Income escapement assessment

Circumstances where time limit u/s 149 is irrelevant-

- ❖ Notice to NR u/s 148 – 4 / 6 years as the case may be.
- ❖ Notice to Agent of NR u/s 148 – 2 yrs from the end of relevant AY
- ❖ Assessment/reassessment could not be made at the time when order was subject matter of Appeal/Reference/revision at HC/SC/CIT(A)- up to 4/6 yr prior to AY in which order challenged and then after up to order is finalized.

Whether assessment u/s 143/144 completed within 21/33 months from the end of relevant AY

YES

Whether Assessment u/s 147 also done at any time for any times after assessment u/s 143/144

NO

YES

Whether there is reason to believe that – Income/Profits/Gains chargeable to Tax had escaped

NO

STOP

YES

Whether there is reason to believe that such escapement occurred by reason of the failure on the part of the assessee –

- ❖ to make a return u/s 139 or in response to a notice issued u/s 142(1) or 148 or
- ❖ to disclose fully and truly all material facts necessary for his assessment, for that AY

NO

4 yrs from the end of Relevant AY has been expired.

Action u/s 147 ONLY possible for assessments completed u/s 143(1)/144 but not beyond 6 years (as search proceedings after 6 yr) And NOT for assessment completed u/s 143(3)/147

4 yrs from the end of Relevant AY has NOT been expired.

Action u/s 147 possible for assessments completed u/s 143(1)/144/143(3)/147 but not beyond 6 years (as search proceedings after 6 yr)

YES

Action u/s 147 is possible even after expiry of 4 years but not beyond 6 years. Because after 6 years- the search and seizure proceeding will take place and notice u/s 153A will be issued for filing of return and the subsequent assessment.

NO

Whether there is reason to believe that – Income/Profits/Gains chargeable to Tax had escaped

NO

STOP

YES

Then, No assessment u/s 143/144 is possible anymore AO to issue Notice U/s – 148 for filing return for income so escaped for the PY corresponding to the relevant AY.

The notice is to be served on the assessee.

NOTICE SO served is to be ISSUED within – time limit prescribed u/s 149

4 yrs. From the end of the relevant AY in which income has escaped and income so escaped is less than Rs. 1,00,000
Any AO can issue notice

6 yrs. From the end of the relevant AY in which income has escaped and income so escaped is Rs. 1,00,000 or More
-Any AO can issue notice.
-AO below the rank of JC can issue the notice if JC is satisfied that is a fit case for issue of such notice

Assessee files the return in respect of the notice

Assessment u/s 147 to be completed within 9 months (21Months-TPO) from the end of the FY in which notice u/s 148 is SERVED on the ASSESSEE

Deemed cases of ESCAPEMENT

Assessment has been made, but—

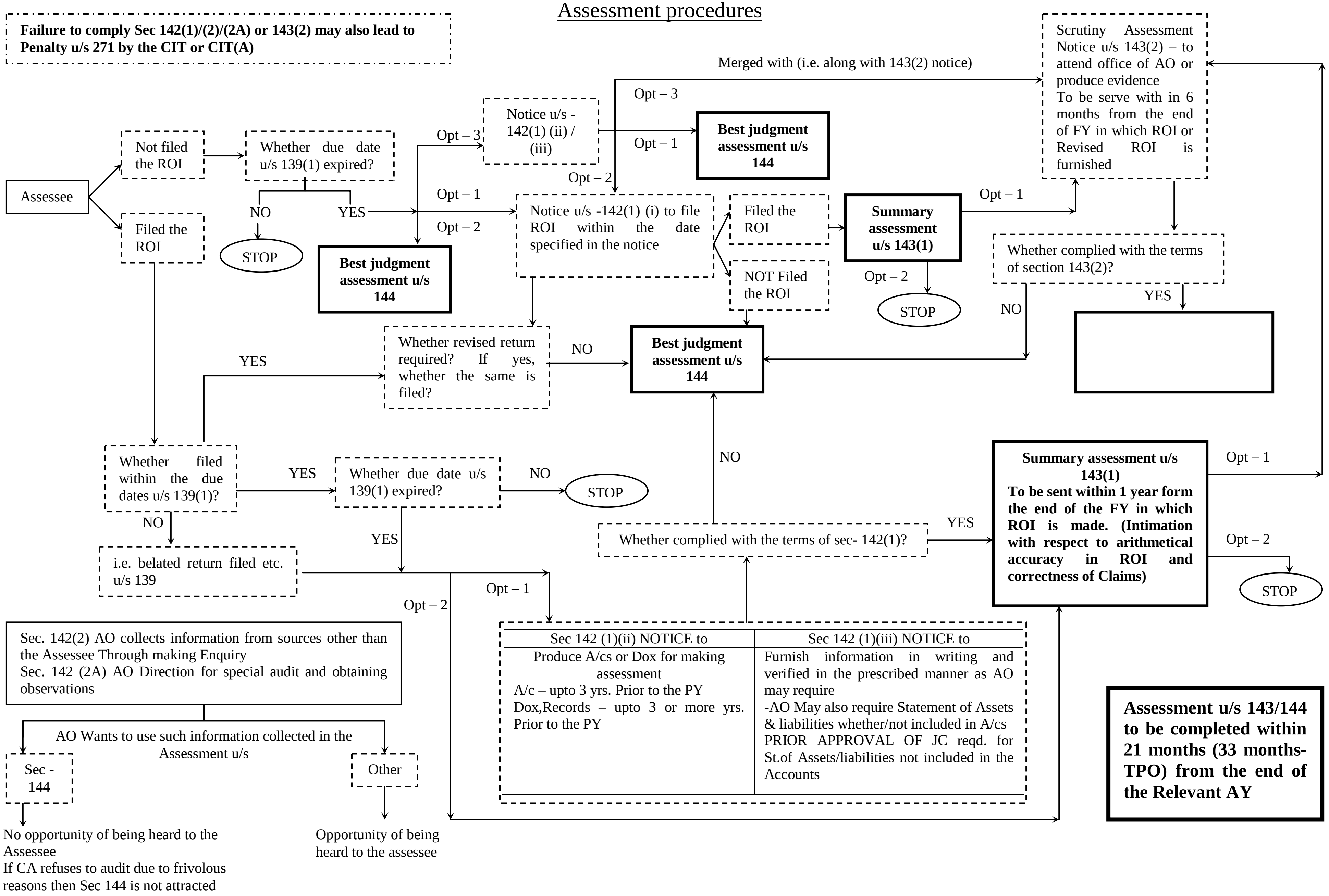
- ❖ income chargeable to tax has been under assessed ; or
- ❖ such income has been assessed at too low a rate ; or
- ❖ such income has been made the subject of excessive relief under this Act ; or
- ❖ Excessive loss or depreciation allowance or any other allowance under this Act has been computed.

ROI furnished but no assessment has been made and it is noticed by AO that the assessee has

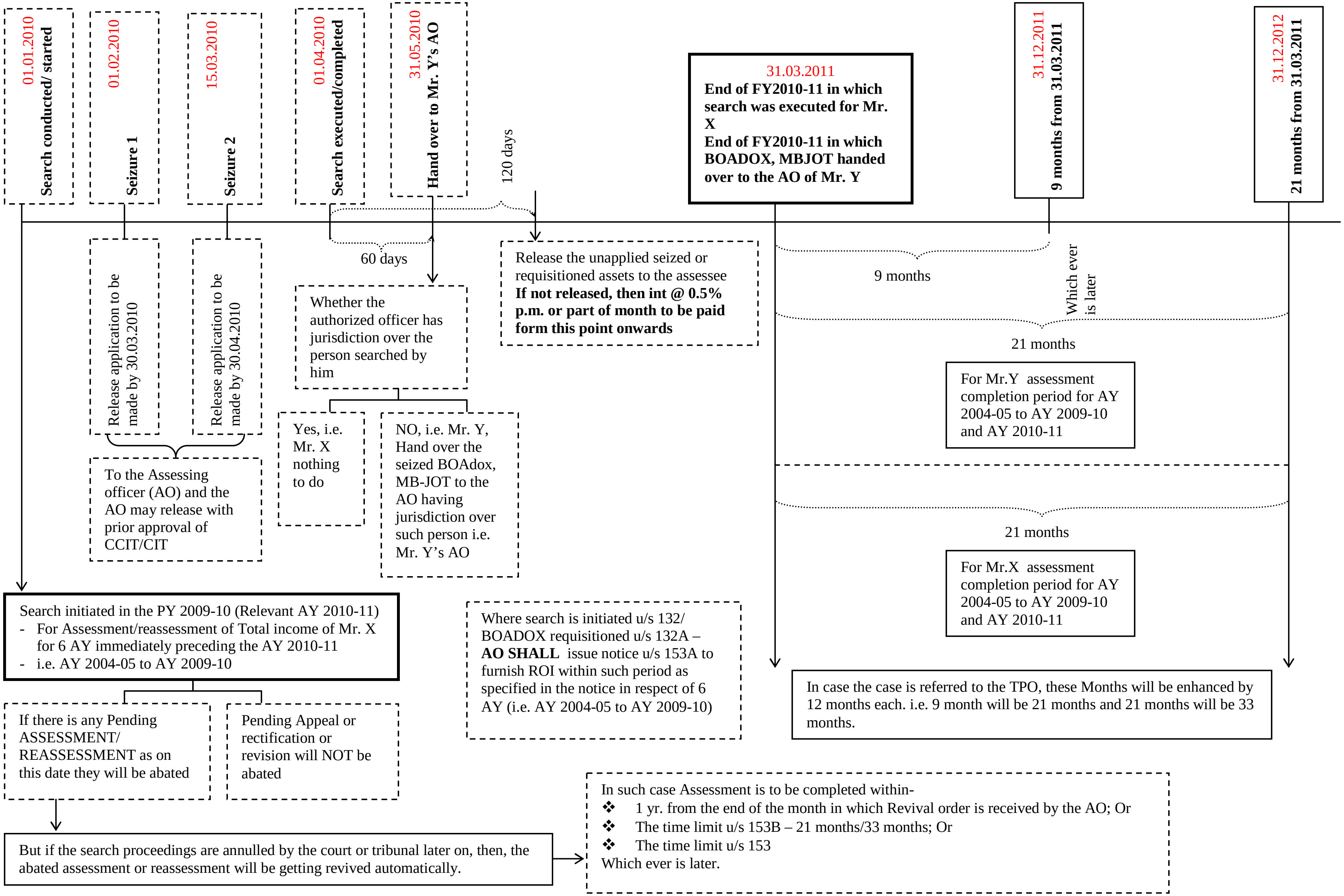
- ❖ understated the income or
- ❖ claimed excessive loss, deduction, allowance or relief in the return ;

NO ROI has been furnished although assessee's total income or the total income of any other person in respect of which he is assessable during the PY exceeded the maximum Exemption Limit

Assessment procedures



Search and Seizure



Penal Interest

234C interest

Company

- 1st installment 15th June → Whether AT paid < 12% of Tax on RI → No → (15% of Tax on RI *Less*, AT paid upto 15th Jun) x 3%; Yes → No Interest
- 2nd installment 15th Sep → Whether AT paid < 36% of Tax on RI → No → (45% of Tax on RI *Less*, AT paid upto 15th Sep) x 3%; Yes → No Interest
- 3rd installment 15th Dec → Whether AT paid < 75% of Tax on RI → No → (75% of Tax on RI *Less*, AT paid upto 15th Dec) x3%; Yes → No Interest
- 4th installment 15th Mar → Whether AT paid < 100% of Tax on RI → No → (100% of Tax on RI *Less*, AT paid upto 15th Mar) x1%; Yes → No Interest

Non Company

- 1st installment 15th Sep → Whether AT paid < 30% of Tax on RI → No → (30% of Tax on RI *Less*, AT paid upto 15th Sep) x 3%; Yes → No Interest
- 2nd installment 15th Dec → Whether AT paid < 60% of Tax on RI → No → (60% of Tax on RI *Less*, AT paid upto 15th Dec) x3%; Yes → No Interest
- 3rd installment 15th Mar → Whether AT paid < 100% of Tax on RI → No → (100% of Tax on RI *Less*, AT paid upto 15th Mar) x1%; Yes → No Interest

Fractions of 100 to be ignored while computing the interest u/s 234A/B/C e.g.

AT	AV
10052	10000
10520	10500
10199	10100
11250	11200
20099	20000

Advance tax

Current FY Income incl. Agri Income (Estimated*)	
Add, Clubbing incomes	
Less, Chapter VI-A Deduction, setoff etc.	
Taxable estimated income	**xxxxxx**
Tax on income estimated above	xxxxxxx
Add, surcharge	xxxxx
Add, cess	xxxx
Total tax	xxxxxxx
Less, MAT Credit	xxxxxx
Less, Relief u/s 90/90A/91/89	xxxxx
Less, TDS	xxxxxx
Advance tax (AT)	xxxxxxx

If the advance tax is ≥ 10000 then only Advance tax payable else not.

*** Relaxation in case of capital gain / casual incomes like, lottery, crossword puzzle etc.**

If any such income arises after the due dates of any installment then, the entire amount of tax on such incomes is to be paid in remaining installments of advance tax where such installments become due

For example:

Estimated GTI of A Ltd. (incl. LTCG) =Rs.300000

LTCG earned on 16.09.2010 and TDS 11000

I	GTI	Tax	AT
1	200000	61800 - 11000	15% of 50800 = 7620
2	200000	50800	45% of 50800 – 7620 = 15240
3	300000	50800 +20400 =71400	75% of 71400 – (7620+15240) =30690
4	300000	71400	71400-(7620+15240+30690) = 17850

15th Jun PY | 15th Sep PY | 15th Dec PY | 15th Mar PY | 31st Mar PY | 31st July AY | 30th Sep AY | Assessment completion date

Interest u/s 234B: on unpaid balance of tax as on 31st Mar as per the ASSESSED INCOME u/s 143(1)/144/143(3)/147 **(AI)** from 31st Mar to Assessment completion date @1% pm or part of the month

If AT paid < 90% of Tax as per AI – then 234B applies, else no int. u/s 234B

Interest u/s 234C: for default in payment of AT as per the RETURNED INCOME as per ROI Interest @1% pm or part of month

or

Interest u/s 234A@1% pm or part of month for late/non filing of ROI**:** on unpaid balance of tax as on 31st Jul/30th Sep as per the ASSESSED INCOME u/s 143(1)/ 144 /143(3) /147

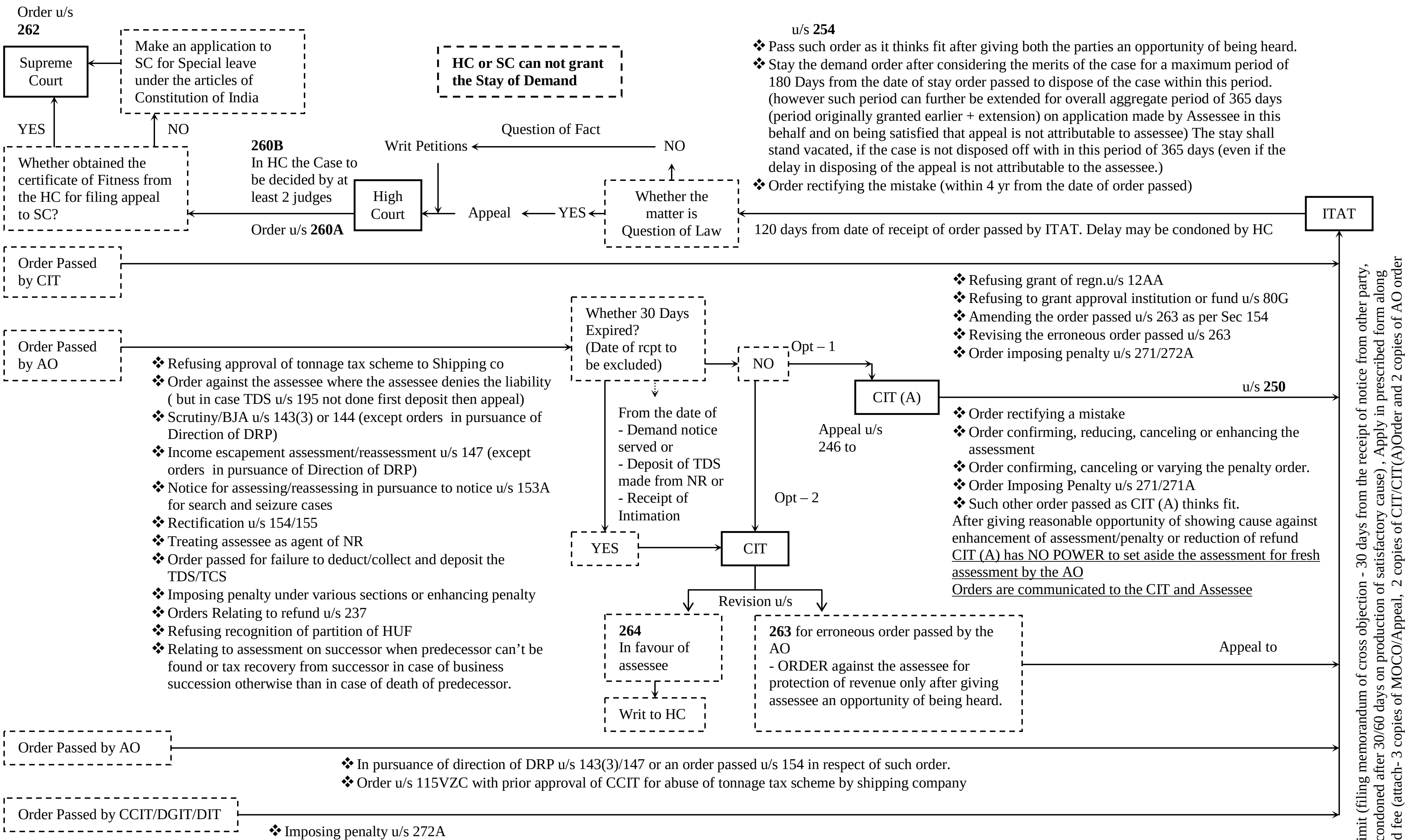
Self Assessment Tax paid u/s 140A

Interest on tax paid u/s 140A is not to be paid during this period

ROI filed within Due date – No Interest **u/s 234A**

ROI Not filed within Due date – Interest **u/s 234A** from 31st Jul/30th Sep to the dt.of filing ROI

ROI Not filed at all – Interest **u/s 234A** from 31st Jul/30th Sep to the date of Completion of the assessment u/s 143(1)/ 144 /143(3) /147



NOTE:

- 249- Before Filing appeal Tax dues (including advance tax) is to be deposited first else appeal will not be processed
- 220- AO may be applied to stay the disputed demand while the case is in appeal process
- appeal once filed can't be withdrawn
- sec 234A/234B/234C penal interest can't be appealed as these are mandatory and automatic, but these can be either be waived by the CCIT/DGIT or Writ can be filed