

MOCK TEST PAPER – 2
FINAL COURSE: GROUP – II
PAPER – 7: DIRECT TAX LAWS
SUGGESTED ANSWERS / HINTS

1. (a) Computation of total income of Pen Ltd. for A.Y. 2013-14

Particulars	₹
Profits and gains of business or profession	45,00,000
Income from other sources (<i>See Note below</i>)	<u>1,59,000</u>
Total income	<u>46,59,000</u>

Note – Dividend income taxable under “Income from other sources”

Particulars	₹
From shares held in Pencil Ltd. & Paper Ltd, Indian companies of ₹ 1,02,000 – exempt under section 10(34) since dividend distribution tax would have been paid under section 115-O [As per section 14A, no deduction is allowable in respect of expenditure incurred to earn exempt income]	Nil
From shares held in Ruler Inc. – net dividend (i.e., ₹ 64,000 – ₹ 3,000) is taxable at normal rates	61,000
From shares held in Rubber Inc., a specified foreign company – gross dividend is taxable@15% under section 115BBD [No deduction is allowable in respect of any expenditure as per section 115BBD(2)]	<u>98,000</u>
	<u>1,59,000</u>

Computation of tax liability of Pen Ltd. for A.Y. 2013-14

Particulars	₹
Tax@15% under section 115BBD on ₹ 98,000 (gross dividend)	14,700
Tax@30% on balance income of ₹ 45,61,000	<u>13,68,300</u>
	13,83,000
Add: Education cess@2% and Secondary and higher education cess@1%	<u>41,490</u>
Tax liability	<u>14,24,490</u>

Notes:

- (i) As per section 115BBD, if the total income of an Indian company, includes income by way of dividend declared, distributed or paid by a specified foreign company, the income tax payable would be the aggregate of –
- Income-tax @15% on gross dividend from such specified foreign company; and
 - Income-tax with which the assessee would have been chargeable had its total income been reduced by such dividend.
- (ii) Specified foreign company means a foreign company in which the Indian company holds 26% or more in nominal value of the equity share capital of the company. In this case, Rubber Inc. is a specified foreign company since Pen Ltd. holds more than 26% in nominal value of its equity share capital. Therefore, the gross dividend received by Pen Ltd. from Rubber Inc. would be subject to tax@15%.

(b) Valuation of house property of Mr. Kapil on valuation date 31.3.2013

Particulars	₹
Actual Rent (₹ 66,000 x 6)	3,96,000
Add: (i) Municipal taxes borne by the tenant (50% of ₹ 48,000)	24,000
(ii) Repairs borne by the tenant - 1/9 th of actual rent received	44,000
(iii) 15% of amount of deposit of ₹ 5 lakh (15%×₹ 5,00,000 × 6/12)	37,500
	5,01,500
Annual Rent (₹ 5,01,500 × 12/6)	10,03,000

The annual rent so worked out has to be compared with the municipal value and the higher of the two has to be adopted as the Gross Maintainable Rent. The municipal value is ₹ 10,00,000 and the annual rent works out to ₹ 10,03,000. Therefore, ₹ 10,03,000 shall be the Gross Maintainable Rent.

Computation of Net Maintainable Rent (NMR)	₹	₹
Gross Maintainable Rent, being the annual rent		10,03,000
Less: Municipal Tax (annual)	96,000	
15% of Gross Maintainable Rent	1,50,450	2,46,450
Net Maintainable Rent (NMR)		7,56,550
Capitalised value of NMR		
Capitalised value (₹ 7,56,550 × 8) [See Note below]	60,52,400	
Cost of acquisition	62,00,000	
Capitalised value is the higher of the above		62,00,000

Note : Where the unexpired lease period is less than 50 years, capitalisation value is $NMR \times 8$.

Therefore, the value of house property chargeable to tax on valuation date 31.3.2013 is ₹ 62 lakh.

- (c) The Allahabad High Court has, in the case of *Ram Saran Das Tandon v. CWT (2007) 292 ITR 546*, held that where an assessee is a member of a co-operative society to whom land was allotted under a house building scheme and he subsequently ceases to be a member of the society and transfers his membership to his spouse or others, he could not be assessed as owner of the property. The value of the property cannot be assessed to wealth tax in his hands subsequent to such transfer of membership. Therefore, in this case, the value of the property is not assessable in the hands of Mr. Verma and will be assessed in the hands of Mrs. Verma (assuming Mr. Verma has received adequate consideration from his wife Mrs. Verma for the aforesaid transfer of membership).

2. Computation of Book Profit of Chinar Ltd. under section 115JB

Particulars	₹ (in Lacs)	₹ (in Lacs)
Net Profit as per Profit & Loss Account		91
Add: Transfer to General Reserve	7	
Proposed dividend	4	
Provision for taxation	3	
Provision for unascertained liabilities	3	
Depreciation as per Companies Act, 1956	34	51
		142
Less: Depreciation as per Companies Act, 1956	34	
Net Agricultural Income [exempt under section 10(1)]	22	
Share of Profit from a firm [exempt under section 10(2A)]	25	
Business loss brought forward or unabsorbed depreciation, whichever is lower (Note 1)	Nil	81
Book Profit (A)		61

Computation of Total Income as per the Income-tax Act, 1961

Particulars	₹(in Lacs)	₹(in Lacs)
Net Profit as per Profit & Loss Account		91
Add: Transfer to General Reserve	7	
Proposed Dividend	4	

Provision for taxation	3	
Provision for unascertained liabilities	3	
Depreciation as per books of account	34	
Interest to financial institutions disallowed under section 43B, since it is not paid within the due date of filing return of income	8	
Penalty for infraction of law	2	61
		152
Less: Net agricultural Income [Exempt under section 10(1)]	22	
Share of profit from a firm [Exempt under section 10(2A)]	25	
Depreciation as per Income-tax Rules, 1962	42	89
Profits from business for the year		63
Less: Brought forward loss under section 72	11	
Unabsorbed Depreciation under section 32(2)	14	25
Gross Total Income		38
Less: Deduction under section 80-IC		1
Total Income (B)		37

Computation of tax liability for the assessment year 2013-14

Particulars	₹	₹
1. Book profit as per (A)	61,00,000	
Tax thereon @ 18.50%		11,28,500
2. Total income as per (B)	37,00,000	
Tax on total income @ 30%		11,10,000

Since the income-tax payable on the total income of the company computed under the Income-tax Act, 1961 is less than 18.50% of its book profit, section 115JB will apply for A.Y.2013-14. So, the company's book profit of ₹ 61 lacs would be deemed as its total income and tax would be payable @ 18.5% (plus education cess @ 2% and secondary and higher education cess @ 1%). The total tax liability therefore works out to be ₹ 11,62,355.

Notes:

- As per section 115JB, the amount of loss brought forward or unabsorbed depreciation as per books, whichever is less, has to be reduced from net profit. As only brought forward loss is indicated at ₹ 17 lacs in the question, it has been assumed that there is

no unabsorbed depreciation as per books of account. Therefore, no adjustment has been made in this respect for computing the "Book Profit".

2. Section 115JB does not provide for the increase of net profit by the amount of expenditure relatable to any income to which section 80-IC applies. Accordingly, no adjustment in respect of both expenditure and income pertaining to an undertaking covered under section 80-IC has been made while computing book profit.
3. (a) (1) As per section 10(1), agricultural income is exempt from tax. The meaning and scope of agricultural income is defined in section 2(1A). According to *Explanation 2* to section 2(1A), any income derived from any building from the use of such building for any purpose (including letting for residential purposes or for the purpose of any business or profession) other than agriculture shall not be agricultural income. In this case, the house was occupied for residential purposes. Therefore, the rent of ₹ 1,00,000 from letting out of houses constructed on agricultural land shall not be treated as agricultural income by virtue of *Explanation 2* to section 2(1A). Hence, such income would be chargeable to tax.
(2) The entertainment allowance received by the Minister of Rural Development is taxable under the head "Salaries". However, deduction under section 16(ii) is allowable to the extent of least of the following –
 - (i) 1/5th of the salary
 - (ii) ₹ 5,000
 - (iii) Actual entertainment allowance received, i.e., ₹ 24,000 in this case.
(3) As per section 25AA, unrealised rent would be deemed to be the income chargeable under the head "Income from house property". Accordingly, it would be chargeable to income-tax as income of that previous year in which such rent is realised whether or not the assessee is the owner of that property in that previous year. Therefore, in this case, unrealized rent of ₹ 60,000 would be charged to tax in the P.Y. 2012-13 under the head "Income from house property" even though he is no longer the owner of the house property.
- (b) (i) When a company is converted into LLP fulfilling the conditions laid down in section 47(xiiib), the LLP is eligible for amortization of expense in five equal annual instalments. If the expenditure was incurred in the previous year 2012-13, then 1/5th being ₹ 30 lakhs is deductible under section 35DDA in the hands of the LLP.
(ii) Advertisement in souvenirs of political party is not deductible as per section 37(2B). Donation to registered political parties is eligible for deduction under section 80GGB. Further, the word "contribute" in section 80GGB has the meaning assigned to it in section 293A of the Companies Act, 1956 and accordingly, it includes the amount of expenditure incurred on advertisement in a souvenir of a

political party. Therefore, ₹ 6,75,000 incurred on advertisement in a souvenir of a political party and ₹ 2,50,000 given as a donation to a registered political party is deductible under section 80GGB.

- (iii) Cash payment for purchase of fish products does not attract section 40A(3) in view of the relief provided in Rule 6DD. However, the relief will not be available on the payment for the purchase of fish products from a trader, broker or middleman, by whatever name called.
- (c) (i) Under section 43B, interest on term loans and advances to scheduled banks shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee. *Explanation 3D* to section 43B provides that if any interest payable by the assessee is converted into a loan, the interest so converted and not actually paid shall not be deemed as actual payment, and hence would not be allowed as deduction. Therefore the interest of ₹ 2.5 lakhs converted into loan cannot be claimed as deduction.
- (ii) According to *Explanation 5* to Section 32(1), allowance for depreciation is mandatory. Therefore, depreciation has to be provided mandatorily while calculating income from business /profession whether or not the assessee has claimed the same while computing the total income.
- 4. (a) Section 119(2)(b) empowers the CBDT to authorise any income tax authority to admit an application or claim for any exemption, deduction, refund or **any other relief under the Act** after the expiry of the period specified under the Act, to avoid genuine hardship in any case or class of cases. The claim for carry forward of loss in case of late filing of a return is relatable to a claim arising under the category of "any other relief available under the Act". Therefore, the CBDT has the power to condone delay in filing of such loss return due to genuine reasons.

The facts of the case are similar to the case of *Lodhi Property Company Ltd. v. Under Secretary, (ITA-II), Department of Revenue (2010) 323 ITR 0441*, where the Delhi High Court held that the Board has the power to condone the delay in case of a return which was filed late and where a claim for carry forward of losses was made. The delay was only one day and the assessee had shown justifiable reason for the delay of one day in filing the return of income. If the delay is not condoned, it would cause genuine hardship to the assessee. Therefore, the Court held that the delay of one day in filing of the return had to be condoned.

Applying the rationale of the above court ruling to the case in hand, the CBDT has the power to condone the delay in filing the return of income of Mr. Paresh and permit carry forward of business loss of ₹ 1 lakh, since the delay of one hour was due to a genuine and justifiable reason i.e., network problem while e-filing the return.

- (b) The Delhi High Court, in *Lachman Dass Bhatia Hingwala (P) Ltd. v. ACIT (2011) 330 ITR 243 (Delhi)(FB)* observed that the justification of an order passed by the

Tribunal recalling its own order is required to be tested on the basis of the law laid down by the Apex Court in *Honda Siel Power Products Ltd. v. CIT* (2007) 295 ITR 466, dealing with the Tribunal's power under section 254(2) to recall its own order where prejudice has resulted to a party due to an apparent omission, mistake or error committed by the Tribunal while passing the order. Such recalling of order for correcting an apparent mistake committed by the Tribunal has nothing to do with the doctrine or concept of inherent power of review. It is a well settled provision of law that the Tribunal has no inherent power to review its own judgment or order on merits or reappraise the correctness of its earlier decision on merits. However, the power to recall has to be distinguished from the power to review. While the Tribunal does not have the inherent power to review its order on merits, it can recall its order for the purpose of correcting a mistake apparent from the record.

When prejudice results from an order attributable to the Tribunal's mistake, error or omission, then, it is the duty of the Tribunal to set it right. The Delhi High Court observed that the Tribunal, while exercising the power of rectification under section 254(2), can recall its order in entirety if it is satisfied that prejudice has resulted to the party which is attributable to the Tribunal's mistake, error or omission and the error committed is apparent.

- (c) Penalty of ₹ 5,000 under section 271F is imposable on a person who is required to furnish return of income under section 139(1) for failure to furnish such return before the end of the relevant assessment year, i.e. A.Y. 2011-12 in this case. It is true that the assessee can file a belated return under section 139(4) within one year from the end of the relevant assessment year or before completion of assessment, whichever is earlier. However, right to file a belated return after the end of the assessment year does not mean that the liability to pay penalty ceases. The Supreme Court's decision in *Pradip Lamps Works vs. CIT* (2001) 249 ITR 797 supports this view. Hence, the assessee is liable for penalty under section 271F for late filing of the return.
- (d) The matter concerning the power of the Settlement Commission to reduce or waive interest chargeable under section 234A, 234B or 234C has been settled by the Supreme Court in *CIT v. Anjum M.H.Ghaswala reported in 252 ITR 1*.

According to the judgment, sub-section (6) of section 245D is only procedural in nature providing for fixing the term by which the amounts settled under sub-section (4) will have to be paid. It does not empower the Commission either to reduce or waive the interest. Any settlement made by the Commission must be in accordance with the provisions of the Act.

The Settlement Commission does not have the power to reduce or waive the interest levied under sections 234A, 234B and 234C. It does not authorize the waiver or deduction of tax. The levy of interest under sections 234A, 234B or 234C is mandatory in nature and therefore any settlement made must include the interest under these sections. However, as per provisions of section 245F, the Settlement

Commission shall have all the powers which are vested in an income-tax authority. Therefore, Settlement Commission can grant relief from the aforesaid interest to the extent of the powers given vide the circulars issued by CBDT under section 119.

5. (a) Section 139(5) stipulates that when a return is furnished under section 139(1) or in response to notice issued under section 142(1), and later on, the assessee discovers any omission or wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Though the return is a belated return filed in December 2013, since the return was filed in response to a notice issued under section 142(1), the assessee can file a revised return before the expiry of one year from the end of the relevant assessment year i.e. by 31st March, 2015

As the revised return is contemplated in January, 2014, Mr. Zoro could do so.

- (b) The proviso to section 92C(2) provides that where more than one price is determined by the most appropriate method, the arm's length price (ALP) shall be taken to be the arithmetical mean of such prices.

However, if the arithmetical mean, so determined, is within such percentage of the transfer price as notified by the Central Government, then, the transfer price shall be deemed to be the arm's length price and no adjustment is required to be made.

The arithmetical mean of the prices = $(₹ 96 + ₹ 112) / 2 = ₹ 104$ lacs.

The rate of permissible variation prescribed by the Central Government is 2% i.e. ₹ 2 lacs (₹ 100 lacs x 2%).

Since the variation between the arm's length price of ₹ 104 lacs and the transfer price of ₹ 100 lacs is not within the limit of 2% of TP (i.e., ₹ 2 lacs), the arm's length price shall be ₹ 104 lacs.

The Assessing Officer may compute the total income of the Indian company having regard to the arm's length price of ₹ 104 lacs so determined. No deduction shall be allowed under Chapter VI-A or section 10AA in respect of ₹ 4 lacs, being the amount of income by which the total income of the Indian company is enhanced after application of the arm's length price of ₹ 104 lacs.

- (c) Section 90(2) makes it clear that where the Central Government has entered into a Double Taxation Avoidance Agreement with a country outside India, then **in respect of an assessee to whom such agreement applies, the provisions of the Act shall apply to the extent they are more beneficial to the assessee.** This means that where tax liability is imposed by the Act, the Double Taxation Avoidance Agreement may be resorted to for reducing or avoiding the tax liability.

However, as per section 90(4), the assessee, in order to claim relief under the agreement, has to obtain a certificate [Tax Residence Certificate (TRC)] from the Government of that country, declaring his residence in the country outside India.

The Supreme Court has, in *CIT v. P.V.A.L. Kulandagan Chettiar (2004) 267 ITR 654*, held that in case of any conflict between the provisions of the Double Taxation Avoidance Agreement and the Income-tax Act, 1961, the provisions of the Double Taxation Avoidance Agreement would prevail over those of the Income-tax Act, 1961. Shomu is, therefore, not liable to pay tax on the income earned by him provided he submits the Tax Residence Certificate obtained from the government of the other country and fulfills such other conditions as may be prescribed for claiming the treaty benefits.

- (d) In this case, tax is deductible@10% under section 194J in respect of fees for professional services. Since there has been a delay in deduction and deposit of tax, interest under section 201(1A) is attracted.

As per the provisions of section 201(1A), if a person who is liable to deduct tax at source fails to deduct tax at source or after deducting such tax, fails to pay the tax as required by the Act, then he is liable to pay interest as follows -

- (i) 1% for every month or part of month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually deducted.
- (ii) 1½% for every month or part of month on the amount of such tax from the date on which such tax was deducted to the date on which tax is actually paid.

Therefore, in the given case, interest under section 201(1A) would be computed as follows –

	₹
1% on tax deductible but not deducted i.e., 1% on ₹ 9,000 for 8 months	720
1½% on tax deducted but not deposited i.e. 1½% on ₹ 19,500 for 4 months	1,170
Total interest payable under section 201(1A)	1,890

6. (a) Determination of net worth of Unit LED of Pixel Ltd.

Particulars	₹ (in lacs)
Written down value of depreciable assets under section 43(6)	112
Book value of non-depreciable assets:	
Debtors	56
Stock in trade	<u>19</u>

Less : Liabilities	187
Net worth	<u>38</u> <u>149</u>

Comparative calculation of chargeable capital gains

	Sale before 31.3.2013	Sale after 31.03.2013
Sale consideration	1,70,00,000	1,70,00,000
Less: Discount	<u>3,40,000</u>	<u>Nil</u>
Net sale consideration	1,66,60,000	1,70,00,000
Less: Net worth	<u>1,49,00,000</u>	<u>1,49,00,000</u>
Short term capital gain	17,60,000	N.A.
Long term capital gain	N.A.	21,00,000
Tax rate	30.9%	20.6%
Tax thereon	5,43,840	4,32,600

We also have to see the cash flow from both the options to find out which one is more beneficial.

	Sale before 31.3.2013	Sale after 31.03.2013
Cash Inflow	1,70,00,000	1,70,00,000
Less: Discount	<u>3,40,000</u>	<u>Nil</u>
	1,66,60,000	1,70,00,000
Less: Tax	<u>5,43,840</u>	<u>4,32,600</u>
Net Cash Inflow	1,61,16,160	1,65,67,400

Note: The assessee is advised to effect slump sale after 31.03.2013 as the tax liability arising out of long term capital gains is less than the tax liability arising on short term capital gains which would arise if Unit LED is transferred before 31.03.2013. The net cash flows are also higher if the sale is effected after 31.03.2013.

- (b) The interest income received by Ms. Roopali, a non-resident, from a notified infrastructure debt fund would be subject to a concessional tax rate of 5% under section 115A on the gross amount of such interest income. Therefore, the tax liability of Ms. Roopali in respect of such income would be ₹ 15,450 (being 5% of ₹ 3,00,000 plus education cess@2% and secondary and higher education cess@1%).

Under section 194LB, tax is deductible @5% on interest paid by such fund to a non-resident. However, since Ms. Roopali is a resident of a Notified Jurisdictional Area

(NJA), tax would be deductible@30% as per section 94A, and not@ 5% specified under section 194LB. This is on account of the provisions of section 94A(5), which provides that “**Notwithstanding anything contained in any other provision of this Act**, where a person located in a NJA is entitled to receive any sum or income or amount on which **tax is deductible under Chapter XVII-B**, the **tax shall be deducted at the highest of the following rates**, namely –

- (a) at the rate or rates in force;
- (b) at the rate specified in the relevant provision of the Act;
- (c) at the rate of thirty per cent.”

Ms. Roopali can, however, claim refund of excess tax deducted along with interest.

- (c) Under section 90(2), where the Central Government has entered into an agreement for avoidance of double taxation with the Government of any country outside India or specified territory outside India, as the case may be, then, in relation to the assessee to whom such agreement applies, the provisions of the Income-tax Act, 1961 shall apply to the extent they are more beneficial to the assessee. Thus, in view of paragraph 2 of the Article 24 (Non-Discrimination) of the Double Taxation Avoidance Agreement (DTAA), it appears that the Indian branch of Sumo Ltd., incorporated in Mauritius, is liable to tax in India at the rate applicable to domestic company (30%), which is lower than the rate of tax applicable to a foreign company (40%).

However, *Explanation 1* below sub-section (4) of section 90 clarifies that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company. Therefore, in view of this *Explanation*, the action of the Assessing Officer in levying tax@40% on the Indian branch of Sumo Ltd. is in accordance with law.

7. (a) (i)	₹
Gross salary, allowances and monetary perquisites	5,60,000
Non-Monetary perquisites	<u>2,40,000</u>
Total Salary	<u>8,00,000</u>
Tax Liability	92,700
Average rate of tax ($\text{₹ } 92,700 / \text{₹ } 8,00,000 \times 100$)	11.5875%

The company can deduct ₹ 92,700 at source from the salary of the Finance Manager. Alternatively, the company can pay tax on non-monetary perquisites as under –

Tax on non-monetary perquisites = 11.5875% of ₹ 2,40,000 = ₹ 27,810

Balance to be deducted from salary = ₹ 64,890

If the company pays tax of ₹ 27,810 on non-monetary perquisites, the same is not a deductible expenditure as per section 40(a). It is not chargeable to tax in the hands of the employee under section 10(10CC).

- (ii) An individual who is liable for tax audit under section 44AB in the immediately preceding financial year is liable to deduct tax at source under section 194C for the financial year 2012-13 in respect of the payment made to contractor exceeding ₹ 30,000 in a single payment and ₹ 75,000 in aggregate during the financial year. Turnover of the individual Irwin exceeded ₹ 60 lacs in the financial year 2011-12. Therefore, Irwin is liable to get his accounts audited for the F.Y. 2011-12 under section 44AB. As the payment during financial year 2012-13 to the contractor had exceeded the limits prescribed in section 194C, tax has to be deducted under section 194C.

The rate of tax deduction is 1% as the contractor is an individual.

- (iii) If the cameraman is an employee of the T.V. Company, the provisions of section 192 will apply and tax has to be deducted at the time of payment. However, if he is a professional, the provisions of section 194J will apply and hence tax at 10% will have to be deducted at the time of credit of ₹ 1,50,000 or on its payment, whichever is earlier.
- (b) The time limits for completion of such assessments are given in section 153.
- (i) 31st March, 2015, being two years from the end of A.Y.2012-13, which is the assessment year in which the income was first assessable.
 - (ii) 31st March, 2013, being one year from the end of F.Y.2011-12, the year in which notice under section 148 was served.
 - (iii) 31st March, 2015, being three years from the end of A.Y.2011-12, which is the assessment year in which the income was first assessable.
- (c) As per section 271AAB, inserted by the Finance Act, 2012, penalty leviable on undisclosed income found during the course of a search, which has been initiated on or after 1st July, 2012, which relates to specified previous year, i.e.-
- (1) the previous year which has ended before the date of search, but the due date of filing return of income for the same has not expired before the date of search and the return has not yet been furnished;
 - (2) the previous year in which search is conducted, shall be:
 - (1) penalty@10%, if undisclosed income **is admitted during the course of search** in the statement furnished under section 132(4), and the assessee explains the manner in which such income was derived, pays the tax, together with interest if any, in respect of the undisclosed income, on or before the specified date (i.e., the due date of filing return of income or the date on which

the period specified in the notice issued under section 153A expires, as the case may be) and furnishes the return of income for the specified previous year declaring such undisclosed income.

- (2) penalty@ 20%, if undisclosed income relating to the specified previous year is **not admitted during the course of search** in the statement furnished under section 132(4) **but the same is disclosed in the return of income** filed after the date of search and the tax along with the interest, if any, is paid before the specified date
- (3) in all other cases, penalty is leviable ranging from 30% to 90% of undisclosed income would be attracted.

Therefore, even if the assessee furnishes the statement under section 132(4), then also penalty @10% under section 271AAB would be attracted. Therefore, the assessee cannot escape the levy of penalty.