

Section 139(9)

Defective Return

- (1) Under this sub-section, the Assessing Officer has the power to call upon the **assessee to rectify** a defective return.
- (2) Where the Assessing Officer considers that
 - ❖ the return of income furnished by the assessee is defective,
 - ❖ he may intimate the defect to the assessee and
 - ❖ give him an opportunity to rectify the defect
 - ❖ Within a period of 15 days from the date of such intimation.
 - ❖ The Assessing Officer has the discretion **to extend the time period beyond 15 days**, on an application made by the assessee.
- (3) If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.
- (4) Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.
- (5) **A return of income shall be regarded as defective unless** all the following conditions are fulfilled, namely:
 - a) The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income and total income have been duly filled in.
 - b) The return of income is **accompanied by the following**, namely:
 - ❖ a statement showing the computation of the tax payable on the basis of the return.
 - ❖ the report of the audit obtained under section 44AB (If such report has been furnished prior to furnishing the return of income, a copy of such report and the proof of furnishing the report should be attached).

- ❖ the proof regarding the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid.
 - ❖ However, the return ***will not be regarded as defective*** if
 - a certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income,
 - such certificate is produced within a period of 2 years.
- c) Where regular books of account are maintained by an assessee, the return of income is accompanied by the following
- ❖ copies of manufacturing account, trading account, profit and loss account or income and expenditure account, or any other similar account and balance sheet;
 - ❖ the personal accounts details
- d) Where the accounts of the assessee have been audited, the return should be accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report.
- e) Where the cost accounts of an assessee have been audited under section 233B of Companies Act, 1956, the return should be accompanied by such report.
- f) Where regular books of account **are not maintained by the assessee**, the return should be accompanied by
- a statement indicating ;
 - the amount of turnover or gross receipts,
 - gross profit,
 - expenses and
 - net profit of the business or profession;
 - the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

Note:

Points (b) to (f) given above ***are not practically relevant*** since the assessee has to furnish annexure-less return of income.