

HANDBOOK ON ASSESSMENTS UNDER THE INCOME TAX LAW



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

Behind every successful business decision, there is always a CMA

“

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The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.

”

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Objectives of Taxation Committee:

1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
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Edition: March 2024

Published by

The Institute of Cost Accountants of India
CMA Bhawan,
12, Sudder Street, Kolkata- 700016.

Delhi Office

CMA Bhawan,
3, Institutional Area, Lodhi Road, New Delhi - 110003



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This document has tried to provide a general guidance in simplified language on the topic. It is notified that neither Institute nor the authors or employees will be responsible for any damage or loss of action to any one, of any kind, in any manner, therefrom. It is suggested that to avoid any doubt the reader should cross-check all the facts, law and contents of the material on web with original Government publication or notifications. The material contained in this document is general information and is not intended to be advice on any particular matter.



President's Message

The Tax Research Department has long been at the forefront of producing publications covering various aspects of Taxation. These publications, meticulously researched, serve to enrich the knowledge of readers and assist them in fulfilling their professional obligations.

Among the latest additions is the Handbook on 'Assessment under the Income Tax Act 1961'. Taxpayers are mandated to fulfill their tax obligations under the provisions of this Act and submit their returns accordingly. After the filing of returns, the Income Tax Department undertakes the crucial task of processing them. This examination process, termed as "Assessment", encompasses not only the initial assessment but also re-assessment and best judgment assessment under section 144. This handbook begins with fundamental concepts and progresses into an in-depth exploration of the subject, enriched with numerous illustrations, examples, and case references.

It is indeed an honor for me to have perused through this handbook, and I am convinced of its significant value to readers. I extend my congratulations to the Tax Research Department on the release of this publication and encourage further efforts for the benefit of stakeholders.

CMA Ashwin G. Dalwadi
President, ICAI



Vice President's Message

In 2020, the government introduced the concept of faceless assessments, whereby scrutiny assessments are carried out in a faceless manner, that is, without any physical meeting or submission of physical documents. The National Faceless Assessment Centre (NFAC), along with other centres and units, have been established by the Central Board of Direct Taxes (CBDT).

Faceless assessments seek to eliminate the human interface between the taxpayer and the income tax department. The faceless assessment scheme lays down the procedure to carry out such an assessment in electronic mode. This scheme is ingrained with Transparent Taxation and the connotation given is 'Honoring the Honest'. This giant leap would help in reducing malpractices by the Tax payers, if any and clear noted updates regarding the cases would be maintained.

This handbook by the Tax Research Department, not only deals with the various types of assessment but also brings up and discusses the various initiatives undertaken by the Government in making the nation more Tax compliant with transparency and ease. I congratulate the department in these small little steps taken by them to spread knowledge among the masses.

A handwritten signature in blue ink, appearing to read 'Bibhuti', with a long horizontal stroke extending to the right.

CMA Bibhuti Bhusan Nayak
Vice President, ICAI



Chairman's Message

Esteemed Professional Colleague,

There are various types of assessments under the Income Tax Act and each one of them has a specific importance. These assessments are categorized as (i) Self-Assessment wherein the assessee himself determines the income tax payable and submits his return by filing the various forms for filing income tax return that the tax department has made available. (ii) Summary Assessment: It is a type of assessment carried out without any human intervention. In this type of assessment, the information submitted by the assessee in his return of income is cross-checked against the information that the income tax department has access to. (iii) Regular Assessment: Here the income tax department authorizes the Assessing Officer or Income Tax authority, not below the rank of an income tax officer, to conduct this assessment. The purpose is to ensure that the assessee has neither understated his income nor overstated any expense or loss or underpaid any tax. (iv) Scrutiny Assessment: In this case an Income Tax Officer is assigned by the Income Tax Department to assess the tax filing. The taxpayer is informed of this through an Income Tax Notice under Section 143(2). The officer may request information, documents, and books of accounts for scrutiny assessment, which will be thoroughly examined. (v) Best Judgement Assessment: In certain special conditions this assessment is resorted to especially when communication with the assessee cannot be firmly established. (vi) Income Escaping Assessment: When the assessing officer has sufficient reasons to believe that any taxable income has escaped assessment, he has the authority to assess or reassess the assessee's income. The time limit for issuing a notice to reopen an assessment is 4 years from the end of the relevant assessment Year.

Our Tax Research Department has brought out a detailed handbook which addresses in detail the various categories of assessments and would surely help the assesseees to understand the assessment procedure involved in each such assessment. It gives me and the TRD immense pleasure to bring out such a useful handbook which will be a ready referencer tool and a value addition to the assesseees and members.

With Warm Professional Regards,

Forever, yours in service,

A handwritten signature in black ink, appearing to read 'V Murali'.

CMA (Dr.) V Murali

Chairman – Direct Taxation Committee of ICAI

Preface

Taxes are the backbone of any nation and increased share of Direct Taxes levied on the basis of the capacity to pay is an indicator of the developing economy. In the year in which we are celebrating Bharat ka Amrit Mahotsav, and the Amrit Kaal, increased share of direct taxes to the national exchequer is a healthy growth story of our great nation. Gone are the days when the tax rates were high and which was alleged to be one of the factors for evading taxes in the country. Currently, India has one of the lowest tax rates among the developed and developing economies of the world. Despite the setback to industrial and economic activities due to COVID-19 pandemic, the country has shown resilience and determination to move forward and the credit goes to the foresight of our leadership, the economic think tanks of the nation and the change in the thought process of the tax paying citizen and the tax advisors. Tax evasion is no longer a virtue nor even an adventure to embark upon and with the lowering of tax rates and ease of compliance with the use of technology, filing of return has become very easy and hassle free with most of the data being pre-filled in the return of income. The department has done intensive data mining and has applied Artificial Intelligence and Machine Learning to identify only selective cases for scrutiny. Hon'ble Prime Minister launched the platform "Honouring the Honest" on 13th August, 2020 and most of the assessment and appeal functions have become faceless and such use of technology is likely to be expanded to faceless enquiries through e-Verification for verification of information available with the department in the near future.

Income-tax in India has a legacy of more than 160 years and the Act being a dynamic one and undergoing changes as per the changes in economic and technological ambiance requires continued updating of knowledge. It is notable that the Institute of Cost Accountants of India has come out with the publication "Assessment under Income Tax Act". The book will serve as a ready handbook to the learners of Income-tax. It encapsulates important sections for explaining the overall scheme of taxation in a connected manner viz. Income Tax Authorities, their Jurisdiction, Power of Income tax Authorities and Procedure for Assessment and will serve as a stepping stone for higher learning and whet the appetite of the learners to explore more advanced features and issues decided by the Appellate Tribunal, the High Court and the Apex Court. Most of the notifications have been included but the same would require regular updating. We are thankful to CMA Ajith Sivadas in guiding us in coming out with this handbook and wish the author success in all such endeavors in future.

Thank you

Tax Research Department

Institute of Cost Accountants of India

ASSESSMENTS UNDER THE INCOME TAX LAW

CONTENTS

1.	INTRODUCTION	1-4
2.	SUMMARY ASSESSMENT	5-24
3.	SCRUTINY AND BEST JUDGEMENT ASSESSMENT	25-68
4.	INCOME ESCAPEMENT ASSESSMENT	69-94
5.	SEARCH AND SEIZURE ASSESSMENT	95-116
6.	DISPUTE SETTLEMENT MECHANISM	117-144
7.	SECTION 142(2A) - VALUATION OF INVENTORY BY COST ACCOUNTANTS DURING ASSESSMENTS	145-152

INTRODUCTION

INTRODUCTION

ASSESSMENTS UNDER THE INCOME TAX LAW

Assesses who are required to pay Income tax under various provisions of the act shall file their income tax returns in prescribed forms. Once the return of income is filed up by the taxpayer, the next step is the processing of the return of income by the Income Tax Department. The Income Tax Department examines the return of income for its correctness. The process of examining the return of income by the Income- Tax department is called as “Assessment”. Assessment also includes re-assessment and best judgment assessment under section 144.

ASSESSMENT

Assessment means determination of income and tax which is a process starting with filing of return or issuance of notice and culmination with an order. Assessment takes into purview the entirety of proceedings which are taken in regard to it. It not only means computation of the income of the assessee, but also the determination of tax payable by him. (CIT v Balkrishnan Malhotra (1971) 2 SCC 547). The Supreme Court in Abraham (CA) v ITO (1961) 41 ITR 425 (SC), has held the word assessment has to be understood as including not only levy, tax assessment and tax collection but also the entire process of law. Further, the expression ‘proceeding for assessment’ in section 297 also includes the proceedings for the rectification of an assessment already completed, and the revision thereof by the Commissioner. (Sankappa (S) v ITO (1968) 68 ITR 760 (SC); Kalawati Devi Harlalka v CIT (1967) 66 ITR 680 SC)

The word “assessment” is used in a comprehensive sense and covers all proceedings resulting in computation of income and determination of tax payable by the assessee. (S. Sankappa v ITO (1968) 68 ITR 760 SC; CIT v V.D. Saraf (HUF) 207 ITR 217 Bombay) A regular assessment would include all assessments including assessment under section 143(3) or 144 of the Act. The expression ‘best judgment assessment’ refers to an assessment made ex parte or on estimate basis. Ex-parte assessment is an expression used in respect of an assessment made under section 144 of the Act.

In CIT v V.D Saraf (HUF) (1994) 207 ITR it was held that the word “assessment” must be understood in different sections with reference to the context in which it is used. Sometimes it refers to computation of income, sometimes to determination of tax payable and sometimes to whole gamut of procedure prescribed in the Act for imposing tax liability on taxpayer.

The word “assessment” has a very comprehensive meaning to cover the whole procedure for ascertaining and imposing liability upon the taxpayer. Where



proceedings relating to rectification of assessment are taken those proceedings must be held to be proceedings for assessment. (S. Sankappa v ITO (1968) 68 ITR 760 SC)

The word “assessment” is used in Income Tax Act, in a number of provisions in a comprehensive sense and includes all proceedings starting with the filing of the Income Tax Return or issue of notice and ending with determination of tax payable by the assessee. Although in some sections, word assessment is used in respect to computation of income; in other sections it has the more comprehensive meaning.

The Faceless Assessment Scheme (**the Scheme**) under the Income Tax Act, 1961 (**the IT Act**) was launched by the Government of India in 2019. Later the Scheme was amended by a notification of the Central Board of Direct Taxes (**CBDT**) in 2021 *vide* **Notification No. 6 of 2021 [F. No. 370149/154/2019- TPL] / SO 741(E), dated 17.02.2021**.

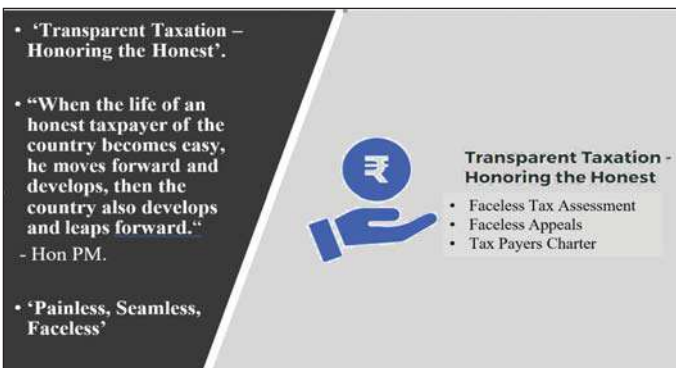
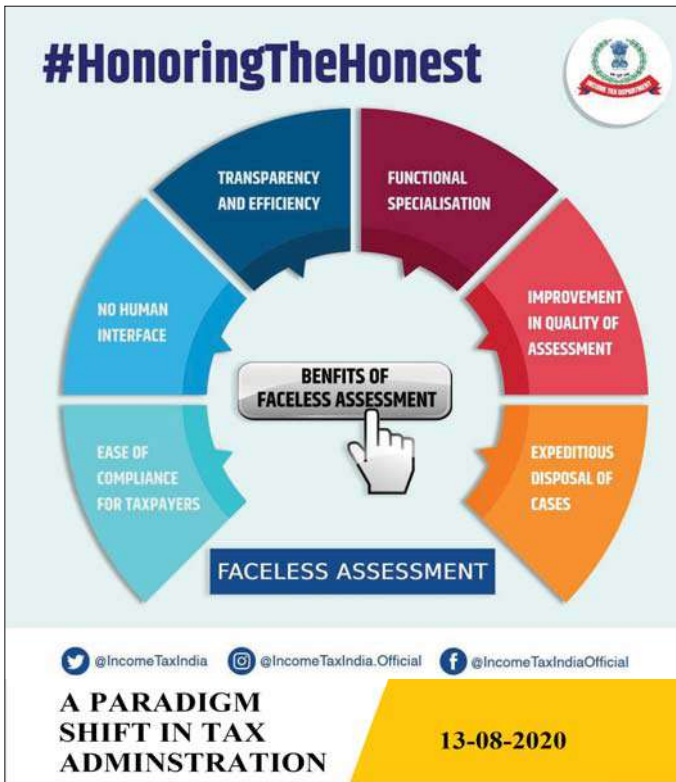
The Scheme aims at enhancing the efficiency, transparency and accountability in the income tax assessment procedure, and is a major step towards achieving ‘Transparent Taxation- Honoring the Honest’, a platform launched by the Prime Minister in 2020. Phase I of the Scheme was inaugurated in October, 2019 and the Scheme has been fully implemented from August, 2020.

Hitherto, cases for assessment under the IT Act were chosen manually, subject to approval by the Commissioner of Income Tax, which was later replaced by selection via Computer Aided Selection for Scrutiny (**CASS**). The Income Tax Department (**the Department**) pivoted to testing e-assessment in five metro cities on a pilot basis. Based on the experience and learning from the same, the Scheme was launched in 2019, whereby assessments would be done completely electronically, right from issuance of notice to the Assessee. The aim for introduction of the Scheme was to cut back human interface in the process to the greatest possible extent.

This has now taken the form of a full-fledged electronic assessment, which not only eliminates direct in-person interface between Assesses and the Department, but also aims to efficiently and optimally use available resources and achieve team-based assessment of cases with dynamic jurisdiction.

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, (**the 2020 Amendment**) inserts **Section 144B** in the IT Act thereby amending the IT Act to make necessary provisions for the Scheme. Changes in the 2020 Amendment have been proposed by **the Finance Bill, 2022**, which is discussed in this handbook subsequently.

“We’re bringing in tax transparency through law because it is extremely important for the country,” – Finance Minister.





Under the Income-tax Law, there are four major assessments given below:

- Assessment under section 143(1), i.e., Summary assessment without calling the assessee.
- Assessment under section 143(3), i.e., Scrutiny assessment.
- Assessment under section 144, i.e., Best judgment assessment.
- Assessment under section 147, i.e., Income escaping assessment.
- Assessment under section 153 A ie. Search Assessment

In this handbook we are trying to analyse all types of assessments practically.

SUMMARY ASSESSMENT

Summary Assessment under section 143(1)

This is a preliminary assessment and is referred to as summary assessment without calling the assessee (i.e., taxpayer).

Scope of assessment under section 143(1)

Assessment under section 143(1) is like preliminary checking of the return of income. At this stage no detailed scrutiny of the return of income is carried out. At this stage, the total income or loss is computed after making the following adjustments (if any), namely:-

- (i) Any arithmetical error in the return; or
- (ii) An incorrect claim (*), if such incorrect claim is apparent from any information in the return;
- (iii) Disallowance of loss claimed, if return of the previous year for which set-off of loss is claimed was furnished beyond the due date specified under section 139(1); or
- (iv) Disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return; or
- (v) Disallowance of deduction claimed u/s 10AA, 80IA to 80-IE, if the return is furnished beyond the due date specified under section 139(1); or
- (vi) Addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return. However, no such adjustment shall be made in relation to a return furnished for the assessment year 2018-19 and thereafter.

However, no such adjustment shall be made unless an intimation is given to the assessee of such adjustment either in writing or in electronic mode. Further, the response received from the assessee, if any, shall be considered before making any adjustment, and in case where no response is received within 30 days of the issue of such intimation, such adjustments shall be made.

For the above purpose “an incorrect claim apparent from any information in the return” means a claim on the basis of an entry in the return:-



PM Modi Launches
**A PLATFORM FOR
TRANSPARENT
TAXATION -
HONORING THE
HONEST**

myGov
सहो योगदान

FACELESS ASSESSMENTS
FACELESS APPEALS
TAXPAYERS' CHARTER

Any assessment, other than exception,
outside Faceless Scheme will be invalid

No intrusive and survey actions by field
officers – Only Investigation wing and
TDS wing can after approval by officer of
the level of Chief Commissioner or above

#HonoringTheHonest

Date: 13th August, 2020

- (i) Of an item which is inconsistent with another entry of the same or some other item in such return;
- (ii) In respect of which the information is required to be furnished under the Act to substantiate such entry and has not been so furnished; or
- (iii) In respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

Procedure of assessment under section 143(1)

1. After correcting arithmetical error or incorrect claim (if any) as discussed above, the tax and interest and fee*, if any, shall be computed on the basis of the adjusted income.



2. Any sum payable by or refund due to the taxpayer shall be intimated to him.
3. An intimation shall be prepared or generated and sent to the taxpayer specifying the sum determined to be payable by, or the amount of refund due to the taxpayer.
4. An intimation shall also be sent to the taxpayer in a case where the loss declared
5. in the return of income by the taxpayer is adjusted but no tax or interest is payable by or no refund is due to him.
6. The acknowledgement of the return of income shall be deemed to be the
7. intimation in a case where no sum is payable by or refundable to the assessee or where no adjustment is made to the returned income.

*As per section 234F, a fee shall be levied where the return of income is not filed within the due dates prescribed under section 139(1). Fee for default in furnishing return of income shall be Rs. 5,000 if return has been furnished after the due date prescribed under section 139(1). However, it shall be Rs.1,000 if the total income of an assessee does not exceed Rs. 5 lakh.

Intimation under Section 143(1) of Income Tax Act

All the income tax returns filed by the taxpayers are first processed online at the Centralized Processing Centre (CPC). After processing the return, the income tax department then issues intimation under section 143(1) to the taxpayers informing them about the results.

Letter of Intimation u/s 143(1)

An income tax return can be either filed voluntarily under Section 139 or on demand by the income tax department under Section 142(1). It is necessary to understand what happens after the taxpayer has filed the return of income.

The process of examining the return filed by the taxpayer by the Income tax department is termed as assessment. The IT department carries out a preliminary assessment of all the returns filed and informs taxpayers of the result of such preliminary assessment. This assessment primarily includes arithmetical errors, internal inconsistencies, tax calculation and verification of tax payment. The preliminary evaluation process is fully computerized (automated), and is delegated to the Central Processing Centre (CPC).



Thereafter, system generates the intimation under Section 143(1) that generally indicates obvious errors that the mainframe system has identified.

Centralized Processing Center

With the rapid increase in the number of income tax returns and a jurisdiction-based processing model for all the returns filed, tax department faced problems leading to delayed processing of income tax returns.

Therefore, the Finance Act, 2008 empowered the Central Board of Direct Taxes (CBDT) to make a scheme for centralized processing of returns with a view to expeditiously determining the tax payable by, or the refund due to the taxpayers. Based on the recommendations of the Technical Advisory Group, the department adopted the strategy that CPC at Bangalore would process paper and e-returns without any interface with taxpayers and in a jurisdiction free manner.

CPC project envisaged benefits for the citizens as well as the tax department. For citizens, it led to faster and hassle-free preliminary processing of their returns and also relieved the department from the burden of preliminary assessment that can be computerized and enabled them to concentrate on hardcore activities.

Any communication from the income tax department creates panic for taxpayers. However, Section 143(1) intimation is not something one needs to worry about. In this article, we would be discussing intimation sent under Section 143(1) in detail to make it help taxpayers deal with such intimation with ease.

Preliminary Assessment under 143(1)

Initial processing of returns by CPC is completely automated and Section 143(1) Intimation is also computer-generated record. CPC validates data provided in each tax return with details available with income tax department's own record (such as Form 26AS generated through details provided by collecting banks, TDS returns, etc.) and this notice usually only points out apparent mistakes found out by the mainframe system.

- Once the return is filed, total income or loss is recomputed by the computerized system as per the department's record and provides a comparison with data filed by the taxpayer
- The intimation has two columns: 'As provided by the taxpayer in the Return of Income' and 'As computed under Section 143 (1)
- Comparison is made for major categories such as



- Income under various heads,
 - Gross total income,
 - Deductions under Chapter VIA (80C, 80D, etc.), and
 - Tax deducted at source, and tax paid by taxpayers in the form of advance tax and self-assessment tax
- Appropriate adjustments are made to income as computed under Section 143(1) and final tax liability or refund is arrived at
 - The adjustments are carried out only after giving an intimation to the taxpayer of the proposed adjustments either in writing or electronic mode i.e., to the email id provided in the income tax return filed
 - Response received from the taxpayer within 30 days from the issuance date of intimation will be considered before making the final adjustment and in case no response received within such period, adjustments arrived at initially will be incorporated.
 - After arriving at final tax liability, the same is adjusted against TDS and tax payments and other relief under Section 90/91, if any.
 - An intimation shall be prepared and sent to the taxpayer.

Kind of intimations possible are discussed below:

- **Intimation with no demand or no refund** – This generally happens if the department has accepted the return as filed without carrying out any adjustments to it.
- **Intimation determining demand** – Issued in case of adjustments made under Section 143(1) due to a discrepancy found and tax liability is arrived at.
- **Intimation determining refund** – Issued where any tax is found to be refundable either where no discrepancy in the return filed or after making adjustments as referred to in Section 143(1) and after giving credit to the taxes and interest paid by the taxpayer.

While demand notice is sent in case of final tax liability, refunds if any shall be granted to the taxpayer.

Nature of adjustments under 143(1)

Total income or loss is computed under Section 143(1) after making the following adjustments:



- Arithmetical error in the return
- Any incorrect claim which is apparent from any information in the return where incorrect claim which may include the following:
 - The claim of an item in the return which is inconsistent with another entry of the same or some other item in such return – for example, income from other sources is deducted from business income but not declared under income from other sources.
 - Disallowance of set off of loss in the financial year which is carried forward from previous years in which return was filed beyond specified due date
 - Disallowance of expenditure indicated in the audit report but not indicated in the return of income.

Time Limit for issue of 143(1)

An intimation shall be prepared or generated and sent to the assessee **within a period of nine months** from the end of the financial year in which the return was made. The intimation shall specify the sum determined to be payable by, or the amount of refund due to, the assessee.

Action to be taken by the taxpayer after receiving a 143(1)

- As a first step, review certain things in Section 143(1) intimation to ensure document pertains to your return itself and data provided pertain to the same financial year as mentioned in Section 143(1) intimation.
- Check the name, PAN, address, assessment year for which notice has been sent, e-filing acknowledgement number.
- In case you are able to identify the mistakes you have made while filing your return from the 143(1) intimations, and they can be rectified by filing a revised return, please do so by logging into income tax e-filing website.
- However, if no mistakes have been made and you do not agree with the adjustments made by CPC/computerized system, you can file an online rectification **application under Section 154(1)** intimating the correction of mistake appearing in the Section 143(1) intimation.
- Also, submit your response in the e-filing portal where there is a tax demand-whether you agree or disagree with the same.
- In case you are not satisfied with the processing of your rectification return by CPC, you can also file online grievances or contact your assessing officer. In case of no satisfactory action from CPC/assessing officer, you can file a complaint to income tax ombudsman.



However, if taxpayer agrees to the tax demand raised by income tax department after carrying out adjustments as above, taxpayer is required to pay such taxes. Refer our article on OLTAS challan payment on how to pay taxes. However, while paying tax on demand raised under this Section, please choose 'Tax on regular assessment (400)' under 'Type of payment' field in the challan.

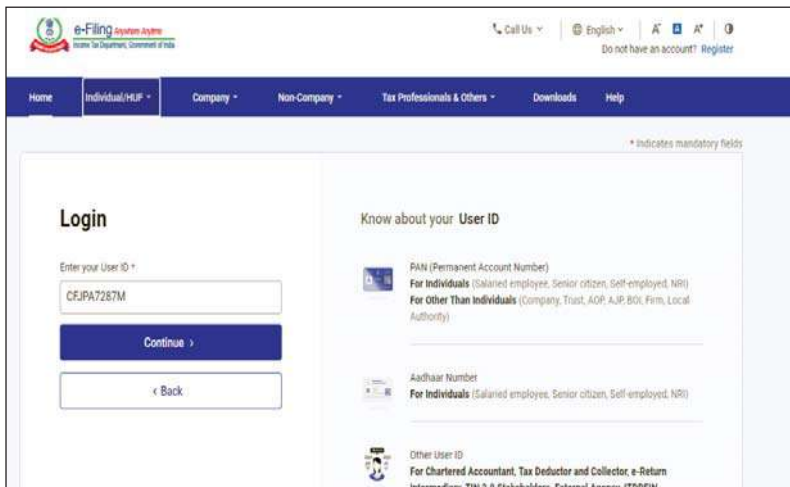
If you wish to pay challan physically, the pre-filled challan is attached with the intimation as below.

CHALLAN NO./TNS 280		Click Here to E-PAY TAX	
Tax Applicable (Tick One)*			
☐ Income -Tax on companies (9020) (Corporation tax)	☒ Income -Tax (9021) (other than companies)		
Type of Payment (Tick One)			
☐ Advance Tax (100)	☐ Surtax (102)		
☐ Self Assessment Tax (300)	☐ Tax on Distributed Profits of Domestic Companies (106)		
☒ Tax on Regular Assessment (400)	☐ Tax on Distributed Income to Unit Holders (107)		
Details of Payments		For use in receiving bank	
Income Tax	Amount (In Rs.Only)		Debit to A/c / Cheque credited on
Surcharge	97,000		
Education Cess			DD MMM YYYY
Interest			
Penalty			
Others			
Total	97,000		
	Crores	Lakhs	Thousands
	0	0	97
			Hundreds
			0
			Tens
			0
			Units
			0
Paid in Cash / Debit to A/c / Cheque No.		Dated	
Drawn on			
		(Name of the Bank and Branch)	
Taxpayers' Counterfoil (To be filled up by the taxpayer)		Space for bank seal	
PAN	CFJPA7287M		
Received from	MUDIIPPULLY ALI AKBAR ASHIK		
	(Name)		
Cash/ Debit to A/c / Cheque No.	For Rs. 97,000		
Rs. (In Words)	Ninety Seven Thousand		
Drawn on			
	(Name of the Bank and Branch)		
On account of Income Tax on	Companies. / Other than Companies Tax		
	(Strike out whichever is not applicable)		
Type of Payment Tax on Regular Assessment (400) (To be filled up by the person making the payment)			
for the Assessment Year 2021-22			

Step by Step Guidance to Agreeing or Disagreeing the Demand

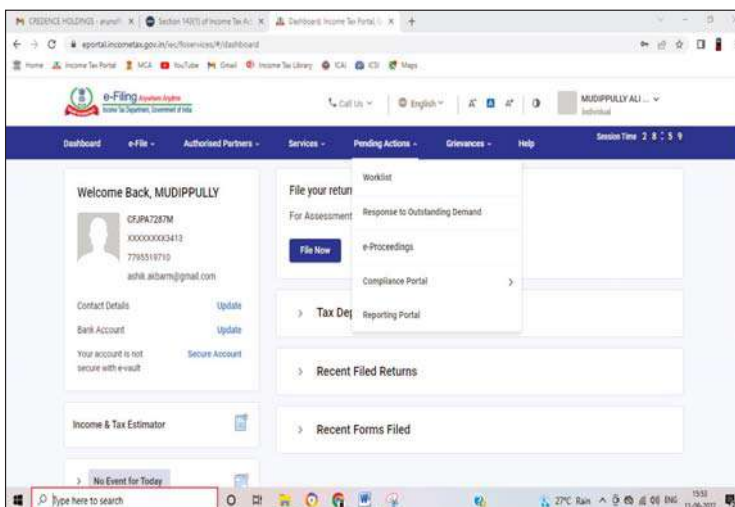
■ Agreeing the Demand

Step 1: Log in to Income Tax Portal by entering the PAN as User Name and Password



The screenshot shows the e-Filing Income Tax Portal login page. The header includes the e-Filing logo, language selection (English), and a 'Register' link for users without an account. The navigation bar has links for Home, Individual/HUF, Company, Non-Company, Tax Professionals & Others, Downloads, and Help. The main content area is divided into two sections: 'Login' and 'Know about your User ID'. The 'Login' section has a text input field for 'Enter your User ID *' containing 'CFJPA7287M', a 'Continue >' button, and a '< Back' button. The 'Know about your User ID' section explains that the PAN (Permanent Account Number) is used for login for individuals and other entities, and provides details for Aadhaar Number and Other User ID.

- Step 2: Go to E-Proceedings Tab and select “Response to Outstanding Demand”



The screenshot shows the e-Filing Income Tax Portal dashboard for a user named MUDIIPPULLY. The dashboard includes a welcome message, contact details, and links to update contact and bank account information. The 'Income & Tax Estimator' section is also visible. The 'Pending Actions' tab is selected, showing a 'Worklist' with 'File your return For Assessment' and 'Response to Outstanding Demand'. The 'Response to Outstanding Demand' option is highlighted, leading to a 'File Now' button. The dashboard also displays 'Recent Filed Returns' and 'Recent Forms Filed'.



- Step 3: Select the option “Submit Response”

Response to Outstanding Demand

Note: The notice for Demands prior to AY 2020-21 shall be made available shortly.

Records are as per the data available at Income Tax Department. Date of last refresh: 11-Sep-2022

Demand Reference No: 2022202137097200471T Assessment Year : 2021

Outstanding Demand Amount: ₹97000

View Interest Computation

Pending Payment / Response
Current Status

04-Aug-2022
Date of Service of Notice ⓘ

04-Aug-2022
Date of Demand Raised

Section Code: 1431a
Rectification Rights: CPC
Mode of Service: Email & Post

Pay Now ⓘ
Download
Submit Response

- Step 4: Select “Demand is Correct”

Response Form Assessee

Assessment Year: 2021

Outstanding Demand Amount: ₹97000

Section Code: 1431a

Mode of Service: Email & Post

Date of Demand Raised: 04-Aug-2022

Rectification Rights: CPC

Date of Service of Notice ⓘ: 04-Aug-2022

☒ Demand is correct ☐ Disagree with demand (Either in Full or Part)

Response: Demand is correct

☐ * Once you submit "Demand is correct", then you cannot "disagree with demand" later on



Step 5: Select submit button and Pay the demand

☒ Demand is correct ☐ Disagree with demand (Either in Full or Part)

Response: Demand is correct

☐ * Once you submit "Demand is correct", then you cannot "disagree with demand" later on.

Have you already paid demand amount ?

☐ Not paid yet

☒ Yes, Already paid and Challan has CIN

Cancel Submit >

Note: Once the demand is accepted, subsequent disagreement of demand is not possible.

▪ Disagreeing the Demand

Steps 1 to 3, as mentioned above are common for disagreeing the demand.

Step 4: Select Disagree with Demand either full or part

e-Filing Assessee Appellate
Income Tax Department, Government of India

Call Us English A+ A- 0

* Indicates the mandatory fields

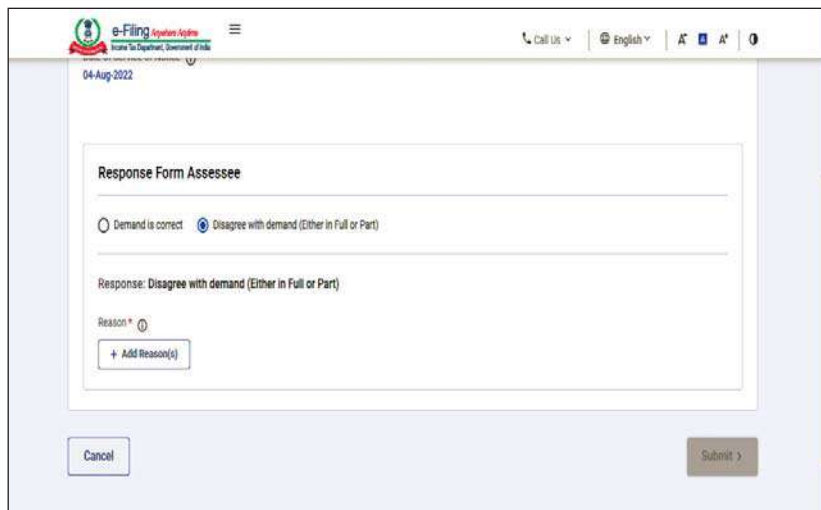
Assessment Year 2021	Outstanding Demand Amount ₹ 97000	Section Code 1431a	Mode of Service Email & Post
Date of Demand Raised 04 Aug 2022	Rectification Rights CPC		
Date of Service of Notice 04 Aug 2022			

Response Form Assessee

☐ Demand is correct ☒ Disagree with demand (Either in Full or Part)

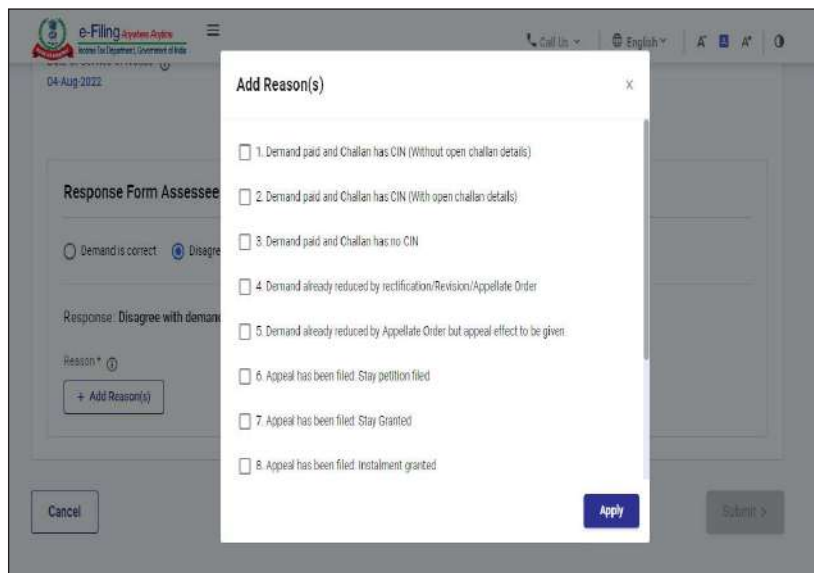
Response: Disagree with demand (Either in Full or Part)

Step 5: Choose Add Reason



The screenshot shows the 'Response Form Assessee' interface on the e-Filing portal. At the top, there is a header with the e-Filing logo, 'Income Tax Department, Government of India', and a date '04-Aug-2022'. Below the header, there are radio buttons for 'Demand is correct' and 'Disagree with demand (Either in Full or Part)'. The 'Disagree with demand' option is selected. Below this, there is a text field for 'Response: Disagree with demand (Either in Full or Part)'. A 'Reason *' label is followed by a '+ Add Reason(s)' button. At the bottom, there are 'Cancel' and 'Submit >' buttons.

Step 6: Select Appropriate Reason

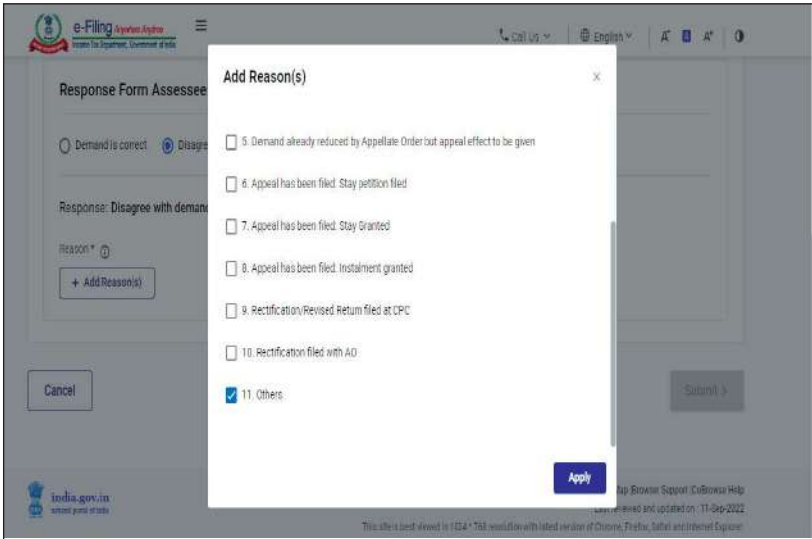


The screenshot shows the 'Add Reason(s)' modal window. The modal has a title bar with 'Add Reason(s)' and a close button. It contains a list of eight reasons, each with a checkbox:

- ☐ 1. Demand paid and Challan has CIN (Without open challan details)
- ☐ 2. Demand paid and Challan has CIN (With open challan details)
- ☐ 3. Demand paid and Challan has no CIN
- ☐ 4. Demand already reduced by rectification/Revision/Appellate Order
- ☐ 5. Demand already reduced by Appellate Order but appeal effect to be given
- ☐ 6. Appeal has been filed Stay petition filed
- ☐ 7. Appeal has been filed Stay Granted
- ☐ 8. Appeal has been filed Instalment granted

At the bottom right of the modal is an 'Apply' button. The background shows the same 'Response Form Assessee' interface as in Step 5.

Step 7: Select apply button to add the reason



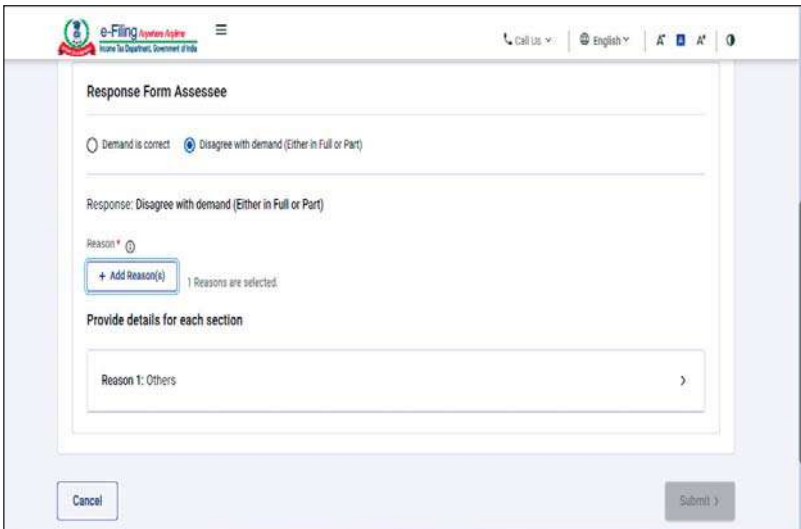
The screenshot shows the 'e-Filing' portal interface. A modal window titled 'Add Reason(s)' is open, displaying a list of reasons for disagreeing with the demand. The reasons are numbered 5 through 11. Reason 11, 'Others', is selected with a blue checkmark. The 'Apply' button at the bottom right of the modal is highlighted in blue. The background shows the 'Response Form Assessee' section with 'Disagree' selected and the 'Add Reason(s)' button.

Add Reason(s)

- ☐ 5. Demand already reduced by Appellate Order but appeal effect to be given
- ☐ 6. Appeal has been filed. Stay petition filed
- ☐ 7. Appeal has been filed. Stay Granted
- ☐ 8. Appeal has been filed. Instantant granted
- ☐ 9. Rectification/Revised Return filed at CPC
- ☐ 10. Rectification filed with AO
- ☒ 11. Others

Apply

Step 8: Choose the “Reason”



The screenshot shows the 'e-Filing' portal interface. The 'Response Form Assessee' section is visible. The 'Disagree with demand (Either in Full or Part)' option is selected. The 'Reason *' field is highlighted with a blue box, and the '+ Add Reason(s)' button is also highlighted. Below the button, it says '1 Reasons are selected.' The 'Reason 1: Others' field is visible, and the 'Submit' button is highlighted in blue.

Response Form Assessee

☐ Demand is correct ☒ Disagree with demand (Either in Full or Part)

Response: Disagree with demand (Either in Full or Part)

Reason * 

+ Add Reason(s) 1 Reasons are selected.

Provide details for each section

Reason 1: Others 

Submit



Step 9: Enter the Amount of disagreement and add the reason.

The screenshot shows the e-Filing portal interface for Step 9. At the top, there is a header with the e-Filing logo, a menu icon, and links for 'Call Us', 'English', and font size adjustments. A note indicates that an asterisk (*) denotes mandatory fields. The main form area contains a text input field for 'Please Enter the amount not payable for the above reason' with the value '900000'. Below this is a section for 'Please provide details below' with a 'Remarks' field containing the text 'Form 10IE is already submitted.' and a character count of 'Remaining Characters : 1969'. At the bottom of the form are 'Close' and 'Save' buttons.

Step 10: Select “Save” and select submit.

The screenshot shows the e-Filing portal interface for Step 10. The header is similar to Step 9. The main form area is titled 'Provide details for each section'. It includes a 'Reason 1: Others' section with a green 'Completed' status and a right-pointing arrow. Below this is a 'Payment Summary' section with a table showing 'Outstanding Demand Amount' and 'Total Amount Not Payable', both valued at ₹97000. Under the summary is an 'Amount Payable' section with a note: 'Note: You will be redirected to payment gateway for payment. Please click on 'Pay Now' Once paid, please enter the details of challan and submit response on the e-filing portal.' A 'Pay Now' button with an external link icon is present. At the bottom of the form are 'Cancel' and 'Submit' buttons.

Note:

1. If the demand is partially accepted, the option of “Paying Now” can be selected and the agreeing portion of demand may be paid via this option. If any partial payment is separately done (otherwise than through this option), the copies of challan are required to be attached.



2. If the demand is already paid, then select the reason “Demand already paid” and attach the challan.
3. Appropriate reason shall be selected, depending up on the circumstances of the Notice. The following reasons can be selected:-
 - ✓ Demand paid and Challan has no CIN (Without open Challan details)
 - ✓ Demand Paid and Challan has CIN(With Open Details Challan)
 - ✓ Demand paid and challan has no CIN
 - ✓ Demand already reduced rectification/revision/appellate order
 - ✓ Demand reduced by appellate order but appeal effects to be given
 - ✓ Appeal has been Filed, stay petition filed
 - ✓ Appeal has been Filed, stay granted
 - ✓ Appeal has been Filed, Installment granted
 - ✓ Rectification or the revised return filed with CPC
 - ✓ Rectification filed with AO
 - ✓ Others
4. If any stay is granted by Court or CIT(A), the copies of stay is required to be attached in portal.
5. If any appeal is preferred before any of the authority mentioned in the Income Tax Act, 1961, appropriate response along with sufficient documentary evidences shall be submitted.
6. If any rectification request is physically submitted with the officer, the copies of acknowledgement are required to be submitted with CPC.
7. Once, the response is submitted an acknowledgement will automatically downloaded by the site.

SECTION 154 - RECTIFICATION OF MISTAKES

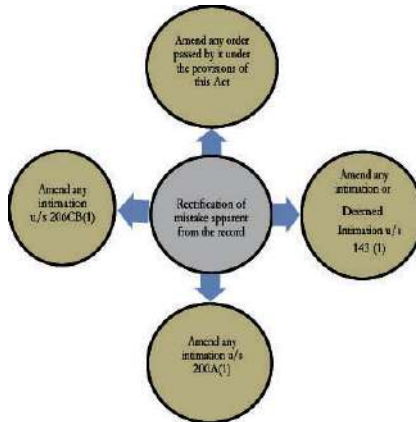
Sometimes there may be a mistake in any order passed by the Assessing Officer. In such a situation, mistake which is apparent from the record can be rectified under section 154.

The provisions relating to rectification of mistake under section 154 are discussed

in this Part.



1. **Manner of rectification of a mistake apparent from the record** - With a view to rectifying any mistake apparent from the record, an income tax authority referred to in section 116 may:



2. **Mistake apparent from the record** - The jurisdiction of any authority under the Act to make an order under section 154 depends upon the existence of a mistake apparent on the face of the record.
 - (a) Mistake apparent from the record may be a mistake of fact as well as mistake of law- For instance, the treatment of non-agricultural income as agricultural income and granting exemption in respect of such income is an obvious mistake of law which could be rectified under section 154.
 - (b) Mere change of opinion cannot be basis for rectification - A mere change of opinion, however, cannot be the basis on which the same or the successor Assessing Officer can treat a case as one of rectification of mistake. A mistake is one apparent from the record in case, where it is a glaring, obvious, patent or self- evident. Mistake, which has to be discovered by a long drawn process of reasoning or examination or arguments on points, where there may be two opinions, cannot be said to be mistake or error apparent from the record.
 - (c) Subsequent decision of Supreme Court - A mistake arising as a result of subsequent interpretation of law by the Supreme Court would also constitute error apparent from the record.
 - (d) Retrospective amendment of law - could also lead to rectification if an order is plainly and obviously inconsistent with the specific and clear provision, as amended retrospectively.



3. **Doctrine of Partial Merger** - Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to a rectifiable order, the authority passing such order may, amend the order in relation to any matter other than the matter which has been so considered and decided.
4. **Amendment may be Suo Moto or the same may be brought to notice by the assessee or deductor or collector** - The concerned authority may make an amendment on its own motion. However, he should mandatorily make the amendment for rectifying any such mistake which has been brought to its notice by the assessee or the deductor or the collector. Where the authority concerned is the Commissioner (Appeals), the mistake can be pointed out by the Assessing Officer also.
5. **Opportunity of being heard to be given to the assessee or deductor or collector before enhancing an assessment or reducing a refund** - An amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee or the deductor or the collector, shall not be made unless the authority concerned has given notice to the assessee or the deductor or the collector of its intention so to do and has allowed the assessee or the deductor or the collector a reasonable opportunity of being heard.
6. **Action to be taken by the Assessing Officer depending upon the effect of the amendment made –**

	Case	Action to be taken by A.O.
(i)	Where an amendment is made under this section	An order shall be passed in writing by the authority concerned.
(ii)	Where any such amendment has the effect of reducing the assessment, or otherwise reducing the liability of the assessee or the deductor or the Collector	The Assessing Officer shall make any refund due to such assessee or the deductor or the collector
(iii)	Where any such amendment has the effect of enhancing the assessment or reducing the refund already made or otherwise increasing the liability of the assessee or the deductor or the Collector	The Assessing Officer shall serve on the assessee or the deductor or the collector, as the case may be a notice of demand in the prescribed form specifying the sum payable



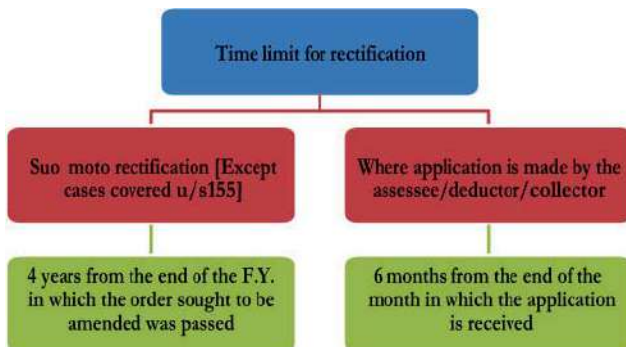
7. **Time Limit for rectification** - Except in cases which are specifically covered by section 155, no amendment under this section shall be made after the expiry of **four years from end of the financial year in which the order sought to be amended was passed**. Where an application for amendment is made by the assessee or by the deductor or by the collector, the income-tax authority shall pass an order within a period of **six months from the end of the month in which the application is received by it**, either making the amendment or refusing the claim.

It may be noted that the time limit of 6 months from the end of the month in which the application is received from the assessee or deductor or collector cannot exceed the outer time limit of 4 years from the end of the financial year in which the order sought to be rectified was passed.

Amendments in Finance Bill, 2023

The Finance Bill, 2023 proposed a new sub section (20) in section 155. This new sub section shall apply when income has been reported in an income tax return (u/s 139 of the act) for a specific assessment year, and tax was withheld and paid to the government in a later FY.

In this case tax payer can apply to the assessing officer within 2 years of the FY in which the tax was withheld, and the A.O will amend the assessment and allow credit for the tax. The provisions of section 154 of the act will also apply, and the 4-year limit will be counted from the FY in which tax was withheld. Credit for the tax will not be allowed in any other assessment year,



- Step by Step Guidance for “Request for Reprocessing the Return/ Rectification”



Step 1: Log in to Income Tax Portal

Step 2: Select Services Tab and Select Rectification

Step 3: Add New Request



Step 4: Select the Order Type and AY and click continue

The screenshot shows the 'New Request' page on the e-Filing portal. The user is prompted to enter mandatory details to file a request for rectification. The form includes the following fields:

- You are creating a rectification request for:** CFJPA7287M
- Order passed under:** ☒ Income Tax ☐ Wealth Tax
- Assessment Year:** 2021-22

A 'Please Note' box states: 'Rectification of returns is available only for orders passed by CPC under Section 143(1) read with Section 154 of the Income Tax Act, 1961. Users will be able to submit all the rectification requests for all the types except Tax Credit Match for Assessment Year 2022-23.'

Step 5: Select reprocess the return.

The screenshot shows the 'New Request' page with the 'Select the Request Type' section. The form displays the following details:

PAN	ITR	Financial Year	Assessment Year
CFJPA7287M	ITR-3	2020-21	2021-22

Below the table, the e-Filing Acknowledgement Number is 524138710310222 and the Latest Information Reference Number issued u/s 143(1) Rectification Order issued u/s 154 is CPC/2122/43/242670469.

The 'Select the Request Type' section has two options:

- Reprocess the Return:** It is advisable to select this option if you have furnished true and correct particulars in Return of Income and CPC has not considered the same during processing.
- Additional Information for 234C Interest:** It is advisable to use this option if you want correction in particulars of 234C interest calculation for correct processing by CPC.



Step 6: Select Submit

New Request
Please enter the mandatory details to file a request for rectification

PAN: CFPA7287M | ITR: ITR-3 | Assessment Year: 2021-22
e-Filing Acknowledgement Number: 12413871031022 | Latest Info: CPC/2122

Confirmation
Are you sure you want to submit Rectification Request?
Cancel Submit

Select the Request Type

Reprocess the Return
It is advisable to select this option if you have furnished true and correct particulars to Return of Income and CPC has not considered the same during processing.

Additional Information for 234C Interest
It is advisable to use this option if you want correction to particulars of 234C Interest calculation for correct processing by CPC.

Step 7: Download the ARN

You have successfully submitted the rectification request!
The rectification reference number is 484013660110922
In case of any queries, please contact 1800 103 0023 or 08046122000.

[Go To Dashboard](#) [Download ARN](#)

India.gov.in
Feedback Schemes Policies Accessibility Statement Site Map Browser Support Columns Help
Last reviewed and updated on: 11-Sep-2022
This site is best viewed in 1024*768 resolution with latest version of Chrome, Firefox, Safari and Internet Explorer.
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SCRUTINY AND BEST JUDGEMENT ASSESSMENT

Scrutiny Assessment under section 143(3)

This is a detailed assessment and is referred to as scrutiny assessment. At this stage a detailed scrutiny of the return of income will be carried out to confirm the correctness and genuineness of various claims, deductions, etc., made by the taxpayer in the return of income.

Scope of assessment under section 143(3)

The objective of scrutiny assessment is to confirm that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner. To confirm the above, the Assessing Officer carries out a detailed scrutiny of the return of income and will satisfy himself regarding various claims, deductions, etc., made by the taxpayer in the return of income.

Conditions for scrutiny assessment

- A return has been furnished u/s 139 or in response to a notice u/s 142(1); and
- Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated his income, declared excessive loss or underpaid the tax.

How does this work?

Step 1: Your income tax return has been filed.

Step 2: A notice is issued under Section 143(2) by the assessing officer.

Step 3: You and/or your tax representative will place your arguments in front of the assessing officer and submit documents, declarations as required.

Step 4: After considering all submissions, a final order will be passed u/s 143(3) about the tax payable or refund receivable.

Types of notices u/s 143(2)

You will receive one of the following notices under Section 143(2):

Limited Scrutiny

This is a Computer-Assisted Scrutiny Selection (CASS) where cases are selected based on set parameters. These are cases with inaccurate returns information or mismatches. The scrutiny will be limited to the particular area of return mentioned in the notice such as the claim of foreign tax credit or sale of a property.

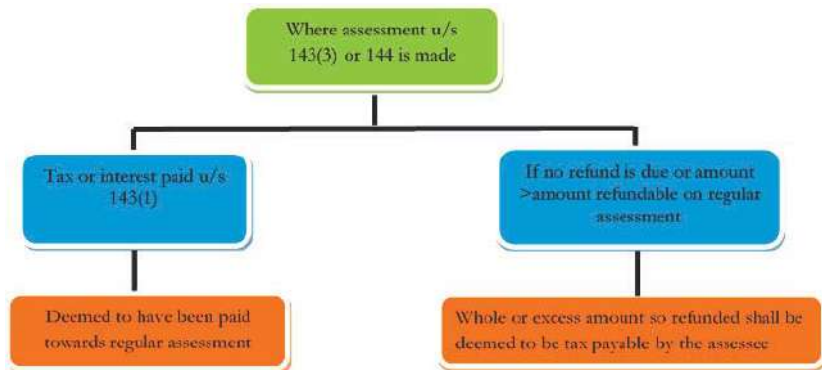


Complete Scrutiny

A complete scrutiny will be carried out on the return filed and all supporting documents. The cases will be flagged based on CASS. Though the scope of scrutiny is not limited in this type, the assessing officer cannot verify documents beyond the particular assessment year.

Manual Scrutiny

Cases are selected for complete scrutiny based on the criteria defined by the Central Board of Direct Taxes; the criteria may vary every year.



Purpose of Scrutiny Assessment

In the cases selected for scrutiny, the assessing officer conducts necessary enquiries during assessment proceedings to ensure that:

- the assessee has not Understated the income, or,
- the assessee has not Computed excessive loss, or
- the assessee has not Underpaid tax in any manner.

Also, the cases where searches, surveys and enquiries have been conducted finally culminate into scrutiny assessments determining the taxable income and the tax liability of the concerned persons and entities. While framing the assessments, all information gathered about the relevant financial transactions through search, survey or enquiry is logically analyzed with a view to determining the correct taxable income. The assessee is given an opportunity to explain their stand and rebut the findings of the enquiry. The process for completing scrutiny assessment in these cases is the same as in the case of returns selected for scrutiny assessment.



Procedure of assessment under section 143(3)

If the Assessing Officer considers it necessary or expedient to ensure that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, then he will serve on the taxpayer a notice requiring him to attend his office or to produce or cause to be produced any evidence on which the taxpayer may rely, in support of the return.

To carry out assessment under section 143(3), the Assessing Officer shall serve such notice in accordance with provisions of section 143(2).

Notice under section 143(2) should be served **within a period of three months from the end of the financial year in which the return is filed.**

The taxpayer or his representative (as the case may be) will appear before the Assessing Officer and will place his arguments, supporting evidences, etc., on various matters/issues as required by the Assessing Officer.

After hearing/verifying such evidence and taking into account such particulars as the taxpayer may produce and such other evidence as the Assessing Officer may require on specified points and after taking into account all relevant materials which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the taxpayer and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

Prescribed Authority for Scrutiny Assessment under Section 143(2) [Rule 12E]:

The prescribed authority under section 143(2) shall be an income-tax authority not below the rank of an Income-tax Officer who has been authorized by the Central Board of Direct Taxes to act as income-tax authority for the purposes section 143(2).

Notice deemed to be valid in certain circumstances for Scrutiny Assessment [Section 292BB]:

Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such



assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- not served upon him; or
- not served upon him in time; or
- Served upon him in an improper manner.

Consequences of Failure to comply with Notice for Scrutiny Assessment under section 143(2): The consequence of a default in complying with the notice under section 143(2), may entail an ex parte, best judgment assessment under section 144. Such a default may also attract penalty under Section 272A which has been fixed at Rs.10,000.

Assessment after Evidence [Section 143(3):

On the day specified in the notice issued under section 143(2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer or the prescribed income-tax authority may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

Other Points

- It is also obligatory for research associations and other institutions exempt under clauses (21), (22B), (23A), (23B), sub-clauses (iv), (v), (vi) and (via) of clause (23C) of section 10 to file their returns of income. In these cases, the Assessing Officer cannot make an assessment denying exemption under section 10 without intimating the Central Government or the prescribed authority of the contravention of the provisions of the relevant sections and till the approval granted to these funds, trusts, institutions, universities, educational institutions or hospitals or medical institutions has been withdrawn or notification rescinded.
- The time period for completing the assessment in such cases will exclude the period between the date on which the Assessing Officer gives the intimation of the default and date on which copy of the order withdrawing the approval is received by the Assessing Officer.



- Section 2(15) provides that in case of a trust or institution, whose main object is the “advancement of object of general public utility”, the purpose does not remain charitable in a previous year, if its commercial receipts exceed 20% of total receipts. However, this temporary excess in one year may not be treated as altering the very nature of the trust or institution so as to lead to cancellation of registration or withdrawal of approval or rescinding of notification issued in respect of trust or institution.
- Accordingly, such trust and institution does not get benefit of tax exemption under section 10(23C) in the year in which its receipts from commercial activities exceed 20% of total receipts, whether or not the registration or approval granted or notification issued is cancelled, withdrawn or rescinded in respect of such trust or institution. Consequently, in such a circumstance, no effect shall be given by the Assessing Officer to the exemption provisions under section 10(23C) while making an assessment of the total income or loss of the trust or institution for the previous year under section 143(3).
- **Assessing Officer empowered to send a proposal to the Central Government recommending withdrawal of approval of research association, university, college or other institution approved under section 35(1)(ii) and (iii)**
 - (i) The guidelines, the manner and the conditions in accordance with which an application made by a research association, university, college or other institution shall be approved under section 35(1)(ii)/(iii) have been provided by the Taxation Laws (Amendment) Act, 2006. Also, the amendment provides for grant of one time approval, which means the approval is to remain in force unless it is withdrawn.
 - (ii) Therefore, the Assessing Officer is now required to satisfy himself as to the activities of the university, college or other institution referred to in clause (ii) or clause (iii) of section 35(1).
 - (iii) If the activities are not being carried out in accordance with all or any of the conditions subject to which any of the said entities had been approved, the Assessing Officer may, after giving a reasonable opportunity of showing cause to the concerned entity, send a proposal to the Central Government recommending withdrawal of approval.
 - (iv) The Central Government may, by order, withdraw the approval and forward a copy of the order to the concerned university, college or other institution and to the Assessing Officer.



Step by step guidance:

- Login to Income tax portal by entering PAN as username and password.

The screenshot shows the e-Filing System Login page. The header includes the e-Filing logo, language selection (English), and a 'Call Us' button. The navigation bar has links for Home, Individual/HUF, Company, Non-Company, Tax Professionals & Others, Downloads, and Help. The main content area is titled 'Login' and features a 'Know about your User ID' section. The login form has a text input for 'Enter your User ID' (with a hint: PAN/ AADHAAR/ OTHER USER ID), a 'Continue' button, and a '< Back' button. Below the form, there are links for 'Other ways to access your account' (Net Banking) and 'Show More' options for different user types: PAN (Permanent Account Number) for Individuals and For Other Than Individuals, Aadhaar Number for Individuals, and Other User ID for Chartered Accountant, Tax Deductor and Collector, e-Return Intermediary, TIN 2.0 Stakeholders, External Agency, ITDREIN, ARCA (Authorised Representative Chartered Accountant) followed by 6 digit number, and TAN (Tax Deductor & Collector).

- Go to Pending Actions and Select E-Proceedings

The screenshot shows the e-Filing System Dashboard. The header includes the e-Filing logo, language selection (English), and a 'Call Us' button. The navigation bar has links for Dashboard, e-File, Authorised Partners, Services, Pending Actions, Grievances, and Help. The main content area is titled 'Dashboard' and features a 'Welcome Back, WAYANAD SOCIAL SERVICE SOCIETY' section. The dashboard includes a 'Worklist' dropdown menu, a 'Response To Outstanding Demand' section, a 'Filed successfully' status, a 'Note: We will process your return as soon as possible. Please find the return' message, a 'Compliance Portal' link, a 'Reporting Portal' link, and a progress bar showing the status of the return (Return filed on 25-Sep-2022, Return verified on 25-Sep-2022, Return processing, Processing Completion). There is also a 'File Revised Return' button.



- Select Notice/Letter Pdf to view Intimation and Notice issued u/s 143(2)

e-Proceeding

View e-Proceeding related to:

[Self](#)

For your Action (3)

For your Information (9)

Search

Filter

Proceedings/Notices/Letters closed and available to view

Proceeding Name: **Penalty Proceeding** Assessment Year : 2016-17

PAN: **AAATW0782H**

Name of Assessee: **WAYANAD SOCIAL SERVICE SOCIETY**

21-Jan-2022
Closed

Proceeding Closure Date : **20-Jan-2022**
Financial Year : **2015-16**
Proceeding Closure Order : **221165044**

File Appeal

Download Closure Order

View Notices (3)

Notice/ Communication Reference ID : 100049422419

143(2)
Notice u/s

ITBA/AST/S/143(2)/2022-23/1043617885(1)
Document reference ID

Description : [ITBA]Intimation and Notice u/s 143(2) of the Income-tax Act, 1961.
Issued On : 28-Jun-2022
Response Due Date : 13-Jul-2022

Submit Response

Notice/Letter Pdf

Seek/View Adjournment

Notice/ Communication Reference ID : 100049400374

Notice u/s

ITBA/AST/S/61/2022-23/1043595662(1)
Document reference ID

Description : [ITBA]Intimation and Notice u/s 143(2) of the Income-tax Act, 1961.
Issued On : 27-Jun-2022

Submit Response

Notice/Letter Pdf

Seek/View Adjournment

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA ■ TAX RESEARCH DEPARTMENT

31



Intimation and Notice u/s 143(2)

Notice under section 143(2) of the Income-tax Act, 1961	
 GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT  कार्यालय आयकर विभाग, भारत	
PAN: AACFT4190Q	DIN: ITBA/AST/S/143(2)/2022-23/1043617885(1)
Name: THARAYIL STEEL DISTRIBUTORS	Date: 28/06/2022
Address: 1/475 , Pulparamba Pallikal (PO), Kondotty Malappuram 673634 , Kerala, India	Assessment Year: 2021-22
	Financial Year: 2020-21
क. आपको यह संचार क्यों मिल रहा है? A. Why are you getting this communication?	
प्रिय करदाता, Dear Taxpayer,	
आयकर विभाग आपके द्वारा निर्धारण वर्ष 2021-22 के लिए दिनांक 31/03/2022 को पावती संख्या 567122850310322 के तहत आयकर विवरणी दाखिल करने पर, देश के विकास में आपके योगदान की सराहना करता है। The Income Tax Department appreciates your contribution towards development of the Nation by filing of your return of income for the Assessment Year 2021-22 vide Ack. no. 567122850310322 on 31/03/2022. विवरणिका को तैयार करने में आपकी सावधानी को स्वीकार करते हुए, कुछ मुद्दों पर और स्पष्टीकरण की आवश्यकता है, जिनके कारण आपकी आय विवरणिका को आयकर अधिनियम, 1961 के प्रावधानों के अनुसार संवीक्षा मूल्यांकन के लिए चुना गया है। While acknowledging the care you may have taken in preparing the return of income, there are certain issues, on which further clarification is required. Therefore, the return of income has been selected for scrutiny assessment in accordance with the provisions of the Income-tax Act, 1961.	
ख. आपको क्या करने की आवश्यकता है? B. What you need to do?	
आप ई-फाइलिंग वेबसाइट (www.incometax.gov.in) में इलेक्ट्रॉनिक रूप से अपने खाते के माध्यम से 'ई-प्रोसीडिंग्स' की सुविधा का उपयोग करके, अपनी सुविधानुसार कोई भी साक्ष्य, जिस पर आप अपनी आयकर विवरणी के समर्थन में निर्भर करते हैं, दिनांक 13/07/2022 को या उससे पहले प्रस्तुत कर सकते हैं या करवा सकते हैं। You may submit or cause to submit any evidence on which you may rely in support of your return of income electronically in 'e-Proceedings' facility through your account in e-Filing website (www.incometax.gov.in) at your convenience on or before 13/07/2022. आपको विचाराधीन निर्धारण वर्ष के दौरान आपके द्वारा किए गये विभिन्न वित्तीय लेन-देन से संबंधित सारी जानकारियाँ, दस्तावेज, साक्ष्य इत्यादि एकत्र करने की सलाह दी जाती है। विस्तृत प्रश्नावली या संचार, निर्धारण प्रक्रिया के दौरान जारी किया जा सकता है। जब भी आपको प्रश्नावली या संचार जारी किया जाता है, आपको निर्दिष्ट समयावधि में बिन्दुवार प्रतिक्रिया देने की आवश्यकता है। It is advised that you should gather all the information, documents, evidences, etc. in respect of various financial transactions you have entered during the Assessment Year under consideration, which may be relevant for the scrutiny proceedings. Detailed questionnaire(s) or communication may be issued during the course of	



assessment proceedings. As and when questionnaire(s) or communication is issued, you are required to provide specific point-wise response within the time specified.

ग. कार्यवाही का तरीका क्या होगा?

C. What will be the mode of proceedings?

कार्यवाही आपके ई-फाइलिंग वेबसाइट (www.incometax.gov.in) में खाते के माध्यम से 'ई-प्रोसीडिंग्स' सुविधा के द्वारा इलेक्ट्रॉनिक रूप से की जाएगी। 'ई-प्रोसीडिंग्स'/'पहचान विहीन निर्धारण' पर एक संक्षिप्त टिप्पणी ई-फाइलिंग वेबसाइट (www.incometax.gov.in) पर उपलब्ध है।

The proceedings will be conducted electronically in 'e-Proceedings' facility through your account in e-Filing website (www.incometax.gov.in). Brief note on 'e-Proceedings'/'Faceless Assessment' are available on the e-Filing website (www.incometax.gov.in).

With Regards,

Yours faithfully,

**Assessment Unit
Income Tax Department**



How to submit Response?

Select submit response and fill the following particulars. The Assessee can submit full or partial information. If the assessee has any further information he can submit partial response. If the assessee has complete information he/she can submit full response.

Submit Response to Notice ID 100049400374
* Indicates mandatory field

Proceeding Name Assessment Proceeding u/s 143(3)	PAN AAQFT4190Q	Financial Year 2020-21	Assessment Year 2021-22
Document reference ID ITBA/AST/S/61/2022-23/1043595662(1)	Notice Section -	Description [ITBA]Intimation and Notice u/s 143(2) of the Income-tax Act, 1961.	Issued On 27-June-2022
Served On -	Response Due Date -		

Response from Assessee

Select Response type for Notice * [Learn More](#)
☐ Partial Response ☐ Full Response

Add Written Response/Remarks *

Remaining Characters : 4000

[Click here to select categories for attaching documents.](#)



- In order to seek adjournment, Select seek adjournment and fill the following particulars. Assessee can type the reason in the space given or upload the reason in word document.

Adjournment Details

Notice Details

FAN EHLPS8558N	Name of Assessee STOY ABERAHAM	Notice Section 148	Description (ITBA) Notice under section 148 of the Income Tax Act, 1961
Issued on: 07-Apr-2022	Response Due Date -		

Seek Adjournment

Adjournment sought up to
Select the date by which you would be able to submit response ⓘ

Reason for seeking Adjournment *

Reason

Remaining Characters : 4000

Attachment

Only .pdf files. 5mb max file size.

- The Assessing officer may serve a notice u/s 142 to produce or cause to be produced any accounts or documents OR to furnish in writing, information on such points or matters as the assessing officer may require.

Notice u/s 142

आयकर अधिनियम, 1961 की धारा 142 की उप-धारा (1) के तहत सूचना
Notice under sub-section (1) of Section 142 of the Income Tax Act, 1961

महोदय/महोदय/मैसर्स
Sir/ Madam/ M/s,

निर्धारण वर्ष 2021-22 के लिए निर्धारण के संबंध में, आपको निम्न करने की आवश्यकता है:

In connection with the assessment for the assessment year 2021-22, you are required to:

- क) 27/10/2022 11:00 AM को या उससे पहले अनुलग्नक के अनुसार मांगे गए खातों और दस्तावेजों को प्रस्तुत करें, अथवा प्रस्तुत कराएँ। या
- a) Produce, or cause to be produced, the accounts and documents called for as per annexure on or before 27/10/2022 11:00 AM or
- ख) अनुलग्नक के अनुसार और उसमें निर्दिष्ट बिंदुओं या मामलों पर मांगी गई जानकारी जो कि आयकर अधिनियम, 1961 की धारा 144 ख के अनुसार निर्धारित तरीके से प्रमाणित हो 27/10/2022 11:00 AM को या उससे पहले प्रस्तुत करें।
- b) Furnish the information called for as per annexure and on the points or matters specified therein and authenticated in the prescribed manner as per section 144B of the Income-tax Act, 1961 on or before 27/10/2022 11:00 AM.
- ग) उपरोक्त साक्ष्य/सूचना आयकर विभाग की 'ई-फाइलिंग' वेबसाइट (www.incometax.gov.in) में आपके खाते के माध्यम से 'ई-प्रोसीडिंग्स' सुविधा में इलेक्ट्रॉनिक रूप से प्रस्तुत की जानी है। ई-फाइलिंग वेबसाइट (www.incometax.gov.in) पर 'ई-प्रोसीडिंग्स' 'पहचान विहीन निर्धारण' पर संक्षिप्त नोट उपलब्ध हैं।
- c) The above-mentioned evidence/information is to be furnished electronically in 'e-Proceedings' facility through your account in 'e-Filing' website of Income Tax Department (www.incometax.gov.in). Brief note on 'e-Proceedings'/'Faceless Assessment' are available on the e-Filing website (www.incometax.gov.in).

GP & NP Ratios for A.Y.2021-22.

9. Please submit copy of Capital account of all partners and explain source of all deposits in partners capital account. Please furnish copy of acknowledgments of returns and statement of income of all partners and explain how all expenses debited in partners name are offered for tax by them.

10. Please furnish complete details of Creditors of Rs. 17,77,62,846/-, as mentioned in Item 3(d)(i)(A3) of balance sheet at page No.6 of ITR for A.Y.2021-22 as under with evidences. : (Please furnish details in respect of creditors for amount exceeding Rs. 2 lacs)

Sr. No.	Name, complete address & PAN of creditors	Nature of Service/ Goods	Opening Amount (Rs.)	Increase during the year	Payments made during the year	Outstanding as on 31.03.2020
1	2	3	4	5	6	7

11. Furnish detailed bifurcation of other payables of Rs.59,36,162/-, mentioned at column 3(d)(i)(F) of balance sheet at page No.6 of ITR for A.Y.2021-22, filed on 31.03.2022, along with supporting documentary evidences.



12. Please furnish complete bifurcation of month wise purchase exceeding of Rs. 2 lacs per person in following proforma :

Sr. No.	Month	Name and complete address of the Purchase Party, alongwith PAN	Total Purchase during the month (Rs.)	Payments made during the month	Progressive payment made upto the month	Progressive Outstanding payment upto the month (Rs.)
1	2	3	4	5	6	7

13. Please submit monthly bifurcation of direct expenses above Rs.2 lacs, separately for each head. Please submit copy of account of one month in which highest expenses has been claimed separately for each head along with supporting documentary evidences.

14. With respect to Advertisement expenses of Rs.8,15,664/- claimed during the year, please provide the following details along with necessary documentary evidences:

Name & Address of the Party	PAN	Description of Advertise	Amount Paid	TDS deduction out of Advertisement Expenses
1	2	3	4	6

15. Please submit complete bifurcation of Lease Rent Expenses of Rs.60,12,000/- in following proforma:

Name & address of the person/Land lord	PAN	Description for Rent paid	Amount paid	TDS	If TDS is not made, reason
1	2	3	4	5	6

Please submit a copy of Lease rental agreement.



16. Please submit monthly bifurcation of following expenses :

Sr.No.	Description	Amount (Rs.)
1	Repairs and Maintenance	8,08,169/-
2	Fuels	10,70,567/-
3	Travelling Expenses	2,25,633/-

Please submit copy of account of one month of each expenses in which highest expenses has been claimed along with supporting documentary

Page 5 of 6

AAOFT4190Q- THARAYIL STEEL DISTRIBUTORS
A.Y. 2021-22
ITBA/AST/F/142(1)/2022-23/1046285296(1)

evidences.

17. Please submit complete details along with documentary evidences in respect of Interest - KSEB of Rs.5,86,005/-

अनुलग्नक ANNEXURE

- आयकर अधिनियम, 1961 की धारा 142(1) के तहत निम्नलिखित खाते या दस्तावेज या जानकारी मांगी गई है:
- The following accounts or documents or information is/are sought under section 142(1) of the Income-tax Act, 1961:

Your case has been selected for scrutiny to verify the certain issues.

Please submit following details for verification :

- Furnish computation of total income for A.Y.2021-22.
- Please furnish certified copies of Audit Report, P & L Account, Balance Sheet and other Financial statements alongwith Annexures/Notes.
- Furnish details of nature of business alongwith detailed note on your business activities/earning activities during F.Y.2020-21.
- Please provide the details of the Bank accounts in the following Proforma:

Bank A/c No	Name & address of the Branch	Type of A/c

5. Please furnish copies of all bank statements for the period 01.04.2020 to 31.03.2021.

6. Furnish Copy of Form 26AS for AY.2021-22.



Assessment under section 144 – Best Judgement Assessment

This is an assessment carried out as per the best judgment of the Assessing Officer on the basis of all relevant material he has gathered. This assessment is carried out in cases where the taxpayer fails to comply with the requirements specified in section 144.

Scope of assessment under section 144

As per section 144, the Assessing Officer is under an obligation to make an assessment to the best of his judgment in the following cases: -

- If the taxpayer fails to file the return required within the due date prescribed under section 139(1) or a belated return under section 139(4) or a revised return under section 139(5), or an updated return under section 139(8A).
- If the taxpayer fails to comply with all the terms of a notice issued under section 142(1).

Note: The Assessing Officer can issue notice under section 142(1) asking the taxpayer to file the return of income if he has not filed the return of income or to produce or cause to be produced such accounts or documents as he may require and to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities of the taxpayer, whether included in the accounts or not) as he may require.

- If the taxpayer fails to comply with the directions issued under section 142(2A).

Note: Section 142(2A) deals with special audit. As per section 142(2A), if the conditions justifying special audit as given in section 142(2A) are satisfied, then the Assessing Officer will direct the taxpayer to get his accounts audited from a chartered accountant nominated by the principal chief commissioner or Chief Commissioner or Principal Commissioner or Commissioner and to furnish a report of such audit in the prescribed form. If after filing the return of income the taxpayer fails to comply with all the terms of a notice issued under section 143(2), i.e., notice of scrutiny assessment.

- If the assessing officer is not satisfied about the correctness or the completeness of the accounts of the taxpayer or if no method of accounting has been regularly employed by the taxpayer.
- From the above criteria, it can be observed that best judgment assessment is resorted to in cases where the return of income is not filed by the taxpayer or if there is no cooperation by the taxpayer in terms of furnishing information/



explanation related to his tax assessment or if books of accounts of taxpayer are not reliable or are incomplete.

- (i) **Best judgement assessment mandatory in all the three cases stated above** - It is mandatory for the Assessing Officer to make a best judgment assessment and he has no discretion to make or not to make such assessment. These three cases are alternative and not cumulative for the purpose of making an ex parte assessment.
- (ii) **Opportunity of being heard** - Before making best judgement assessment, the Assessing Officer has to take into account all relevant material which he has gathered. The assessee must be given an opportunity of being heard. Such opportunity shall be given by an Assessing Officer by serving a notice calling upon the assessee to show cause on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment. Thereafter, the Assessing Officer shall make the assessment of total income or loss to the best of his judgment and determine the sum payable on the basis of such assessment. It may be noted that no refund can be granted under section 144.

However, where a notice under section 142(1) has been issued prior to the making of an assessment under this section, it is not necessary to give such opportunity.

Procedure of assessment under section 144

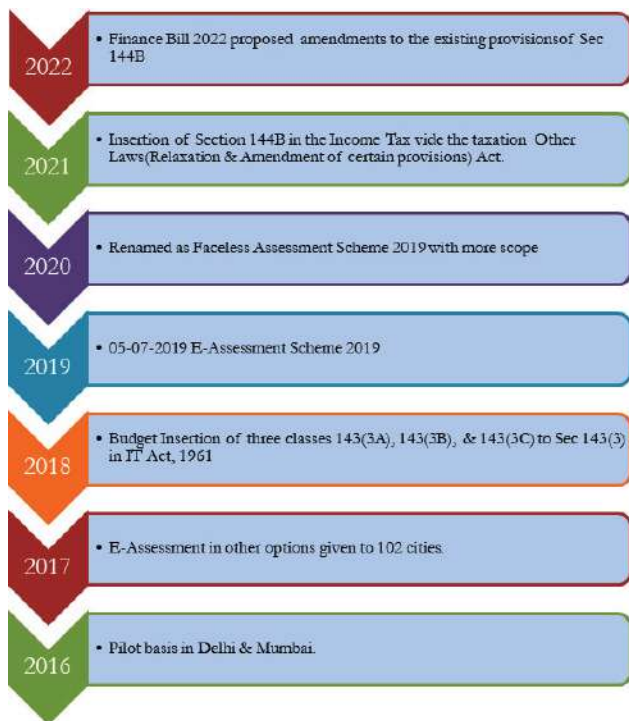
- If the conditions given above calling for best judgment are satisfied, then the Assessing Officer will serve a notice on the taxpayer to show cause why the assessment should not be completed to the best of his judgment.
- No notice as given above is required in a case where a notice under section 142(1) has been issued prior to the making of an assessment under section 144.
- If the Assessing Officer is not satisfied by the arguments of the taxpayer and he has reason to believe that the case demands a best judgment, then he will proceed to carry out the assessment to the best of his knowledge.
- If the criteria of the best judgment assessment are satisfied, then after taking into account all relevant materials which the Assessing Officer has gathered, and after giving the taxpayer an opportunity of being heard, the Assessing Officer shall make the assessment of the total income or loss to the best of his knowledge/judgment and determine the sum payable by the taxpayer on the basis of such assessment.



Power of Joint Commissioner to issue Directions in certain cases [Section 144A]

- A Joint Commissioner may, on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason it is necessary so to do, he may issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment. Such directions shall be binding on the Assessing Officer.
- No directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard. However, directions given as to the lines on which investigation is to be made shall not be construed as one prejudicial to the assessee

Faceless assessment (Section 144B)





Faceless assessment means the assessment proceedings conducted electronically in “e- proceeding” facility through assessee’s registered account in the designated portal. Designated portal means the web portal designated as such by the Principal Chief Commissioner or Principal Director General, in charge of the National Faceless Assessment Centre.

The CBDT had issued the instructions, guidelines and notice formats for conducting scrutiny assessments electronically.

Scope of faceless assessment

The provision provides that the assessment, re-assessment or re-computation under Section 143(3), Section 144, or Section 147 shall be made in a faceless manner in respect of the specified territorial areas, persons, income or class of cases.

Authorities to conduct the faceless assessment

For the purpose of faceless assessment, the CBDT is empowered to set up the following centers and units by specifying their respective jurisdiction:

- (a) National Faceless Assessment Centre (NFAC);
- (b) Assessment Units (AU);
- (c) Verification Units (VU);
- (d) Technical Units (TU); and
- (e) Review Units (RU).

National Faceless Assessment Centre

The purpose of this centre is to facilitate the conduct of faceless assessment proceedings in a centralized manner.

Assessment Units

It shall perform the function of making the assessment, which includes identification of points or issuing material for the determination of any liability (including refund) under the Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for making the faceless assessment.

The term “assessment unit”, wherever used in this provision, shall refer to an Assessing Officer having powers so assigned by the Board

**Verification Units**

It shall perform the function of verification, which includes enquiry, cross verification, examination of books of accounts, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification.

The function of the verification unit under this section may also be performed by a verification unit located in any other faceless centre set up under the provisions of this Act or under any scheme notified under the provisions of this Act. The request for verification may also be assigned by the NFAC to such a verification unit.

Technical Units

It shall perform the function of providing technical assistance, which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management, any other technical matter or an agreement entered into under Section 90 or Section 90A which may be required in a particular case or a class of cases, under this section.

Review units

It shall perform the function of the review of the Income Determination Proposal, which includes checking the following:

- (a) Whether the relevant and material evidence has been brought on record;
- (b) Whether the relevant points of fact and law have been duly incorporated in the proposal;
- (c) Whether the issues requiring addition or disallowance have been incorporated in the proposal;
- (d) Arithmetical correctness of modifications proposed, if any; and
- (e) Any other functions required for the purposes of review.

The term 'review unit', wherever used in this provision, shall refer to an Assessing Officer having powers so assigned by the Board.

Procedure of Faceless Assessment

- (1) Section 144B(1) provides that assessment under section 143(3) i.e., regular assessment/ scrutiny assessment or best judgment assessment under section 144 in respect of such territorial area or persons or classes of persons or incomes or class of incomes or cases or class of cases, as specified by the CBDT under section 144B(2), has to be made in faceless manner in accordance with the following procedure:



Clause	Provision
(i)	Serving of notice: The National Faceless Assessment Centre (NFAC) has to serve a notice on the assessee under section 143(2)
(ii)	Filing of response to the notice by the assessee: The assessee is required to file his response to the notice within 15 days from the date of receipt of the notice to the NFAC.
(iii)	Intimation by NFAC to the assessee: The NFAC has to intimate the assessee that assessment in his case would be completed in accordance with the procedure laid down under this section in the following cases- I. Where the assessee has furnished his return of income - under section 139 ;or - In response to a notice issued under section 142(1);or - In response to notice issued under section 148(1) And a notice under section 143(2) has been issued by the Assessing Officer or the prescribed income-tax authority, as the case may be; or II. Where assessee has <u>not</u> furnished his return of income - In response to a notice issued under section 142(1) by the Assessing Officer or - Under section 148(1) and a notice under section 142(1) has been issued by the Assessing Officer
(iv)	Assigning the selected case to a specific assessment unit: The NFAC has to <u>assign</u> the case selected for the purposes of faceless assessment under this section <u>to a specific assessment unit</u> in any one Regional Faceless Assessment Centre (RFAC) through an automated allocation system.
(v)	Request by Assessment Unit to NFAC for obtaining information/ conducting enquiry: Where a case is assigned to the assessment unit, it may make a request to the NFAC for— (a) Obtaining such further information, documents or evidence from the assessee or any other person, as it may specify; (b) Conducting of certain enquiry or verification by verification unit; and (c) Seeking technical assistance from the technical unit.



(vi)	Notice or requisition to the assessee or any other person for obtaining the information: The NFAC has to issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit.
(vii)	Assessee to file response to the notice within specified time: The assessee would be required to file response to the notice within the time specified therein or such time as may be extended on the basis of an application in this regard, to the NFAC.
(viii)	Request for conducting inquiry or verification to be assigned to Verification Unit by NFAC: Where a request for conducting of certain enquiry or verification by the verification unit has been made by the assessment unit, their request would be assigned by the NFAC to a verification unit in any one Regional Faceless Assessment Centre through an automated allocation system.
(ix)	Request for seeking technical assistance to be assigned to Technical Unit by NFAC: Where a request for seeking technical assistance from the technical unit has been made by the assessment unit, the request would be assigned by the NFAC to a technical unit in any one Regional Faceless Assessment Centre through an automated allocation system.
(x)	Report received from the Verification Unit/Technical Unit to be sent to Assessment Unit: The NFAC has to send the report received from the verification unit or the technical unit to the concerned assessment unit.
(xi)	Serving notice u/s 144 for failure on the part of the assessee to comply with notice seeking information/direction: Where the assessee fails to comply with the notice seeking information, documents or evidence by assessment unit or notice issued under section 142(1) or with a direction issued under section 142(2A) for special audit, the NFAC has to serve upon such assessee a notice under section 144 giving him an opportunity to show-cause, on a date and time to be specified in the notice, why the assessment in his case should not be completed to the best of its judgment.



(xii)	Assessee to file response to a notice under section 144: The assessee has to, within the time specified in the notice or such time as may be extended on the basis of an application in this regard, file his response to the NFAC.
(xiii)	Intimation to Assessment Unit, of failure on the part of the assessee to file response to notice issued u/s 144: Where the assessee fails to file response to the notice within the time specified therein or within the extended time, if any, the NFAC has to intimate such failure to the assessment unit.
(xiv)	Making of draft assessment order by the Assessment Unit: The assessment unit has to, - after taking into account all the relevant material available on the record or, - in a case where intimation for failure to respond to notice is received from the NFAC, make in writing, a draft assessment order to the best of its judgment, either accepting the income or sum payable by, or sum refundable to, the assessee as per his return or making variation to the said income or sum, and send a copy of such order to the NFAC.
(xv)	Details of penalty proceedings to be mentioned in draft assessment order: While making draft assessment order, the assessment unit has to also provide details of the penalty proceedings to be initiated therein, if any.
(xvi)	Examination of draft assessment order by the NFAC: NFAC has to examine the draft assessment order in accordance with the risk management strategy specified by the CBDT, including by way of an automated examination tool, whereupon it may decide to— (a) finalize the assessment, in case no variation prejudicial to the interest of assessee is proposed, as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or (b) provide an opportunity to the assessee, in case any variation prejudicial to the interest of assessee is proposed, by serving a notice calling upon him to show-cause as to why the proposed variation should not be made; or (c) assign the draft assessment order to a review unit in any one Regional Faceless Assessment Centre, through an automated allocation system, for conducting review of such order.



(xvii)	(1) Review of the draft assessment order by Review Unit: The review unit would conduct review of the draft assessment order referred to it by the NFAC whereupon it may decide to—
	(a) concur with the draft assessment order and intimate the NFAC about such concurrence; or (b) suggest such variation, as it may deem fit, in the draft assessment order and send its suggestions to the NFAC.
(xviii)	(2) Procedure to be followed by NFAC on receiving concurrence from Review Unit: The NFAC, upon receiving the concurrence of the review unit, has to follow the procedure laid down in sub-clause (a) or (b) of clause (xvi).
(xix)	Procedure to be followed by NFAC on receiving suggestions for variation from Review Unit: Upon receiving suggestions for variation from the review unit, the NFAC has to assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system.
(xx)	Assessment Unit to send Final draft assessment order to NFAC: After considering the variations suggested by the review unit, the assessment unit has to send the final draft assessment order to the NFAC.
(xxi)	Procedure to be followed by NFAC on receiving final draft assessment order: Upon receiving the final draft assessment order, the NFAC has to follow the procedure laid down in sub-clause (a) or (b) of clause (xvi).
(xxii)	Furnishing of response by the assessee to show cause notice: The assessee may, in a case where show-cause notice has been served upon him, furnish his response to the NFAC on or before the date and time specified in the notice or within the extended time, if any.
(xxiii)	Procedure on receipt/non-receipt of response from the assessee: (a) Where no response to the show-cause notice is received – The NFAC shall - (1) in a case where the draft assessment order or the final draft assessment order is in respect of an eligible assessee and proposes to make any variation which is prejudicial to the interest of said assessee, forward the draft assessment order or final draft assessment order to such assessee; or



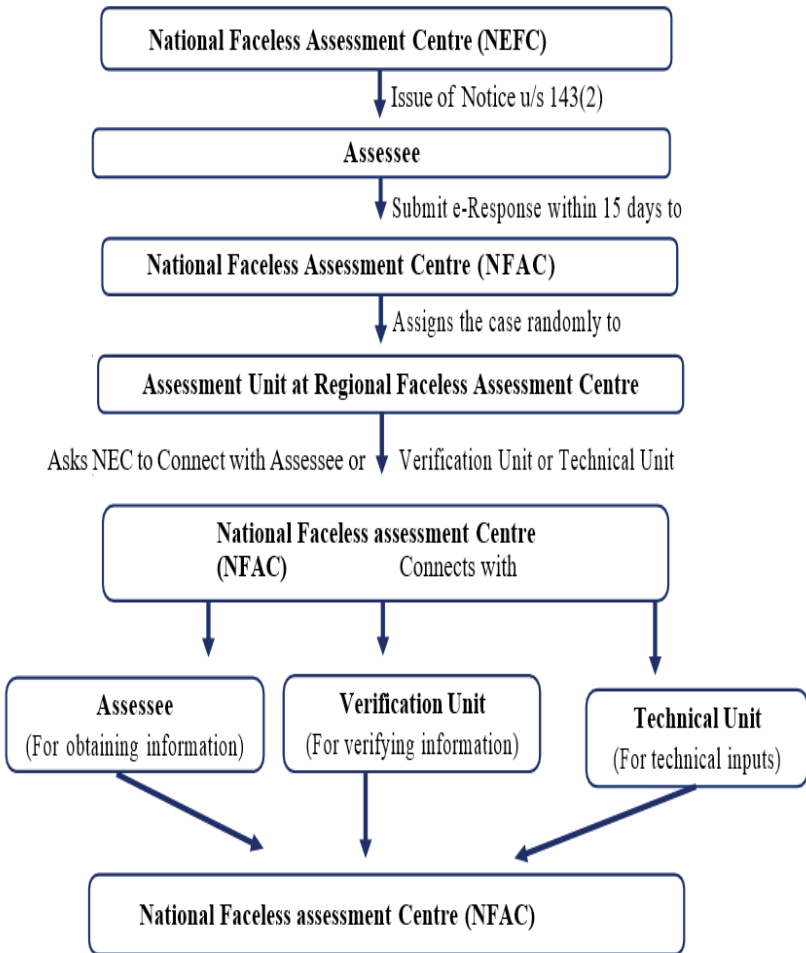
	(2) in any other case, finalise the assessment as per the draft assessment order or the final draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; (b) <u>In any other case</u>, the NFAC has to send the response received from the assessee to the assessment unit.
(xxiv)	Assessment Unit to make revised draft assessment order: After taking into account the response furnished by the assessee, the assessment unit has to make a revised draft assessment order and send it to the NFAC.
(xxv)	Procedure on receipt of revised draft assessment order by NFAC: Upon receiving the revised draft assessment order, the NFAC has to— (a) in case the variations proposed in the revised draft assessment order <u>are not prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order</u>, and— (A) in case the revised draft assessment order is <u>in respect of an eligible assessee</u> and there is any variation prejudicial to the interest of the assessee proposed in draft assessment order or the final draft assessment order, <u>forward the said revised draft assessment order to such assessee</u>; (B) in any other case, finalise the assessment as per the revised draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; (b) in case the variations proposed in the revised draft assessment order are prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order, provide an opportunity to the assessee, by serving a notice calling upon him to show- cause as to why the proposed variation should not be made. In such case, the procedure laid down in Clauses (xxiii), (xxiv) and (xxv) shall apply mutatis mutandis to such notice referred to above. [Clause (xxvi)].

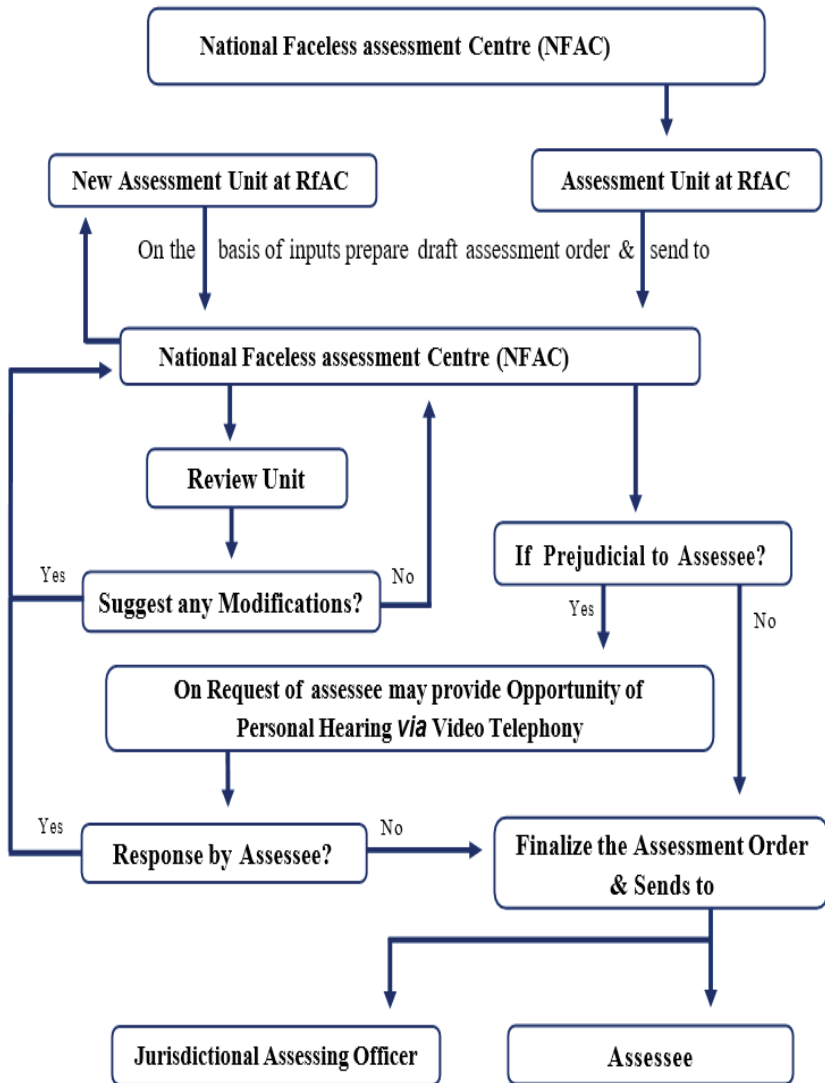


(xxvii)	Eligible assessee file his acceptance of the variations to the NFAC: The assessee has to file his acceptance to the NFAC with respect to any variation proposed in draft assessment order or the final draft assessment order or revised draft assessment order <u>within the period of 30 days of the receipt of the draft order</u> as specified under section 144C(2).
(xxviii)	Finalisation of assessment by NFAC upon receipt of acceptance from eligible assessee or where no objections are received from eligible assessee: Upon receipt of the acceptance from the eligible assessee or if no objections are received from the eligible assessee within the 30 days period as specified under section 144C(2), the NFAC has to proceed to finalise the assessment within the time allowed under section 144C(4) i.e. 1 month from the <u>end of month in which the acceptance is received or period of 30 days for filing objection expires</u> . The NFAC has to serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment.
(xxix)	NFAC to forward directions of DRP to Assessment Unit: Where the eligible assessee files his objections with the Dispute Resolution Panel, the NFAC has to, <u>upon receipt of the directions</u> issued by the Dispute Resolution Panel under section 144C(5), <u>forward such directions to the concerned Assessment Unit</u> .
(xxx)	Assessment Unit to prepare a draft assessment order: In conformity of the directions issued by the DRP under section 144C(5), the Assessment Unit has to prepare a draft assessment order in accordance with section 144C(13) and send a copy of such order to the NFAC.
(xxxi)	Finalisation of assessment by the NFAC: Upon receipt of the draft assessment order referred to in clause (xxx), the NFAC would finalise the assessment within the time allowed under section 144C(13) i.e. within 1 month from the end of month in which direction is received and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment.
(xxxii)	Transfer of electronic records of the case to the jurisdictional AO after completion of assessment: After completion of assessment, the NFAC should transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Income-tax Act, 1961.

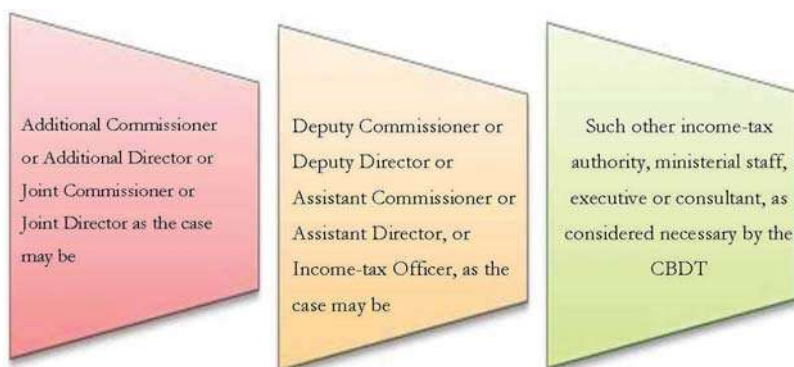


PROCEDURE IN FACELESS ENVIRONMENT





- (1) Authorities constituting AU/TU/VU/RU [Section 144B(4)]: The assessment unit, verification unit, technical unit and the review unit will have the following authorities:.



- (2) Communication among the units or with assessee to be routed through NFAC [Section 144B(5)]: All communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment has to be through the National Faceless Assessment Centre.
- (3) Communication between the NFAC and the assessee, and internal communications between NFAC and other units to be exchanged exclusively through electronic mode [Section 144B(6)]: All communications between the NFAC and the assessee, or his authorized representative, or any other person have to be exchanged exclusively by electronic mode. Further, all internal communications between the NFAC, RFAC and various units have to be exchanged exclusively by electronic mode. However, in certain circumstances, enquiry or verification may be conducted by the verification unit, otherwise than by electronic mode. The said circumstances would be laid down by the Principal Chief Commissioner or Principal Director General in charge of NFAC.
- (4) Authentication of electronic record through digital signature [Section 144B(7)(i)]: For the purposes of faceless assessment, an electronic record has to be authenticated by—
 - (a) NFAC: by affixing its digital signature.
 - (b) Assessee or any other person: by affixing his digital signature if he is required to furnish his return of income under digital signature, and



in any other case, by affixing his digital signature or under electronic verification code in the prescribed manner;

- (5) Delivery of notice/order electronically to the assessee or any other person [Section 144B(7)(ii)/(iii)/(iv)/(v)]: All notices, orders and other electronic communication have to be delivered to the addressee, being the assessee, by way of—
- (a) placing an authenticated copy thereof in the assessee's registered account; or
 - (b) sending an authenticated copy thereof to the registered email address of the assessee or his authorized representative; or
 - (c) uploading an authenticated copy on the assessee's Mobile App and followed by a real time alert.

All notices, orders and other electronic communication have to be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered e-mail address of such person, followed by a real time alert.

The assessee has to file his response to any notice or order or any other electronic communication, through his registered account. Once an acknowledgement is sent by the NFAC containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated.

The time and place of dispatch and receipt of electronic record has to be determined in accordance with section 13 of the Information Technology Act, 2000.

- (6) Standards, procedures and processes for effective functioning of the set up Centers/units [Section 144B(7)(xii)]: The Principal Chief Commissioner or the Principal Director General, in charge of the NFAC has to, with the prior approval of the CBDT, lay down the standards, procedures and processes for effective functioning of the NFAC, RFACs and the unit set up, in an automated and mechanized environment, including format, mode, procedure and processes in respect of the following, namely-
- (a) service of the notice, order or any other communication;



- (b) receipt of any information or documents from the person in response to the notice, order or any other communication;
 - (c) issue of acknowledgement of the response furnished by the person;
 - (d) provision of “e-proceeding” facility including login account facility, tracking status of assessment, display of relevant details, and facility of download;
 - (e) accessing, verification and authentication of information and response including documents submitted during the assessment proceedings;
 - (f) receipt, storage and retrieval of information or documents in a centralized manner;
 - (g) circumstances in which enquiry or verification may be conducted by the Verification Unit otherwise than by electronic mode;
 - (h) circumstances in which personal hearing shall be approved;
 - (i) general administration and grievance redressal mechanism in the respective Centers and units.
- (7) No personal appearance required [Section 144B(7)(vi)]: A person shall not be required to appear either personally or through authorized representative in connection with any proceedings before the income-tax authority at the NFAC or RFAC or any unit set up.
- (8) Request by assessee for personal hearing in specific cases [Section 144B(7)(vii)]: In a case where a variation is proposed in the draft assessment order or final draft assessment order or revised draft assessment order, and an opportunity is provided to the assessee by serving a notice calling upon him to show-cause as to why the assessment should not be completed as per such draft or final draft or revised draft assessment order, the assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income- tax authority in any unit.
- (9) Approval of request for personal hearing [Section 144B(7)(viii)/(ix)]: The Chief Commissioner or the Director General, in charge of the RFAC, in which the concerned unit is setup, may approve the request for personal hearing if he is of the opinion that the request is covered by the circumstances



referred to in (h) of (8) above. Such hearing has to be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, in accordance with the procedure laid down by the CBDT.

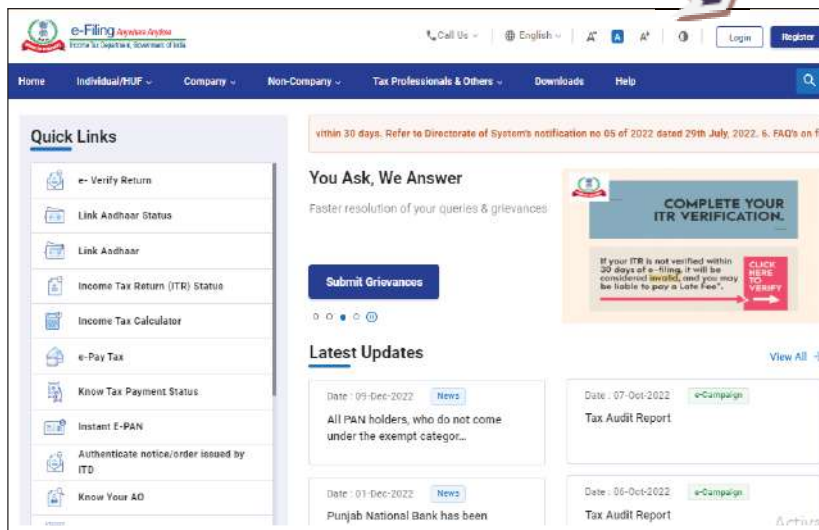
- (10) Examination or recording of statement exclusively through video conferencing or video telephony [Section 144B(7)(x)/(xi)]: Any examination or recording of the statement of the assessee or any other person (other than statement recorded in the course of survey under section 133A) has to be conducted by an income-tax authority in any unit, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony in accordance with the procedure laid down by the CBDT.

For this purpose, suitable facilities for video conferencing or video telephony shall be established, including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorized representative, or any other person is not denied the benefit of faceless assessment merely on the consideration that such assessee or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end.

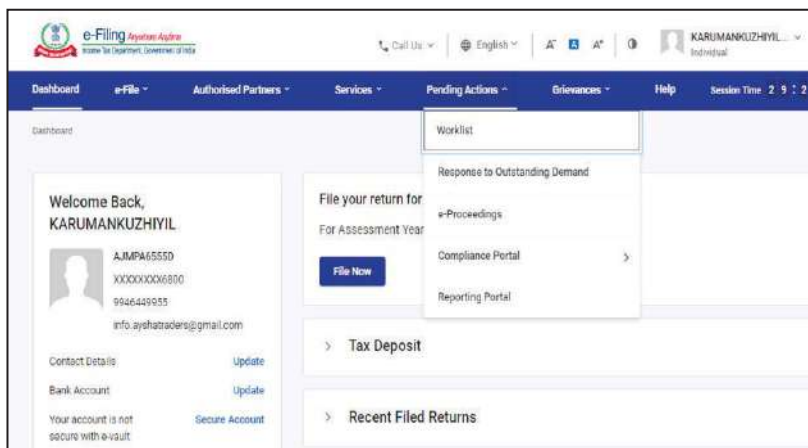
- (11) Transfer of case to jurisdictional Assessing Officer [Section 144B(8)]: The Principal Chief Commissioner or the Principal Director General in charge of NFAC may, at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case. However, prior approval of the CBDT may be required in such cases.

Assessment on or after 1.4.2021 made otherwise than by way of Faceless Assessment as per this section to be non-est: An assessment made under section 143(3) or section 144 [other than the cases transferred to jurisdictional Assessing Officer under section 144B(8)], on or after 1st April, 2021, would be non-est if such assessment is not made in accordance with the procedure laid down under this section. This is notwithstanding anything contained in any other provision of the Income-tax Act, 1961.

FACELESS ASSESSMENT PROCESS STEP BY STEP GUIDENCE



❖ Login to Income Tax E-filing Portal by using respective PAN and After login Click on the Pending Action Tab - E Proceedings, there assessee can view any communication from department.





❖ **Assessee able to view notice U/s 143(2), and either make reply or seek adjournment**

The screenshot displays the 'e-Proceeding' interface of the Income Tax e-filing portal. The top navigation bar includes links for Dashboard, e-File, Authorised Partners, Services, Pending Actions, Grievances, and Help, along with a session time of 2:9:50. The breadcrumb trail shows 'Dashboard > Pending Actions > e-Proceedings'. The main heading is 'e-Proceeding', followed by the text 'View e-Proceeding related to:' and a 'Self' button. Below this, there are two tabs: 'For your Action (26)' and 'For your Information (6)'. A search bar and a 'Filter' button are also present. The main content area shows a 'Notice/ Communication Reference ID : 100010580657'. The notice details are as follows:

143(2) Notice u/s	ITBA/AST/S/143(2)/2018- 19/1011664929(1) Document reference ID	Description : (ITBA)Notice under section 143(2) of the Income Tax Act, 1961 Issued On : 25-Sep-2018 Response Due Date : 12-Sep-2018
		Submit Response Notice/Letter pdf Seek/View Adjournment

❖ **At the time of making reply things to be keep in mind .**

1. Files should be save as PDF Format.
2. Can upload, file size maximum up to 50MB.
3. Each annexure should be within 5 MB, In short portal allows maximum of 10 annexures with an aggregate file size of 50 MB.

**Notice U/s 143(2)**

स्थायी लेखा संख्या/ PAN: AJMPA6555D	निर्धारण वर्ष/ AY: 2017-18	नोटिस संख्या / Notice No.: ITBA/AST/S/143(2)/2018-19/1011664929(1)	दिनांक/ Dated: 20/08/2018
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आयकर अधिनियम, 1961 की धारा 143(2) के अधीन नोटिस

Notice under section 143(2) of the Income-tax Act, 1961

समीक्षा (कंप्यूटर आधारित समीक्षा चयन)

Scrutiny (Computer Aided Scrutiny Selection)

महोदय/महोदया/ मेसर्स,

Sir/ Madam/ M/s,

आपको सूचित किया जाता है कि निर्धारण वर्ष 2017-18 के पावती संख्या 347975961281217 के अनुसार आपके द्वारा दिनांक 28/12/2017 को दायित्व की गई आयकर विवरणी को समीक्षा के लिए चुना गया है।

This is for your kind information that the return of income filed by you for assessment year 2017-18 vide ack. no. 347975961281217 on 28/12/2017 has been selected for Scrutiny.

2. इस संबंध में, आपको दिनांक 12/09/2018 को 10:00 AM तक साक्ष्य प्रस्तुत करने अथवा साक्ष्य प्रस्तुत कराने का अवसर प्रदान किया जा रहा है जिस पर आप उक्त आयकर विवरणी के समर्थन में निर्भर हैं/रहेंगे।

2. In this regard, an opportunity is being given to you to produce or cause to produce any evidence on which you may like to rely in support of the said return of income by 12/09/2018 at 10:00 AM.

3. उपर्युक्त निर्दिष्ट प्रमाण / सूचना को आपको ऑनलाइन माध्यम से इलेक्ट्रॉनिक रूप में incometaxindiaefiling.gov.in पर अपने ई-फाइलिंग खाता द्वारा प्रस्तुत किया जाना है। बाद की निर्धारण कार्यवाही भी आयकर विभाग की 'ई-कार्यवाही' सुविधा द्वारा की जायेगी। 'ई-कार्यवाही' पर एक संक्षिप्त नोट आपके संदर्भ के लिए संलग्न है।

3. The evidence/information specified above has to be furnished online electronically through your E-filing account in incometaxindiaefiling.gov.in. Subsequent assessment proceedings shall also be conducted electronically through the 'E-Proceeding' facility of Income-tax Department. A brief note on 'E-Proceeding' is enclosed for your kind reference.

4. निर्धारण कार्यवाही के दौरान, यदि आवश्यक होगा तो सूचना / दस्तावेज हेतु विशेष प्रश्नावली (यों) या अधियाचना (यों) को बाद में जारी किया जाएगा।

4. In course of assessment proceedings, if required, specific questionnaire(s) or requisition(s) for information/document shall be issued subsequently.

5. कृपया ध्यान दें कि यदि आपके पास ई-फाइलिंग खाता है तो आपके लिए पैरा 3 लागू है। आपके द्वारा स्वयं अपना खाता न बना लेने

A.T.-CUI-16
ITBA/AST/S/143(2)/2018-19/1011664929(1)

तक निर्धारण कार्यवाही आपके द्वारा वर्णित की गई ई-मेल के माध्यम से या मैन्युअल रूप से (यदि ई-मेल उपलब्ध नहीं है) की जाएगी।

5. Please note that para 3 is applicable if you have an E-filing account. Till the time such an account is created by you, assessment proceedings shall be carried out either through your specified e-mail account or manually (if e-mail is not available).



- ❖ In continuation to the above department may issue Notice u/s 142(1) for further clarification.

Notice U/s 142(1)

PAN: AJMPA6555D	AY: 2017-18	Dated: 06/09/2019	Notice No : ITBA/AST/F/142(1)/2019-20/1017800161(1)
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Notice under Sub Section (1) of Section 142 of the Income Tax Act, 1961

Sir/ Madam/ M/s,

In connection with the assessment for the assessment year **2017-18** you are required to:

- Furnish or cause to be furnished on or before **26/09/2019** at **11:30 AM** the accounts and documents specified overleaf.
- Furnish and verified in the prescribed manner under Rule 14 of I.T. Rules 1962 the information called for as per annexure and on the points or matters specified therein on or before **26/09/2019** at **11:30 AM**.
- The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in 'e-filing' website of Income Tax Department.
- Para(s) (a) to (c) are applicable if you have an account in e-filing website of Income Tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).
- In cases where order has to be passed under section 153A/153C of the Income Tax Act, 1961 read with section 143(3), assessment proceedings would be conducted manually.

ANNEXURE

In respect of scrutiny proceedings you are requested to furnish the following details.

- Brief note of Business activity.
- Copy of Income tax computation statement.
- Copy of Balance sheet, P&L account and Audit report.
- Books of accounts in Tally/soft copy.
- Details of Specified Bank Notes during demonetization period with explanation sources for the cash deposit with evidences.
- Certificate from Bank for deposit of Specified Bank Notes.
- Evidences for addition to fixed asset.
- Confirmation from trade creditors above Rs 5,00,000.
- Compliance to TDS provisions.

The above details may be furnished in e- proceedings portal by 26/09/2019.



- ❖ In case of failure / default by the assessee to furnish the requisites made by the department consequently turned into order.

Order U/s 144

ASSESSMENT ORDER

The assessee Shri Karumankuzhiyil Asharaf, Prop:M/s Ayesha Traders, Organic Manure & fertilizer Dealer filed return of income for A.Y. 2017-18 on 28/12/2017 admitting an income of Rs 59,65,150/-. The case was selected for scrutiny under CASS to examine the following issues:

1. Large turnover shown in ITR but audit report not filed.

2. High revenue from operations and no scrutiny in preceding 5 years.

2. Notice u/s 143(2) dated 20/08/2018 was issued and duly served and subsequently notice u/s 129 dated 13/09/2019 and notice u/s 142(1) dated 06/09/2019 was issued calling for details. The following details were called for:

In respect of scrutiny proceedings you are requested to furnish the following details.

1. Brief note of Business activity.

2. Copy of Income tax computation statement.

3. Copy of Balance sheet, P&L account and Audit report.

4. Books of accounts in Tally/soft copy.

5. Details of Specified Bank Notes during demonetization period with explanation sources for the cash deposit with evidences. 5. Certificate from Bank for deposit of Specified Bank Notes.

6. Evidences for addition to fixed asset.

7. Confirmation from trade creditors above Rs 5,00,000.

8. Compliance to TDS provisions.



The above details may be furnished in e-proceedings portal by 26/09/2019.

3. The assessee has not filed details called for and hence reminder letter dated 23/10/2019 was issued requesting details to be filed by 04/11/2019.

3. The assessee has filed the following details:

1. copy of computation statement.
2. Trading and P&L account.
3. Bank statements.
4. The assessee has not furnished Books of accounts as requested in notice u/s 142(1) and hence the sales, purchases expenses etc could not be examined. The assessee has reported a huge turnover of Rs 80,97,42,207.
5. The assessee has not furnished books of accounts nor filed details completely called for u/s 142(1) of the Income Tax act. In these circumstances assessment is completed u/s 144 of the Income Tax Act.

5.1 Section 144 is given here for reference **Best judgment assessment.**

26 **144.** 27[(1)] If any person—

- (a) fails to make the return required 28[under sub-section (1) of section 139] and has not made a return or a revised return under sub-section (4) or sub-section (5) of that section, or
- (b) fails to comply with all the terms of a notice issued under sub-section (1) of section 142²⁹[or fails to comply with a direction issued under sub-section (2A) of that section], or
- (c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 143,



the ³⁰[Assessing] Officer, after taking into account all relevant material which the ³⁰[Assessing] Officer has gathered, ³¹[shall, after giving the assessee an opportunity of being heard, make the assessment³²] of the total income or loss to the best of his judgment and determine the sum payable by the assessee ³³[**] on the basis of such assessment :

³⁴[Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment :

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (1) of section 142 has been issued prior to the making of an assessment under this section.]

³⁵[(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

6. Show cause notice dated 19/12/2019 was issued requesting the assessee to furnish reply by 25/12/2019. The details are under:

In respect of Assessment proceedings for AY 2017-18 the following show cause is issued:

- 1. You have not filed Audit report for the AY 2017-18 and it is presumed that your accounts has not been audited as required under Section 44AB. It is propose to levy penalty of Rs 1,50,000 u/s 271B. You are requested to file your objections.*
- 2. You have not furnished all the details called for vide notice u/s 142(1) dated. You have also not produced book of accounts. In this regard it is presumed that you have not maintained books of accounts as required u/s 44AA of the Act. It is proposed to levy penalty of Rs 25,000 u/s 271A of the Act. You are requested to file your objections.*
- 3. In absence of books of accounts it is proposed to complete the assessment based on average GP returned for AY 2015-16 & 2016-17 which works out to 11.81%(figures were taken from Audit report of FY 2014-15 & 2015-16).The GP reported for the AY 2017-18 works out to 10.89%.Hence it is proposed to make a GP addition of 1% amounting to Rs. 80 lakhs to income returned.*
- 4. In absence of cash book the SBN notes amounting to Rs 13 lakhs is proposed to be assessed under section 68 of the income tax act.*

**You are requested to file your objections by 25/12/2019.**

6. It is seen that the assessee has not filed audit report and has also not furnished books of accounts. The audit report for AY 2015-16 & 2016-17 was examined and the assessee has reported the following G.P for these years:

	AY 2015-16	AY 2016-17
Turnover	21,37,83,837	50,95,74,295
GP/Turnover	12.8%	11.02%

The average GP for these two years works out to 11.9%. For the current year the assessee has reported a GP of 10.89%, and there is a decrease of 1% in GP. The turnover of the assessee for AY 2016-17 is Rs 50,95,75,295 and for current year is Rs 80,97,42,207/- and increased by Rs 30 Crores, an increase of 59% over AY 2016-17.

7. An addition of 1% of turnover of Rs 80,97,42,207 amounting Rs 80,97,420/- is made to income returned.

8. In absence of cash book the SBN notes amounting to Rs 13,00,000 is proposed to be assessed under section 68 of the income tax act.

Assessment completed as under:

Income returned	- Rs 59,65,150/-.
Addition : as discussed in Para 4,5,6&7	- Rs 80,97,420
Addition as discussed in Para 8	- Rs 13,00,000
Assessed Income -	- Rs 1,53,62,150

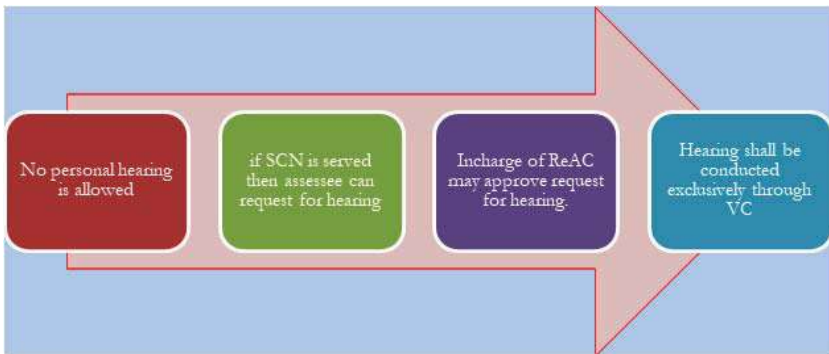
9. The assessee has not filed Audit report for the AY 2017-18 and it is presumed that accounts has not been audited as required under Section 44AB. And liable for levy penalty of Rs 1,50,000 u/s 271B.

10. The assessee has not furnished all the details called for vide notice u/s 142(1) dated 06/09/2019 and has also not produced book of accounts. In this regard it is presumed that books of accounts are not maintained as required u/s 44AA of the Act. It is proposed to levy penalty of Rs 25,000 u/s 271A of the Act.



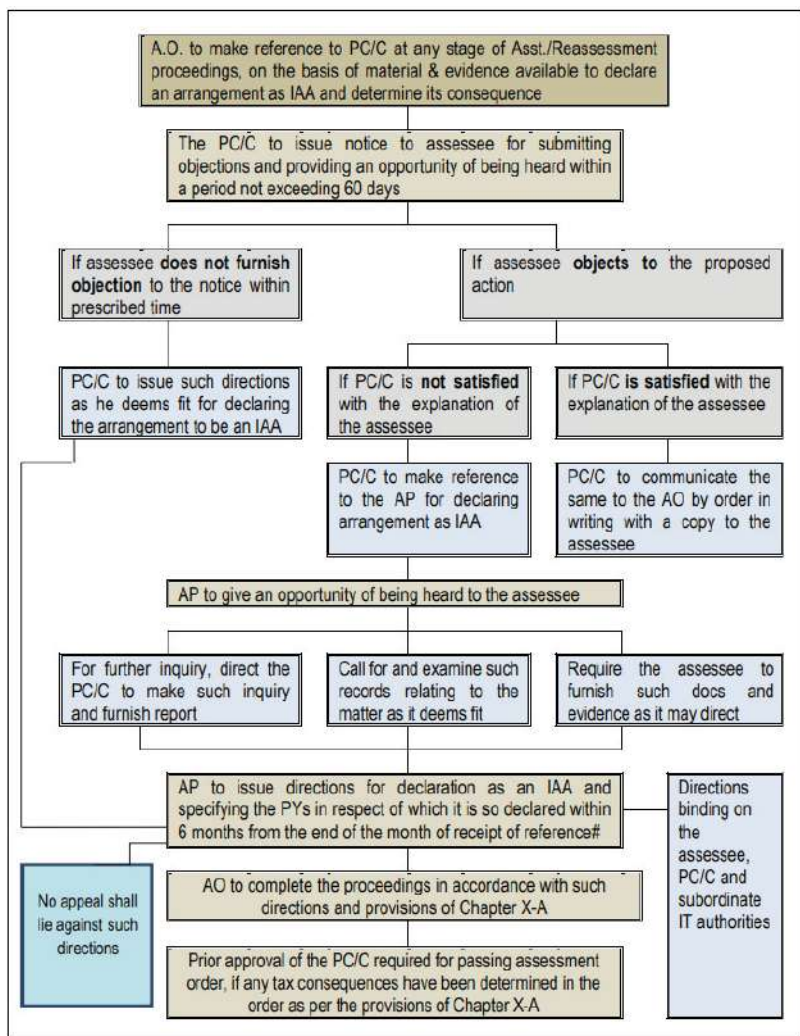
11. Income Tax computation sheet generated by the system forms part of this order. The assessee has misreported income. Penalty proceedings under 270A is initiated.

- ❖ The income-tax department's faceless assessment regime will leave room for interaction between a taxpayer and officials **through video conference (VC)** in specific circumstances.
- ❖ **Hearing through Video – Conferencing**



**REFERENCE TO PRINCIPAL COMMISSIONER OR COMMISSIONER IN CERTAIN CASES [SECTION 144BA]**

PC/C	Principal Commissioner/ Commissioner	AP	Approving Panel
IAA	Impermissible Avoidance Agreement	AO	Assessing Officer





Reference to Dispute Resolution Panel [Sec. 144C]

An alternate dispute resolution mechanism which will aid speedy resolution of disputes on a fast track basis has now been provided for under the Income-tax Act, 1961. The significant features of the alternate dispute resolution mechanism are briefed hereunder –

In the case of assessment of an eligible assessee, the Assessing Officer shall, forward a draft proposed order of assessment to the eligible assessee if he proposes to make any variation which is prejudicial to the interest of such assessee.

“Eligible assessee” means, -

any person in whose case such variation arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and any non-corporate non-resident or any foreign company.

- (1) The eligible assessee shall, within thirty days of the receipt by him of the draft order, -
 - (a) file his acceptance of the variations to the Assessing Officer; or
 - (b) file his objections, if any, to such variation with, —
 - (i) The Dispute Resolution Panel; and
 - (ii) The Assessing Officer.

“Dispute Resolution Panel” means a collegium comprising of three Principal Commissioners or Commissioners of Income-tax constituted by the CBDT for this purpose.

- (2) The Assessing Officer has to complete the assessment on the basis of the draft order, if—
 - (a) the assessee intimates the acceptance of the variation to the Assessing Officer; or
 - (b) no objections are received within the period of 30 days specified in (2) above.
- (3) The Assessing Officer shall, notwithstanding anything contained in section 153 or section 153B, pass the assessment order within one month from the end of the month in which, —
 - (a) the acceptance is received; or



- (b) the period of filing of objections expires.
- (4) The Dispute Resolution Panel shall, in a case where any objections are received, issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.
- (5) The Dispute Resolution Panel shall issue such directions, after considering the following, namely: —
 - (a) Draft order;
 - (b) Objections filed by the assessee;
 - (c) Evidence furnished by the assessee;
 - (d) Report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;
 - (e) Records relating to the draft order;
 - (f) Evidence collected by, or caused to be collected by, it; and
 - (g) Result of any enquiry made by, or caused to be made by it.
- (6) The Dispute Resolution Panel may, before issuing any such directions—
 - (a) make such further enquiry, as it thinks fit; or
 - (b) cause any further enquiry to be made by any income tax authority and report the result of the same to it.
- (7) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order. However, it cannot set aside any proposed variation or issue any direction as mentioned in (5) above, for further enquiry and passing of the assessment order.

The power of the DRP to enhance the variation as mentioned in section 144C(8) shall include and shall be deemed to have always included the power to consider any matter arising out of the assessment proceedings relating to the draft order. This power to consider any issue shall be irrespective of whether the matter was raised by the eligible assessee or not.

While exercising the aforesaid power for considering any matter arising out of the assessment proceedings relating to the draft order, the DRP can only enhance the variation. The power of reducing the variation is not accorded to DRP in respect of such matters.



- (8) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.
- (9) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.
- (10) If any direction is prejudicial to the interest of the assessee or the interest of the revenue, then, the same can be issued only after an opportunity of being heard is given to the assessee or the Assessing Officer, as the case may be.
- (11) Such direction has to be issued within nine months from the end of the month in which the draft order is forwarded to the eligible assessee.
- (12) Upon receipt of such direction, the Assessing Officer has to complete the assessment in accordance with the same, within one month from the end of the month in which the direction is received. This is notwithstanding anything contained in section 153 or section 153B. There is no requirement of providing any further opportunity of being heard to the assessee.
- (13) The CBDT is empowered to make rules for the efficient functioning of the Dispute Resolution Panel and speedy resolution of the objections filed by the eligible assessee.
- (14) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner as provided in 144BA(12) where GAAR has been invoked.
- (15) Section 144C(14B)/(14C) and (14D) provide that the Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel, so as to impart greater efficiency, transparency and accountability by—
 - (a) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible;
 - (b) optimising utilisation of the resources through economies of scale and functional specialisation;
 - (c) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.



For the purpose of giving effect to this faceless scheme for DRP, the Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Income- tax Act, 1961 would not apply or would apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after 31st March, 2022.

Every such notification issued has to be laid before each House of Parliament, as soon as may be after the notification is issued.

INCOME ESCAPEMENT ASSESSMENT

I. Assessment under section 147

The Finance Act, 2021 has substituted the existing sections 147, 148, 149 and 151 and also inserted a new section 148A making a complete change in the assessment proceedings related to Income escaping assessment and search-related cases. The new provisions related to re-assessment are as follow:

If any income of an assessee has escaped assessment for any assessment year, the Assessing Officer may, subject to the new provisions of sections 148 to 153, assess or reassess such income and also any other income which has escaped assessment and which comes to his notice subsequently in the course of the proceedings, or re-compute the loss or the depreciation allowance or any other allowance, as the case may be, for such assessment year.

It is imperative to note that once assessment or reassessment or re-computation has started, the Assessing Officer is empowered to assess or reassess the income which has escaped assessment and which comes to his notice subsequently in the course of the proceeding under this procedure notwithstanding that the procedure prescribed in new section 148A was not followed before issuing such notice for such income.

Rationalization of Re-Assessment Provisions (Finance Bill, 2023)

If any Income chargeable to tax has escaped assessment for any AY, then AO may, subject to the provisions of section 148 to 153, assess or reassess such income or re-compute the loss or the depreciation allowance or any other allowance or deduction of such AY.

The Assessing Officer is required to make an assessment or re-assessment as per the following procedures:

Conducting inquiry, providing opportunity before issue of notice [Section 148A]-

The Assessing Officer has to follow the steps given hereunder, before issuing any notice under section 148-

- a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;
- b) Provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within

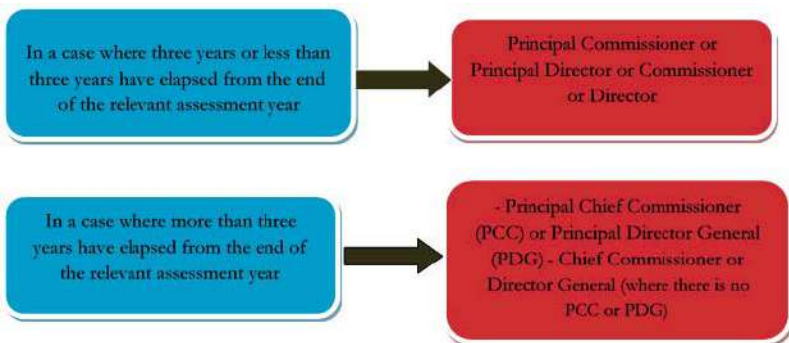


such time, as may be specified in the notice, being 7 days to 30 days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);

- c) Consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);
- d) Decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority,
 - i. within one month from the end of the month in which the reply referred to in clause (c) is received by him; or
 - ii. where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires.

Meaning of Specified Authority [Section 151]

Specified authority for the purposes of section 148 and section 148A shall be



Non- applicability of section 148A – The provisions of this section shall not apply in a case

where-

- a) A search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after 01.04.2021; or



- b) The Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after 01.04.2021, belongs to the assessee; or
- c) The Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after 01.04.2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

In other words, in cases (a), (b) and (c) mentioned above, the Assessing Officer need not conduct enquiry and provide an opportunity of being heard as required under section 148A before issuing notice under section 148

Issue of Notice

Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer has to serve on the assessee a notice, requiring him to furnish within such period, as may

be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed. The provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.

The Assessing Officer has to conduct enquiry, provide opportunity of being heard to the assessee and consider the reply of the assessee as per the procedure laid down under section 148A to decide whether or not it is a fit case for issue of notice under section 148. If it is a fit case for issue of notice under section 148, then the copy of the order deciding so under section 148A should accompany the notice under section 148. However, this does not apply in case search initiated under section 132 or books of account requisitioned under section 132A.

The Finance Bill, 2023 proposes an amendment in section 148 that a return in response to a notice under section 148 shall be furnished within 3 months from the end of the month in which such notice is issued, or with in such further time as may be allowed by the AO on a request made in this behalf by the assessee.



Further, any return furnished beyond the period allowed in section 148 to furnish such return of income shall not be deemed to be a return under section 139. As a result, the consequential requirements, viz. Notice under section 143(2) etc..., would not be mandatory for such returns.

Circumstances in which notice can be issued

Notice can be issued only when-

- there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and
- the Assessing Officer has obtained prior approval of the specified authority to issue such notice.

For the purposes of this section and section 148A, the **‘information’** with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

- i. any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;
- ii. any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

When it shall be deemed that Income has escaped Assessment?

In cases other than Search, Survey or Requisition

- (a) The information suggesting that the income chargeable to tax has escaped assessment means any information flagged in the case of the assessee for the relevant assessment year as per the ‘Risk Management Strategy’ formulated by the CBDT from time to time;
- (b) Any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of the Income-tax Act;
- (c) Any information received under an agreement referred to in section 90 or section 90A;
- (d) Any information made available to the Assessing Officer under the Scheme notified under section 135A; or



- (e) Any information which requires action in consequence of the order of a Tribunal or a Court.

In search, survey or requisition cases

In search, survey or requisition cases initiated or made or conducted, on or after 1st April 2021, it shall be deemed that the Assessing Officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the 3 assessment years immediately preceding the assessment year relevant to the previous year in the following cases:

- (a) A search is initiated under Section 132 or books of account, other documents or any assets are requisitioned under Section 132A, on or after the 1st day of April 2021, in the case of the assessee;
- (b) A Survey is conducted under section 133A in the case of the assessee;
- (c) The Assessing Officer is satisfied, with the prior approval of P CIT or CIT, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person on or after the 1st day of April 2021, belongs to the assessee; or
- (d) The Assessing Officer is satisfied, with the prior approval of P CIT or CIT, that any books of account or documents, seized or requisitioned in case of any other person on or after the 1st day of April 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Procedure before Issuance of Notice

The Assessing Officer shall be required to follow the below procedure as laid down in Section 148A before issuing a notice under new Section 148 in cases other than search, survey or requisition.

➤ **Conducting Inquiry**

The Assessing Officer shall conduct an enquiry, if required, with the prior approval of specified authority, concerning the information which suggests that income chargeable to tax has escaped assessment.

➤ **Granting an opportunity of being heard**

The Assessing Officer shall provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than 7 days but not exceeding 30 days from the date on which such notice is issued, or such time, as may



be extended by him based on an application in this behalf, as to why a notice under new Section 148 should not be issued based on information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of an enquiry conducted, if any.

➤ Consider Reply of Assessee

The Assessing Officer shall consider the reply furnished by the assessee furnished, if any, in response to the show-cause notice issued by AO.

➤ Passing an Order

The Assessing Officer shall decide, based on material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under new Section 148, by passing an order, with the prior approval of specified authority, within 1 month from the end of the month in which the reply of the assessee is received by him, or where no such reply is furnished, within 1 month from the end of the month in which time or extended time allowed to furnish a reply expires.

Note:

The above provision shall not apply if the case where:

- (a) A search is initiated under Section 132 or books of account, other documents or any assets are requisitioned under Section 132A, on or after the 1st day of April 2021, in the case of the assessee;
- (b) A Survey is conducted under section 133A in the case of the assessee;
- (c) The Assessing Officer is satisfied, with the prior approval of P CIT or CIT, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person on or after the 1st day of April 2021, belongs to the assessee;
- (d) The Assessing Officer is satisfied, with the prior approval of P CIT or CIT, that any books of account or documents, seized or requisitioned in case of any other person on or after the 1st day of April 2021, pertains or pertain to, or any information contained therein, relate to, the assessee; or
- (e) The Assessing Officer has received any information under the scheme notified under section 153A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.



Approval of higher authorities to be obtained in Search, Survey and Requisition Cases

The Finance Act, 2022 has inserted a new Section 148B, w.e.f., Assessment Year 2022-23, to provide that no order of assessment or reassessment or re-computation under the Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clause

(i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.

The above mentioned four clauses of *Explanation 2* to section 148 provide cases of deemed information. If situations, circumstances, or actions as described in these 4 clauses exist, then it will be a case of deemed information, and the AO can acquire jurisdiction to issue a notice under Section 148.

Time limit for Issuance of Notice [Section 149]

Section 149(1) provides that no notice under section 148 shall be issued for the relevant assessment year -

- a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
- b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to ` 50 lakhs or more for that year.

Amendments in Finance Bill, 2023

The Finance Bill, 2023 proposes to insert a proviso in section 149, to provide that in cases where a search under section 132 is initiated, or a search for which the last of the authorization is executed or the requisition is made under section 132A, after 15th March of any FY a period of 15 days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 and the notice so issued shall be deemed to have been issued on 31st March of such FY.

Exclusion of 15 Days in case of statement recorded or documents impounded under summons or survey :-



The Finance Bill, 2023 proposes to insert another proviso to provide that in cases where the information deemed to be with the assessing officer emanates from a statement recorded or documents impounded under summons or survey, as the case may be, on or before 31st march of a financial year, in consequence of a search initiated or last of the other authorization executed u/s 132 or a requisition made u/s 132A after 15th March of the Financial year, a period of 15 days shall be excluded for the purpose of computing the period of limitation for issuance of notice/s 148 and the show cause notice issued u/s 148A(b) in such case shall be deemed to have been issued on 31st march of such financial year.

The impounding or the recording of the statement in consequence of the search or the search itself should be before the 31st March only. Only extension has been provided for the time consumed in the procedure for issuance of notice u/s 148 or 148A as the case maybe.

Sanction for issue of Notice

An amendment has been proposed to provide that a specified authority under clause (ii) of section 151 shall be Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.

A proviso is proposed to be inserted to Section 151 to provide that while computing the period of 3 years for the purpose of determining the specified authority, the period which has been excluded or extended as per the provisions of Section 149 from the time limit for issuance of notice u/s 148 shall be taken into account

- “Asset” shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.
- For the purposes of computing the period of limitation, the time or extended time allowed to the assessee, as per show-cause notice issued u/s 148A or the period during which the proceeding u/s 148A is stayed by an order or injunction of any court, shall be excluded.
- For the purposes of computing the period of limitation, the time or extended time allowed to the assessee, as per show-cause notice issued u/s 148A(b) or the period during which the proceeding u/s 148A is stayed by an order or injunction of any court, shall be excluded.
- Where immediately after the exclusion of the mentioned period, the period of limitation available to the Assessing Officer for passing an order under section



148A(d) is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

- Notice under section 149(1) shall be issued subject to the approval of Specified Authority prescribed under section 151 [Section 149(2)].
- Where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of aforesaid value [i.e., ₹50 lakh or more], has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period [i.e., 10 years], a notice u/s 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.
- As per sec. 150(1), the notice may be issued at any time for the purpose of making assessment or reassessment in consequence of or to give effect to any findings or directions contained in an order passed by –
 - any authority in any proceedings under this Act by way of appeal, reference or revision; or
 - a court in any proceeding under any other law

Exception: The provisions shall not apply in any case where any such assessment (reassessment or Re-computation) relates to an assessment year in respect of which an assessment (reassessment or re-computation) could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of aforesaid time-limitation.

Faceless assessment of income escaping assessment [Section 151A]

Section 151A provide for faceless assessment of income escaping assessment.

1. Faceless assessment scheme for income escaping assessment: Faceless assessment scheme for income escaping assessment may be notified by the Central Government, for the purposes of assessment, reassessment or re-computation under section 147 or issuance of notice under section 148 or conducting of enquiries or issuance of show cause notice or passing of order under section 148A or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by—
 - a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;



- b) optimizing utilization of the resources through economies of scale and functional specialization;
 - c) introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.
2. Applicability or non-applicability of any of the provisions of the Act as may be notified by the Central Government to give effect to the Scheme: The Central Government may, for the purpose of giving effect to the scheme, direct that any of the provisions of the Income-tax Act, 1961 shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no direction shall be issued after 31st March, 2022.
3. Notification to be laid before each House of Parliament: A Every notification issued has to be laid before each House of Parliament, as soon as may be after the issue.

Income escaped from assessment to be charged at rates applicable for respective year [Section 152(2)]

In the case of any assessment or reassessment or re-computation made under section 147, the income escaping assessment would be chargeable to tax at the rate applicable to the respective years in which such income is liable to be taxed.

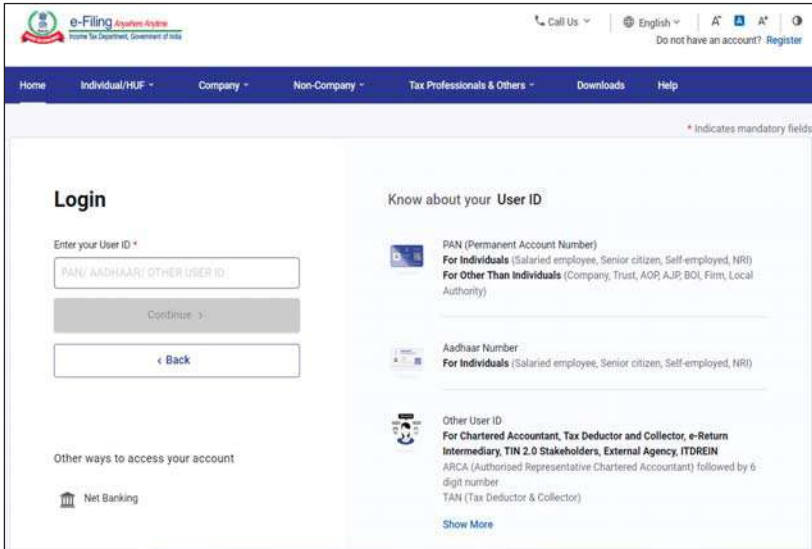
When can a reassessment proceeding be dropped [Sec. 152(2)]

Where an assessment is reopened u/s 147 and the assessee –

- a. has not opposed any part of the original assessment order for that year either u/s 246 to 248 or u/s 264; and
 - b. shows that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made.
- then the proceedings u/s 147 shall be dropped.

Step by Step guidance

- Login to Income tax portal using PAN as username and password.



The screenshot shows the e-Filing Income Tax portal login page. The header includes the e-Filing logo, a 'Call Us' button, a language dropdown set to 'English', and a 'Register' link for users without an account. The main navigation bar lists 'Home', 'Individual/HUF', 'Company', 'Non-Company', 'Tax Professionals & Others', 'Downloads', and 'Help'. A note indicates that an asterisk (*) denotes mandatory fields.

Login

Enter your User ID *

PAN/ AADHAAR/ OTHER USER ID

Continue >

< Back

Other ways to access your account

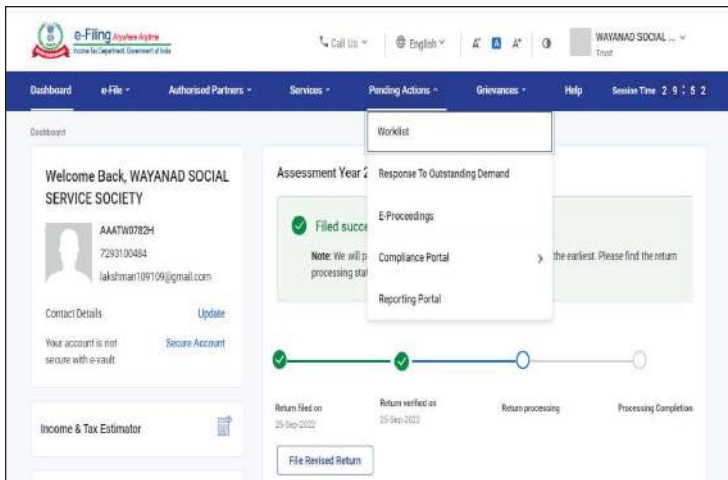
Net Banking

Know about your User ID

- PAN (Permanent Account Number)**
For Individuals (Salaried employee, Senior citizen, Self-employed, NRI)
For Other Than Individuals (Company, Trust, AOP, LLP, BOI, Firm, Local Authority)
- Aadhaar Number**
For Individuals (Salaried employee, Senior citizen, Self-employed, NRI)
- Other User ID**
For Chartered Accountant, Tax Deductor and Collector, e-Return Intermediary, TIN 2.0 Stakeholders, External Agency, ITDREIN
ARCA (Authorised Representative Chartered Accountant) followed by 6 digit number
TAN (Tax Deductor & Collector)

Show More

- Select Pending actions and go to E-Proceedings



The screenshot shows the e-Filing Income Tax portal dashboard for a user named WAYANAD SOCIAL SERVICE SOCIETY. The header includes the e-Filing logo, a 'Call Us' button, a language dropdown set to 'English', and a 'Session Time' indicator showing 2:51:52.

Dashboard

Welcome Back, WAYANAD SOCIAL SERVICE SOCIETY

AAATW0782H
7293100484
lakshman109109@gmail.com

Contact Details [Update](#)

Your account is not secure with e-vault [Secure Account](#)

[Income & Tax Estimator](#)

Pending Actions

- Worklist
- Response To Outstanding Demand
- E-Proceedings
- Compliance Portal
- Reporting Portal

Assessment Year 2022-23

Return filed on 25-Sep-2022

Return verified on 25-Sep-2022

Return processing

Processing Completion

File Revised Return



➤ Select for your Information to view Notice issued

For your Action (1) **For your Information (1)** Search Filter

Proceeding Name : **148A** [New](#) Assessment Year : 2018-19

PAN BHLPS8558N	7-Apr-2022 Closed	Proceeding Closure Date : 06-Apr-2022	File Appeal Download Closure Order View Notices (2)
Name of Assessee : STOY ABRAHAM	6-Apr-2022 e-Submission closed by officer	Financial Year : 2017-18 Proceeding Closure Order : 224989431	
	25-Mar-2022 Open		

➤ The Assessing officer will issue Intimation u/s 148A before issuing Notice u/s 148

Select by Notice ID

Notice/ Communication Reference ID : 100048228256

148A Notice u/s	ITBA/AST/F/148A/2022-23/1042559506(1) Document reference ID	Description : [ITBA]Order pass u/s 148A of Income Tax Act 1961. Issued On : 06-Apr-2022	Submit Response Notice/Letter Pdf
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Notice/ Communication Reference ID : 100046797079

148A Notice u/s	ITBA/AST/F/148A(SCN)/2021-22/1041530348(1) Document reference ID	Description : [ITBA]Show Cause Notice for Proceedings u/s 148A of Income Tax Act 1961. Issued On : 25-Mar-2022 Response Due Date : 01-Apr-2022	Submit Response Notice/Letter Pdf
---------------------------	--	---	--

Activate Windows



- After Conducting inquiry, the assessing officer will pass an Order u/s 148A

Notice / Communication Reference ID 100048228256	Date -	
From PALAKKAD.IT02@INCOMETAX.GOV.IN	To baburajtax@gmail.com	CC -
Subject [ITBA]Order pass u/s 148Aof Income Tax Act 1961.		
Dear STJOY ABRAHAM,		
Please find attached the Notice u/s 148A for PAN BHLPS8558N and A.Y. 2018-19.		
Please quote your PAN in all future correspondences.		
Note :		
- This communication is computer generated and may not contain signature. - This communication may be treated as complaint with the requirements of Income Tax Rules 127 and 127A. - Signed copy may be sent separately if not already digitally signed. - Please quote your PAN in all communications. - Income Tax Department does not seek any taxpayer information like user name, password, details of ATM, credit cards, etc. Taxpayers are advised not to part with such information on the basis of emails.		
BHLPS8558N_Order pass u/s 148A, 1042559506(1), 06042022.pdf		Download
		Activate Go to Settings

- The Assessee can either submit his/her response to Notice u/s 148 within the time limit or seek adjournment
- Notice u/s 148

Notice under section 148 of the Income-tax Act, 1961

Sir/Madam/ M/s.

- I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961(here in after referred to as "the Act") for Assessment Year **2018-19**
 - information flagged by the risk management strategy formulated in this regard suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN **ITBA/AST/F/148A/2022-23/1042559506(1)** dated **06/04/2022** and annexed herewith for reference,
- I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other, allowance or deduction for the Assessment Year **2018-19** and I, hereby, require you to furnish, within 30 days from service of this notice, a return in the prescribed form of the Assessment Year **2018-19**.
- This notice is being issued after obtaining the prior approval of the **PCIT, Kozhikode** accorded on date **06/04/2022** vide Reference No. **100000029550379**.



आयकर अधिनियम, 1961 की धारा 142 की उप-धारा (1) के तहत सूचना
Notice under sub-section (1) of Section 142 of the Income Tax Act, 1961

महोदय/महोदय/मैसर्स
Sir/ Madam/ M/s,

निर्धारण वर्ष 2018-19 के लिए निर्धारण के संबंध में, आपको निम्न करने की आवश्यकता है।

In connection with the assessment for the assessment year 2018-19, you are required to:

- क) 18/11/2022 01:22 PM को या उससे पहले अनुलग्नक के अनुसार मांगे गए खातों और दस्तावेजों को प्रस्तुत करें, अथवा प्रस्तुत कराएं। या
- a) Produce, or cause to be produced, the accounts and documents called for as per annexure on or before 18/11/2022 01:22 PM or
- ख) अनुलग्नक के अनुसार और उसमें निर्दिष्ट बिंदुओं या मामलों पर मांगी गई जानकारी जो कि आयकर अधिनियम, 1961 की धारा 144 ख के अनुसार निर्धारित तरीके से प्रमाणित हो 18/11/2022 01:22 PM को या उससे पहले प्रस्तुत करें।
- b) Furnish the information called for as per annexure and on the points or matters specified therein and authenticated in the prescribed manner as per section 144B of the Income-tax Act, 1961 on or before 18/11/2022 01:22 PM.
- ग) उपरोक्त साक्ष्य/सूचना आयकर विभाग की 'ई-फाइलिंग' वेबसाइट (www.incometax.gov.in) में आपके खाते के माध्यम से 'ई-प्रोसीडिंग्स' सुविधा में इलेक्ट्रॉनिक रूप से प्रस्तुत की जानी है। ई-फाइलिंग वेबसाइट (www.incometax.gov.in) पर 'ई-प्रोसीडिंग्स/ 'पहचान विहीन निर्धारण' पर संक्षिप्त नोट उपलब्ध है।
- c) The above-mentioned evidence/information is to be furnished electronically in 'e-Proceedings' facility through your account in 'e-Filing' website of Income Tax Department (www.incometax.gov.in). Brief note on 'e-Proceedings'/Faceless Assessment' are available on the e-Filing website (www.incometax.gov.in).

अनुलग्नक ANNEXURE

1. आयकर अधिनियम, 1961 की धारा 142(1) के तहत निम्नलिखित खाते या दस्तावेज या जानकारी मांगी गई है:

1. The following accounts or documents or information is/are sought under section 142(1) of the Income-tax Act, 1961:

1) Please justify, why the amount of Rs. 9,09,946/- received as commission or brokerage from three firms, out of which payment received, TDS was deducted u/s 194H; will not be treated as undisclosed income, since the addressed assessee has never offered the same for taxation, due to non-filing of return for the A.Y. 2018-19 relevant to the F.Y. 2017-18.

2) Please e-submit, one copy of bank-account statement, in respect of the bank-account in the South Indian Bank Limited, to which, an aggregate quantum of cash of Rs. 2,07,76,905/- was deposited during the financial year 2017-18; highlighting each and every credit entry related to such cash-deposition, with detailed narration of the source of generation of such cash deposited.

3) Please also justify, since the addressed assessee has not filed regular return of income for the F.Y. 2017-18, why such amount of Rs. 2,07,76,905/- deposited in cash to the assessee's bank account in the South Indian Bank Limited, will not be treated as "Unexplained money", as specified u/s 69A; read as under:-

"Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year."



4) The return of Income filed by the addressed assessee, in compliance to the notice u/s 148 dated: 29/04/2022 has not been e-verified. Please e-verify the return as soon as practicable.

Kindly note that in case of non-completion of e-verification of the return of income filed in compliance to Notice u/s 148 dt. 31/03/2022, the ITR will not be treated as valid and the assessment in your case will be completed by Best Judgement u/s 144.

5) Please confirm, whether e-verification has been completed in respect of return of Income

Page 3 of 4

AMWPM7T2BF- RIYAS PATTAYIL MOIDHEEN
A.Y. 2018-19
ITBA/AST/F/142(1)/2022-23/1046962336(1)

filed in compliance to notice u/s 148 dated: 31/03/2022.

6) Please e-submit the acknowledgement of filing return and the complete Income Tax Return filed in compliance to the above-mentioned notice u/s 148.

- In order to seek adjournment, the assessee has to fill the following particulars. The Assessee can upload the reason for adjournment in word document or he could type the reasons in the space allotted

Adjournment Details			
Notice Details			
PAN BHLP5855BN	Name of Assessee STOY ABRAHAM	Notice Section 148	Description [ITBA]Notice under section 148 of the Income Tax Act, 1961
Issued on 07-Apr-2022	Response Due Date 31-Mar-2022		
Seek Adjournment			
Adjournment sought up to Select the date by which you would be able to submit response ⓘ			
Reason for seeking Adjournment *			
Select			
Reason Enter your reason here			
Remaining Characters : 4000			
Attachment			
Attach File			
Only .pdf files. 5mb max file size.			
Cancel Submit			



- The assessee can either furnish the reply by himself or he can appoint an authorized person to act as his representative

Authorised Representative (AR)

You can have only one Active Authorised Representative (AR) for one proceeding.

Add Authorised Representative

No Authorised Representative added

< Back

- Thereafter either issue 142(1) notice to provide more details on books of accounts or on what basis return U/s 148 is prepared.

Time Limit for Completion of Assessments and Reassessments [Section 153]

1. Time Limit in different cases/ circumstances- The time limit for completion of assessment proceedings is 21 months from the end of the assessment year in which the income was first assessable. Further, no order of assessment, reassessment or re-computation could be made under section 147 after the expiry of 9 months from the end of the financial year in which notice under section 148 was served.

Section	Proceeding	Case/ Circumstance	Time limit for completion of assessment or reassessment
153(1)	Order of assessment u/s 143 or 144	In respect of an order relating to: A.Y.2017-18 or any earlier A.Y. and made on or after 1.6.2016	21 months from the end of the assessment year in which income was first assessable
		A.Y. 2018-19	18 months from the end of the assessment year in which income was first assessable



		A.Y. 2019-20 A.Y. 2020-21 and	12 months from the end of the assessment year in which income was first assessable
		A.Y. 2021-22	9 months from the end of the assessment year in which the income was first assessable
		AY 2022-23 and onwards	Within 12 months from the end of the assessment year in which income was first assessable
153(2)	Order of assessment, Reassessment or Re-computation u/s 147	Where notice u/s 148 is served before 1.4.2019	9 months from the end of The Financial year in which the Notice is served
		Where notice u/s 148 is served on or after 1.4.2019	12 months from the end of financial year in which the Notice is served
153(3)	Fresh assessment u/s 143/144/147 where the original Assessment has Been set aside, cancelled and referred back to the Assessing Officer an order u/s 254/263/264	If order u/s 254/263/264 is passed before 1.4.2019	9 months from the end of the Financial year in which the said Order u/s 254 is received by the PCC/CC/ PC/CIT3 or the order u/s 263 or u/s 264 is passed by the PC/CIT



		If order u/s 254/263/ 264 is passed on or after 1.4.2019	12 months from the end of the financial year in which the said Order u/s 254 is received by the PCC/CC/ PC/CIT or the order u/s 263 or u/s264 is passed by the PC/CIT
153 (3A)	Inserted Finance Bill,2023	Applicable for the assessee being searched and to whom any seized or requisitioned items (Money, Bullion, Jewellery, Valuable articles, Books of accounts, Documents) belong or pertain	The time limit for completion of any pending assessment/ proceedings shall be extended by 12 months, where search is initiated under Section 132 or requisitioned u/s 132A



153(4)	Where a Reference is made to the TPO u/s 92CA(1) during the course of proceeding for assessment or reassessment: Completion of assessment u/s 143 or u/s 144. Completion of assessment/reassessment/re-computation u/s 147 Completion of fresh assessment in pursuance of an order u/s 254 (received by the PCC or CC/PC or CIT) or an order passed by the PC or CIT u/s 263 or u/s 264.		An additional time period of 12 months is available for completion of assessment/reassessment in such cases. Thus, the revised time limit shall be as follows:
		In relation to A.Y. 2017-18 or Earlier A.Y	33 months from the end of the assessment year in which the income was first assessable.
		In relation to A.Y 2018-19	30 months from the end of the assessment year in which the income is first assessable
		In relation to A.Y 2019-20 and A.Y 2020-21	24 months from the end of the assessment year in which the income is first assessable



		A.Y.2021-22 thereafter and	21 months from the end of the assessment year in which the income was first assessable
		Where notice u/s 148 is served before 1.4.2019	21 months from the end of the financial year in which notice u/s 148 is served.
		Where notice u/s 148 is served on or after 1.4.2019	24 months from the end of the financial year in which the notice u/s 148 is served
		Where order u/s 254/263/264 is passed before 01.04.2019	21 months from the end of the financial year in which such order u/s 254 is received by the PCC or CC/ PC or CIT or such order u/s 263 or 264 is passed by the PC or CIT, as the case maybe.
		Where order u/s 254/263/264 is passed on or after 01.04.2019	24 months from the end of the F.Y. in which the said order u/s 254 is received by the PCC/ CC/PC/CIT or the order u/s 263 or u/s 264 is passed by the PC/CIT if order u/s 254/263/264 is passed on or after 01.04.2019



153(5)	Effect to be given by the Assessing Officer, to an order u/s 250/254/260/262/263/264, wholly or partly, otherwise than by making a fresh assessment or re-assessment	Where order u/s 250/254/260/262/263/264. Requires verification of issue by submission of any document by assessee or any other person or where opportunity of being heard is to be provided to the assessee.	The order u/s 250/254/260/262/263/264 shall be made within time specified in section 153(3) i.e., within 9 months in respect of order passed on or before 31.03.2019 and 12 months in respect of an order passed on or after 1.4.2019.
		In any other case	3 months from the end of the month in which the order u/s 250/254/260/262 is received by the PCC/CC/PC/CIT or the order u/s 263/264 is passed by the PC/CIT. Note – Additional period of 6 months may be allowed to the A.O. to give effect to order if the PC/CIT is satisfied, on an application from the A.O., that the order could not be given effect to within 3 months due to reasons beyond the control of the A.O.



153(6) (i)	Where the assessment, Reassessment or re-computation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order u/s 250/ 254/260/ 262/263/ 264 or in an order of any court in a proceeding other wise than by way of appeal or reference.		12 months from the end of the month in which the order is received or passed by the PC or CIT.
153(6) (ii)	Where, in the case of a firm, an assessment is Made on a partner of the firm in Consequence of an assessment made on the firm under section 147		12 months from the end of the month in which the assessment order in the case of the firm is passed.



Exclusion of certain period: In computing the period of limitation for the purposes of Section 153 the following time periods shall be excluded

	Case	Exclusion of Period	
		Commencing from	Ending with
(i)	Contravention of the provisions of section 10 (21)/ (22B)/ (23A) / (23B)/ (23C)(iv)/ (v)/ (vi)/ (via)	The date on which the A.O. intimates the Central Government or the Prescribed authority, the said contravention as required under clause (i) of the proviso to section 143(3)	the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case maybe, is received by the A.O.
(ii)	Direction to get accounts audited Under section 142 (2A)	The date on which the A.O. directs the assessee to get his accounts audited under section 142(2A) The Finance Bill 2023 proposes to substitute Section 142(2A) to empower to A.O to appoint a Cost Accountant for the valuation of inventory. The A.O can issue direction for the valuation of inventory if he is of the opinion that it is necessary in the interest of revenue to do so. However, the A.O required to obtain prior approval from the PCCIT/CCIT/PCIT/ CIT for giving directions for inventory valuation. The A.O cannot direct to value the inventory unless an opportunity of being heard is given to the assessee	The last date on which the assessee is required to furnish a report of such audit (or) the date on which the order setting aside such direction is received by the PC/CIT, if such direction is challenged before a Court.



	Case	Exclusion of Period	
		Commencing from	Ending with
(iii)	Reference to the Valuation Officer under section 142A(1)	The date on which the Assessing Officer makes a reference to the Valuation Officer	the date on which the report of the Valuation Officer is received by the Assessing Officer.
(iv)	Where the assessee furnishes declaration claiming that any question of law arising in his case for An assessment year which is pending before the A.O. or any appellate authority is identical with a question of law arising in his case for another A.Y. which is pending before the High Court or Supreme Court.	The date on which the Assessing Officer received the declaration under section 158A(1)	the date on which the order under section 158A(3) is made by him Note – However, such period cannot exceed 60 days.
(v)	Where an application is made before the AAR or before the Board for Advance Rulings u/s 245Q(1)	the date on which an application is made before the AAR or before the Board for Advance Rulings u/s 245Q(1)	the date on which the order rejecting the application is received by the PC/CIT u/s 245R(3) (or) The date on which the advance ruling pronounced by it is received by the PC/CIT u/s 245R(7)



	Case	Exclusion of Period	
		Commencing from	Ending with
(vi)	Where reference(s) for exchange of information is made by a competent authority	the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A	The date on which the information requested is last received by the PC/ CIT (or) A period of one year, Whichever is less
(vii)	Where a reference is made by A.O. u/s 144BA(1) to PC/C at any stage of assessment or reassessment proceedings, on the basis of material & evidence available to declare an arrangement as IAA and determine its consequence	the date on which a reference for declaration of an arrangement to be an IAA is received by the PC/CIT under section 144BA(1)	the date on which a direction under section 144BA(3) is issued by PC/CIT, if no objections are filed by the assessee (or) the date on which Approving Panel issue directions in respect of the declaration of the arrangement as an IAA under section 144BA(6) (or) the date on which order of PC/CIT not invoking the provisions of Chapter X-A, under section 144BA(5) is received by the A.O.
(viii)	The time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 129; or		
(ix)	The period during which the assessment proceeding is stayed by an order or injunction of any court.		

**Period of Limitation in certain cases**

i)	Where immediately after the exclusion of the aforesaid period, the period of limitation referred to in section 153(1)/(2)/(3)/(8) available to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, is less than 60 days	Such remaining period shall be extended to 60 days and the aforesaid period of limitation shall be deemed to be extended accordingly
ii)	Where the period available to the Transfer Pricing Officer is extended to 60 days in accordance with the proviso to section 92CA(3A) and the period of limitation available to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, is less than 60 days	Such remaining period shall be extended to 60 days and the aforesaid period of limitation shall be deemed to be accordingly extended.

Deeming Provisions in respect of assessment of excluded income for another assessment year or on another person

	Case	Consequence
a)	Where, by an order referred to in section 153(6)(i), any income is excluded from the total income of the assessee for an assessment year	An assessment of such income for another assessment year shall, for the purposes of sections 150 and 153, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order.
b)	Where, by an order referred to in section 153(6)(i), any income is excluded from the total income of one person and held to be the income of another person.	An assessment of such income on such other person shall, for the purposes of section 150 and section 153, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, provided such other person was given an opportunity of being heard before the said order was passed.

SEARCH AND SEIZURE ASSESSMENT

Section 132 of the Income-tax Act, 1961 empowers certain income-tax authorities to carry out a search. They may seize books of accounts, documents, money, bullion, jewellery and other valuable articles or things found as a result of the search. The power to requisition books of account, etc., taken into custody by any officer or authority under any other law for the time being in force, is also available to certain income-tax authorities u/s 132A. These two provisions enable income-tax authorities to get hold of evidence bearing on the tax liability of a person which he may be withholding from the department. These provisions also enable these authorities to get hold of assets representing income believed to be undisclosed and to apply so much of these assets as may be necessary to discharge a tax liability, including the tax liability arising out of the assessment of undisclosed income as a result of the search.

Income-tax authorities competent to authorize search and seizure action under section 132 of the Income Tax Act, 1961

The authorities competent to authorize a search and seizure action have been indicated in sub-section (1) of section 132. An income-tax authority competent to authorize search and seizure action can do so only if he, in consequence of information in his possession, has reason to believe that any one or more of the circumstances referred to in clauses (a), (b) and (c) of sub-section (1) of section 132 exist in a case. Under the administrative distribution of functions, however, these powers are ordinarily exercised by the Director of Income-tax (Investigation) after obtaining administrative approval of the Director General of Income-tax (Investigation). Consequential searches can also be authorized by an Additional or Joint Director of Income-tax (Investigation) to ensure expeditious and effective action during the course of a search.

Authorized Officer

The officer authorized under sub-section (1) of section 132 to carry out a search and seizure action is called the Authorized Officer.

Amendment in Finance Bill 2023

The Finance Bill 2023, proposes to increase in the scope of persons the authorized office may requisition for services. The Proposal in Finance Bill 2023 substitute Section 132(2) to provide ample scope to requisition services apart from a Police Officer or any Central Government Officer.

Now after the proposed amendment, the authorized can requisition the services of any person or entity from different walks and strata, with the condition being



that the person or the entity has to be approved by the PCCIT/CCIT/PCIT/CIT, Principal Director, General or the Director General in accordance with the procedure as may be prescribed in this regard.

Similarly, Section 132(9D) empowers the authorized officer to make a reference to the Valuation Officer referred to in Section 142A for estimating the Fair value of property.

The Finance Bill 2023, proposes to increase the scope of this power by authorizing the authorized officer to make reference to any person or entity or any registered valuer, in addition to the reference that can be made to the valuation officer referred to in Section 142A. The only condition is that the person or the entity has to be approved by the PCCIT/CCIT or The Principal Director, General or Director General in accordance to the procedure as may be prescribed in this regard.

The valuer shall estimate the property's fair market value in the prescribed manner and submit report of the estimate to the authorized officer or Assessing Officer within 60 days of such reference receipt.

Execution of Authorization of Search

Under section 132, reference is made to the phrase "*execution of an authorization for search*". The same has been explained by referring to section 153B(2) provisions. Currently, the provisions of section 153B are no longer applicable to search initiated under section 132.

As the provisions of section 153B are no longer applicable, it is proposed to provide the meaning of execution of the last authorization under section 132 itself. The last authorization of search shall be deemed to have been executed.

- A. In the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorization has been issued; or
- B. In the case of requisition under section 132A, on the actual receipts of the books of account or other documents or assets by the authorized officer.

Actions which the Authorized Officer is competent to take

The officials competent to sanction a search and seizure action can, by warrant, authorize the Authorized Officer to take the following actions:

- i. Enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that books of account or other documents [referred to in



clause (a) or clause (b) of section 132(1)], money, bullion, jewellery or other valuable articles or thing are kept.

- ii. Break open the lock of any door, box, safe, almirah or other receptacle for exercising the powers referred to at (i) above.
- iii. Search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the Authorised Officer has reason to suspect that such person has secreted about his person, any such books of account, other documents, money, bullion, jewellery or other valuable article or thing.
- iv. 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)(f) of the Information Technology Act, 2000, to afford the authorised officer the necessary facility to inspect such books of account or other documents.
- v. Seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search.
- vi. Place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom.
- vii. Make a note or inventory of any such money, bullion, jewellery or other valuable article or thing.

The Finance Act' 2021 has done away with the existing legal framework for Assessment in case of search or requisition (forming part of Chapter XIV of the Income Tax Act'1961- Procedure for Assessment) viz. Section 153A to 153D of the Income Tax Act'1961 in respect of search or requisition conducted on or after 1st April'2021. For searches conducted on or after 1st April'2021, then forth, assessments shall be framed under Section 147 read with section 148, 148A, 149, 151 of the Income Tax Act' 1961.

The reasons advanced in the memorandum explaining the provisions of Finance Bill'2021 are that the existing search assessment framework (like the erstwhile block assessment procedure under Chapter XIV-B of the Act) has failed to in its objective of early resolution of search assessments and were proving to be highly litigation-prone. As stated in the memorandum explaining the provisions of Finance Bill' 2021 which later on culminated into Finance Act' 2021, it is expected that the new system would result in less litigation and would provide ease of doing business to taxpayers as there is a reduction in time limit by which a notice for assessment or reassessment or re-computation can be issued.



I. Search Assessment where search operations or requisitions made on or before 31st March 2021.

Section 153A - Assessment in case of search or requisition.

1. Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—
 - a. issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;
 - b. assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years :

Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years :

Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in this sub-section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate:

Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

- a. the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;



- b. the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and
- c. the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017. Explanation 1.—For the purposes of this sub-section, the expression “relevant assessment year” shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

Explanation 2. — For the purposes of the fourth proviso, “asset” shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.

If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner:

Provided that such revival shall cease to have effect, if such order of annulment is set aside. Explanation. —For the removal of doubts, it is hereby declared that, —

- I. Save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;
- II. In an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

Issuance of Notice for Furnishing Notice u/s 153A of the Act As per Section 153A(1)(a), in case of person where a search is initiated u/s 132 or a requisition was made u/s 132A of the Act after 31st May 2003, AO shall issues a notice upon such person requiring him to furnish a ROI within such time for 6 AY immediately preceding the AY relevant to the PY in which such search is conducted or requisition is made. Some Important Points
Regarding Issuance of Notice



- In respect of the search initiated on or after 01.04.2017, the assessment year covered u/s 153A are extended to 10 years instead of 6 assessment year subjected to following conditions stipulated in the Fourth Proviso to Section 153A(1) of the Act: a. The AO has in his possession Books of Accounts or other document or evidence which reveal income, represented in the form of asset which has escaped assessment, amounting to or is likely to amount to Rs. 50 Lakh or more in one year or in aggregate in relevant AY's. b. The income referred to in clause (a) or part thereof has escaped assessment for such year or years AND c. The Search u/s 132 of the Act is initiated or requisition /s 132A is made on or after 01.04.2017.
- Issuance of notice is condition precedent for making assessment u/s 153A of the Act. If no notice was issued or the notice issued is proved to be invalid, then the assessment proceeding would also be treated as void-ab-intio.
- Provision of Section 282 shall be applicable on notice issued under section 153A(1)(a) of the Act, and accordingly service of notice can be made through registered post or speed post.
- Section 153A(1)(a) use the words "issue of notice" therefore it implies that, there is need to issue six separate notices, for all the six AY's.
- Income related to search year should be assessed u/s 143(3) or 144 of the Act, therefore there is no requirement to issue notice u/s 153A(1)(a) of the Act.
- AO by following the principal of natural justice, should provide reasonable time to assessee to file the ROI. As far as reasonable time is concerned, it may be from 15 days to 30 days.

Filing of Return Of Income in Response to Notice issued u/s 153A(1) (a)

- On receipt of notice u/s 153A(1)(a), the assessee should file ROI of six years within such time as allowed by AO. If assessee thinks that no modification is required in return already filed for the concerned year, then he may file a letter stating that such return filed earlier should be treated as return filed in response to the notice u/s 153A(1)(a) of the Act.
- Provision of Section 153A(1)(a) provides that all the provision of the Income Tax Act shall apply as if such return is filed u/s 139 of the Act.
- As per the provision of section 153A(1)(a) of the Act, a return filled in response to notice issued thereon shall be treated as return filed u/s 139 of the Act, therefore all the provision of assessment shall also be applicable in the case of search assessment. In view of above discussion and as per the



judgement of Hon'ble Supreme Court in the case of CIT vs. Laxman Das Khandelwal [2019] 417 ITR 325 it was held that Service of notice u/s 143(2) is mandatory even in case of Search Assessment.

Some Important Points Regarding Filling of ROI in Response to Notice issued u/s In view of above discussion and as per the judgement of Hon'ble Supreme Court in the case of CIT vs. Laxman Das Khandelwal [2019] 417 ITR 325 it was held that Service of notice u/s 143(2) is mandatory even in case of Search Assessment.

Some Important Points Regarding Abatement of Pending Assessment or Reassessment

- As per second proviso to section 153A(1) of the Act, the assessment or reassessment, if any relating to AY falling within the period of 6 AY's or 10 AY's referred to in section 153A(1) of the Act pending on the date of initiation of the search u/s 132 of the Act or making of requisition u/s 132A of the Act, as the case may be, shall abate.
- As per the provision of Section 153A(2) of the Act, if any proceeding initiated or any order of assessment or reassessment made u/s 153A(1) has been annulled in any appeal or other legal proceeding, then, notwithstanding anything contained in section 153A(1) or section 153 of the Act, the assessment or reassessment relating to any AY abated earlier shall stand revived with effect from the date of receipt of the order of such annulment by the PCIT or CIT.

II. **Legal Provision of Search Assessment where search operations or requisitions made on or After 1st April 2021**

Income escaping assessment [Substitution of Section 147 w.e.f. 1st day of April 2021] If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or re-compute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year)

Explanation.—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with. Issue of Notice where Income has escaped assessment [Substitution



of Section 148 w.e.f. 1st day of April 2021] Before making the assessment, reassessment or re-computation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.

Explanation 1. — For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,— (i) any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time; (ii) any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

Explanation 2. — For the purposes of this section, where,—

- (i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or
- (ii) a survey is conducted under section 133A in the case of the assessee on or after the 1st day of April, 2021; or
- (iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or



- (iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation.3—For the purposes of this section, specified authority means the specified authority referred to in section 151.

Conducting Inquiry, Providing Opportunity before issue of Notice u/s 148

[New Section 148A inserted after section 148 w.e.f. 1 st day of April 2021]

The Assessing Officer shall, before issuing any notice under section 148, —

- (a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;
- (b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);
- (c) consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);
- (d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c)



is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause(b) expires:

Provided that the provisions of this section shall not apply in a case where,— (a) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or (b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or (c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Explanation. —For the purposes of this section, specified authority means the specified authority referred to in section 151. Time Limit for Notice [Substitution of Section 149 w.e.f. 1st day of April 2021] (1) No notice under section 148 shall be issued for the relevant assessment year, —

- (a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
- (b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year: Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:

Provided further that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:



Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded: Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation in sub-section (1) shall be deemed to be extended accordingly. (2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151. New Procedure for Search Assessment's.

As per the new provision of section 148 of the Act, now AO can issue notice u/s 148 of the Act for making assessment or reassessment u/s 147 of the act, only if he has information which suggest that income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.

However as per the explanation 2 to section 148, AO is not required to have information in the case if search is initiated u/s 132 or requisition is made u/s 132A upon assessee. Which means AO can issue notice u/s 148 of the Act in search case even if he has no information that income has escaped assessment.

As per the provision of Section 149 of the Act, AO can issue notice u/s 148 for 3 assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated.

However, if AO has in his possession books of accounts or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year, than AO can issue notice u/s 148 for 10 assessment year immediately preceding the assessment year relevant to the previous year in which the search is initiated As per section 148 of the Act, AO has to obtain prior approval of specified authority u/s 151 of the Act, before issuing notice to assessee, which is as follows:

For 3 Years	: Principal Commissioner or Principal Director or Commissioner or Director
Beyond 3 Years & Up to 10 Years	: Principal Chief Commissioner or Principal Director General [Where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General].



Points to be Kept in Mind During Search Assessment:

- i. On receipt of notice u/s 153A of the Act, assessee should file his return of income within the time limit provided in the notice. If due to some unavoidable reason, assessee is not able to furnish the return, then he should make an application providing sufficient reason before AO to allow the late filing of return.
- ii. Assessee Shall include the financial impact of seized document in books of accounts and then file ROI u/s 153A
- iii. Assessee can prepare for assessment proceedings like on what matter department is contemplating to make addition or disallowance in his case on the basis of finding of Investigation wing.
- iv. Analyze the statement recorded u/s 131 or 132(4) of the Act, and if any statement is made under pressure it should be retracted timely before the investigation wing.
- v. Assessee should ensure that proper notices u/s 127 for centralization of jurisdiction has been issue by incumbent officer and proper opportunity of being heard has been granted.
- vi. Although it is not possible for the assessee to anticipate the AO's enquiries, yet he should equip himself with all the information on audit report, notes, items of the return and seized document, that may reasonably be expected to be inquired into.
- vii. Assessee whenever attend any hearing, it should be mentioned in order sheet with date and signature of assessee as well as AO.
- viii. Assessee should always give written replies of the information sought by the AO because oral replies are often misunderstood or misrepresented or sometimes treated as never been made.
- ix. Where assessee wants to seek adjournment, the adjournment letter should be speaking one, giving sufficient reasons for adjournment and hall be filed well before the date of hearing, giving the AO no opportunity to reject the application and pass an ex parte order.
- x. During the assessment proceeding if AO refuse to accept any submission or document, then assessee shall send such submission or document to the office of AO through registered post and keep the receipt of registered post for his record. xi. Assessee has to check that no assessment order shall be passed by an AO below the rank of JCIT except with the prior approval of the JCIT. [Section 153D]



PRACTICAL TIPS FOR POST SEARCH PROCEEDINGS

- ▶ Systematically arrange and make analysis of all the seized documents.
- ▶ Sort the documents assessee wise, assessment year wise and premises wise.
- ▶ Sort the documents having financial relevance and financially irrelevant.
- ▶ If the documents are financially relevant, ascertain how they are explainable vis-a-vis books of accounts or other details available with the Income Tax Department or are found / seized from the premises searched or surveyed.
- ▶ See if the explanation is available about all the records available with the Income tax department.
- ▶ Offer Peak Credits as undisclosed income, if any.
- ▶ Return of income u/s153A should be filed judiciously after consideration of records and material lying with income tax department.
- ▶ Where any undisclosed income is offered in the return filed u/s153A then the expenditure incurred to earn that income may also be claimed.
- ▶ File returns under protest if required notices are not properly issued & challenge the validity of proceedings at the time of Assessments itself.

JUDICIAL PRONOUNCEMENTS

Case laws on 'Incriminating material'

Though the majority of the judicial precedents, indicates that the Assessing Officer, while framing assessment under section 153A of the Act cannot make the addition/disallowance de-hors any 'incriminating' material, yet the said view has always been challenged by the Revenue on one count or the other and thus, the said controversy is yet to be settled by the Hon'ble Supreme Court.

1. CIT v. Kabul Chawla [T S-494-HC-2015(DEL)]

The legal position relating to assessment under section 153A of the Act has been examined in great detail by the Hon'ble Delhi High Court in the case of Kabul Chawla (supra) and the following principles thereof



has, after analysing host of decisions, been succinctly laid down by the Hon'ble Court:

“Summary of the legal position

37. On a conspectus of Section 153A(1) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:

- i. **Once a search takes place under Section 132 of the Act, notice under Section 153 A (1) will have to be mandatorily issued to the person searched requiring him to file returns for six AYs immediately preceding the previous year relevant to the AY in which the search takes place.**
- ii. **Assessments and reassessments pending on the date of the search shall abate. The total income for such AYs will have to be computed by the AOs as a fresh exercise.**
- iii. **The AO will exercise normal assessment powers in respect of the six years previous to the relevant AY in which the search takes place. The AO has the power to assess and reassess the ‘total income’ of the aforementioned six years in separate assessment orders for each of the six years. In other words, there will be only one assessment order in respect of each of the six AYs “in which both the disclosed and the undisclosed income would be brought to tax”.**
- iv. **Although Section 153 A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-search material or information available with the AO which can be related to the evidence found, it does not mean that the assessment “can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material.”**
- v. **In absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word ‘assess’ in Section 153 A is relatable to abated proceedings (i.e. those pending on the date of search) and the word ‘reassess’ to completed assessment proceedings.**



- vi. Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under Section 153A merges into one. Only one assessment shall be made separately for each AY on the basis of the findings of the search and any other material existing or brought on the record of the AO.
- vii. Completed assessments can be interfered with by the AO while making the assessment under Section 153 A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessment.”

2. **Smt. Dayawanti Gupta v. CIT [TS-5978-HC-2016(DELHI)-O]**

In the case of Dayawanti Gupta (supra), the Hon’ble Delhi High Court, after considering the decision of Kabul Chawla (supra), held that, in the facts of the case, the statement recorded under section 132(4) of the Act during the course of search proceedings, in the absence of any other material, would in itself constitute ‘incriminating’ material giving leeway to the Assessing Officer to make addition/disallowance.

The aforesaid decision of Dayawanti Gupta, perhaps appears to be a sword for the Revenue to counter the principles laid down in the decision of Kabul Chawla (supra).

3. **PCIT v. MeetaGutgutia: [T S-199-HC-2017(DEL)]**

Recently, the Delhi High Court in the case of MeetaGutgutia (supra) had an occasion to deal with the above decision of Dayawanti Gupta. The Delhi High Court after considering the entire gamut of the facts of the case held that the decision of the Court in the case of Dayawanti Gupta (supra) proceeded on the peculiar facts of the said case and the said decision in no way dilutes the dictum laid down in the case of Kabul Chawla (supra). The said position has been reiterated by the Hon’ble Delhi High Court recently in the case of Pr. CIT v. Best Infrastructure (India) Pvt Ltd [TS-5668-HC-2017(DELHI)-O].

The controversy qua scope of addition/disallowance under section 153A of the Act being restricted to the ‘incriminating’ material’ as answered by the Hon’ble Delhi High Court in the case of Kabul



Chawla (supra), which according to the Revenue was disturbed by the Dayawanti Gupta (supra), has been reconciled and reiterated in the case of MeetaGutgutia (supra). The decision of Kabul Chawla (supra), though, has been challenged by the Revenue before the Supreme Court and the same is pending adjudication, but since there is no stay of operation by the Supreme Court, the said decision of Kabul Chawla (supra) would continue to hold the field till the time controversy is put to rest by the Supreme Court.

4. Last authorization or last panchnama?

CIT Vs Sh. Anil Minda ITA No.582, 527,593,605,618,772 of 2009 authorization referred to in sub Section (1) would be that authorization which is executed on the conclusion of search as recorded in the last panchnama. Therefore, by this deeming provision, even an authorization which may not be otherwise the last authorization would become last authorization, if that is executed and if the panchnama in respect thereto is drawn last.

[2009] 308 ITR 116(Del) CIT vs. Deepak Aggarwal

1. last panchnama to be taken into consideration for the purpose of reckoning the limitation period.
2. revocation order for the purpose of continuing the search did not amount to execution of a search when no asset is seized under that order and there is only revocation of the prohibitory order passed earlier.

5. Reasons to be recorded to reach at the satisfaction

Supreme Court in Amity Hotels (P) Ltd. 272 ITR 75, held that :

the reasons must be recorded by the Assessing Officer having jurisdiction over the assessee who had been searched before issuing the notice u/s 158 BD of the Act. The aforesaid view has been reiterated by this Court in the case of CIT Vs. Karan Engg. P.Ltd. and Janki Exports International Vs. UOI, 193 CTR 730.

6. Belongs to assessee?

Meghmani Organics Ltd. vs DCIT 129 TTJ 255

- The prerequisite for initiating proceedings u/s. 153C of the Act is that any money, bullion, jewellery or other valuable articles or things or documents seized or requisitioned belong to a person



other than person in whose case warrant of authorizations is issued u/s. 132(1) of the Act. Since none of the documents belongs to the assessee, though they may be referable to the work of the assessee the same cannot be considered as “belonging to the assessee

► Similar decisions in: **LMJ International Ltd. vs DCIT 119 TTTJ 214**

7. Where no material seized other than statement recorded- whether 153C/158BD can be invoked?

Held no

CIT VS. Late Sh. Raj Pal Bhatia, ITA 276 OF 2009, Date of decision 29.11.2010, DELHI (HC):

- no Assessment u/s 158BD can be invoked merely on the basis of Statement of a person in whose premises search was conducted as the statement is not in the nature of document which was found during search.
- Therefore, it cannot be said that the statement was, seized “during the search and thus, would not qualify the expression “document” having been seized during the search. In such a scenario, proper course of action was reassessment u/s 147 read with section 148 of the Act.

In the case of **Smt. Chitra Devi Vs. CIT 77 TTTJ 430** decided by Jodhpur Bench of ITAT, reported in, it is held that statement recorded u/s 132 (4) of the Act during the search is no evidence as contemplated u/s 158BD of the Act and on that basis no valid proceedings in Chapter XIV-B of the Act could be initiated.

8. Whether notice u/s 153C is valid if papers found during the search proceedings gave reference about the other person.?

No.

[2010] 231 CTR 474(GUJ.) Vijaybhai N. Chandrani v. ACIT

Condition precedent for issuing notice u/s 153C and assessing or reassessing income of ‘such other person’ is that money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned should belong to such person; where admittedly documents in question, namely, three loose papers recovered during search proceedings did not belong to petitioner, though there was a reference to petitioner therein, issue of notice to petitioner u/s 153C was not valid



Other Case laws

1. The Hon'ble Ahmedabad Tribunal in the case of Dr. Mansukh Kanjibhai Shah v. ACIT (129 ITD 376) has held that once the warrant of authorization or requisition is issued and search is conducted & Panchanama is drawn, all the relevant six assessment years would get reopened irrespective of any incriminating material is found or not in respect of any particular assessment year falling within the relevant six assessment years.
2. The Hon'ble Delhi High Court in the case of CIT v. Anil Kumar Bhatia (211 Taxman 453) has held that even if assessment order had already been passed in respect of all or any of those six assessment years, either u/s. 143(1)(a) or u/s. 143(3) prior to intimation of search/ requisition, still Assessing Officer is empowered to reopen those proceedings u/s. 153A without any fetters and reassess total income taking note of undisclosed income, if any, unearthed during search.
3. Regency Mahavir Properties v. Assistant Commissioner of Income-tax, Cen Cir. 1, Thane [2018] 89 taxmann.com 444 (Mumbai – Trib.) Section 69, read with section 153A, of the Income- tax Act, 1961 – Unexplained investment (On money) Assessment years 2007-08 and 2010-11 – Whether no addition under section 69 can be made in case of assessee on basis of documents being found from premises of the third party where neither name of assessee was mentioned nor any document found evidencing fact that assessee had paid any cash as on-money to said party – Held, yes [Paras 12 and 13] [In favour of assessee]
4. Does AO has the right to assess total income.

Hon'ble Bombay High Court in the case of Continental Warehousing Corporation (Nhava Sheva) Ltd. (supra), wherein considering the judgment of the Special Bench of the Mumbai Tribunal in the case of All Cargo Global Logistics 137 ITD 287(SB) (Mum), considered this issue that, once assessment has attained finality, then the assessing officer while passing independent assessment order under section 153A/143(3) of the Act could not disturb the assessment order which has attained finality unless the material gathered in the course of search under section 132/153A of the Act established that the finality attained in the assessment were contrary to the facts unearthed during the course of search.



The final conclusion of the Mumbai ITAT Special Bench in the case of All Cargo Global Logistics Ltd. v. DCIT (supra), on the issue is as under:

- In assessments that are abated, the AO retains the original jurisdiction as well as jurisdiction conferred on him u/s 153A for which assessments shall be made for each of the six assessment years separately;
 - In other cases, in addition to the income that has already been assessed, the assessment u/s 153A will be made on the basis of incriminating material, which in the context of relevant provisions means – (i) books of account, other documents, found in the course of search but not produced in the course of original assessment, and (ii) undisclosed income or property discovered in the course of search.
1. In relation to section 153A r.w.s. 263, the Bombay High Court in the case of CIT v. Murli Agro Products Ltd. (49 taxmann.com 172) has held that where there was nothing on record to suggest that any material was unearthed during search or during proceedings initiated under section 153A showing that certain relief in form of deduction was wrongly allowed to assessee, Commissioner could not invoke jurisdiction under section 263 on ground that assessment order passed under section 153A, read with section 143(3) was erroneous or prejudicial to interest of revenue.

PENALTIES U/S 271 AAB

	Undisclosed Income	Penalty u/s 271AAB
A	01.07.12 to 15/12/16	10%
	Admitted in the course of search in a statement u/s 132(4) duly specifying the manner thereof.	30%
	After 15.12.2016	
B	01.07.12 to 15/12/16	20%
	Declared in the course of filing return of income.	30%
	After 15.12.2016	
C	01.07.12 to 15/12/16	*30%-90%
	Other than (A) & (B) above.	*60% -w.e.f 1-4-
		2017
	After 15.12.2016	60%

**ISSUES – 153 A/153B**

1. Whether pre-conditions of sec. 153A/132 are to be complied mandatorily?

Held in:

Jindal Stainless Ltd. v ACIT , ITA Nos. 3480 & 3481 (Del) 2006- 122 TTJ 902

The prerequisite condition for application of section 153A is that assessment under this section can be made against a person in case of whom a search is initiated u/s 132; non-fulfillment of conditions laid down in sections 153A is a jurisdictional defect which cannot be cured.

Rajat Tradecom India Pvt. Ltd. v. DCIT, 120ITD 301Appeal No. IT (SS) A No: 182 &183/Ind./2007 –Indore ITAT -Before invoking the provision of section 153A it would be necessary to comply with the provisions contained u/s 132(1); the mere issue of warrant of authorization without there being search of the premises mentioned in the warrant of authorization would be meaningless and would not serve the purpose of section 132. therefore, actual search shall have to be carried out necessarily before proceeding u/s 153A

Similar decision held in:

[2010] 5 taxmann.com 59 (Ahd. - ITAT) ITA No. 2878 to 2880/Ahd/2007 Dr.ManshukhKanjibhaiShah vs. ACIT,

J.M.Trading [2008] 20 SOT 489, DHC in S.K.Katyal 308 ITR 168

Alternate views

ACIT v. M/s G.M Infrastructure ITA.No.133/Ind/2008 ITAT Indore:

Provisions of sec. 143(2) have to be applied in its fullest scope i.r.o assessment or reassessment made u/s 153A.

CIT vs. Pawan Gupta &Ors.[2009] 223 CTR 487(Del)

It is mandatory u/s 153A/153C to issue and Serve notice u/s 143(2) after return u/s 153A is Filed and for non service of same, assessment u/s 153A can be annulled

2. Whether proceedings may be continued without giving notice u/s 153A

Held that:

continuation of assessment proceeding after initiation of search without giving any notice u/s 153A and passing impugned final order of assessment



was held to be illegal, arbitrary and wholly without jurisdiction

[2007] 162 TAXMAN 429 (JHAR.) Abhay Kumar Shroff v.CIT

3. Applicability of provisions of sec. 143 (2)

The ITAT Mumbai in the case of Sumanlata Bansal vs. the Assistant Commissioner of Income Tax, Central Circle 8 Mumbai, ITA nos. 525 to 530 relating to the assessment years 1999-2000 to 2005-2006 held that issue of notice under section 143(2) is not mandatory before making an assessment under section 153A of the Income Tax Act.

Ashok Chaddha vs Income Tax Officer (Delhi HC)

No specific notice was required under section 143(2) of the Act when the notice in the present case as required under Section 153 (A) (1) (a) of the Act was already given.

4. Return filed u/s 153A is the original return.

A return filed under Section 153A takes the place of the original return under Section 139, for the purposes of all other provisions of the Act. Once the A.O. accepts the revised return filed under Section 153A, the original return under Section 139 abates and becomes non-est.

Delhi High Court in the case of Principal Commissioner of Income-tax-19 Vs Neeraj Jindal [2017] 393 ITR 1 (Delhi)

The Hon'ble Mumbai Special Bench in the case of All Cargo Global Logistics Ltd. v/s .DCIT (23 taxmann.com 103) has explained the provisions of section 153A as under:

1. No return of income is filed by the assessee (whether or not time limit to file return of income has expired).

Since no return has been filed, the entire income shall be regarded as undisclosed income.

Consequently, AO would have the authority/jurisdiction to assess the entire income, similar to jurisdiction in regular assessment u/s. 143(3).

No requirement to restrict to documents found during the course of search.

3. Return of Income just filed by the assessee – return yet to be processed u/s. 143(1) –Time limit for issue of notice u/s. 143(2) not expired.

Since return filed is even pending to be processed, the return would be treated as pending before the AO.



Consequently, AO would have authority / jurisdiction to assess the entire income, similar to jurisdiction in regular assessment u/s.143(3).

4. Return of Income filed by the assessee – return processed and intimation issued u/s. 143(1) –Time limit for issue of notice u/s. 143(2) not expired.

Since intimation is not akin to assessment and time limit for notice u/s. 143(2) has not expired, even though return has been processed, it will be case where return has not attained finality.

Consequently, AO would have authority / jurisdiction to assess the entire income, similar to jurisdiction in regular assessment u/s.143(3).

5. Return of Income filed by the assessee. Intimation passed or not u/s. 143(1) and time limit for issue of notice u/s. 143(2) has expired.

Return of Income of the assessee shall be treated as having been accepted and attained finality. AO loses jurisdiction to verify the return of income

Since, no assessment would be pending there would be no abatement of any proceedings Accordingly, the scope of assessment u/s. 153A would be restricted to incriminating material found during the course of search.

6. Notice u/s. 143(2) issued and assessment pending u/s. 143(3)

Pending regular assessment proceedings would abate and would converge/ merge in proceedings u/s. 153A.

Accordingly the scope of assessment under section 153A would cover the pending return filed as well and would not be restricted to incriminating material found during the

7. Assessment u/s. 143(3) completed

Since regular assessment proceedings have been completed & are not pending, there would be no abatement of proceedings. AO loses jurisdiction to review the completed assessment. Accordingly, the scope of assessment u/s.153A would be restricted to incriminating material found during the course of search.

8. Proceedings u/s. 147 pending where: Assessment originally completed u/s. 143(3); OR No assessment earlier completed u/s.143(3)

Pending assessment/reassessment proceedings u/s.147 would abate and would converge / merge in proceedings u/s. 153A. Accordingly, the powers of the AO, in both the cases, shall extend to assess income that could validly be assessed in the pending proceedings u/s. 147.

DISPUTE SETTLEMENT MECHANISM

1. INCOME TAX SETTLEMENT COMMISSION

INTRODUCTION

Income Tax Settlement Commission (hereinafter referred to as ITSC) was set up in the year 1976 on the recommendation of the Direct Tax Enquiry Committee headed by former Chief Justice of India, Shri K. N. Wanchoo. The purpose, intent, and necessity of the Settlement Commission are revealed by recommendation in para 2.32 to 2.34 of Chapter of the report:

2.32 This, however, does not mean that the door for compromise with the errant taxpayer should forever remain closed. In the administration of fiscal laws, whose primary objective is to raise revenue, there has to be room for compromise and settlement. A rigid attitude would not only inhibit a one-time tax evader or a un intending defaulter from making a clean breast of his affairs but would also unnecessarily strain the investigational resources of the department in cases of doubtful benefit to revenue, while needlessly proliferating litigation and holding up collections. We would, therefore, suggest that there should be a provision in the law for a settlement with the taxpayer at any stage of the proceedings. In the United Kingdom, the confession method has been in vogue since 1923. In U.S. law also, there is a provision for compromise with the taxpayer as to his tax liabilities. A provision of this type facilitating settlement in individual cases will have this advantage over a general disclosure scheme in that misuse thereof will be difficult and the disclosure will not normally breed further tax evasion. Each individual case can be considered on its merits and full disclosures not only of the income but of the modus operandi of its build-up can be insisted on thus sealing off chances of continued evasion through similar practice.

2.33 To ensure that the Settlement is fair, prompt, and independent, we would suggest that there should be a high-level machinery for administering the provisions, which would also incidentally relieve the field officer of an onerous responsibility and risk of having to face adverse criticism which, we are told, has been responsible for the slow rate of disposal of disclosure petitions.

The Income Tax Settlement Commission has a wide range of objectives that are essential for the growth of revenue settlements in India.

- a. **To provide machinery for defaulting taxpayers to come clean through compromise and settlement**
- b. **To offer a speedy settlement of disputes**
- c. **To reduce litigation by providing finality of proceedings**



- d. To resolve controversies in complicated cases
- e. To ensure speedy collection of taxes at a low cost

The Income Tax Settlement Commission is an Independent Judicial Forum, whose members are comprised of persons of integrity and outstanding ability, having special knowledge of and experience in, problems relating to direct taxes and business accounts. The Income Tax Settlement Commission is required to pass the settlement order within 18 months of the date on which the taxpayer has filed the application. It has the wide power of granting immunity from penalty and prosecution for the income tax assessee. The orders passed by the Commission are final and conclusive. The purpose of the present article is to explain the powers which are vested in the Income Tax Settlement Commission.

COMPOSITION OF INCOME TAX SETTLEMENT COMMISSION

The Settlement Commission consists of a Chairman, Vice-Chairmen, and Members. However, the number of Vice-Chairmen and members in the Settlement Commission is decided by the Central Government. The jurisdiction, powers, and authority of the Commission shall vest in the hands of the Chairman, in case of Principal Bench, and in the hands of the Vice-chairman, in case of Additional Bench. At present, four Benches of the Commission are functioning. The Delhi Bench is known as the Principal Bench and the Benches at Mumbai, Calcutta, and Chennai are known as the Additional Benches.

WHO CAN FILE AN APPLICATION IN INCOME TAX SETTLEMENT COMMISSION

An applicant can approach the Income Tax Settlement Commission in respect of a particular assessment year only if no assessment order is passed by the concerned income tax authority and the statutory time limit for the passing of the assessment order for that year has not lapsed. The proceedings are considered to be pending from the first day of the assessment year and it is not needed that a return of income to be filed or a notice for scrutiny to be issued before filing application.

An applicant has to disclose an additional amount of income tax before the Commission which is at least Rupees ten lakhs. This does not include the amount of interest chargeable on such tax. For cases involving Search and seizure assessment proceedings, the additional amount of income tax to be disclosed is at least Rupees fifty lakhs.



CALCULATION OF ADDITIONAL INCOME TAX

1. In case the applicant has not furnished a return, tax shall be calculated on the income disclosed in the application as if it is the total income and such tax shall be the additional amount of income tax payable.
2. In case the applicant has furnished a return, additional income shall be calculated as under.

PARTICULARS	AMOUNT
Total Income Incurred	A
Add: Income disclosed in settlement commission	B
Total	C
Additional Amount of Income Tax	Tax on C – Tax on A

CONDITIONS TO FOLLOW

1. If the income so disclosed relates to more than one previous year, The applicant shall aggregate income by using above methods.
2. where a notice under section 148 is issued for any assessment year, the assessee can approach Settlement Commission for other assessment years as well even if notice under section 148 for such other assessment years has not been issued. However, a return of income for such other assessment years should have been furnished under section 139 of the Act or in response to notice under section 142 of the Act. (Amended by Finance Act, 2015)
3. While in a case where assessment proceeding is pending u/s 153A, for all the seven years (1 year relevant to p.y when search is conducted and 6 a.y. immediately preceding the assessment year) putting together, the limit of 50 lakhs in aggregate should be fulfilled. If the applicant is filling application for lesser number of years, the additional tax in aggregate should be 50 lakhs.
4. Aggregation should be income and not offering of loss, the rule is laid down in the case of CIT vs Express Newspapers Ltd.
5. An application can be made by an assessee for settlement before the Commission only once in a lifetime



HOW TO FILE AN APPLICATION

- Settlement application is to be filed only in the prescribed Form No.34-B notified under the Income Tax Rules, 1962, which is to be signed by the applicant himself.
- The application can be made personally or by post. The applicant or his authorized representative can make an application in person.
- The application can also be sent by registered post addressed to the Secretary of the concerned Bench of the income tax Settlement Commission.
- The application should be accompanied by the proof of payment of additional Tax and interest under sections 234B and 234C on it.
- The interest on the additional tax is chargeable till the date of admission of the application.
- The application has to be accompanied by a copy of the Challans of payment of tax which has to be attested by the applicant.
- The application is also to be accompanied by evidence of payment of the prescribed fee. At present, the fee is Fixed at Rs. 500/-.

PROCEDURE ON RECEIPT OF APPLICATION

- An application can be rejected by the Commission during the course of proceedings under section 245D (1) within 14 days of filling out the Settlement application if the applicant does not fulfill the required conditions mentioned above.
- If the application is not rejected by the Commission within 14 days, it is deemed to have been admitted by it. After the application has been admitted, the Commission calls for the report of the Commissioner of Income Tax under section 245D (2B).
- The Commission may treat an application as valid by passing an order under Section 245D (2C), If the report of the Commissioner is not received within the period of 30 days from the day the letter from the Commission is received by the Commissioner, or on the basis of satisfaction of the Commission, on the basis of the report of the Commissioner.
- The order of the Commission is to be passed within 15 days of the expiry



of the period of 30 days given to the Commissioner for submitting the report.

- The Commission is required to give an opportunity to the applicant before treating the application as invalid under Section 245D (2C). Once an application has been held as valid, the Commission forwards the confidential part of the application to the Commissioner calling for his report under Rule 9 of the Income Tax Settlement Commission (procedure) Rules, 1997.
- This report is to be submitted by the Commissioner within 45 days. The Commission can allow further time if needed by the Commissioner depending upon the facts of the case. Upon receipt of the Rule 9 Report, a copy of the same is sent to the applicant by post for submitting a rejoinder on such report.
- A copy of the rejoinder sent by the applicant is shared with the Commissioner. The officers of the Commission then issue notice and fix hearing on a particular day and at a specified time.
- On the day of the hearing, the applicant or his authorized representative and the Commissioner of Income Tax (or Assessing Officer) or his representative, namely Commissioner of Income Tax (Departmental Representative) appear before the Bench of the Settlement Commission.
- The Commission may ask the parties to further produce documents and submissions. It may also ask the Commissioner to carry out further inquiry. After considering both sides, the Commission then passes the final settlement order under Section 245D (4), in writing.
- The settlement order provides for the terms of settlement which include determining the amount of additional tax and interest thereon and the manner of payment.
- It also provides for the levy of penalty or waiver from penalty under the Income Tax Act or the Wealth Tax Act. The Settlement order under Section 245D (4) can be rectified by the Commission to correct mistakes apparent from records within 6 months of the order.
- However, where the effect of the rectification is to alter the tax liability of the applicant, the due opportunity has to be given to the applicant as also the Commissioner.



2. Local Committees to deal with Taxpayers' Grievances from High-Pitched Scrutiny Assessment

INTRODUCTION

The Central Board of Direct Taxes (the 'CBDT'), by its Instruction NO.17/2015 dated 09.11.2015 provided for constitution of 'Local Committees to deal with Taxpayers' Grievances from High-Pitched Scrutiny Assessment' in each Pr. CCIT region. The Local Committees were constituted to expeditiously deal with Taxpayers' grievances arising from High-pitched Scrutiny Assessment.

The purpose of constitution of Local Committees is to deal with the genuine grievances of taxpayers and help in supporting an environment where assessment orders are passed in a fair and reasonable manner effectively and efficiently. It is to be noted that Local Committees cannot be treated as an alternative forum to dispute resolution/appellate proceedings.

Taking into consideration the changes in organizational set-up after the launch of Faceless Assessment regime, the CBDT, in exercise of its powers under section 119 of the Income-tax Act, 1961 ('the Act') and in supersession of its earlier Instruction No. 17/2015 dated 09.11.2015, had issued the following instructions regarding constitution and functioning of 'Local Committees to deal with Taxpayers' Grievances from High-Pitched Scrutiny Assessment'

WHAT IS HIGH-PITCHED ASSESSMENT

- i. The term is not defined in the Income Tax Act, 1961 (the Act). B. CBDT in Circular No. 1914 dated 02.12.1993 provided instructions and guidelines for granting stay in High-Pitched assessment.
- ii. **An Assessment made far beyond Returned Income is considered as a high-pitched assessment.**
- iii. Relevant cases that accepted the assessments as "high-pitched Assessments"
 - Dalpatbhai Vasabhai Ukava 108 taxmann.com 265 (Guj.)
 - Flipkart India (P.) Ltd vs. ACIT (2017) 396 ITR 551 (Kar.)
 - Soul vs. DCIT (323) ITR 305 (Del.)

CONSTITUTION OF LOCAL COMMITTEES

- i. Local Committees to deal with Taxpayers' Grievances from High-Pitched Scrutiny Assessment ('Local Committees') are required to be constituted in



each Pr. CCIT region across the country including the Pr. CCIT(Exemption) and Pr. CCIT (International Taxation).

- a) The Local Committee shall consist of 3 members of Pr. CIT/CIT rank. To have a perspective of processes involved in Faceless Assessment process, Local Committees so constituted in each Pro CCIT region and Pr. CCIT(Exemption) shall have one Pr. CIT (AU) of the region. The Local Committee constituted under the Pr. CCIT (International Taxation) need not have a Pr. CIT(AU) as a member, as the assessments under the International Taxation charges are outside the purview of Faceless Assessment regime.
- b) The other members may be selected from the pool of officers posted as Pr. CsIT/ Pr. CIT(Central)/CIT(Judicial)/ CIT(Audit)/ CsIT(DR),ITAT of the respective Pr. CCIT Region. For the Local Committees constituted under the Pr. CCIT(Exemption) and Pr. CCIT (International Taxation), members may be selected from their respective pool of officers.
- c) The senior most Member would be designated as the Chairperson of the Committee.
- d) The Addl. CIT (Headquarters) to such Pr. CCIT would act as a Member - Secretary to the Local Committee.
 - i. The Local Committees so constituted may co-opt other members, if necessary.
 - ii. The Pr. CCIT concerned should ensure that the Local Committees are duly reconstituted after transfer/promotion of Members of the existing Local Committees.
 - iii. Adequate publicity shall be given regarding constitution and functioning of Local Committees for filing of grievance petitions regarding High-Pitch Scrutiny Assessments. The communication address of such Local Committees shall be displayed at prominent places in the office building.

JURISDICTION OF LOCAL COMMITTEES

The Local Committees constituted as above shall deal with the grievance petitions of the assessee under the jurisdiction of respective Pr. CCIT regarding High-Pitched Scrutiny Assessments completed under both Faceless and non-Faceless Assessment regimes.



These Committees constituted in Pr. CCIT Region will also handle the grievances pertaining to Central Charges located under the territorial jurisdiction of the Pr. CCIT concerned.

RECEIPT OF GRIEVANCES

- (i) Grievances related to High-Pitched Scrutiny Assessments completed under the Faceless Assessment regime will be received by NaFAC through dedicated e-mail id: samadhanfaceless.assessment@incometax.gov.in.
 - a) Grievances so received shall be forwarded to Local Committee of the Pro CCIT concerned by NaFAC, under intimation to Pr. CCIT of the Region! Pr. CCIT (Exemption).
- (ii) Grievances related to High-Pitched Scrutiny Assessments completed under the non-Faceless Assessment regime will be received by the office of Pr. CCIT concerned, physically or through e-mail.
 - b) Grievances so received shall be forwarded to Local Committee of the Pro CCIT concerned.

ACTION TO BE TAKEN BY THE LOCAL COMMITTEES ON GRIEVANCE PETITIONS

- (i) A grievance petition received by the Local Committee would be acknowledged. A separate record would be maintained for dealing with such petitions by the Member Secretary.
- (ii) Member - Secretary on receipt of taxpayers' grievances of High-Pitched Assessment, will forward the same to the Chairman and Members of the Local Committee within three days of receipt of the grievance.
- (iii) The grievance petition received by Local Committee would be examined by it to ascertain whether there is a prima-facie case of High-Pitched Assessment, non-observance of principles of natural justice, non-application of mind or gross negligence of Assessing Officer/Assessment Unit.
- (iv) The Local Committee may call for the relevant assessment records to peruse from the Jurisdictional Pr. CIT concerned.
- (v) The Local Committee may seek inputs from the Directorate of Systems (ITBA/e-filing/CPC-ITR, CPC-TDS, etc.), on Systems-related issues emanating from the grievance/matter under consideration, if considered necessary.



- (vi) Local Committee would ascertain whether the addition(s) made in assessment order is/are not backed by any sound reason or logic, the provisions of law have grossly been misinterpreted or obvious and well-established facts on records have outrightly been ignored. The Committee would also take into consideration whether principles of natural justice have been followed by the Assessing Officer! Assessment Unit. Thereafter, Local Committee shall submit a report treating the order as High-Pitched/Not High-pitched, along with the reasons, to the Pr. CCIT concerned.
- (vii) The Local Committee shall endeavor to dispose of each grievance petition within two months from the end of the month in which such petition is received by it.
- (viii) Member- Secretary will ensure that the meetings of the Local Committees are held at least twice in every month during the pendency of the grievance petitions and that timely reports are submitted to the Pr. CCIT concerned.

FOLLOW UP ACTION BY PR. CCIT

- i. On receipt of the report of Local Committee, Pro CCIT concerned may take suitable administrative action in respect of cases where assessment was found to be High-Pitched by the Local Committee, which inter-alia include
 - a) Calling for explanation of ' the Assessing Officer/ Assessment Unit (through Pr. CCIT, NaFAC) and any other administrative action as deemed fit.
 - b) Administratively advise the Pr. CIT concerned to prevent any coercive recovery in cases identified as high pitched by the Local Committee.
- ii. The findings of the report of the Local Committee may also be shared by the Pr. CCIT concerned with NaFAC and /or Directorate of Income-tax (Systems), as feedback, for revisiting the SOP/policy on Faceless Assessment and/or addressing the Systems related issues.

MONITORING THE FUNCTIONING OF LOCAL COMMITTEE

- (i) The Pr. CCIT concerned shall review the work of the Local Committee on a monthly basis. Pr. CCIT shall highlight outcome of work of Local Committees along with the action taken on the suggestions made by the Local Committees in respect of cases where assessment was found to be High-Pitched by the Local Committees, in their monthly D.O. letters to the respective Zonal Member.



- (ii) Quarterly Report regarding the functioning of Local Committees shall be furnished by the Pr. CCIT concerned to the office of the Member (IT &R), CBDT under intimation to the respective Zonal Member in the prescribed format by 15th of the month following the quarter ended.

3. REVISION OF OTHER ORDERS BY PR. CIT OR CIT UNDER SECTION 264 OF THE INCOME TAX ACT, 1961

INTRODUCTION

Revision of other orders by Principal Commissioner of Income Tax (PCIT) or Commissioner of Income Tax (CIT) under section 264 of the Income Tax Act, 1961 The Principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and subject to the provisions of this act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

REVISION OF OTHER ORDERS.

264. (1) In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the Principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Principal Commissioner or Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

PROVIDED that the Principal Commissioner or Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.



(4) The Principal Commissioner or Commissioner shall not revise any order under this section in the following cases –

- (a) where an appeal against the order lies to the Deputy Commissioner (Appeals) or to the Commissioner (Appeals) or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Commissioner (Appeals) or to the Appellate Tribunal, the assessee has not waived his right of appeal; or
- (b) where the order is pending on an appeal before the Deputy Commissioner (Appeals); or
- (c) where the order has been made the subject of an appeal to the Commissioner (Appeals) or to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of five hundred rupees.

(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation. – In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, National Tax Tribunal, the High Court or the Supreme Court.

Explanation 1. – An order by the Principal Commissioner or Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

Explanation 2. – For the purposes of this section, the Deputy Commissioner (Appeals) shall be deemed to be an authority subordinate to the Principal Commissioner or Commissioner.

NATURE OF JURISDICTION UNDER SECTION 264

The power of revision conferred by Section 264 on the CIT is not an administrative power. It is a quasi-judicial power. He cannot permit his



judgment to be influenced by matters not disclosed to the assessee nor by the dictation of another authority including any circular. – [Sirpur Paper Mills Ltd v. CWT (1970) 77 ITR 6 (SC)]

PRECONDITIONS FOR REVISION OF OTHER ORDERS

An assessee aggrieved by an order passed by the Assessing Officer may file an appeal against the same, to the Dy. CIT (A) or the CIT(A). As an alternative remedy, the assessee may prefer an application to the CIT for revising the orders passed by the Assessing Officer. A remedy under section 264 is contemplated by the Legislature only to meet a situation faced by an aggrieved assessee who is unable to approach the appellate authorities for relief and has no other alternative remedy under the Act. Even those orders which are not appealable before the Dy CIT(A) or CIT(A), may be referred by the assessee to the CIT for seeking revision or modification.

TIME LIMIT FOR FILING REVISION PETITION UNDER SECTION 264

Section 264(3) provides that in the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier.

The Principal Commissioner or Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period

SECTION	PARTICULARS	TIME-LIMIT
264(2)	Revising orders prejudicial to revenue by Principal Commissioner or Commissioner	Within 1 year of the order sought to be revised
264(3)	FILING OF APPLICATION FOR REVISION UNDER SECTION 264 BY THE ASSESSEE Filing revision application to Principal Commissioner or Commissioner (in order not to be prejudicial to the taxpayer)	Within 1 year from date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier or within the extended time



CONDONATION OF DELAY IN FILING A PETITION UNDER SECTION 264 [PROVISO TO SECTION 264(3)]

Proviso to Section 264(3) empowers the CIT to admit and entertain an application for revision under section 264(1), if the assessee is prevented by 'sufficient cause' from making the application within the specified period.

PROVIDED that the Principal Commissioner or Commissioner may if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

APPLICATION FEE - SECTION 264(5)

Every application by an assessee for revision under this section shall be accompanied by a fee of five hundred rupees.

NO REVISION TILL THE PERIOD OF LIMITATION FOR FILING AN APPEAL EXPIRES

As per Section 264(4)(a) the CIT cannot revise any order where an appeal against that order lies to the CIT(A) or to the Appellate Tribunal but the same has not been made and the period, within which such appeal may be made, has not expired.

But so far, the orders appealable to the CIT(A) or to the Appellate Tribunal, are concerned, the CIT may revise such orders even before the expiry of the period of limitation for filing such appeals if the assessee waives his right of such appeal. The fact of such waiver of right is to be specifically stated in the application for revision.

DISPOSAL OF REVISION PETITION

Section 264(6) provides that on every application by an assessee for revision made on or after the 1st day of October 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.



APPLICATION FOR REVISION UNDER SECTION 264 IS MAINTAINABLE

The Commissioner rejected the application filed by the assessee under section 264 of the Income-tax Act, 1961 on the ground that remedy of appeal was available. On a writ, the High Court set aside the order and directed the Commissioner to decide the application on its merits and in accordance with the law. Followed *Kewal Krishna Jain v. CIT* (CWP No. 1818 of 1995 dated 11.10.2013) – [*Hirdey Ram v. CIT* (2020) 421 ITR 4 (P&H)]

REVISION UNDER SECTION 264 BEFORE COMMISSIONER IS NOT MAINTAINABLE

The assessee did not claim a deduction under Section 80-IB (10) of the Act on its income earned from housing development projects. The assessment was completed under section 143(3) of the Act. The revision petition was filed after the stipulated period of limitation. The Commissioner refused to condone the delay. The assessee filed writ petitions against such an order. The court ordered the condonation of delay and directed the Commissioner to decide the revision applications on their merits.

The Commissioner rejected the revision application on the ground that the assessee had not made a claim under section 80-IB (10) in the return of income and that by virtue of section 80A(5), the claim could not be granted. In a writ petition, the assessee contended that the restriction imposed by section 80A (5) applied only to the powers of the Assessing Officer and not to the Commissioner in the exercise of revisional powers.

Dismissing the petition, the Court held that sub-section (5) of section 80A mandated that if the assessee failed to make a claim in his return of income for any deduction under the provisions specified therein, it would not be granted to the assessee. This condition or restriction was not relatable to the Assessing Officer or the Income-tax authority.

The provision contained in sub-section (5) of section 80A was a statutory interdiction that would prevent the Commissioner from granting a fresh claim in the exercise of his revisional jurisdiction under section 264. The width of the powers of the Commissioner under section 264 would not permit him to ignore the requirement of section 80A (5) or allow the claim of an assessee in breach of the condition contained therein.



The assessee has given up the challenge to the Constitutionality of the retrospective of section 80A (5) and could not bring in the concept of reading down the provision in order to save it from being unconstitutional. The provision contained in sub-section (5) of section 80A was to be enforced as it stood in the statute book.

4. APPEAL TO COMMISSIONER OF INCOME TAX (APPEALS)

INTRODUCTION

At times it may happen that the taxpayer is aggrieved by an order of the Assessing Officer. In such a case he can file an appeal against the order of the Assessing Officer before the Commissioner of Income-tax (Appeals). In this part you can gain knowledge about various provisions relating to appeals to Commissioner of Income-tax (Appeals).

APPEALABLE ORDER

The Commissioner of Income-tax (Appeals) is the first appellate authority. Section 246A specifies the orders against which an appeal can be filed before the Commissioner of Income-tax (Appeals). The list of major orders against which an appeal can be preferred before the Commissioner of Income-tax (Appeals) is given below:

- Order passed against the taxpayer in a case where the taxpayer denies the liability to be assessed under Income Tax Act.
- Intimation issued under section 143(1)/(1B) where adjustments have been made in income offered to tax in the return of income.
- Intimation issued under section 200A (1) where adjustments are made in the filed statement.
- Assessment order passed under section 143(3) except in case of an order passed in pursuance of directions of the Dispute Resolution Panel An assessment order passed under section 144.
- Order of Assessment, Re-assessment, or Re-computation passed after reopening the assessment under section 147 except an order passed in pursuance of directions of the Dispute Resolution Panel
- An order referred to in section 150. An order of assessment or reassessment passed under section 153A or under section 158BC in case of search/seizure.
- Order made under section 92CD (3).



- Rectification order passed under section 154 or under section 155.
- Order passed under section 163 treating the taxpayer as an agent of non-resident.
- Order passed under section 170(2)/(3) assessing the successor of the business in respect of income earned by the predecessor.
- Order passed under section 171 recording the finding about the partition of a Hindu Undivided Family.
- Order passed by Joint Commissioner under section 115VP (3) refusing approval to opt for tonnage-tax scheme to qualifying shipping companies.
- Order passed under section 201(1)/206C(6A) deeming the person responsible for deduction of tax at source as assessee-in-default due to failure to deduct tax at source or to collect tax at source or to pay the same to the credit of the Government.
- Order determining refund passed under section 237.
- Order imposing penalty under section(s) 221/271/271A/271AAA/ 271F / 271F B/272A/272AA/272B/272BB/275(1A) /158B FA(2)/271B/271BB/ 271C/ 271CA/271D/271E/271AAB.
- Order imposing a penalty under Chapter XXI.
- Order passed by the AO under section 239A.

TIME-LIMIT FOR PRESENTING AN APPEAL

As per Section 249(2), the appeal should be presented within 30 days of the following date:

- a) Where the appeal relates to any assessment or penalty, the date of service of notice of demand relating to the assessment or penalty.
- b) In any other case, the date on which intimation of the order sought to be appealed against is served.

The Commissioner of Income-tax (Appeals) may admit a belated application on sufficient cause being shown.

Application for condonation of delay in filing the appeal, giving the reasons for the delay, along with necessary evidence should be filed with Form No. 35 (i.e., form of appeal).



The Commissioner of Income-tax (Appeals) can condone the delay in filing the appeal if a genuine reason exists for the delay.

FORM OF APPEAL

The CBDT had substituted Rule 45 of Income-tax Rules, 1962 relating to the filing of Form of appeal to CIT(A) vide Income-tax (3rd Amendment) Rules, 2016.

By virtue of such amendment, the CBDT issued a new Form No. 35 for filing an appeal before CIT(A).

Further, e-filing of Forms has been made mandatory for persons for whom e-filing of return of income is mandatory.

SIGNATURE TO THE APPEAL

The form of appeal, the grounds of appeal, and the form of verification are to be signed and verified by the person authorized to sign the return of income under section 140 as applicable to the taxpayer. In other words, the form of appeal is to be signed and verified by the following:

1. In case of an appeal by an individual taxpayer, by the individual taxpayer himself, or by a person duly authorized by him who is holding a valid power of attorney
2. In the case of a Hindu Undivided Family, by the Karta of the family or if Karta is absent from India or is not capable of signing, by any other adult member of such family.
3. In the case of a company, by the Managing Director or if the Managing Director is not available or where there is no Managing Director by any director of the company.
4. In case of a foreign company, a person who holds a valid power of attorney from such a company
5. In case of a firm, by the Managing Partner or if the Managing Partner is not available or where there is no Managing Partner by any partner (not being a minor)
6. In case of an LLP, by the Designated Partner or if the Designated Partner is not available or where there is no Designated Partner by any partner.



7. In the case of a Local Authority, by the Principal Officer thereof
8. In the case of a Political Party, by the Chief Executive Officer of such party
9. In case of any other Association, by the Principal Officer thereof or by any member of the Association.
10. In case of any other Person, by that Person or by some person competent to act on his behalf.

PRE-DEPOSIT OF TAX

Before filing the appeal, the taxpayer should pay the tax determined as per the return of income filed by him.

If no return of income is filed, the taxpayer should pay a tax equal to the amount of advance tax payable by him.

However, on the application made by the taxpayer, the Commissioner of Income-tax (Appeal) may exempt the taxpayer from payment of tax before filing the appeal.

Such benefit is granted if good and sufficient reason is proved by the taxpayer for non-payment of tax before filing the appeal.

DOCUMENTS TO BE SUBMITTED FOR APPEAL

Form No. 35 (including the statement of facts and grounds of appeal) – in duplicate.

However, e-filing has been made mandatory for persons for whom e-filing of return of income is mandatory w.e.f 1/3/2016.

One certified copy of order appealed against. Notice of demand in the original.

Copy of challans of fees the details of the challan (i.e., BSR code, date of payment of fee, serial number, and amount of fee) are required to be furnished in case of e-filing of form of appeal.

FEES

The fees for filing the appeal before the Commissioner of Income-tax (Appeals) are as follows:



Where assessed income (i.e., total income as determined by the Assessing Officer) is:

PARTICULARS	FEES
Less than or equal to Rs. 1,00,000/-	Rs. 250/-
More than Rs.1,00,000/- but less than Rs. 2,00,000/-	Rs. 500/-
More than Rs. 2,00,000/-	Rs. 1,000/-
Where the subject matter of appeal relates to any other matter, i.e., other than above	Rs. 250/-

THE PROCEDURE OF THE APPEAL

- After the receipt of Form no. 35, the Commissioner of Income-tax (Appeals) will fix the date and place for hearing the appeal.
- The date and place will be communicated to the taxpayer and to the Assessing Officer against whose order appeal is preferred.
- The communication will be made by issuing a notice to both parties. In the appeal proceedings, the taxpayer or the Assessing Officer can either appear personally or can appear through an authorized representative.
- The Commissioner of Income-tax (Appeals) would hear the appeal and may adjourn the appeal from time to time.
- Before passing the order, the Commissioner of Income-tax (Appeal) may make such further inquiries as he thinks fit or may direct the Assessing Officer to make further inquiries and report the result to him.
- During the course of the appeal, the Commissioner of Income-tax (Appeals) may allow the taxpayer to go into additional grounds of appeal (*).
- However, additional grounds will be accepted only if the Commissioner of Income-tax (Appeals) is satisfied that omission of these grounds from the form of appeal was not willful or unreasonable. (*) Additional grounds means grounds which are not specified in Form no. 35.

FILING OF ADDITIONAL EVIDENCE

During the appeal proceedings before the Commissioner of Income-tax (Appeals), the taxpayer is permitted to produce only the evidence (whether oral or documentary) which were produced by him before the Assessing Officer.



In other words, the Commissioner of Income-tax (Appeals) will not permit the taxpayer to produce any additional pieces of evidence which were not produced by him before the Assessing Officer.

However, in the following circumstances, additional evidence will be accepted by the Commissioner of Income-tax (Appeals)

- a) Where the Assessing Officer has refused to admit evidence that ought to have been admitted; or
- b) Where the appellant was prevented by sufficient cause from producing the evidence that he was called upon to be produced by the Assessing Officer; or
- c) Where the appellant was prevented by sufficient cause from producing any evidence before the Assessing Officer which is relevant to any ground of appeal; or
- d) Where the Assessing Officer has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

Normally, the taxpayer has to make an application for acceptance of additional evidence. In other words, the additional evidence is to be accompanied by an application stating the reasons for their admission.

On receipt of such an application, the Commissioner of Income-tax (Appeals) may admit the same after recording reasons in writing for the admission of this evidence.

Before taking into account the additional evidence filed by the taxpayer, the Commissioner of Income-tax (Appeals) has to provide a reasonable opportunity to the Assessing Officer for examining the additional evidence or the witness, as well as to produce evidence to rebut additional evidence produced by the taxpayer.

THE DECISION OF THE COMMISSIONER OF INCOME-TAX (APPEALS)

After hearing the case/arguments, the Commissioner of Income-tax (Appeals) will pass his order. The order will be in writing.

The order will be passed for disposal of the appeal and will state the decision on each ground of appeal along with reasons.

In case of an appeal against the assessment order, the Commissioner of Income-tax (Appeals) may confirm, reduce, enhance or annul the assessment (including



the assessment in respect of which proceedings before the Settlement Commission abates).

In case of an appeal against the penalty order, the Commissioner of Income-tax (Appeals) may confirm, reduce or enhance the penalty.

Before enhancing any assessment or penalty, the Commissioner of Income-tax (Appeals) has to provide a reasonable opportunity for the taxpayer to present his case against such enhancement.

While disposing of an appeal, the Commissioner of Income-tax (Appeals) may consider and decide any matter arising out of the proceedings in which order appealed against was passed, even if such matter was not raised by the taxpayer before the Commissioner of Income-tax (Appeals).

DISPOSAL OF APPEAL

Where it is possible, the Commissioner of Income-tax (Appeal) shall dispose off the appeal within a period of one year from the end of the financial year in which appeal is filed.

The order should be issued within 15 days of last hearing. (Instruction No. 20/2003 [file no. 279/Misc 53/ 2003- ITJ], Dated 23.12.2003)

5. AUTHORITIES OF THE INCOME-TAX APPELLATE TRIBUNAL AND THEIR JURISDICTION

The Income Tax Appellate Tribunal is not a Court but is a Tribunal exercising the judicial powers of the State. The Tribunal's powers in dealing with the appeals are of the widest amplitude and have in some cases been held similar to and identical with the powers of an Appellate Court under the Civil Procedure Code. The Tribunal, for the purposes of discharging its functions, is vested with all the powers which are vested in the Income Tax authorities referred to in section 131 of the Income Tax Act, 1961.

Any proceedings before the Tribunal are also deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860). It is also deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898) corresponding to section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Subject to the provisions of the Income Tax Act, 1961, and other allied Acts, the Tribunal has the power to regulate its own procedure and the procedure of its



Benches in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

The headquarters of the Income Tax Appellate Tribunal is located in Mumbai. At present, it is functioning with 63 Benches at 27 different places having jurisdiction. For the sake of administrative convenience, the Income Tax Appellate Tribunal is divided into nine zones. The President of the Tribunal is the Head of the Department and he also exercises administrative control over all the Benches of the Tribunal. Each zone is headed by a Vice-President. The areas over which Vice-Presidents of the zone exercise jurisdiction are as under:

- a. Mumbai Zone: Mumbai, Nagpur, Panaji, and Pune Benches
- b. Delhi Zone: Delhi, Agra, and Bilaspur Benches
- c. Chennai Zone: Chennai Benches
- d. Kolkata Zone: Kolkata, Patna, Cuttack, Guwahati, and Ranchi Benches
- e. Ahmedabad Zone: Ahmedabad, Indore, and Rajkot Benches
- f. Bangalore Zone: Bangalore and Cochin Benches
- g. Hyderabad Zone: Hyderabad and Visakhapatnam Benches
- h. Chandigarh Zone: Chandigarh, Amritsar, Jaipur, and Jodhpur Benches
- i. Lucknow Zone: Lucknow, Allahabad, and Jabalpur Benches

The area of jurisdiction of each Member is the same as that of the Bench which he constitutes or over the case (s) specifically assigned to him by the President.

The Registrar at the headquarters and the Deputy Registrars at Zonal headquarters provide assistance respectively to the President, the Senior Vice-President and the Vice-Presidents in discharging their functions.

The Registrar also exercises supervisory jurisdiction over the Deputy Registrars and the Assistant Registrars of all the Benches.

POWERS OF PRESIDENT, SR. VICE PRESIDENT, VICE PRESIDENTS, MEMBERS & OTHER OFFICERS

PRESIDENT

1. To constitute Bench(es) of Income Tax Appellate Tribunal.
2. To constitute a Special Bench consisting of three or more Members subject to the provisions contained in sub-section (3) of section 255 of the Income-tax Act, 1961.



3. To pass order under section 255(4) assigning a case to a Third Member or more Members to hear and dispose of the point/points if the Members who heard the case originally equally differ between/among themselves.
4. To hear and dispose of any case which has been allotted to the Bench of which he is a Member and which pertains to an assessee whose total income as computed by the Assessing Officer in the case does not exceed five hundred thousand rupees.
5. To regulate procedure of Benches of the Income Tax Appellate Tribunal in all matters arising out of the exercise of the powers of the Tribunal and of the discharge of its functions including the place at which the Benches shall hold their sittings as provided under section 255(5) of the Income tax Act, 1961.
6. To fix the headquarter of the Bench(es).
7. To fix jurisdiction of Bench (es) by general or special order over appeals and applications made under the Income-tax Act and other allied Acts.
8. To transfer any appeal/ application from one Bench to another on or without any request made for such transfer.
9. To allow members/benches to go on tour within or outside their jurisdiction.
10. To inspect and control the functioning of the Benches.
11. To decide and send any statement of the case drawn up by any Bench for sending it direct to the Supreme Court. In case President does not find the case to be a fit case for submission to the Supreme Court, he may return the case to the bench concerned.
12. Under the provisions of section 252(5) the President may delegate by a general or special order in writing any of the powers and functions of the President to the Senior Vice President or a Vice-President.

SR. VICE PRESIDENT AND VICE PRESIDENT

1. To constitute Benches coming within his Zonal Jurisdiction.
2. To sit in any Bench as one of the Members constituting the Bench.
3. To transfer any appeal from one Bench falling under his jurisdiction to another Bench within his jurisdiction. (N.B.: Where there are two or more Benches of the Tribunal, the senior most Member may transfer any appeal or application from any one such Bench to any other Bench located at that place.)
4. To watch and inspect the functioning of the Benches within his jurisdiction.
5. To permit/direct any Member to go on tour within his zone.
6. Such other functions/powers, as may be delegated/assigned to him by the President.



BENCH/ MEMBER

1. To hear and determine appeals and applications emanating from the area which has been specified by the President under general or special order.
2. It shall have, for the purposes of discharging its functions the powers which are vested in the Income Tax Authorities referred to in section 131.
3. To send the statement of the case to the High Court or to the Supreme Court. In the latter case, it has to be sent through the President.
4. Such other functions as may be assigned by the President.

REGISTRAR

1. To assist the President, Sr.Vice-President & Vice-Presidents in the efficient discharge of their functions.
2. To inspect and control the functioning of the Benches.
3. To issue instructions/directions to the Dy.Registrars/ Assistant Registrars
4. Such other functions as may be assigned by the President/Sr.Vice-President and Vice-Presidents.

Language of the Tribunal

As laid down in Rule 5 of the Income-tax (Appellate Tribunal) Rules, the language of the Tribunal is English. However, Rule 5 A of the said rules provide that the parties may file documents written in Hindi.

Rule 5B of the said Rules gives further discretion to the Tribunal to permit use of Hindi, in its proceedings and to pass orders in Hindi in the States mentioned above under the aforesaid notification. Where the order is passed in Hindi it shall be accompanied by an authorized English translation thereof while sending its copies to the parties and authorities concerned.

INSTITUTION OF APPEALS AND MEMO OF CROSS OBJECTIONS AUTHORITY TO RECEIVE APPEALS ETC

Rule 6 of the Income-tax (Appellate Tribunal) Rules, 1963 provides that a Memorandum of appeal to the Tribunal shall be presented by the appellant in person or by an agent to the Registrar at the headquarter of the Tribunal, at Mumbai, or to an officer authorized in this behalf by the Registrar, or sent by registered post addressed to the Registrar or to such officer.



The Deputy Registrar and the Assistant Registrars of the Appellate Tribunal at all the stations where the Tribunal is having its Benches have been authorized to endorse on Memorandum of appeal the date on which it is presented or deemed to have been presented under rule 6. However, if at the time of presentation of appeal, the Deputy Registrar or the Assistant Registrar is absent from office, or is engaged in some other work, the appeal or application may be presented to the Superintendent/Assistant Superintendent/ Head Clerk/Senior-most clerk during office hours who has been authorized by the Deputy Registrar or the Assistant Registrar.

In case the applicant apprehends that it is the last day of limitation for presentation of his appeal and /or application, he may present it to the Assistant Registrar at his residence or any other place wherever he may be.

PROCEDURE FOR FILING APPEALS ETC

Appeals, memo of cross objection or other applications shall be presented by the appellant/cross objector/applicant in person or by an agent to the Registrar or the Assistant Registrar etc. as provided in para 6 above or sent by registered post addressed to the Registrar or to such officer.

DATE OF PRESENTATION

The authority authorized under rule 6 to receive appeals, applications, cross objection or stay applications shall endorse on every memo of appeal, memo of cross objection or applications the date on which it is received and shall sign at the top of it. It shall be deemed to have been presented on the day on which it is received by the authority, viz. Registrar, Deputy Registrar, Assistant Registrar (or any other authorized officer of the Tribunal). Date of receipt must be given by him below his signature by the receiving officer.

A memorandum of appeal/application/memorandum of cross objection sent by post under rule 6(1) of the Income-tax (Appellate Tribunal) Rules, 1963 shall be deemed to have been presented to the Registrar or to the officer authorized by the Registrar on the date on which it is received in the office of the Tribunal. The assessee has got the right to file appeal/applications etc., anywhere at the headquarters of any Bench in India, irrespective of the fact whether the appeal/reference application lies within the jurisdiction of that Bench or not.

In such an event the Assistant Registrar is required to send immediately such appeals/ applications in the memo to the Deputy/ Assistant Registrar of the Bench



having jurisdiction over the appeal/application without allotting any number to it and under intimation to the appellant/applicant after writing the date of receipt by the Assistant Registrar, who actually received it. This date will be the date of presentation of the appeal/application to the Tribunal.

CONTENTS OF THE MEMO OF APPEAL AND CROSS OBJECTION.

Every memorandum of appeal/cross objection shall be written in English (other than at stations where documents may be filed in Hindi) and shall set forth concisely and under distinct heads the grounds of appeal or cross objection without any argument or narrative and such grounds shall be numbered consecutively.

ACCOMPANIMENTS OF MEMO OF APPEAL AND CROSS OBJECTION

- a. Accompaniments of appeal -Every memorandum of appeal shall be in triplicate and shall be accompanied by the following documents:
 - (i) Two copies of the order appealed against, at least one of which shall be a certified copy. It has been clarified by the President, Income Tax Appellate Tribunal, in his letter No.F.38-JS(AT)/71, dated 9-8-1971, that a copy of the order appealed against bearing the signatures of the issuing or authorized officer and seal of the office which issued the copies, will be treated as equivalent to a certified copy of the order appealed against;
 - (ii) Two copies of the order of the Assessing Officer which was a subject-matter of appeal before the CIT(A);
 - (iii) Two copies each of the grounds of appeal and the statement of facts, if any, filed before the said appellate authority ;
 - (iv) In the case of appeal against the order of penalty, the memorandum of appeal shall also be accompanied by two copies of assessment order ;
 - (v) In the case of appeal against the assessment under section 143(3) read with section 144A of the Income-tax Act, 1961, the memorandum of appeal shall also be accompanied by two copies of the Joint Commissioner's direction under section 144A ;
 - (vi) In case the assessment is under section 143 read with section 147, the memorandum of appeal shall also be accompanied by two copies of the original assessment order, if any ;



- (vii) Where an appeal is filed by the authorized representative, necessary letter of authority, duly stamped as required under the rules ;
- (viii) Where the appeal is filed by the assessee or on his behalf, it shall be accompanied by a fee as provided in sub-section (6) of Section 253 of the Income-tax Act, 1961.

An appeal without payment of fee is not valid. Action to be taken on it is separately provided for.

The above provisions shall mutates mutandis apply to appeals filed under other enactments also.

- b. Accompaniments of Cross Objection-A memo of Cross-Objection under the provisions of Income-tax Act, 1961, Wealth-tax Act, 1957, Gift tax Act, 1958, Companies (Profits) Surtax Act, 1964 and Interest Tax Act, shall be in triplicate in the prescribed form and be treated like an appeal.

The fee should be deposited with a Branch of the Reserve Bank of India or any other authorized bank after obtaining a challan from the Assessing Officer and the triplicate portion of the challan be appended to the memorandum of appeal/ application.

The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments. Fee in cash may be received by the Registrar/ Deputy Registrar/ Assistant Registrar on the last day of presentation of any appeal/ application or in exceptional cases, in case challan could not be obtained from the Assessing Officer's office.

In case the assessee/appellant /applicant is of mofussil area and wants to present his appeal/application with fee in cash, it may be accepted. Printed receipt in

T.R.5 is issued under the signature of the Registrar/Deputy Registrar/Assistant Registrar to the appellant/applicant or his representative after taking the recipient's signature on the counterfoil of the receipt. The receipt and the deposit of amount is shown in the cash book and in the Appeal fee register maintained by the Cashier. Cash entry is initialed by the Registrar/ Deputy Registrar or the Assistant Registrar in both the registers. Normally in cases where the appellant/ applicant has not been able to secure challan in spite of his efforts and it is the last date of filing of appeal, the fee should be accepted in cash. In other cases payment of fee should be made by challan only.



PERIOD WITHIN WHICH APPEALS, AND CROSS OBJECTIONS ARE TO BE FILED.

- i. Appeals under all the taxation Acts are to be preferred within 60 days from the receipt of the order appealed against.
- ii. The Assessing Officer or the assessee, as the case may be, on receipt of notice of filing of an appeal against the order of the CIT(A) under section 253(1) or 253(2) may prefer cross objection within 30 days of the receipt of such notice.

NUMBER OF APPEALS TO BE FILED AGAINST CONSOLIDATED ORDER.

Normally as many appeals are to be filed as the number of appeals have been disposed of by the order appealed against.

However, when only one appeal is filed arising out of a consolidated order passed by the CIT(A), the Assistant Registrar is to ask the appellant immediately about the assessment year in respect of which the appeal is to be treated to have been presented.

If no reply is received from the appellant or the reply given by him is unsatisfactory or evasive, the Assistant Registrar has to place it for orders before the Bench which has to decide the issue judiciously.

SECTION 142(2A) - VALUATION OF INVENTORY BY COST ACCOUNTANTS DURING ASSESSMENTS

On 1st February 2023, our Honourable Finance Minister Mrs Nirmala Sitharaman presented the Union Budget for the Financial Year 2023-2024. One among the important amendments proposed in the Union Budget was subsection 2A of section 142 of Income Tax Act, 1961. The amendment is applicable with effect from 1st April 2023. This amendment provides boundless opportunities for the CMA fraternity. As per section 142(2A) of Income Tax Act, 1961 the section is segregated into two, Special Audit to be conducted by a CA and Valuation of Inventory by a CMA. The objective of this amendment is to enhance accuracy of valuation of inventory and prevent tax evasion through the proper assessment of income.

SPECIAL AUDIT u/s 142(2A)

Section 142(2A) of the Act empowers the Assessing Officer to direct the assessee to get his accounts audited by a nominated Chartered Accountant, in cases where, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or the specified nature of business activity of the assessee and the interests of revenue, if the Assessing Officer is of the opinion that it is necessary to do so. The accountant so nominated is required to furnish a report of such audit in the prescribed form duly signed and verified, and setting forth such particulars as may be prescribed, and such other particulars as the Assessing Officer may require. Rule 14A prescribes the Form in which such audit report will have to be furnished

Income of an assessee assessed under the Income Tax Act 1961, are;

Self-Assessment u/s 140A & 140B

Scrutiny Assessment u/s 143(3)

Assessment of best judgement u/s 144

Income escaping assessment u/s 147

Assessment in case of search & requisition u/s 153A

Section 142 empowers the Assessing Officer for making enquiry before assessment.



If an assessee has not submitted return of income u/s 139 or section 115WD or section 141(1), assessing officer may serve notice u/s 142(1)(i) to require him to submit return. If required the assessing officer can ask assessee to produce documents or accounts pertaining to a period not more than three years prior to the relevant previous year u/s 142(1)(ii). As per section 142(1)(iii) Assessing officer may require statement of assets and liabilities whether included or not in the books of accounts of the assessee (If assets and liabilities are not included in the books of accounts assessing officer shall obtain prior approval of Joint Commissioner of Income tax). Even after collecting information from assessee, the assessing officer has the power to obtain relevant information from any source regarding the assessee u/s 142(2).

Under the Income Tax Act 1961, section 44AB deals with audit of books of accounts of an assessee. Under certain circumstances assessing officer may direct assessee to conduct special audit u/s 142(2A) by a Chartered Accountant even if the books of accounts are audited u/s 44AB or not. As per section 142 (2B) the provisions of sub-section (2A) of section 142 shall have effect notwithstanding that the accounts of the assessee have been audited under any other law for the time being in force or otherwise. Assessing officer provides reasonable opportunity of being heard to concerned assessee before passing such direction for Special audit except assessment under section 144 of the Income Tax act 1961. Such direction can be issued by the assessing officer only after the prior approval of the Principal Chief Commissioner/ Chief Commissioner/ Principle Commissioner/ Commissioner. The applicability of special audit u/s 142(2A) arises regards to;

nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, and interests of the revenue.

The auditor u/s 142(2A) shall be nominated by PCCIT/CCIT/PCIT/CIT. Direction of audit u/s 142(2A) can be given only when the proceedings are pending before Assessing Officer. No such order shall be issued after completion of assessment or re-assessment.

The Audit report shall be furnished in the form of 6B as per the rule 14A duly signed & verified. As per u/s 142(2C) Such audit report shall be furnished by the assessee within the period specified by the Assessing Officer. Assessing Officer grant extension only when application filed by the assessee. Aggregate period including extension shall not exceed 180 days from the date of direction issued u/s 142(2A).

VALUATION OF INVENTORIES U/S 142(2A)

Finance act 2023 made significant amendment u/s 142(2A) with effect from 1st April 2023. The amendment under subsection (2A) empowers Assessing Officer



to take assistance from Practicing Cost Accountants for inventory valuation to ensure the correctness of valuation of inventory. By this amendment Central Government makes valuation of inventory more effective by preventing tax evasion and concealment due to under valuation of inventory. The amendment in section 142(2A) of the Income Tax Act segregates the inventory valuation and audit into two parts. It means that only Inventory Valuation can be asked to be done by a Cost Accountant even when audit under section 142(2A) has not been asked for.

Basically, income of an assessee is computed under the five heads of Income Tax Act out of which income from Profit and Gains of Business or Profession and Income from Other Source are accounted under section 145 & 145 A along with respective provisions of the head. While computing income under these heads assessee shall require to follow cash or mercantile system of accounting along with income computation & disclosure standards.

Method of accounting for computation of income are as follows;

Valuation of purchase or sale of goods or service or inventory shall be in accordance with the method of accounting regularly followed by the assessee and shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred.

Stock shall be valued at actual cost or net realizable value whichever is lower.

The inventories of securities not listed in recognized stock exchange valued at cost and securities which are listed in recognized stock exchange valued at actual cost or net realizable value whichever is lower.

Income Computation and Disclosure Standard is to be followed by all the assessee for the purpose of computing income as per the notification issued by the Central Government (87/2016 dated 29th September 2016 income tax act 1961.) with effect from Assessment year 2017-2018.

Most relevant ICDS applicable to the inventory valuation are (a) ICDS II, (b) ICDS III, (c) ICDS VIII.

Central Board of Direct Taxes notified that (Circular No 10/2017 dated 23rd March 2017) ICDS is applicable to all assessee irrespective of the method of accounting followed.

Under Companies Act 2013 section 148 also mandates maintenance of cost accounting records and audit by cost accountant in certain cases.

In addition to the inventory valuation and reporting methods specified above, the amendment in Finance Act 2023 empowers the assessing officer to direct the assessee to get the inventory valued by a Cost Accountant in practice in prescribed form duly signed and verified by such Cost Accountant with prior approval of



Principal Chief Commissioner/ Chief Commissioner/ Principal Commissioner/ Commissioner of the Income Tax. The cost accountants are nominated by the Principal Chief Commissioner/ Chief Commissioner/ Principal Commissioner/ Commissioner of the Income Tax. Assessing Officer provides reasonable opportunity of being heard to concerned assessee before passing such direction for Valuation of inventory except assessment under section 144 of the Income Tax Act. Direction of Inventory Valuation u/s 142(2A) can be given only when the proceedings pending before assessing officer. No such order shall be issued after completion of assessment or Re-assessment.

The applicability of Valuation of inventory u/s 142(2A) arises regards to; nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, and interests of the revenue. The Inventory Valuation report shall be furnished in the form of 6D as per the rule 14A duly signed & verified. As per section 142(2C) Such Inventory Valuation report shall be furnished by the assessee with in the period specified by the assessing officer. Assessing officer grant extension only when application filed by the assessee. Aggregate period including extension shall not exceed 180 days from the date of direction issued u/s 142(2A).

Remuneration of CA & CMA u/s 142(2D)

If the Assessing Officer directs for Special Audit & Valuation of Inventory u/s 142(2A), the expenses for the same including remuneration of the Chartered Accountant and Cost accountant, and their Qualified assistance, semi qualified, Other Assistance who are may engaged by Chartered Accountant or Cost Accountant is determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government.

Minimum Remuneration - ₹ 3,750 per hour

Maximum Remuneration - ₹ 7,500 per hour

Consequence of non-compliance of Direction u/s 142(2A)

Penalty u/s 272 A of ₹ 10,000 for each such default leviable by AO/CIT.

Assessment of best judgement u/s 144.

Issue order u/s 132 for search & seizure.

Prosecution u/s 276D with rigorous imprisonment which may extend to 1 year or with fine.

**Annexure -1****FORM NO. 6B****[See rule 14A]**

Audit report under section 142(2A) of the Income-tax Act, 1961

I/We have examined the balance sheet of _____
 _____ [name and address of the assessee] Permanent Account
 No. _____ as at _____ and the profit and loss
 account for the year ended on that date which are in agreement with the books
 of account maintained at the head office at _____ and branches at
 _____. * I/We have obtained all the information and explanations
 which to the best of * my/our knowledge and belief were necessary for the
 purposes of the audit. In * my/our opinion, proper books of account have been
 kept by the head office and the branches of the assessee visited by * me/us so
 far as appears from * my/our examination of books, and proper returns adequate
 for the purposes of audit have been received from branches not visited by * me/
 us subject to the comments given below : In * my/our opinion and to the best of
 * my/our information and according to explanations given to * me/us, the said
 accounts give a true and fair view. (i) in the case of the balance sheet, of the state
 of the abovenamed assessee's affairs as at _____ and (ii) in the case of the
 profit and loss account, of the profit or loss of the abovenamed assessee for the
 accounting year ending on _____. The prescribed particulars and such other
 particulars as were required by the Assessing Officer _____ by his order No.
 _____ dated _____ are annexed hereto. In * my/our opinion and to
 the best of * my/our information and according to explanations given to * me/
 us, these are true and correct.

Place

Signed

Accountant **

Date:

Notes:

1. *Delete whichever is not applicable.
2. **This report has to be given by the accountant nominated by the Chief Commissioner or Commissioner of Income-tax under section 142(2A)
3. Where any of the matters stated in this report is answered in the negative or with a qualification, the report shall state the reasons therefor.



Annexure -2

“FORM NO. 6D**[See rule 14A]****Inventory Valuation report under clause (ii) of section 142(2A) of the
Income-tax Act, 1961**

1. * I/We have examined the books of account and other documents with respect to inventory and inventory valuation of _____ [name and address of the assessee] Permanent Account No. _____ for the assessment year _____ as at _____.

2. * I/We have conducted Inventory Valuation in compliance with the requirements under the relevant provisions of Income-tax Act 1961 and Income-tax Rules 1962. As per the Inventory Valuation carried out by *me/ us, the opening inventory has been valued at Rs. _____ (in words _____) and the closing inventory has been valued at Rs. _____ (in words _____) for the relevant period _____ to _____.

3. * I/ We have obtained all the information and explanations which to the best of * my/our knowledge and belief were necessary for the purposes of the Inventory Valuation.

4. In * my/our opinion, from *my/ our examination of the books of account and other documents, it appears that proper books of account and other documents with respect to inventory have been kept by the head office, other premises and the branches of the assessee visited by * me/us, and proper data adequate for the purposes of inventory valuation have been received from branches not visited by * me/us subject to the comments given below:

(a)

(b)

.....



5. In * my/our opinion and to the best of * my/our information and according to explanations given to * me/us, the Inventory Valuation presented herein below in * my/our report is true and correct subject to comments given below:

(a)

(b)

.....

6. The prescribed particulars and such other particulars as were required by the Assessing Officer by order No. _____ dated _____ are annexed hereto. In * my/our opinion and to the best of * my/our information and according to explanations given to * me/us, these are true and correct.

7. Any variations observed in the Inventory Valuation Report compared to the disclosures made in Form No. 3CD (or if no Form No. 3CD has been furnished, then value as per audited accounts) have been adequately explained along with the reasons and justifications thereof.

Place

Date

Signed

**Name of Cost Accountant.....

Address

Membership Number

UDIN.



Notes:

1. *Delete whichever is not applicable.
2. **This report has to be given by the Cost Accountant nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner of Income-tax under clause (ii) of section 142(2A) of the Income-tax Act, 1961.
3. Where any of the matters stated in this report is answered in the negative or with a qualification, the report shall state the reasons therefor.
4. The opening values have been taken from the books of account and other documents as produced by the assessee.
5. Relevant period shall be the period specified by the Assessing Officer.

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