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SPECIAL PROCEDURE OF ASSESSMENT OR REASSESSMENT IN CASE OF SEARCH & SEIZURE

SECTION 153A: ASSESSMENT IN CASE OF SEARCH OR REQUISITION

❖ Section 153A provides as under:

- Notwithstanding anything contained in section 139/147/148/149/151/153

- in case of any person where search is initiated (search is initiated by issuing a search warrant) under section 132,

- then the Assessing Officer shall issue a notice to such person (Notice under section 153A) 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 in the specified period. Specified period means six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made.

- The return of income shall be filed in the prescribed form and shall be verified in the prescribed manner and assessee shall set forth such other particulars as may be prescribed. The provisions of Income-tax Act shall apply as if such return was a return required to be furnished under section 139.

❖ The Assessing Officer shall assess/ reassess the total income of the assessment years falling in the specified period i.e. the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted/ requisition is made. The assessment/ reassessment shall be made separately for the six assessment years under section 153A.

❖ It may be noted that if a search is conducted on 30.06.2007, the Assessing Officer shall assess/ reassess the income under section 153A for Assessment Year 2002-03 to Assessment Year 2007-08. ***If the assessment/ reassessment relating to any assessment year falling within the specified period of 6 years is pending under section 143(3)/ 144/ 147 on the date of initiation of search under section 132, then such pending assessment/ reassessment shall abate i.e. come to an end. The assessment/ reassessment shall be made under section 153A only.***

❖ ***It has been clarified in the CBDT Circular that the appeal, revision or rectification proceedings pending on the date of initiation of search under section 132 shall not abate but shall continue.***

- All the provisions of the Income-tax Act shall apply to assessment/ reassessment made under section 153A. Therefore

    - ***Penalties for concealment of income***
    - ***Penalties for defaults like non filing of return***
    - ***Interest under section 234A/B/C***
    - ***Prosecution (Prosecution under section 276CC for failure to file the return under section 153A and prosecution under section 276C for concealment of income)***

    shall apply to assessment/ reassessment made under section 153A.

- In the assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rates applicable to such an assessment year.

- **An appeal against the order under section 153A lies to CIT (Appeals).**

SECTION 153B: TIME-LIMIT FOR COMPLETION OF ASSESSMENT UNDER SECTION 153A

TIME LIMIT FOR COMPLETION OF ASSESSMENT OR REASSESSMENT UNDER SECTION 153A

	Normal Period of Assessment/ Reassessment under section 153B	**Period of Assessment/ Reassessment where a reference has been made to Transfer Pricing Officer under section 92CA in course of proceedings under section 153 A**
For 6 Assessment Years immediately preceding the Assessment Year relevant to the Previous Year in which search is started	**21 months** from the end of the financial year in which search is completed.	**33 months** from the end of the financial year in which search is completed.
For Assessment Year relevant to the Previous Year in which search is started	Same as above	Same as above

TIME LIMIT FOR COMPLETION OF ASSESSMENT OR REASSESSMENT UNDER SECTION 153A IN CASE OF A PERSON REFFERED TO IN SECTION 153C

	Normal Period of Assessment/ Reassessment under section 153B	**Period of Assessment/ Reassessment where a reference has been made to Transfer Pricing Officer under section 92CA in course of proceedings under section 153A**
For 6 Assessment Years immediately preceding the Assessment Year relevant to the Previous Year in which search is started	(i) **21 months** from the end of the financial year in which search is completed. or (ii) **9 months** from the end of the Financial Year in which books of accounts, assets etc. are handed over under section 153C to the A.O. having jurisdiction over such other person. **WHICHEVER IS LATER.**	(i) **33 months** from the end of the financial year in which search is completed. or (ii) 21 **months** from the end of the Financial Year in which books of accounts, assets etc. are handed over under section 153C to the A.O. having jurisdiction over such other person, **WHICHEVER IS LATER.**
For Assessment Year relevant to the Previous Year in which search was started	Same as above	Same as above

SECTION 153C: ASSESSMENT OF INCOME OF ANY OTHER PERSON

Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

The Proviso to section 153C provides that in case of other person referred to in section 153C, the assessments/reassessments pending on the date the books of account, assets, etc. are handed over to the Assessing Officer of the other person, shall abate.

SECTION 153D: PRIOR APPROVAL OF JOINT COMMISSIONER NECESSARY FOR ASSESSMENT IN CASES OF SEARCH

No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred in section 153B, except with the prior approval of the Joint Commissioner.