

MISCELLANEOUS PROVISIONS

AMENDMENTS BY THE FINANCE (No.2) ACT, 2014

(a) Use of electronic clearing system through a bank account included as a permissible mode of acceptance and repayment of loans and deposits [Section 269SS & 269T]

Effective from: A.Y.2015-16

(i) Under section 269SS, no person shall accept any loan or deposit of ₹ 20,000 or more from any other person otherwise than by an account payee cheque or account payee bank draft.

(ii) Likewise, under section 269T, no loan or deposit shall be repaid otherwise than by an account payee cheque or account payee bank draft, if the amount of such loan or deposit together with interest or the aggregate amount of such loans or deposits together with interest, if any payable thereon, is ₹ 20,000 or more.

(iii) In order to enable payment by way of internet banking facilities or by use of payment gateways, sections 269SS and 269T have been amended to provide that use of electronic clearing system through a bank account shall be a permissible mode of acceptance or repayment of any loan or deposit under the said sections.

(iv) Acceptance of loan or deposit exceeding the prescribed limit of ₹ 20,000 or repayment of the same through electronic clearing system would, thus, not be treated as contravention of the provisions of sections 269SS and 269T to attract penal provisions under sections 271D and 271E, respectively.

(b) Maximum period of extension of provisional attachment : Two years or sixty days after the date of order of assessment or reassessment, whichever is later [Section 281B(2)]

Effective from: 1st October, 2014

(i) Under section 281B(1), the Assessing Officer may, during the pendency of any proceeding for assessment or reassessment of income escaping assessment, with the previous approval of the Chief Commissioner, Commissioner, Director General or Director attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule, in order to protect the interest of revenue.

(ii) As per section 281B(2), every such provisional attachment shall cease to have effect after the expiry of six months from the date of the order made under section 281B(1). However, the Chief Commissioner or Commissioner or Director General or Director may, for reasons to be recorded in writing, extend the period by such further period or periods as he thinks fit. The total period of extension shall not, in any case, exceed two years.

(iii) Section 281B(2) has been amended so as to provide that the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director may extend the period of provisional attachment, for reasons to be recorded in writing, by a further period as he thinks fit. However, the total period of extension should not exceed two years or sixty days after the date of assessment or reassessment, whichever is later.

(iv) Consequently, the second and third provisos to section 281B(2) providing for the exclusion of the period when an application is pending before the Settlement Commission and the period during which the assessment/ reassessment proceedings are stayed by an order or injunction of the court, have been removed.

(c) Obligation to furnish statement of financial transaction or reportable account [Section 285BA]

Related amendments in sections: 271FA & 271FAA

Effective from: A.Y.2015-16

(i) The erstwhile section 285BA required filing of an annual information return by specified persons in respect of specified financial transactions which were registered or recorded by them and which were relevant and required for the purposes of the Act to the prescribed income-tax authority.

(ii) In order to facilitate effective exchange of information in respect of residents and non-residents, section 285BA has been substituted. New section 285BA imposes an obligation on specified persons to furnish statement of financial transaction or reportable account. Thus, the new section also provides for furnishing of statement by a prescribed reporting financial institution in respect of a specified financial transaction or reportable account to the prescribed income-tax authority.

(iii) As per new section 285BA(1), the following persons, who are responsible for registering or maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed under any law for the time being in force, are required to furnish a statement in respect of such specified financial transaction or reportable account which is registered or recorded or maintained by him and information relating to which is relevant and required for the purposes of the Income-tax Act, 1961 to the income-tax authority or such other authority or agency as may be prescribed -

(a) an assessee;

(b) a prescribed person in the case of an office of Government;

(c) a local authority or other public body or association; or

(d) the Registrar or Sub-Registrar appointed under the Registration Act, 1908; or

(e) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or

(f) the Post Master General referred to in the Indian Post Office Act, 1898; or

(g) **the Collector referred to in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or**

(h) the recognised stock exchange referred to in the Securities Contracts (Regulation) Act, 1956; or

(i) an officer of the Reserve Bank of India; or

(j) a depository referred to in the Depositories Act, 1996; or

(k) a prescribed reporting financial institution.

(iv) "Specified financial transactions" means any of the following transactions which may be prescribed -

(a) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or

(b) transaction for rendering any service; or

(c) transaction under a works contract; or

(d) transaction by way of an investment made or an expenditure incurred; or

(e) transaction for taking or accepting any loan or deposit;

(v) The CBDT may prescribe different values for different transactions in respect of different persons having regard to the nature of such transaction. Further, the value or, as the case may be, the aggregate value of such transactions during a financial year so prescribed shall not be less than ₹ 50,000.

(vi) The statement of financial transaction or reportable account should be in the prescribed form and manner and furnished within the prescribed time.

(vii) Where the prescribed income-tax authority considers that the statement furnished under section 285BA(1) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within a period of 30 days from the date of such intimation. The prescribed income-tax authority may allow, on an application made in this behalf, a further period of time, at his discretion.

(viii) If the defect is not rectified within the said period of 30 days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such statement shall be treated as an invalid statement.

Consequently, the provisions of this Act shall apply as if such person had failed to furnish the statement.

(ix) Where a person who is required to furnish a statement under section 285BA(1), has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice [Section 285BA(5)].

(x) If any person, having furnished a statement under section 285BA(1), or in pursuance of a notice issued under section 285BA(5), comes to know or discovers any inaccuracy in the information provided in the statement, he shall, within a period of ten days inform the income-tax authority or other authority or agency referred to in section 285BA(1), the inaccuracy in such statement and furnish the correct information in the prescribed manner [Section 285BA(6)]

(xi) Under section 285BA(7), the Central Government may, by way of rules, specify —

(a) the persons referred to in section 285BA(1) to be registered with the prescribed income-tax authority;

(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (a); and

(c) the due diligence to be carried out by the persons for the purpose of identification of any reportable account referred to in section 285BA(1).

(xii) Consequential amendment has been made in section 271FA to provide for penalty for failure to furnish statement of information or reportable account in the place of penalty for failure to furnish annual information return. There is, however, no change either in the quantum of penalty specified therein or the period for which such penalty is leviable.

(xiii) Further, new section 271FAA has been inserted to provide for levy of penalty in case of a person, being a prescribed reporting financial institution, who is required to furnish a statement of financial transaction or reportable account, where such person provides **inaccurate information in the statement.**

(xiv) In such a case, the prescribed income-tax authority may direct levy of penalty of ₹ 50,000, subject to further satisfaction of any one of the following conditions –

(1) The inaccuracy is due to a **failure to comply with the due diligence requirement** prescribed under section 285BA(7) or is deliberate on the part of that person; or

(2) **The person is aware of the inaccuracy** at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or

(3) **The person discovers the inaccuracy after furnishing the statement** of financial transaction or reportable account but **fails to inform and furnish correct information within ten days**, being the time specified under section 285BA(6).