cause by virtue of Section 273B.

3. No penalty shall be imposed on any person unless he is properly heard or has been provided with reasonable opportunity of being heard by virtue of Section 274(1).

4. No order imposing penalty exceeding Rs. 10,000/- can be passed by the Income Tax Officer without previous approval of Joint Commissioner. Further, no order imposing penalty exceeding Rs. 20,000/- can be passed by the ACIT or DCIT without the previous approval of Joint Commissioner by virtue of Section 274(2).

5. Penalty proceedings have to be completed before the end of financial year in which the proceedings, in the course of which action for imposition of penalty is initiated, are complete, or within 6 months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later by virtue of Section 275.

6. While determining the amount of penalty, the law to be applied would be the law operative on the date when default was committed. In case of late filing of return, the default is said to be committed on the date when the return is to be filed and in case of non-compliance of notice, default is taken to be committed on the day when the date given in the notice expires.

7. An application can be made to Commissioner for reducing or waiving any penalty levied under the Income-tax Act, 1961 or for staying or compounding any proceeding for the recovery of any such penalty by virtue of Section 273A(4). In such situations, where the aggregate of such penalties exceed Rs. 1,00,000/-, then the Commissioner can exercise these powers with the previous approval of Chief Commissioner or Director-General as the case may be.

SECTION	Nature of Failure/Default	Authority who can levy penalty	Quantum of Penalty
SECTION 158BFA(2)	(a) Delay or failure in furnishing the return of total income including undisclosed income for the block period as required by notice u/s. 158BC(a) OR (b) Undisclosed Income determined by the Assessing Officer is in excess of the income shown in such return.	Assessing Officer or Commissioner (Appeals)	Minimum 100% & maximum 300%; in case (a) of the tax leviable in respect of the undisclosed income determined by the Assessing Officer and in case (b), of the tax leviable on the difference between the undisclosed income as determined by

			the Assessing Officer and the amount of undisclosed income shown in the return.
SECTION 221(1)	Default in making payment of tax within prescribed time; i.e., as required by notice u/s. 156 or wherever assessee is deemed to be in default in payment of tax.	Assessing Officer.	Such amount as directed by Assessing Officer but not exceeding the amount of tax in arrears.
SECTION 271(1)(b)	Failure to comply with the notice u/s. 115WD(2) or 115WE(2) or 143(2) or 142(1) or failure to comply with the direction u/s. 142(2A) to get the accounts audited	Assessing Officer or Commissioner or Commissioner (Appeals).	Rs. 10,000/- for each such failure.
SECTION 271(1)(c)	Concealment of particulars of income or furnishing of inaccurate particulars of such income.	Assessing Officer or Commissioner or Commissioner (Appeals).	Minimum 100% & maximum 300% of the tax sought to be evaded.
SECTION 271(1)(d)	Concealment of particulars of fringe benefits or inaccurate particulars of such fringe benefits.	Assessing Officer or Commissioner or Commissioner (Appeals).	Minimum 100% & Maximum 300% of the tax sought to be evaded.
SECTION 271(4)	Distribution of Profit by registered firm otherwise than in accordance with the partnership deed on the basis of which the firm has been registered and as a result of which partner has returned income below the real income (penalty leviable on the partner).	Assessing Officer or Commissioner (Appeals).	A sum not exceeding 150% of the difference between the tax on partner's income assessed and income returned.
SECTION 271A	Failure to keep and maintain any such books of account and other documents as required under Section 44AA or rules made thereunder or to retain such books of account and other documents for the period specified under Income Tax Rules.	Assessing Officer or Commissioner (Appeals).	A sum of Rs. 25,000/ .
SECTION	Failure to keep and maintain any	Assessing	2% of the value of each

271AA	information or document in respect of international transaction as required by Section 92D(1) or (2).	Officer or Commissioner (Appeals).	international transaction.
SECTION 271AAA	Search initiated under section 132 on or after 1-6-2007	Assessing Officer.	A sum computed @ 10% of the undisclosed income of the specified previous year.
SECTION 271B	Failure to get the accounts audited as required u/s. 44AB or furnish report of such audit before the specified date mentioned in Explanation (ii) below Section 44AB.	Assessing Officer.	0.5% of the total sales, turnover or gross receipts Maximum Rs. 1,00,000/
SECTION 271BA	Failure to furnish a report from an accountant in respect of international transaction as required u/s. 92E.	Assessing Officer.	A sum of Rs. 1,00,000/
SECTION 271C	1. Failure to deduct whole or any part of tax at source (TDS) as required under the provisions of Chapter XVIIB or failure to pay whole or any part of tax u/s. 115-O or 2. second proviso to Section 194B.	Joint Commissioner.	Amount of tax not deducted or amount of tax not so paid as the case may be.
SECTION 271CA	Failure to collect whole or any part of tax at source (w.e.f. 1st April, 2007)	Joint Commissioner.	A sum equal to the amount of tax failed to collect.
SECTION 271D	Failure to comply with the provisions of Section 269SS; i.e., by taking or accepting any loan or deposit of Rs. 20,000/- or more otherwise than by account payee cheque or account payee bank draft.	Joint Commissioner.	A sum equal to the amount of loan or deposit so taken or accepted.
SECTION 271E	Failure to comply with the provisions of Section 269T; i.e., repayment of any loan or deposit of Rs. 20,000/- or more otherwise than by account payee cheque or account payee bank draft in the name of the person who has made the loan or deposit.	Joint Commissioner.	A sum equal to the amount of loan or deposit repaid.
SECTION	Failure to furnish return of income	Assessing	A sum of Rs. 5000/-.

271F	before the end of relevant assessment year as required u/ s. 139(1) or provisos to the said sub-Section.	Officer.	
SECTION 271FA	Failure to furnish annual information return required u/s. 285BA or failure to furnish such return within the time prescribed.	Prescribed Income Tax authority.	Rs. 100/- for every day during which failure continues.
SECTION 271FB	Failure to furnish fringe benefits return required u/s. 115WD(1) or failure to furnish such return within the time prescribed.	Assessing Officer.	Rs. 100/- for every day during which failure continues.
SECTION 271G	Failure to furnish any information or document as required by Section 92D(3) in respect of international transaction.	Assessing Officer or Commissioner (Appeals).	2% of the value of international transaction for each such failure.
SECTION 272A(1)	Failure to answer questions, sign statements or attend summons u/s. 131(1) to give evidence/ produce books of account or other documents.	Income Tax authority not lower in rank than a Joint Commissioner or a Joint Director.	Rs. 10,000/- for each such default or failure.
SECTION 272A(2)	Failure to: (a) comply with a notice u/s. 94(6); (b) give notice of discontinuance of business or profession u/s. 176(3); (c) furnish in due time any of the returns, statements or particulars mentioned in Section 133, 206 or 206C or 285B; (d) allow inspection of any register referred to in section 134 or of any entry therein or to allow copies of the same; (e) furnish return of income u/s. 139(4A)/ 139(4C) or furnish such returns within time allowed; (f) deliver copy of declaration as stated in Section 197A in due time; (g) furnish a certificate as required	Income Tax authority not lower in rank than a Joint Commissioner or a Joint Director except for failure under Clause (f) above w.r.t. Section 197A wherein the authority is with Chief Commissioner or Commissioner.	Rs.100/- per day during which default continues. However, penalty shall not exceed the amount of tax deductible or collectible in case of failure to deliver or pay declaration u/s. 197a, furnish a certificate u/s. 203 or annual return of tds/tcs u/ ss. 206 and 206c.

	u/s. 203 or u/s. 206C; (h) deduct and pay tax as required u/s. 226(2); (i) furnish a statement required u/s. 192(2C); (j) to deliver in due time a copy of the declaration u/s. 206C(1A); (k) furnish quarterly statement of TDS as required u/s. 200(3) or TCS under proviso to Section 206C(3); (l) deliver the quarterly return in respect of payment of interest to residents without deduction of tax u/s. 206A(1).		
SECTION 272AA	Failure to comply with the provisions of Section 133B (a general survey meant for collection of information – Form No. 45D)	Assessing Officer or Joint Commissioner or Assistant Director or Deputy Director.	Minimum NIL and Maximum Rs. 1,000/-.
SECTION 272B	Failure to comply with the provisions of Section 139A (i.e., failure to obtain PAN) or failure to quote PAN in documents and use of false PAN deliberately.	Assessing Officer.	A sum of Rs. 10,000/-.
SECTION 272BB	Failure to comply with the provisions of Section 203A (failure to obtain TAN including failure to quote the same) including quoting of false TAN.	Assessing Officer	A sum of Rs. 10,000/ .