

ASSESSMENT PROCEDURE



LEARNING OUTCOMES

After studying this chapter, you would be able to -

- ❑ **appreciate** when return filing becomes mandatory for different persons;
- ❑ **identify and recall** the due dates for filing of return in case of such persons;
- ❑ **comprehend and apply** the provisions relating to belated return, revised return and defective return;
- ❑ **appreciate** the statutory provisions relating to special audit directed by the Assessing Officer;
- ❑ **appreciate** the procedure for assessment (including faceless assessment) – self-assessment, summary assessment, scrutiny assessment and best judgement assessment;
- ❑ **appreciate** the circumstances when the Assessing Officer can issue notice for reassessment of income and the time limit for issuance of such notice;
- ❑ **know and recall** the time limits for completion of assessments;
- ❑ **appreciate** the provisions for rectification of mistake apparent from the record.

CHAPTER OVERVIEW



<p>Filing of return of income [Section 139]</p> <ul style="list-style-type: none"> - ROI on or before due date [Section 139(1)] - Loss return [Section 139(3)] - Belated return [Section 139(4)] - Revised Return [Section 139(5)] - Updated Return [Section 139(8A)] 	<p>Permanent Account Number [Section 139A]</p>	<p>Quoting of Aadhaar Number [Section 139AA]</p>	
<p>Persons authorised to verify Return of Income [Section 140]</p>	<p>Self-assessment [Section 140A]</p>	<p>Provisions contained under section 142</p>	<p>Assessment [Section 143]</p>
<p>Best Judgement Assessment [Section 144]</p>	<p>Faceless Assessment [Section 144B]</p>	<p>Reference to Dispute Resolution Panel [Section 144C]</p>	<p>Income Escaping Assessment [Sections 147 to 151]</p>
<p>Assessment for Search Cases [Chapter XIV-B]</p>	<p>Other Provisions [Section 152]</p>	<p>Time limits for completion of assessments [Section 153]</p>	<p>Rectification of Mistake [Section 154]</p>
<p>Other amendments [Section 155]</p>	<p>Notice of Demand [Section 156]</p>	<p>Intimation of loss [Section 157]</p>	<p>Faceless rectification, amendments and issuance of notice or intimation [Section 157A]</p>

15.1 RETURN OF INCOME

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assesseees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are generally required to be furnished in a return of income. In short, a return of income is the declaration of income by the assessee in the prescribed format.

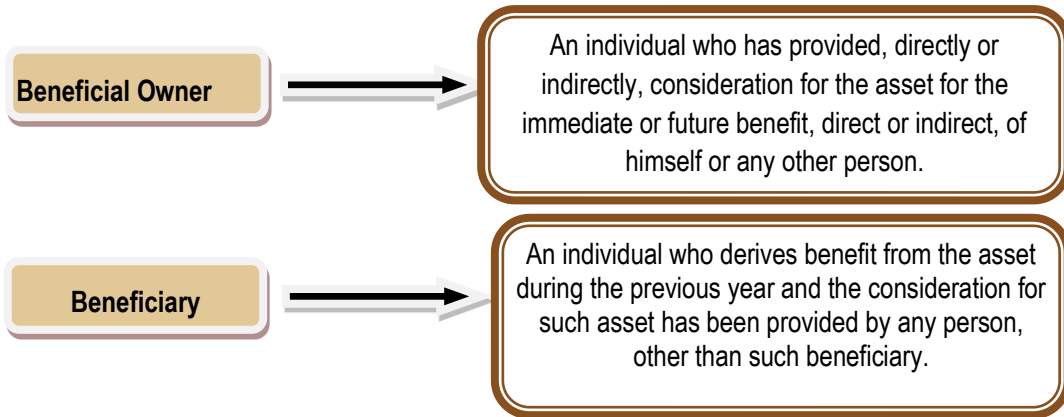
15.1.1 Compulsory filing of return of income [Section 139(1)]

- (1) As per section 139(1), it is **compulsory for companies and firms to file a return** of income or loss for every previous year on or before the due date in the prescribed form.
- (2) A return of income or loss for the previous year in the prescribed form and verified in the prescribed manner on or before the due date, has to be filed by every person, being a resident other than not ordinarily resident in India within the meaning of section 6(6), who is not required to furnish a return under section 139(1) if such person, at any time during the previous year –
- (a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India; or
 - (b) is a beneficiary of any asset (including any financial interest in any entity) located outside India.

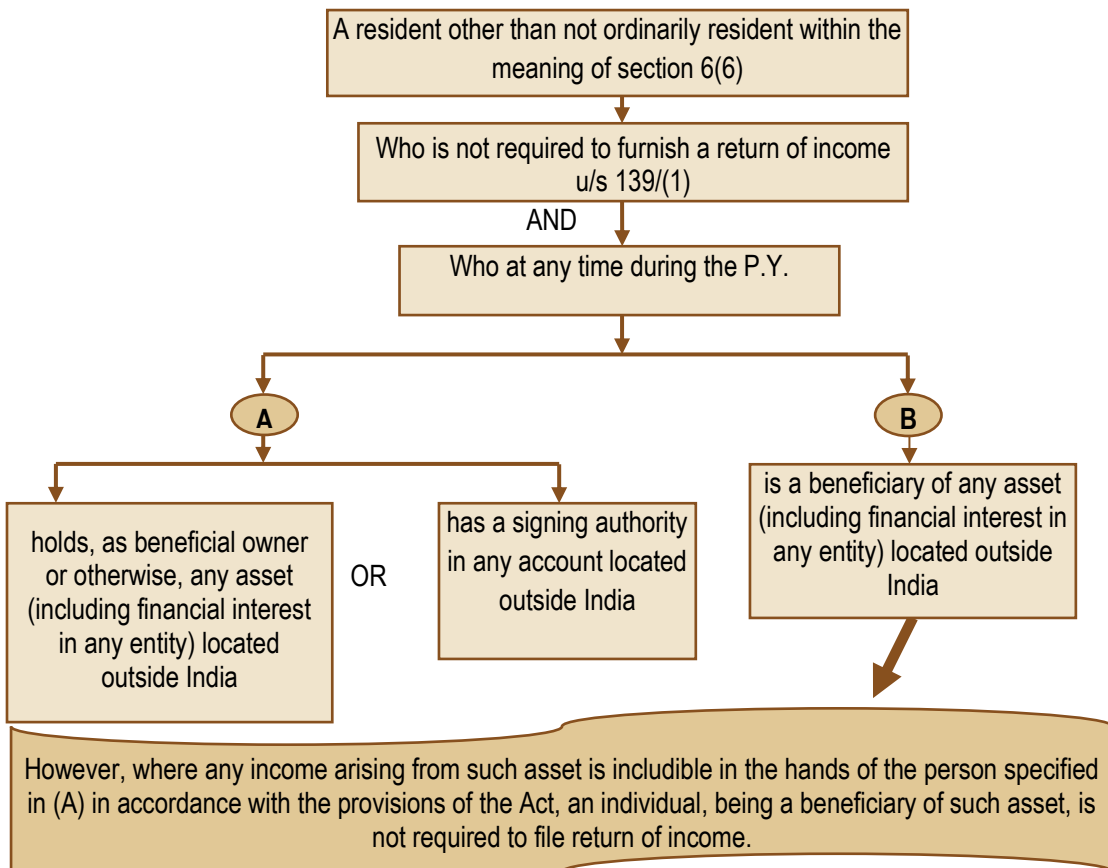
All companies and firms to mandatorily file ROI by due date

However, an individual being a beneficiary of any asset (including any financial interest in any entity) located outside India would not be required to file return of income, where, income, if any, arising from such asset is includible in the income of the person referred to in (a) above in accordance with the provisions of the Income-tax Act, 1961.

Meaning of “beneficial owner” and “beneficiary” in respect of an asset for the purpose of section 139:



Requirement of filing of return of income as per the fourth and fifth proviso to section 139(1)



- (3) Further, every person, being an individual or a HUF or an AOP or BOI or an artificial juridical person -

Cases where ROI mandatorily to be filed

- whose total income or the total income of any other person in respect of which he is assessable under this Act during the previous year
- without giving effect to the exemption provisions contained in sections 54/54B/54D/ 54EC/54F/54G/54GA in respect of capital gains or deductions under Chapter VI-A

- exceeds the basic exemption limit

Different BEL

is required to file a return of his income or income of such other person on or before the due date.

For the A.Y. 2025-26, the basic exemption limit is ₹ 3,00,000 for individuals/HUF/AOPs/BOIs and artificial juridical persons under the default regime under section 115BAC. These amounts denote the level of total income, which is arrived at after claiming the admissible deductions under Chapter VI-A, i.e., 80CCD(2), 80CCH(2) and 80JJAA under default regime and exemption under section 54/54B/54D/54EC/54F/54G/54GA in respect of capital gain. However, the level of total income to be considered for the purpose of filing a return of income is the income before claiming the admissible deductions under Chapter VI-A and exemption under section 54/54B/54D/54EC/54F/54G/54GA.

However, where the assessee being an individual/HUF/AOPs/BOIs and artificial juridical persons have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A), the basic exemption limit would be ₹ 2,50,000 for individuals/HUFs/AOPs/BOIs and artificial juridical persons, ₹ 3,00,000 for resident individuals of the age of 60 years or more but less than 80 years and ₹ 5,00,000 for resident individuals of the age of 80 years or more at any time during the previous year. These amounts denote the level of total income, which is arrived at after claiming exemption under sections 54/54B/54D/54EC/54F/54G/54GA in respect of capital gains and the admissible deductions under Chapter VI-A. However, the level of total income to be considered for the purpose of filing return of income is the income before claiming exemption under sections 54/54B/54D/54EC/54F/54G/54GA in respect of capital gains and the admissible deductions under Chapter VI-A.

- (4) Any person other than a company or a firm, who is not required to furnish a return under section 139(1), would have to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person -

- (a) has **deposited** an amount or aggregate of the amounts **exceeding ₹ 1 crore** in one or more current accounts maintained with a banking company or a co-operative bank; or
- (b) has **incurred expenditure** of an amount or aggregate of the amounts **exceeding ₹ 2 lakh** for himself or any other person **for travel to a foreign country**; or
- (c) has incurred **expenditure** of an amount or aggregate of the amounts **exceeding ₹ 1 lakh** towards **consumption of electricity**; or
- (d) fulfils such other prescribed conditions.

Accordingly, CBDT, vide Notification No. 37/2022 dated 21.4.2022, inserted Rule 12AB stating the conditions wherein any person other than a company or a firm, who is not required to furnish a return under section 139(1), would have to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year:

**Prescribed Conditions
where ROI mandatorily to be
filed**

- (i) his total sales, turnover or gross receipts, as the case may be, in the business **exceed ₹ 60 lakh**;
or
- (ii) his total gross receipts in profession **exceed ₹ 10 lakh**; or
- (iii) the aggregate of tax deducted at source and tax collected at source during the previous year, in the case of the person, is **₹ 25,000 or more** (in the case of a resident individual **who is aged ≥ 60 years** at any time during the relevant P.Y, the limit will be **₹ 50,000 or more**); or
- (iv) the deposit in one or more savings bank accounts of the person, in aggregate, is **₹ 50 lakh or more**.

**31st July or 31st Oct. Or
30th Nov. of the A.Y**

- (5) **Meaning of due date:** 'Due date' means -

	Assessee	Due Date
(i)	Where the assessee, other than an assessee referred to in clause (ii), is - (a) a company, (b) a person (other than a company) whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force; or (c) a partner of a firm whose accounts are required to be audited under the Income-tax Act, 1961 or any other law for the time being in force or the spouse	31 st October of the assessment year

	of such partner if the provisions of section 5A applies to such spouse.	
(ii)	in the case of an assessee including the partners of the firm or the spouse of such partner (if the provisions of section 5A applies to such spouse), being such assessee who is required to furnish a report referred to in section 92E.	30 th November of the assessment year
(iii)	in the case of any other assessee.	31 st July of the assessment year

(6) Apportionment of income between spouses governed by Portuguese Civil Code [Section 5A]

Where the husband and wife are governed by the system of community of property (known under the Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS") in force in the State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu:

- **Income under the head "Salaries":** Where the husband or, as the case may be, the wife governed by the aforesaid system of community of property has any income under the head "Salaries", such income shall be included in the total income of the spouse who has actually earned it [Section 5A(2)]
- **Income under any head of income (other than under the head "Salaries"):** The income of the husband and of the wife under any head of income shall not be assessed as that of such community of property (whether treated as an association of persons or a body of individuals), but such income of the husband and of the wife under each head of income (other than under the head "Salaries") shall be apportioned equally between the husband and the wife and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively, and the remaining provisions of this Act shall apply accordingly [Section 5A(1)]

15.1.2 Interest for default in furnishing return of income [Section 234A]

- (1) Interest under section 234A is attracted for failure to file a return of income on or before the due date mentioned above, i.e. interest is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.

1% p.m after due date of ROI

- (2) Simple interest@1% per month or part of the month is payable for the period commencing from the date immediately following the due date and ending on the following dates -

Circumstances	Ending on the following dates
Where the return is furnished after the due date	the date of furnishing of the return
Where no return is furnished	the date of completion of assessment

- (3) The interest has to be calculated on the amount of tax on total income as determined under section 143(1) or on regular assessment, as reduced by the advance tax paid, any tax deducted or collected at source, any relief of tax allowed under section 89/90/90A/91 and any tax credit allowed to be set-off in accordance with section 115JAA or 115JD.

Note – For detailed understanding of section 234A, refer to Chapter 13: Tax deduction, collection and recovery of tax of this module.

15.1.3 Specified class or classes of persons to be exempted from filing return of income [Section 139(1C)]

- (1) **Persons required to furnish return of income:** Every person who falls within the ambit of the conditions mentioned under section 139 has to furnish a return of his income on or before the due date specified under section 139(1).
- (2) **Exemption from filing return of income:** To reduce the compliance burden of certain types of taxpayers, the Central Government has been empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income, subject to satisfying the prescribed conditions. Accordingly, the Central Government has, vide Notification No.55/2019 dated 26.7.2019 and **Notification No. 49/2023 dated 14.7.2023, exempted non-corporate non-residents and foreign companies**, having **any income** chargeable under the Income-tax Act, 1961 during a previous year **from any investment fund set up in an International Financial Services Centre (IFSC) located in India**, from the requirement of furnishing a return of income under section 139(1) from A.Y.2019-20 onwards:

Exempted Persons

<p>Exemption from filing return of income would be available to such notified class of persons only if</p>	<p>Exemption from the requirement of furnishing a return of income would not be available to such notified class of persons</p>
<ul style="list-style-type: none"> any income-tax due on income of the said class of persons has been deducted at source and remitted to the Central Government by the investment fund at the tax-rate in force as per provisions of section 194LBB; and there is no other income during the previous year for which the said class of persons, is otherwise liable to file the income-tax return. 	<ul style="list-style-type: none"> where a notice under section 142(1) or section 148 or section 153A or section 153C (relevant in respect of search initiated or books of accounts requisitioned on or before 31.3.2021] has been issued for filing a return of income for the assessment year specified therein to such notified class of persons

Meaning of Investment fund

- any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund (AIF) and is regulated under the SEBI (AIF) Regulations, 2012 or regulated under the IFSC Authority (Fund Management) Regulations, 2022.

The Central Government has, vide *Notification No. 119/2021 dated 11.10.2021*, also exempted the following class of persons mentioned in column (2) of the Table below, subject to the conditions specified in column (3) of the said Table, from the requirement of furnishing a return of income under section 139(1) from the assessment year 2021-22 onwards:

S. No.	Class of Persons	Conditions
(1)	(2)	(3)
1.	(i) Non-corporate non-resident; or (ii) a foreign company.	<p>The said class of person should not earn any income in India, during the previous year, other than the income from investment in the specified fund referred to in sub-clause (i) of clause (c) of Explanation to section 10(4D). The provisions of section 139A are not applicable to the said class of persons subject to fulfillment of the conditions mentioned in Rule 114AAB(1) [Read discussion under section 139A in this chapter] [Refer Chapter 2: Non-resident Taxation in Module 4 for detailed reading of section 10(4D)]</p>

2.	a non-resident, being an eligible foreign investor.	<p>(i) The said class of persons, during the previous year, has made transaction only in capital asset referred to in section 47(viiab) (bonds or GDRs under section 115AC, rupee denominated bonds of an Indian company, derivative and other notified securities) which are listed on a recognised stock exchange located in any International Financial Services Centre and the consideration on transfer of such capital asset is paid or payable in foreign currency;</p> <p>(ii) The said class of persons does not earn any income in India, during the previous year, other than the income from transfer of capital asset referred to in section 47(viiab) (bonds or GDRs under section 115AC, rupee denominated bonds of an Indian company, derivative and other notified securities); and</p> <p>(iii) The provisions of section 139A are not applicable to the said class of persons subject to fulfillment of the conditions mentioned in Rule 114AAB(2A) (Read discussion under section 139A in this Chapter).</p>
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15.1.4 Return of Loss [Section 139(3)]

- (1) **Return of loss:** This section requires the assessee to file a return of loss in the same manner as in the case of return of income within the time allowed under section 139(1).
- (2) **Compulsory filing return of loss on or before the due date to carry forward and set-off certain losses:** Section 80 requires mandatory filing of return of loss under section 139(3) on or before the due date specified under section 139(1) for carry forward of the following losses -
 - (a) Business loss under section 72(1)
 - (b) Speculation business loss under section 73(2)
 - (c) Loss from specified business under section 73A(2)
 - (d) Loss under the head "Capital Gains" under section 74(1)
 - (e) Loss from the activity of owning and maintaining race horses under section 74A(3)

File ROL by due date

Consequently, section 139(3) requires filing of return of loss mandatorily within the time allowed under section 139(1) for claiming carry forward of the losses mentioned in (2) above.

However, loss under the head “Income from house property” under section 71B and “unabsorbed depreciation” under section 32 can be carried forward for set-off even though return of loss has not been filed before the due date.

- (3) **Non-receipt of a notice from the Assessing Officer to file a return not a valid excuse:** A return of loss has to be filed by the assessee in his own interest, and the non-receipt of a notice from the Assessing Officer requiring him to file the return cannot be a valid excuse under any circumstances for the non-filing of such return.

15.1.5 Belated Return [Section 139(4)]

- (1) **Furnishing of belated return of income:** Any person who has not furnished a return within the time allowed to him under section 139(1), may furnish the return for any previous year at any time -

- (i) before three months prior to the end of the relevant assessment year (i.e., 31.12.2025 for P.Y. 2024-25); or
- (ii) before the completion of the assessment,
whichever is earlier.

**File ROI latest by 31st
Dec. of RAY**

Thus, a belated return can be filed only in case a person has not furnished his return within the time allowed under section 139(1).

- (2) **Consequences of filing a belated return:**

- (i) Certain losses computed under specified sections (refer to para (2) of 15.5 above) cannot be carried forward for set-off in the subsequent years.
- (ii) Interest under section 234A for the delay in furnishing the return shall be leviable.
- (iii) Fee of ₹ 5,000 under section 234F would be leviable where return is filed after the due date. However, late fee shall not exceed ₹ 1,000 where total income does not exceed ₹ 5,00,000.
- (iv) Further, as per section 80AC, deductions in respect of certain incomes under Chapter VI-A [Heading C- Deduction in respect of certain incomes] would not be available.

- (v) Additionally, w.e.f. A.Y. 2024-25, no deduction under section 10AA shall be available to an eligible unit established in SEZ if it fails to furnish its return of income on or before the due date.
- (vi) Assessee can not opt out of section 115BAC while filing a belated return, i.e. he/she/it has to file a belated return by paying taxes as per section 115BAC only.

15.1.6 Return of Income of Charitable Trusts and Institutions [Section 139(4A)]

- (1) **Person required to furnish return under section 139(4A):** Every person in receipt of income -
- (i) derived from property held under a trust or any other legal obligation wholly or partly for charitable or religious purposes; or
 - (ii) by way of voluntary contributions on behalf of such trust or institution

File ROI by due date for exemption u/s 11 and 12

must furnish a return of income if the total income in respect of which he is assessable as a representative assessee (computed before allowing any exemption under sections 11 and 12) exceeds the basic exemption limit.

Such persons should furnish the return in the prescribed form and verify in the prescribed manner containing all the particulars prescribed for this purpose.

- (2) **Return filed by the representative-assessee:** This return must be filed by the representative-assessee voluntarily within the time limit. Any failure on the part of the assessee would attract liability to pay interest, fees and penalty.
- (3) **Due date for filing return of income in case books of account are required to be audited:** It may be noted that a charitable trust or other legal obligation is required to get its accounts audited when its income before claiming exemption under section 11 and 12 exceeds basic exemption limit. In such case, the due date would be **31st October** of the relevant assessment year.

15.1.7 Return of Income of Political Parties [Section 139(4B)]

- (1) **Political party required to furnish return of income under section 139(4B):** Under this section, the Chief Executive Officer of the political party is statutorily required to file a return of income of the political party if, before claiming exemption under section 13A, the political party has income exceeding the basic exemption limit.

The return must be filed in the prescribed form and verified in the prescribed manner setting forth such other particulars as may be prescribed by the CBDT. The provisions of the Act would apply as if it were a return required to be furnished under section 139(1).

File ROI by due date for exemption u/s 13A

- (2) **Furnishing of return mandatory to claim exemption under section 13A:** The grant of exemption from income-tax to any political party under section 13A is subject to the condition that the political party submits a return of its total income within the time limit prescribed under section 139(1) and gets the accounts audited.
- (3) **Due date for filing return of income:** Since the audit of accounts is mandatory for the political party for claiming exemption under section 13A, the due date for filing of return of income would be **31st of October** of the relevant assessment year.

15.1.8 Mandatory filing of returns by research associations, news agency, trade unions, etc. [Section 139(4C)]

- (1) It will be mandatory for the following institutions/associations/persons etc. to file the return of income if their total income without giving effect to exemption under respective clauses of section 10, exceeds the basic exemption limit –

	Institution/Association/Persons etc.	Applicable section
(a)	Research association	10(21)
(b)	News agency	10(22B)
(c)	Association or institution	10(23A)
(d)	Fund for the welfare of employees or their dependents	10(23AAA)
(e)	Institution	10(23B)
(f)	Fund or institution	10(23C)(iv)
(g)	Trust or institution	10(23C)(v)
(h)	University or other educational institution	10(23C)(vi)/(iiiad)/(iiiab)
(i)	Hospital or other medical institution	10(23C)(via)/(iii ae)/(iii ac)
(j)	Mutual Fund	10(23D)
(k)	Securitisation Trust	10(23DA)
(l)	Investor Protection Fund	10(23EC)/(23ED)

(m)	Core Settlement Guarantee Fund	10(23EE)
(n)	Venture Capital Company/Venture Capital Fund	10(23FB)
(o)	Trade Union/association	10(24)(a)/(b)
(p)	Board or Authority	10(29A)
(q)	Body or Authority or Board or Trust or Commission	10(46)
(r)	Infrastructure Debt Fund	10(47)

- (2) Such return of income should be in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.
- (3) Then, the provisions of the Act would apply as if it were a return required to be furnished under section 139(1).

15.1.9 Mandatory filing of returns by universities, colleges etc. [Section 139(4D)]

- (1) It will be mandatory for every university, college or other institution referred to in clause (ii) and clause (iii) of section 35(1), which is not required to furnish its return of income or loss under any other provision of section 139, to furnish its return in respect of its income or loss in every previous year.
- (2) All the provisions of the Income-tax Act, 1961 shall apply to such return as if it were a return under section 139(1).

15.1.10 Filing of return of income by a business trust [Section 139(4E)]

- (1) Every business trust, which is not required to furnish return of income or loss under any other provisions of this section, has to furnish the return of its income in respect of its income or loss in every previous year.
- (2) All the provisions of the Income-tax Act, 1961 shall apply as if it were a return required to be filed under section 139(1).

15.1.11 Filing of return of income by investment fund Section 139(4F)]

- (1) Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of income or loss in every previous year.
- (2) All the provisions of the Income-tax Act, 1961 shall apply as if it were a return required to be filed under section 139(1).

15.1.12 Revised return [Section 139(5)]

- (1) If any person having furnished a return under section 139(1) or section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return
 - **at any time before three months prior to the end of the relevant assessment year** (i.e., 31.12.2025 for P.Y. 2024-25) or
 - before completion of assessment,whichever is earlier.

**File revised ROI latest
by 31st Dec. of RAY**
- (2) The return can be revised for any number of times within the given time limit. In this case the latest revised return filed replaces all other returns filed earlier.
- (3) It may be noted that the returns filed under sub-sections (1A), (3), (4A) to (4F) of section 139 are treated as having been filed under section 139(1). Hence, these returns can also be revised subject to satisfying the conditions of section 139(5).

15.1.13 Particulars to be furnished with the return [section 139(6)]

The return form prescribed under section 139(1)/ (3) and section 142(1)(i) in certain specified cases, require the assessee to furnish the particulars of -

- (1) income exempt from tax.
- (2) assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary.
- (3) his bank account and credit card held by him.
- (4) expenditure exceeding the prescribed limits incurred by him under prescribed heads.
- (5) such other outgoings as may be prescribed.

15.1.14 Particulars to be furnished with return of income in case of an assessee engaged in business or profession [Section 139(6A)]

The prescribed form of the return shall, in the case of an assessee engaged in any business or profession, also require him to furnish -

- (1) the report of any audit referred to in section 44AB [such tax audit report is required to be furnished one month prior to the due date of filing return of income u/s 139(1)].
- (2) the particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof.
- (3) the names and addresses of his partners, if any, in such business or profession.
- (4) if he is a member of an association or body of individuals,
 - (a) the names of the other members of the association or the body of individuals; and
 - (b) the extent of the share of the assessee and the shares of all such partners or members, as the case may be, in the profits of the business or profession and any branches thereof.

15.1.15 Defective Return [Section 139(9)]

- (1) Under this sub-section, the Assessing Officer has the power to call upon the assessee to rectify a defective return.
- (2) Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.

Rectify defect within 15 days of intimation
- (3) If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.
- (4) Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.

- (5) A return of income shall be regarded as defective unless all the following conditions are fulfilled, namely:
- (i) The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income and total income have been duly filled in.
 - (ii) The return of income is accompanied by the following, namely:
 - (a) a statement showing the computation of the tax payable on the basis of the return.
 - (b) the report of the audit obtained under section 44AB [such tax audit report is required to be furnished one month prior to the due date of filing return of income u/s 139(1)].
 - (c) the proof regarding the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid. (However, the return will not be regarded as defective if (i) a certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income, (ii) such certificate is produced within a period of 2 years).
 - (d) the proof of payment of tax as required under section 140B, if the return of income is an updated return furnished under section 139(8A).
 - (iii) Where regular books of account are maintained by an assessee, the return of income is accompanied by the following -
 - (a) copies of manufacturing account, trading account, profit and loss account or income and expenditure account, or any other similar account and balance sheet;
 - (b) the personal accounts as detailed below -

(1)	Proprietary business or profession	The personal account of the proprietor
(2)	Firm, association of persons or body of individuals	Personal accounts of partners or members
(3)	Partner or member of a firm, association of persons or body of individuals	Partner's personal account in firm, member's personal account in the association of persons or body of individuals

- (iv) Where the accounts of the assessee have been audited, the return should be accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report.
- (v) Where the cost accounts of an assessee have been audited under section 233B¹ of Companies Act, 1956, the return should be accompanied by such report (Cost Audit).
- (vi) Where regular books of account are not maintained by the assessee, the return should be accompanied by -
 - (a) a statement indicating the amount of turnover or gross receipts, gross profit, expenses and net profit of the business or profession;
 - (b) the basis on which such amounts mentioned in (1) above have been computed,
 - (c) the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

It may be noted that a return which is otherwise valid would not be treated as defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing the return.

Notes:

- (i) Many of these particulars are now required to be incorporated as part of the relevant return form, for example, details of tax deducted at source, advance tax paid, self-assessment tax paid, amount of turnover/gross receipts, etc.
- (ii) Section 292B provides that no return of income, order of assessment, notice, summons or other proceedings furnished or made or taken or purported to have been furnished or made in pursuance of any of the provisions of the Income-tax Act, 1961 shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding, if they are in substance and effect in conformity with or according to the intent and purposes of the Income-tax Act, 1961. The provision, thus, enables tax authorities to accept returns and other documents and tax payers to accept orders, notice, etc., received from tax authorities even in cases where there are a few typographical, arithmetical or other mistakes which do not materially affect the objects with which the document was submitted by the assessee or order was issued by the department.

¹ Section 148 of the Companies Act, 2013

15.1.16 Return filed in pursuance of CBDT's order under section 119(2)(b) [Section 139(9A)]

The Finance (No.2) Act 2024 has introduced a new sub-section (9A), which provides that if any return of income is furnished in pursuance of an order under section 119(2)(b), then the provisions of section 139 shall apply. This amendment will help in reducing litigation, quick processing of returns, and selection of returns for scrutiny assessment just like for any other return under section 139.

15.1.17 Fee for default in furnishing return of income [Section 234F]

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of ₹ 5,000. However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000.

Fee ₹ 5,000;
However, where
TI ≤ ₹ 5 lakhs -
Fee ₹ 1,000

15.1.18 Modified return - Effect of order of Tribunal or Court in respect of business reorganisation [Section 170A]

- (1) **Requirement and timeline to file Modified Return in ITR-A [Section 170A(1)]** - In a case of **business reorganisation**, where prior to the date of order of a High Court or Tribunal or an Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016, as the case may be, any return of income has been furnished by an entity to which such order applies under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, such successor entity has to furnish, within a period of **six months from the end of the month in which the said order was issued**, a **modified return** in Form ITR-A in accordance with and limited to the said order. The said return of income has to be furnished electronically under digital signature.

This provision will apply notwithstanding anything contained in section 139.

(2) **Assessment on the basis of modified return [Section 170A(2)]**

	Status of Assessment or reassessment proceedings for an A.Y. relevant to a P.Y. to which the order of the business reorganisation applies	Completion of Assessment by the A.O. on the basis of modified return
(i)	Completed proceedings - If the proceedings have been completed on the date of furnishing of the modified return in accordance with the provisions of section 170A(1)	The A.O. has to pass an order modifying the total income of the relevant A.Y. determined in such assessment or reassessment proceedings in accordance with the order of the business reorganisation and the modified return so furnished.
(ii)	Pending proceedings - If the proceedings are pending on the date of furnishing of the modified return in accordance with the provisions of section 170A(1)	The A.O. has to proceed to complete the assessment or reassessment proceedings and pass an order assessing or reassessing the total income of the relevant assessment year in accordance with the order of the business reorganisation and the modified return so furnished.

All other provisions of the Act shall apply to such assessment or reassessment made in respect of the assessment year to which the order of business reorganisation applies and the tax shall be chargeable at the rate or rates applicable to such assessment year.

- (3) **Meaning of “business reorganization”** – “Business reorganization” means the reorganization of business involving the amalgamation or demerger or merger of business or one or more persons.
- (4) **Meaning of “successor”** – “Successor” means all resulting companies in a business reorganization, whether or not the company was in existence prior to such business reorganization.

Example: If A Ltd. merges with B Ltd. with effect from 1.4.2023 vide order of the High Court dated 1.11.2024, and B Ltd. has already filed its return of income for the A.Y.2024-25 on 30th October, 2024, then, B Ltd. has to file a modified return for A.Y.2024-25 in accordance with and limited to the Order of the High Court on or before 31st May, 2025.

15.2 PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A]

- (1) **Persons mandatorily required to apply for allotment of PAN:** Section 139A(1) requires the following persons mentioned in column (2), who have not been allotted a permanent account number (PAN), to apply to the Assessing Officer within the time specified in column (3) for the allotment of a PAN –



Apply for PAN at
<https://www.protean-tinpan.com/services/pan/pan-index.html>

(1)	(2)	(3)
	Persons required to apply for PAN	Time limit for making such application
(i)	Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any previous year exceeds the maximum amount which is not chargeable to income-tax	On or before 31st May of the assessment year for which such income is assessable
(ii)	Every person carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5 lakhs in any previous year	Before the end of that financial year (previous year).
(iii)	Every person who is required to furnish a return of income under section 139(4A)	Before the end of the financial year
(iv)	Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year	On or before 31 st May of the immediately following financial year in which financial transaction is made.
(v)	Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (iv) above or any person competent to act on behalf of such person referred in (iv) above	On or before 31 st May of the immediately following financial year in which the person referred in (v) enters into financial transaction specified therein.

Further, for widening the tax base, every person who has not been allotted a PAN **and intends to enter into such transaction** as prescribed by the CBDT is also required to apply to the Assessing Officer for allotment of PAN.

Accordingly, Rule 114BA prescribe the following transactions:

(i)	Every person, who intends to deposit cash in his one or more accounts with a banking company, co-operative bank or post office, if the aggregate amount of cash deposit in such accounts during a financial year is ₹ 20 lakh or more	Atleast 7 days before the date on which he intends to deposit cash over the specified limit, i.e., ₹ 20 lakh or more.
(ii)	Every person, who intends to withdraw cash from his one or more accounts with a banking company, co-operative bank or post office, if the aggregate amount of cash withdrawal from such accounts during a financial year is ₹ 20 lakh or more	Atleast 7 days before the date on which he intends to withdraw cash over the specified limit, i.e., ₹ 20 lakh or more.
(iii)	Any person, who intends to open a current account or cash credit account with a banking company or a co-operative bank, or a Post Office	Atleast 7 days before the date on which he intends to open such account.

- (2) The Central Government is empowered to specify, by notification in the Official Gazette, any class or classes of persons by whom tax is payable under the Act or any tax or duty is payable under any other law for the time being in force. Such persons are required to apply within such time as may be mentioned in that notification to the Assessing Officer for the allotment of a PAN [Sub-section (1A)].
- (3) For the purpose of collecting any information which may be useful for or relevant to the purposes of the Act, the Central Government may notify any class or classes of persons, and such persons shall within the prescribed time, apply to the Assessing Officer for allotment of a PAN [Sub-section (1B)].
- (4) The Assessing Officer, having regard to the nature of transactions as may be prescribed, may also allot a PAN to any other person (whether any tax is payable by him or not) in the manner and in accordance with the procedure as may be prescribed [Sub-section (2)].
- (5) Any person, other than the persons mentioned in (1) to (4) above, may apply to the Assessing Officer for the allotment of a PAN and the Assessing Officer shall allot a PAN to such person immediately.

Note – Rule 114(4) requires submission of application for allotment of PAN by the applicant in the prescribed form accompanied by the prescribed documents as proof of identity, address and date of

birth of such applicant. Rule 114(1A) provides that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN in accordance with section 139A(5E), **shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents under Rule 114.**

Further, Rule 114(1B) provides that any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents under Rule 114.

- (6) **Quoting of PAN is mandatory for transactions prescribed under Rule 114B:** As per section 139A(5) quoting of PAN is mandatory in the following documents/prescribed transactions:

Quoting of PAN

- (a) in all returns to, or correspondence with, any income-tax authority;
- (b) in all challans for the payment of any sum due under the Act;
- (c) in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue. In this connection, CBDT has prescribed the following transactions *vide* Rule 114B, namely:

S. No.	Nature of transaction	Value of transaction
1.	Sale or purchase of a motor vehicle or vehicle, as defined in the Motor Vehicles Act, 1988 which requires registration by a registering authority under that Act, other than two wheeled vehicles.	All such transactions
2.	Opening an account [other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act).	All such transactions
3.	Making an application to any banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or	All such transactions

	institution, for issue of a credit or debit card.	
4.	Opening of a demat account with a depository, participant, custodian of securities or any other person registered under section 12(1A) of the SEBI Act, 1992.	All such transactions
5.	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding ₹ 50,000.
6.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.	Payment in cash of an amount exceeding ₹ 50,000.
7.	Payment to a Mutual Fund for purchase of its units	Amount exceeding ₹ 50,000.
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeding ₹ 50,000.
9.	Payment to the Reserve Bank of India for acquiring bonds issued by it.	Amount exceeding ₹ 50,000.
10.	Deposit with <ul style="list-style-type: none"> - a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act); or - post office 	Cash deposits exceeding ₹ 50,000 during any one day.
11.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act).	Payment in cash of an amount exceeding ₹ 50,000 during any one day.
12.	A time deposit with, - <ul style="list-style-type: none"> (i) a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); 	Amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year.

	<p>(ii) a Post Office;</p> <p>(iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or</p> <p>(iv) a non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934, to hold or accept deposit from public.</p>	
13.	Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India under the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution.	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹ 50,000 in a financial year.
14.	Payment as life insurance premium to an insurer as defined in the Insurance Act, 1938.	Amount aggregating to more than ₹ 50,000 in a financial year.
15.	A contract for sale or purchase of securities (other than shares) as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956.	Amount exceeding ₹ 1 lakh per transaction
16.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	Amount exceeding ₹ 1 lakh per transaction.
17.	Sale or purchase of any immovable property.	Amount exceeding ₹ 10 lakh or valued by stamp valuation authority referred to in section 50C at an amount exceeding ₹ 10 lakh
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. No. 1 to 17 of this Table, if any.	Amount exceeding ₹ 2 lakh per transaction:

Minor to quote PAN of parent or guardian

Where a person, entering into any transaction referred to in this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction.

Declaration by a person not having PAN

Further, any person not being a company or a firm who does not have a PAN and who enters into any transaction specified in the Table above, shall make a declaration in Form No.60 giving therein the particulars of such transaction.

However, a foreign company who,—

- does not have any income chargeable to tax in India; and
- does not have a permanent account number,

and enters into any transaction referred to at Sl. No. 2 or 12 of the Table (given previous paras), in an IFSC banking unit, shall make a declaration in Form No. 60.

Meaning of IFSC banking unit – A financial institution defined under section 3(1)(c) of the IFSC Authority Act, 2019, that is licensed or permitted by the IFSC to undertake permissible activities under the IFSC Authority (Banking) Regulations, 2020.

Non-applicability of Rule 114B

Also, the provisions of Rule 114B shall not apply to the following class or classes of persons, namely:-

- (i) the Central Government, the State Governments and the Consular Offices;
- (ii) the non-residents referred to in section 2(30) in respect of the transactions other than a transaction referred to at Sl. No. 1 or 2 or 4 or 7 or 8 or 10 or 12 or 14 or 15 or 16 or 17 of the Table.

Meaning of certain phrases:

	Phrase	Inclusion
(i)	Payment in connection with travel	Payment towards fare, or to a travel agent or a tour operator, or to an authorized person as defined in section 2(c) of the Foreign Exchange Management Act, 1999
(ii)	Travel agent or tour operator	A person who makes arrangements for air, surface or maritime travel or provides services relating to accommodation, tours, entertainment, passport, visa, foreign exchange, travel-related

		insurance or other travel-related services either severally or in package
(iii)	Time deposit	Any deposit which is repayable on the expiry of a fixed period.

(7) Every person who receives any document relating to any transaction cited above shall ensure that the PAN is duly quoted in the document.

(8) If there is a change in the address or in the name and nature of the business of a person, on the basis of which PAN was allotted to him, he should intimate such change to the Assessing Officer [Sub-section 5(d)]

(9) **Intimation of PAN to person deducting tax at source**

Every person who receives any amount from which tax has been deducted at source shall intimate his PAN to the person responsible for deducting such tax [Sub-section (5A)].

A person, however, shall intimate the General Index Register Number till such time PAN is allotted to him.

(10) **Quoting of PAN in certain documents of tax deduction**

Where any amount has been paid after deducting tax at source, the person deducting tax shall quote the PAN of the person to whom the amount was paid in the following documents:

- (i) in the statement furnished under section 192(2C) giving particulars of perquisites or profits in lieu of salary provided to any employee;
- (ii) in all certificates for tax deducted issued to the person to whom payment is made u/s 203;
- (iii) in all returns made to the prescribed income-tax authority under section 206;
- (iv) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 200(3) [Sub-section (5B)].

(11) **Requirement to intimate PAN and quote PAN not to apply to certain persons**

The above sub-sections (5A) and (5B) shall not apply to a person who –

- (i) does not have taxable income or
- (ii) who is not required to obtain PAN

if such person furnishes a declaration under section 197A in the prescribed form and manner that the tax on his estimated total income for that previous year will be nil.

(12) **Intimation of PAN to person collecting tax at source**

Likewise, every buyer or licensee or lessee referred to in section 206C shall intimate his PAN to the person responsible for collecting tax.

(13) Quoting of PAN in certain documents of tax collection

Every person collecting tax in accordance with section 206C shall quote PAN of every buyer or licensee or lessee referred to therein –

- (i) in all certificates furnished in accordance with the provisions of section 206C(5);
- (ii) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of section 206C(5A) or section 206C(5B) to an income-tax authority;
- (iii) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 206C(3).

(14) Inter-changeability of PAN with the Aadhaar number

Every person who is required to furnish or intimate or quote his PAN, may furnish or intimate or quote his Aadhaar Number in lieu of the PAN w.e.f. 1.9.2019, if he -

Aadhaar Number or PAN

- has not been allotted a PAN but possesses the Aadhaar number
- has been allotted a PAN and has intimated his Aadhaar number to prescribed authority in accordance with the requirement contained in section 139AA(2)

PAN would be allotted in prescribed manner to a person who has not been allotted a PAN but possesses Aadhaar number [Sub-section (5E)]

(15) Quoting and authentication of PAN or Aadhaar number

- (a) Every person entering into such prescribed transactions is required to quote his PAN or Aadhaar number, as the case may be, in the documents pertaining to such transactions. Such persons are also required to authenticate such PAN or Aadhaar number in the prescribed manner [Sub-section (6A)].
- (b) Every person receiving such document relating to transactions referred to in (a) has to ensure that PAN or Aadhaar number has been duly quoted in such document. They also have to ensure that such PAN or Aadhaar number is so authenticated. [Sub-section (6B)].

Accordingly, Rule 114BB prescribe that every person has to, at the time of entering into a transaction specified in column (2) of the Table below, quote his permanent account number or Aadhaar number, as the case may be, in documents pertaining to such transaction, and every person specified in column (3) of the said Table, who receives such document, has to ensure that the said number has been duly quoted and authenticated:

(1)	(2)	(3)
S. No.	Nature of transaction	Person
1.	Cash deposit or deposits aggregating to ₹ 20 lakhs or more in a financial year, in one or more account of a person with a bank or a co-operative bank or Post Office.	A bank or a co-operative bank or Post Master General of a Post Office.
2.	Cash withdrawal or withdrawals aggregating to ₹ 20 lakhs or more in a financial year, in one or more account of a person with a bank or a co-operative bank or Post Office	A bank or a co-operative bank or Post Master General of a Post Office.
3.	Opening of a current account or cash credit account by a person with a bank or a co-operative bank or Post Office	A bank or a co-operative bank or Post Master General of a Post Office.

Note – Quoting of PAN or Aadhaar number is, however, not required in case where the person depositing money as per Sl. No.1 or withdrawing money as per Sl. No.2 or opening a current account or cash credit account as per Sl. No.3 is the Central Government, the State Government or the Consular Office [Notification No. 105/2022 dated 1.9.2022]

Additionally, the CBDT has, vide Notification No. 88/2023 dated 10.10.2023 provide that a person is not required to apply for PAN or quote PAN, in a case –

(a) where the person, making the deposit or withdrawal of an amount otherwise than by way of cash as per (1) or (2) above, or opening a current account not being a cash credit account as per (3) above, is a non-resident (not being a company) or a foreign company;

(b) the transaction is entered into with an IFSC banking unit; and

(c) such non-resident (not being a company) or the foreign company does not have any income chargeable to tax in India.

(16) Power to make rules

The CBDT is empowered to make rules with regard to the following:

- (a) the form and manner in which an application for PAN may be made and the particulars to be given therein;
- (b) the categories of transactions in relation to which PAN or the Aadhaar number, as the case may be, is to be quoted on the related documents;

- (c) the categories of documents pertaining to business or profession in which PAN or the Aadhaar number, as the case may be, shall be quoted by every person;
- (d) the class or classes of persons to whom the provisions of this section shall not apply;

Accordingly, Rule 114AAB provides that the provisions of section 139A shall not apply:

- to a non-corporate non-resident, or a foreign company, who has made investment in a specified fund during the previous year;
- to a non-resident, being an **eligible foreign investor**, who has made transaction only in a capital asset referred to in section 47(viiab) (bonds or GDRs under section 115AC, rupee denominated bonds of an Indian company, derivative and other notified securities) which are listed on a recognised stock exchange located in any IFSC and the consideration on transfer of such capital asset is paid or payable in foreign currency, if the following conditions are satisfied:
 - (i) the non-resident **does not earn any income in India, other than the income from investment in the specified fund** during the previous year. Similarly, the eligible foreign investor **does not earn any income in India, other than the income from transfer of a capital asset referred to in section 47(viiab)** (bonds or GDRs under section 115AC, rupee denominated bonds of an Indian company, derivative and other notified securities)
 - (ii) any **income-tax due** on income of non-resident **has been deducted at source** and remitted to the Central Government by the specified fund at the rates specified in section 194LBB of the Act (**this condition is not applicable in case of eligible foreign investor**); and
 - (iii) the non-resident/eligible foreign investor **furnishes the following details and documents** respectively to the specified fund/stock broker through which the transaction is made, respectively:-
 - (A) name, e-mail id, contact number;
 - (B) address in the country or specified territory outside India of which he is a resident;
 - (C) a declaration that he is a resident of a country or specified territory outside India; and

**Exemption from
obtaining PAN**

- (D) Tax Identification Number in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the non-resident is identified by the Government of that country or the specified territory of which he claims to be a resident.

Specified Fund/Stock Broker to furnish such details received from non-resident: The specified fund/stock broker, as the case may be, has to electronically furnish a quarterly statement for the quarter of the financial year, in which the details and documents furnished by such non-resident/eligible foreign investor are received by it.

It also required to upload the declaration received from such non-resident/eligible foreign investor **within fifteen days from the end of the quarter of the financial year to which such statement relates.**

Meaning of Certain Terms:

Term	Meaning
Specified Fund	<p>Any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a -</p> <ul style="list-style-type: none"> - Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 or International Financial Services Centres Authority Act, 2019 and which is located in any IFSC. - Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 - Specified fund referred in sub-clause (i) of

	clause (c) of <i>Explanation</i> to section 10(4D) [Refer Chapter 21 for detail definition]
Eligible Foreign Investor	A non-resident who operates in accordance with the guidelines issued by SEBI in its Circular No. IMD/HO/FPIC/CIR/P/2017/003 dated 04th January, 2017.
Stock Broker	A person having trading rights in a recognised stock exchange located in any IFSC and the member of such exchange.

- (e) the form and manner in which a person who has not been allotted a PAN shall make a declaration;
- (f) the manner in which PAN/Aadhaar number shall be quoted for transactions cited in (b) above;
- (g) the time and manner in which such transactions cited in (b) above shall be intimated to the prescribed authority.

(17) **Meaning of certain terms for the purpose of section 139A**

	Term	Definition
(i)	Aadhaar Number	An identification number issued to an individual by the Unique Identification Authority of India, after verification of the demographic information and biometric information submitted by the individual.
(ii)	Assessing Officer	Includes an income-tax authority who is assigned the duty of allotting PANs.
(iii)	Authentication	The process by which – (i) the PAN or Aadhaar number along with demographic information or biometric information of an individual is submitted to the income-tax authority or such other prescribed authority or agency for its verification; and (ii) Such authority or agency verifies the correctness or the lack thereof, on the basis of the information available with it.
(iv)	Permanent Account Number (PAN)	A number which the Assessing Officer may allot to any person for the purpose of identification and includes a PAN allotted under the new series i.e., PAN having 10 alphanumeric characters.

(18) **Penalty for failure to comply with the provisions of section 139A [Section 272B]**

Section	Default	Penalty
272B(1)	Failure to comply with the provisions of section 139A	₹ 10,000
272B(2)	Failure to quote PAN/Aadhaar number in any document referred to in section 139A(5)(c)	₹ 10,000 for each such default
	Failure to intimate PAN/Aadhaar number to persons deducting or collecting tax at source	
	Knowingly quoting or intimating a number which is false	
272B(2A)	Failure to quote PAN/Aadhaar Number in documents referred to in section 139A(6A) or authenticate such number in accordance with the provisions contained therein	₹ 10,000 for each such default
272B(2B)	(i) Failure to ensure that PAN/Aadhaar Number is duly quoted in the documents relating to transactions referred to in section 139A(5)(c) or section 139A(6A)	₹ 10,000 for each such default
	(ii) Failure to ensure that PAN/Aadhaar Number has been duly authenticated in respect of transactions referred to under section 139A(6A)	
Note – It is necessary to give an opportunity to be heard to the person on whom the penalty under section 272B is proposed to be imposed.		



15.3 QUOTING OF AADHAAR NUMBER [SECTION 139AA]

(1) **Mandatory quoting of Aadhaar Number [Section 139AA(1)]**

Every person who is eligible to obtain Aadhaar Number is required to mandatorily quote Aadhaar Number, on or after 1st July, 2017:

- in the application form for allotment of Permanent Account Number (PAN)
- in the return of income [Sub-section (1)]

(2) **Mandatory quoting of Enrolment ID, where person does not have Aadhaar Number [proviso to section 139AA(1)]**

If a person does not have Aadhaar Number, he is required to quote Enrolment ID of Aadhaar application form issued to him at the time of enrolment in the application form for allotment of Permanent Account Number (PAN) or in the return of income furnished by him.

Note - Enrolment ID means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment.

However, with effect from 01.10.2024, Aadhaar Enrolment ID cannot be furnished in place of Aadhaar number.

Every person who has been allotted PAN before 01.10.2024 on the basis of Aadhaar Enrolment ID shall intimate his Aadhaar Number to the prescribed authority in a prescribed manner on or before a date to be notified by the Central Government in the Official Gazette.

(3) **Intimation of Aadhaar Number to prescribed Authority [Section 139AA(2)]**

Every person who has been allotted PAN as on 1st July, 2017, and who is eligible to obtain Aadhaar Number, shall intimate his Aadhaar Number to the Principal Director General of Income-tax (Systems) or Principal Director of Income-tax (Systems) **on or before 31.3.2022**.

Notwithstanding the last date of intimating/linking of Aadhaar Number with PAN being 31.3.2022, it is clarified that it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted in cases referred to in para (5) below.

Link Aadhaar with PAN

As per the proviso to section 139AA(2), in case of failure to intimate the Aadhaar Number, PAN would be made inoperative after the date so notified i.e., 31.3.2022 in such manner as may be prescribed.

Manner of making PAN inoperative [Rule 114AAA]

Accordingly, Rule 114AAA specifies the manner of making PAN inoperative. Rule 114AAA(1) provides that where a person, who has been allotted PAN as on the 1.7.2017 and is required to intimate his Aadhaar number under section 139AA(2), has failed to intimate the same on or before the 31.3.2022, the PAN of such person shall become inoperative, and he shall be liable for payment of fee specified under section 234H read with Rule 114(5A).

Where the person has intimated his Aadhaar number after 31.3.2022, after payment of fee specified under section 234H read with Rule 114(5A), his PAN would become operative within 30 days from the date of intimation of Aadhaar number.

Further consequences of failure to intimate Aadhaar Number: As per section 114AAA(3), a person, whose PAN has become inoperative, shall be liable for further consequences for the period commencing from 01.07.2023 till the date it becomes operative, namely –

- (i) refund of any amount of tax or part thereof, due under the provisions of the Act shall not be made;
- (ii) interest shall not be payable on such refund for the period, beginning with the date specified and ending with the date on which it becomes operative;
- (iii) where tax is deductible under Chapter XVII B in case of such person, such tax shall be deducted at higher rate, in accordance with provisions of section 206AA;
- (iv) where tax is collectible at source under Chapter XVII-BB in case of such person, such tax shall be collected at higher rate, in accordance with provisions of section 206CC

**No refund, no interest,
TDS/TCS at higher rate**

(4) **Fee for late intimation of Aadhaar Number i.e., after the notified date [Section 234H read with Rule 114(5A)]**

As per section 234H, where a person, who is required to intimate his Aadhaar Number under section 139AA(2), fails to do so on or before the notified date i.e., 31st March, 2022, he shall be liable to pay such fee, as may be prescribed, at the time of making intimation under section 139AA(2) after 31st March, 2022. However, such fee shall not exceed ₹ 1,000.

Accordingly, Rule 114(5A) provides that if such person fails to intimate his Aadhaar Number on or before the date notified in section 139AA(2) i.e., 31st March, 2022, then, at the time of subsequent intimation of his Aadhaar number to the prescribed authority, such person would be liable to pay, by way of fee, an amount equal to,—

- (a) ₹ 500, in a case **where such intimation is made** within three months from the date referred in section 139AA(2) i.e., **by 30.06.2022**; and
- (b) ₹ 1,000, in all other cases.

However, if a person fails to link Aadhaar with PAN on or before 31.3.2022, his PAN shall become inoperative after the said date in the prescribed manner [Proviso to section 139AA(2)].

(5) **Provision not to apply to certain person or class of persons**

The provisions of section 139AA relating to quoting of Aadhaar Number would, however, not apply to such person or class or classes of persons or any State or part of any State as may be notified by the Central Government [Sub-section (3)].

Accordingly, the Central Government has, vide Notification No. 37/2017, dated 11.05.2017, effective from 01.07.2017, notified that the provisions of section 139AA relating to quoting of

Aadhaar Number would **not** apply to an individual who does not possess the Aadhaar number or Enrolment ID and is:

- (i) residing in Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (v) not a citizen of India

**Exemption from
Quoting Aadhaar
number**



15.4 SCHEME FOR SUBMISSION OF RETURNS THROUGH TAX RETURN PREPARERS [SECTION 139B]

- (1) This section provides that, for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income, the CBDT may notify a Scheme to provide that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.
- (2) The Tax Return Preparer shall assist the persons furnishing the return in a manner that will be specified in the Scheme and shall also affix his signature on such return.
- (3) A **Tax Return Preparer** can be an individual, other than
 - (i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.
 - (ii) any legal practitioner who is entitled to practice in any civil court in India.
 - (iii) an accountant (being a chartered accountant).
 - (iv) an employee of the 'specified class or classes of persons'.

who has been authorised to act as a Tax Return Preparer under the Scheme.
- (4) The "**specified class or classes of persons**" for this purpose means any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Income-tax Act, 1961.

Tax Return Preparer

- (5) The Scheme notified under the said section may provide for the following -
- (i) the manner in which and the period for which the Tax Return Preparers shall be authorised,
 - (ii) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer,
 - (iii) the code of conduct for the Tax Return Preparers,
 - (iv) the duties and obligations of the Tax Return Preparers,
 - (v) the circumstances under which the authorisation given to a Tax Return Preparer may be withdrawn, and
 - (vi) any other relevant matter as may be specified by the Scheme.
- (6) Accordingly, the CBDT has, in exercise of the powers conferred by this section, framed the Tax Return Preparer Scheme, 2006, which came into force from 1.12.2006.

Particulars	Contents
Applicability of the scheme	The scheme is applicable to all eligible persons.
Eligible person	Any person being an individual or a Hindu undivided family.
Tax Return Preparer	Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme. However, the following person are not entitled to act as Tax Return Preparer: (i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings. (ii) any legal practitioner who is entitled to practice in any civil court in India. (iii) an accountant.
Educational qualification for Tax Return Preparers	An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Certified Management Accountants of India, shall be eligible to act as Tax Return Preparer.

Preparation of and furnishing the Return of Income by the Tax Return Preparer	<p>An eligible person may, at his option, furnish his return of income under section 139 for any assessment year after getting it prepared through a Tax Return Preparer:</p> <p>However, the following eligible person (an individual or a HUF) cannot furnish a return of income for an assessment year through a Tax Return Preparer:</p> <p>(i) who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or</p> <p>(ii) who is not a resident in India during the previous year.</p> <p>An eligible person cannot furnish a revised return of income for any assessment year through a Tax Return Preparer unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer.</p> <p>Also, a return of income which is required to be furnished in response to a notice under section 142(1)(i) or section 148 shall not be prepared and furnished through a Tax Return Preparer.</p>
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Note - It may be noted that as per section 139B(3), an employee of the “specified class or classes of persons” is not authorised to act as a Tax Return Preparer. Therefore, it follows that employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force (since they do not fall in the category of specified class or classes of persons), are eligible to act as Tax Return Preparers.



15.5 PERSONS AUTHORISED TO VERIFY RETURN OF INCOME [SECTION 140]

This section specifies the persons who are authorised to verify the return of income u/s 139.

	Assessee	Circumstance	Authorised Persons
1.	Individual	<p>(i) In circumstances not covered under (ii), (iii) & (iv) below</p> <p>(ii) where he is absent from India</p>	<p>- the individual himself</p> <p>- the individual himself; or</p> <p>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</p>

		(iii) Where he is mentally incapacitated from attending to his affairs	- his guardian; or - any other person competent to act on his behalf
		(iv) where, for any other reason, it is not possible for the individual to verify the return	- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)
2.	Hindu Undivided Family	(i) in circumstances not covered under (ii) and (iii) below	- the karta
		(ii) where the karta is absent from India	- any other adult member of the HUF
		(iii) where the karta is mentally incapacitated from attending to his affairs	- any other adult member of the HUF
3.	Company	(i) in circumstances not covered under (ii) to (vi) below	- the managing director of the company
		(ii) (a) where for any unavoidable reason such managing director is not able to verify the return; or	- any director of the company or any other person as may be prescribed for this purpose [See Note below]
		(b) where there is no managing director	
		(iii) Where the company is not resident in India	- the managing director of the company or a person who holds a valid power of attorney from such company to do so (such power of attorney should be attached to the return).
		(iv) (a) Where the company is being wound up (whether under the orders of a court or otherwise); or	- Liquidator
		(b) where any person has been appointed as the receiver of any assets of the company	- Liquidator

		(v) Where the management of the company has been taken over by the Central Government or any State Government under any law	- the principal officer of the company
		(vi) Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.	- insolvency professional appointed by such Adjudicating Authority
4.	Firm	(i) in circumstances not covered under (ii) below	- the managing partner of the firm
		(ii) (a) where for any unavoidable reason such managing partner is not able to verify the return; or	- any partner of the firm, not being a minor
		(b) where there is no managing partner.	- any partner of the firm, not being a minor
5.	LLP	(i) in circumstances not covered under (ii) below	- Designated partner
		(ii) (a) where for any unavoidable reason such designated partner is not able to verify the return; or	- any partner of the LLP or any other person as may be prescribed for this purpose [See Note Below]
		(b) where there is no designated partner.	
6.	Local authority	-	- the principal officer
7.	Political party [referred to in section 139(4B)]	-	- the chief executive officer of such party (whether he is known as secretary or by any other designation)
8.	Any other association	-	- any member of the association or the principal officer of such association
9.	Any other person	-	- that person or some other person competent to act on his behalf.

Note – In case of a company and LLP, "any other person" as may be prescribed for the purpose of verification of return of income, shall be the person, appointed by the adjudicating authority i.e., National Company Law Tribunal constituted under Section 408 of the Companies Act, 2013 for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder [Rule 12AA].

15.6 SELF ASSESSMENT [SECTION 140A]

(1) **Payment of tax, interest and fee before furnishing return of income**

Where any tax is payable on the basis of any return required to be furnished under section 139, or section 142 or section 148, after taking into account -

- (i) the amount of tax, already paid, under any provision of the Income-tax Act, 1961
- (ii) any tax deducted or collected at source;
- (iii) any relief of tax claimed under section 89;
- (iv) relief of tax claimed under section 90 or 90A;
- (v) deduction of tax claimed under section 91;
- (vi) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD.
- (vii) any tax or interest payable as per the provisions of section 191(2).

Self Assessment tax

the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. The return shall be accompanied by the proof of payment of such tax, interest and fee.

(2) **Order of adjustment of amount paid by the assessee**

Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards interest and the balance, if any, shall be adjusted towards the tax payable.

(3) **Interest under section 234A**

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return, as reduced by the amount of-

- (i) advance tax paid, if any;
- (ii) any tax deducted or collected at source;
- (iii) any relief of tax claimed under section 89;
- (iv) relief of tax claimed under section 90 or 90A;
- (v) deduction of tax claimed under section 91;
- (vi) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD.

(4) **Interest under section 234B**

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose, "assessed tax" means the tax on total income declared in the return as reduced by –

- (i) the amount of tax deducted or collected at source;
- (ii) any relief of tax claimed under section 89;
- (iii) relief of tax claimed under section 90 or 90A
- (iv) deduction of tax claimed under section 91
- (v) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD.

(5) **Self-assessment tax deemed to have been paid towards regular assessment**

After regular assessment under section 143 or section 144, any amount paid under section 140A shall be deemed to have been paid towards such regular assessment or assessment.

(6) **Consequence of failure to pay tax, interest or fee**

If any assessee fails to pay the whole or any part of such tax or interest or fees, he shall be deemed to be an assessee in default in respect of such tax or interest or fees remaining unpaid and all the provisions of this Act shall apply accordingly.

15.7 UPDATED RETURN OF INCOME [SECTION 139(8A)]

- (1) **Option to furnish updated return:** Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.

Updated return can be filed within 24 months from the end of RAY

This is irrespective of whether or not he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year.

For example, an updated return for A.Y. 2025-26 can be filed till 31.3.2028.

- (2) **Non-applicability of the provisions of updated return:** The provisions of updated return would not apply, if the updated return of such person for that assessment year –
- (i) is a loss return; or
 - (ii) has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or
 - (iii) results in refund or increases the refund due on the basis of return furnished under section 139(1) or section 139(4) or section 139(5).

Additionally, no updated return shall be furnished in the following scenarios –

S. No.	Scenarios	updated return can not be furnished
(i)	<p>In case of a person</p> <ul style="list-style-type: none"> • Where a search has been initiated under section 132 or books of account or other documents or any assets are requisitioned under section 132A. • Where a survey has been conducted under section 133A (other than survey conducted in relation to TDS or TCS) • Where a notice has been issued to the effect that: <ul style="list-style-type: none"> - any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in 	<p>- for the Assessment Year relevant to the Previous Year in which the search is initiated or survey is conducted, or requisition is made and</p>

	<p>case of any other person belongs to such person; or</p> <ul style="list-style-type: none"> - any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person. 	- for any A.Y. preceding such assessment year.	
(ii)	Where a person has furnished an updated return under this sub-section for the relevant assessment year.	for such relevant Assessment Year	
(iii)	Where any proceeding for assessment, reassessment, recomputation, or revision of income under this Act is pending or has been completed for the relevant assessment year.		
(iv)	<p>Where the Assessing Officer has information in his possession for the relevant assessment year in respect of a person under</p> <ul style="list-style-type: none"> - the Smugglers, and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or - the Prohibition of Benami Property Transactions Act, 1988 or - the Prevention of Money laundering Act, 2002 or - the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and <p>the same has been communicated to him, prior to the date of furnishing of updated return.</p>		for such relevant Assessment Year.
(v)	Where information for the relevant assessment year has been received under an agreement referred to in section 90 or section 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of updated return.		

(vi)	If any prosecution proceedings under the Chapter XXII have been initiated for the relevant assessment year in respect of a person prior to the date of furnishing of return under this sub-section.	
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- (3) **Updated return can be filed if the original return is a loss return and updated return is a return of income:** If any person has a loss in any previous year and has furnished a return of loss on or before the due date of filing return of income under section 139(1), he shall be allowed to furnish an updated return if such updated return is a return of income.

For example, if Mr. X has furnished his return of loss for A.Y. 2024-25 on 31.5.2024 consisting of ₹ 5,00,000 as business loss, he can furnish an updated return for A.Y. 2024-25 upto 31.3.2027, if such updated return is a return of income.

- (4) **Updated return to be furnished for subsequent previous year in case (3) above** - If the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under section 32(2) or tax credit carried forward under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of updated return of income for a previous year, an updated return is required to be furnished for each such subsequent previous year.
- (5) Updated return for the relevant assessment year cannot be furnished by such person or belongs to such class of persons, as may be notified by the Board in this regard.

15.8 TAX ON UPDATED RETURN [SECTION 140B]

- (1) **Payment of tax, additional tax, interest and fee before furnishing an updated return of income**

- (a) **In a case where no return is furnished earlier [Section 140B(1)]**

(I) **Tax to be paid along with interest and fee before furnishing of updating return:**

Where no return of income under section 139(1) or 139(4) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together **with interest and fee payable under**

No return filed earlier

any provision of this Act for any delay in furnishing the return or any default or delay

in payment of advance tax, along with the payment of additional income-tax computed under section 140B(3), before furnishing the return.

The updated return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(II) Manner of computation of tax payable on the basis of updated return

The tax payable is to be computed after taking into account the following -

- (i) the amount of tax, if any, already paid as advance tax;
- (ii) any tax deducted or collected at source;
- (iii) any relief of tax claimed under section 89;
- (iv) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- (v) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- (vi) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

(III) Interest under section 234A if no earlier return has been furnished

In a case, where no earlier return has been furnished, the interest payable under section 234A has to be computed on the amount of the tax on the total income as declared in the updated return under section 139(8A), in accordance with the provisions of section 140A(1A).

(b) In a case where return is furnished earlier [Section 140B(2)]

(I) Tax to be paid along with interest before furnishing updated return:

Where, return of income under section 139(1) or 139(4) or 139(5) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of additional income-tax computed under section 140B(3) **(as reduced by the amount of interest paid under the provisions of this Act in the earlier return)** before furnishing the return.

Return filed earlier

The updated return shall be accompanied by proof of payment of such tax, additional income-tax and interest.

(II) Manner of computation of tax payable on the basis of updated return:

The tax payable has to be computed after taking into account the following -

- (i) the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return;
- (ii) **tax deducted or collected at source**, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and **which has not been included in the earlier return;**
- (iii) **any relief of tax** or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income **which has not been included in the earlier return;**
- (iv) **any relief of tax** claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income **which has not been included in the earlier return;**
- (v) **any tax credit claimed**, to be set off following the provisions of section 115JAA or section 115JD, **which has not been claimed in the earlier return;** and

The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

(III) Interest under section 234B where earlier return has been furnished [Section 140B(4)]

In a case where an earlier return has been furnished, **interest payable under section 234B has to be computed on the assessed tax.**

“**Assessed tax**” means the tax on the total income as declared in the updated return to be furnished under section 139(8A), after taking into account the following:

- (i) the amount of relief or tax referred to in section 140A(1), the credit for which has been claimed in the earlier return, if any;
- (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;

Assessed Tax

- (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;
- (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;
- (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return; and

The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

(IV) Interest under section 234C if earlier return has been furnished

Interest payable under section 234C, where an earlier return has been furnished, has to be computed after taking into account the total income furnished in the updated return as returned income.

(2) Additional income-tax payable at the time of updated return [Section 140B(3)]

The additional income-tax payable at the time of furnishing the updated return under section 139(8A) would be –

S. No.	Time of furnishing updated return	Additional Income-tax Payable
(i)	If such return is furnished after expiry of the time available under section 139(4) or 139(5) of the assessment year and before completion of the period of 12 months from the end of the relevant assessment year;	25% of aggregate of tax and interest payable, as determined in (1) above
(ii)	If such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.	50% of aggregate of tax and interest payable, as determined in (1) above

Computation of Additional income-tax

For the purpose of computation of Additional income-tax -

- tax would include surcharge and cess, by whatever name called, on such tax.

- the interest payable would be interest chargeable under any provision of the Act, on the income as per updated return furnished under section 139(8A), as reduced by interest paid in the earlier return, if any.

However, the interest paid in the earlier return would be considered to be nil, if no earlier return has been furnished.

Note - An updated return furnished under section 139(8A) would be regarded as defective return as referred u/s 139(9) unless such return of income is accompanied by the proof of payment of tax as required under section 140B.

(3) Power to CBDT to issue guidelines

In case of any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty, with the approval of the Central Government. Every guideline issued shall be laid before each House of Parliament.

ILLUSTRATION

Mr. X would like to furnish his updated return for the A.Y. 2024-25. In case he furnished his updated return of income, he would be liable to pay ₹ 2,50,000 towards tax and ₹ 35,000 towards interest after adjusting tax and interest paid at the time filing earlier return. You are required to examine whether Mr. X can furnish updated return-

- (i) as on 31.3.2026
- (ii) as on 28.2.2027
- (iii) as on 31.5.2027

If yes, compute the amount of additional income-tax payable by Mr. X at the time of filing his updated return.

Would your answer be different with respect to filing of updated return in case of (ii) above, where he has received a notice under section 147 for the said A.Y. 2024-25 on 23.7.2026.

SOLUTION

Mr. X may furnish an updated return of his income for A.Y. 2024-25 at any time within 24 months from the end of the relevant assessment year, i.e., 31.3.2027.

Accordingly, Mr. X can furnish updated return for A.Y. 2024-25 as on 31.3.2026 and on 28.2.2027. However, he cannot furnish such return as on 31.5.2027, since such date falls after 31.3.2027.

Mr. X would be liable to pay additional income-tax

- @25% of tax and interest payable, if updated return is furnished after the expiry of the time limit available under section 139(4) or 139(5), i.e., 31st December 2024 and before the expiry of 12 months from the end of relevant assessment year, i.e., 31.3.2026.
- @50% of tax and interest payable, if updated return is furnished after the expiry of 12 months from the end of relevant assessment year, i.e., after 31.3.2026 but before the expiry of 24 months from the end of relevant assessment year, i.e., 31.3.2027.

Accordingly, Mr. X is liable to pay additional income-tax in case he furnished his updated return as on

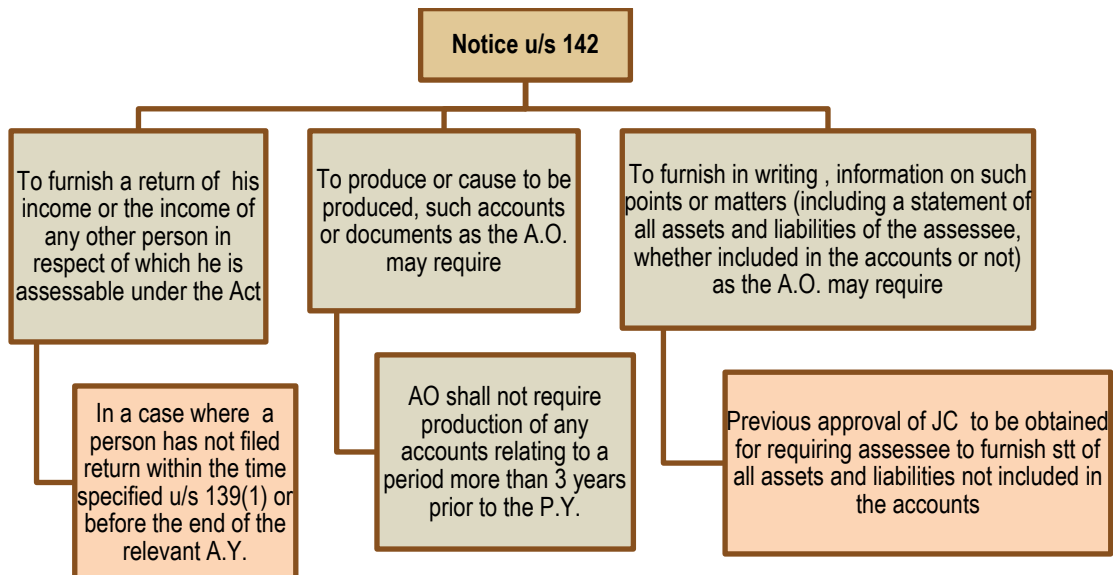
- 31.3.2026 - ₹ 71,250 [25% of 2,85,000, being tax of ₹ 2,50,000 plus interest of ₹ 35,000]
- 28.2.2027 of ₹ 1,42,500 [50% of 2,85,000, being tax of ₹ 2,50,000 plus interest of ₹ 35,000]

He cannot furnish updated return where he has received notice u/s 147, since proceeding for income escaping assessment for the A.Y. 2024-25 are pending.

15.9 INQUIRY BEFORE ASSESSMENT [SECTION 142]

A. Issue of Notice to any person for making assessment [Section 142(1)]

For the purpose of making an assessment, the Assessing Officer may serve on any person who has made a return under section 139 or in whose case the time allowed under section 139(1) for furnishing the return has expired, a notice under section 142. The purposes for which such notice can be served are depicted in the following diagram:



Notes – (1) Notice to furnish return of income may also be served by the prescribed income-tax authority in addition to the Assessing Officer. Accordingly, Rule 12F provide that the prescribed income-tax authority shall be an income-tax authority not below the rank of Income-tax Officer who has been authorised by the CBDT to act as such authority for the purposes of this clause.

(2) It may be noted that the time-limit provided under section 153(1) for completion of assessment is 21 months/18 months/12 months/9 months [Refer to table on time limits for completion of assessment given later in this chapter], as the case may be, from the end of the assessment year in which the income was first assessable. Therefore, since the assessment has to be completed within the said period, it appears that notice under section 142(1) should also be issued within that period.

B. Inquiry by Assessing Officer [Section 142(2)]

For the purpose of obtaining full information in respect of income or loss of any person, the Assessing Officer may make such inquiry as he considers necessary.

15.10 SPECIAL AUDIT AND INVENTORY VALUATION UNDER SECTION 142

Sub-sections (2A), (2B), (2C), and (2D) of section 142 contain the statutory provisions relating to the conduct of audit.

(1) **Basis for direction to get accounts audited or inventory valued:** If at any stage of the proceedings before him, the Assessing Officer, 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
- specialized nature of business activity of the assessee, and
- the interests of the revenue,

is of the opinion that it is necessary so to do, he may, with the previous approval of the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner, direct the assessee to get either or both of the following -

- the accounts audited by an accountant and furnish a report of such audit.
- the inventory valued by a cost accountant and furnish a report of such inventory valuation.

Opportunity of being heard is to be given to the assessee before directing to get the accounts audited or inventory valued.

'Accountant' means a 'chartered accountant' within the meaning of the Chartered Accountants Act, 1949.

"Cost Accountant" means a cost accountant as defined in the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under the said Act.

- (2) **Accountant and cost accountant nominated by the Principal Chief Commissioner/Chief Commissioner/Principal Commissioner/Commissioner** - The accountant by whom the audit should be carried out and the cost accountant by whom inventory should be valued are nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner of Income-tax specifically for the purpose. The assessee is required to furnish an audit report and inventory valuation report in the prescribed form duly signed and verified by such accountant or cost accountant, respectively and setting forth such other particulars as may be prescribed and such other particulars as the Assessing Officer may require.
- (3) **Special audit may be directed even if accounts are audited under any other law** - The Assessing Officer is empowered to direct the audit to be carried out in the case of any particular assessee even if the accounts of the assessee have already been audited under any other law for the time being in force or otherwise.
- (4) **Time limit** - The audit report or inventory valuation report, or both, must be furnished to the Assessing Officer by the assessee within the period specified by the Assessing Officer in his order.

The Assessing Officer is, however, entitled, *suo motu* or on receipt of an application made in this behalf by the assessee for any good any sufficient reason to extend the time-limit by such further period or periods as he deems fit. Further, the aggregate of the period originally fixed and the period or periods so extended **should not exceed 180 days** in any case. This time of 180 days must be reckoned from the date on which the Assessing Officer's direction is received by the assessee.

- (5) **Expenses of special audit or inventory valuation to be paid by the Central Government** - Where the direction for special audit or inventory valuation is issued by the Assessing Officer, the expenses of, and incidental to, such **special audit or inventory valuation, including remuneration of the Accountant or Cost Accountant**, shall be determined by the Principal Chief Commissioner or

Expenses paid by CG

Chief Commissioner or Principal Commissioner or Commissioner in accordance with the prescribed guidelines. **The expenses so determined shall be paid by the Central Government.**

Rule 14B lays down the guidelines for the purposes of determining expenses for audit under section 142(2A). Every Chief Commissioner would maintain a panel of

- Accountants, out of persons referred to in *Explanation* to section 288(2) or
- Cost accountants, out of the persons referred to in *Explanation* to section 142

for the purposes of section 142(2A). The expenses of, and incidental to, audit (including the remuneration of the accountant, cost accountants, qualified assistants, semi-qualified and other assistants who may be engaged by such Accountant or Cost Accountant) should not be

- less than ₹ 3,750 and
- not more than ₹ 7,500

for every hour of the period as specified by the Assessing Officer under section 142(2C). Such period shall be specified in terms of the number of hours required for completing the report.

- (6) **Assessee to be given an opportunity of being heard** - The assessee should, however, be given an opportunity of being heard in respect of any material gathered on the basis of –
- (i) any inquiry under section 142(2); or
 - (ii) any audit or inventory valuation under section 142(2A)

which is proposed to be utilized for the purposes of the assessment. If, however, the assessment is in nature of a best judgment assessment under section 144, it is not obligatory for the Assessing Officer to give the assessee an opportunity to be heard, before passing the assessment order on the basis of the inquiry conducted under section 142(2) or audit report or inventory valuation report under section 142(2A).

- (7) **Consequence of failure to get special audit done** - In any case, where the assessee is directed to get audit done or get inventory valued and the assessee fails to do so, the Assessing Officer is entitled to make a best judgment assessment under section 144 in addition to imposing penalty or taking such steps as may be necessary under the law.

Would the assessee be liable to consequences for failure to get the accounts audits if the nominated Chartered Accountant refused to audit the accounts of the assessee? [Swadeshi Polytex Ltd. v. ITO [1983] 144 ITR 171 (SC)]

In a case where a Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner issued instructions under section 142(2A) nominating a Chartered Accountant for auditing the assessee's accounts and though the concerned assessee was willing to produce the records, the concerned Chartered Accountant refused to audit the accounts, a question arose as to whether there was a failure on the assessee's part to comply with the directions under section 142(2A) and consequently the best judgement assessment could be made under section 144(b).

The Supreme Court held that if, for a frivolous reason, the Chartered Accountant **declined to undertake the audit of the assessee's accounts, the assessee could not be held responsible**. In such a case, there was no default or failure to comply with the direction issued under section 142(2A) on the assessee's part so as to attract the provisions of section 144(b). The best judgement made by the Assessing Officer was set aside with the directions to appoint another Chartered Accountant within one month to get the accounts audited.

Note - The above ruling is with respect to a special audit refused by a nominated Chartered Accountant. The rationale of the said Apex Court ruling can also be applied in case inventory valuation is refused by the Cost Accountant.



15.11 POWER OF ASSESSING OFFICER TO MAKE A REFERENCE TO THE VALUATION OFFICER [SECTION 142A]

- (1) **Reference to the Valuation Officer** - As per section 142A, the Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit the report to him.

Section 142A further clarifies that the Assessing Officer may make a reference to the Valuation Officer whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.

- (2) **Estimation of value of asset, property or investment** - The Valuation Officer is required to estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

If the **assessee does not co-operate** or comply with the directions of the Valuation Officer he may, **estimate the value** of the asset, property or investment **to the best of his judgment**.

- (3) **Time limit for submission of valuation report** - The Valuation Officer shall send a copy of his estimate to the Assessing Officer and the assessee **within a period of six months from the end of the month in which the reference is made**. Thus, a specific time limit has now been provided, within which the Valuation Officer has to send his report to the Assessing Officer.
- (4) **Completion of assessment by taking into account valuation report** - On receipt of the report from the Valuation Officer, the Assessing Officer may, **after giving the assessee an opportunity of being heard**, take into account such report in making the assessment or reassessment.

15.12 FACELESS INQUIRY & VALUATION [SECTION 142B]

Section 142B empowers the Central Government to notify scheme for faceless processes for eliminating physical interface.

- (1) **Faceless scheme [Section 142B(1)]** - The Central Government is empowered to make a scheme (faceless inquiry and valuation scheme) by notification in Official Gazette for the purpose of:
 - a. issuing notice under section 142(1) or
 - b. making inquiry to obtain full information in respect of the income or loss of any person under section 142(2) or
 - c. directing the assessee to get the accounts audited by an accountant or inventory valuation by a cost accountant under section 142(2A) or
 - d. making a reference to the valuation officer to estimate the value of any asset, property or investment under section 142A.

The objective of the scheme is to impart greater efficiency, transparency and accountability by:

- (i) eliminating the interface between the income-tax authority or Valuation Officer and the assessee or any person to the extent technologically feasible;
- (ii) optimising utilisation of the resources through economies of scale and functional specialisation;

- (iii) introducing a team-based issuance of notice or making of enquiries or issuance of directions or valuation with dynamic jurisdiction.
- (2) **Applicability or non-applicability of other provisions of the Act [Section 142B(2)]** - The Central Government may, for the purpose of giving effect to the Faceless Inquiry and Valuation Scheme, by notification in the Official Gazette, direct that any provision of this Act shall not apply or shall apply with such modification, exceptions and adaptations as necessary.
- (3) **Notification issued above to be laid before each House of Parliament [Section 142B(3)]** Every such notification issued by the Central Government either under sub section (1) or (2) of the section 142B has to be laid before each House of Parliament as soon as possible.

Accordingly, Central Government has issued Notification no. 19/2022 dated 30.3.2022, to provide that the Faceless Inquiry and Valuation for the purpose of -

- a. issuing notice under section 142(1) or
- b. making inquiry to obtain full information in respect of the income or loss of any person under section 142(2) or
- c. directing the assessee to get the accounts audited by an accountant or inventory valuation by a cost accountant under section 142(2A) or
- d. making a reference to the valuation officer to estimate the value of any asset, property or investment under section 142A

shall be made in a faceless manner, through automated allocation, in accordance with and to the extent provided in section 144B with reference to making the faceless assessment of total income or loss of assessee.

“Automated allocation” means an algorithm for randomised allocation of cases by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources.



15.13 ASSESSMENT [SECTION 143]

(1) **Summary assessment [Section 143(1)]**

Where a return has been made under section 139 or in response to a notice under section 142(1), such return shall be processed under section 143(1). Thus, summary assessment,

commonly referred to as intimation, is a computerised preliminary assessment or processing of the return of income filed by an assessee.

- (i) Section 143(1)(a) provides **for computation of the total income of an assessee after making the following adjustments** to the returned income:-
- (a) any arithmetical error in the return;
 - (b) an incorrect claim, if such incorrect claim is apparent from any information in the return;
 - (c) Disallowance of loss claimed, if return of the previous year for which set-off is claimed was filed beyond due date u/s 139(1);
 - (d) Disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return;
 - (e) Disallowance of deduction claimed under section 10AA or under any of the provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes", if return is filed beyond due date u/s 139(1);

Intimation

However, before making any such adjustments, in the interest of natural justice, intimation has to be given to the assessee requiring him to respond to such adjustments. Such intimation may be in writing or through electronic mode. The response received, if any, has to be duly considered before effecting any adjustment. However, **if no response is received within 30 days of the issue of such intimation**, the processing shall be carried out incorporating the adjustments.

- (ii) **The term “an incorrect claim apparent from any information in the return” shall mean** such claim on the basis of an entry, in the return, –
- (a) of an item, which is inconsistent with another entry of the same or some other item in such return;
 - (b) in respect of which, information required to be furnished to substantiate such entry, has not been furnished in the return;
 - (c) 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.

- (iii) **Tax, interest and fee should be computed** on the basis of the total income computed after making the adjustments in (i) above.
- (iv) The sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of such tax, interest and fee, if any, so computed by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under section 89, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate under section 87A, any tax paid on self-assessment and any amount paid otherwise by way of tax, interest or fee.
- (v) Based on the above adjustments, **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.
- Intimation order can be issued within 9 months from the end of F.Y. in which return furnished**
- (vi) If any amount is payable by the assessee, the communication sent to the assessee is considered a 'Notice of Demand'. The assessee must pay the tax liability within 30 days of receiving the intimation; otherwise, he will be treated as an assessee-in-default. Where any amount of refund is due to the assessee, the same shall be granted to the assessee.
- (vii) An **intimation shall also be sent** to the assessee in a case where **the loss declared in the return by the assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to, him.**
- (viii) On the other hand, where there is neither any adjustment nor any tax due from or refund payable to the assessee, the acknowledgement of the return shall be deemed to be the intimation under section 143(1).
- (ix) The scheme contemplates avoiding human interface and therefore, provides for computerised processing of returns for making the above adjustments, i.e., the software will be designed to detect arithmetical inaccuracies and internal inconsistencies and make appropriate adjustments in the computation of the total income.
- (2) **Mandatory processing of return of income before issuance of assessment order**
[Section 143(1D)]
- (i) Section 143(1) requires processing of return of income filed under section 139(1) or in response to a notice issued under section 142(1).

- (ii) An intimation has to be prepared or generated and sent to the assessee specifying the sum payable or the refund due, to the assessee.
- (iii) No intimation can be sent after the expiry of **nine months** from the end of the financial year in which the return is made. This is provided in the second proviso to section 143(1).
- (iv) In respect of returns furnished for A.Y.2017-18 or thereafter, processing of a return under section 143(1) is necessary even where a notice has been issued to the assessee under section 143(2).

(3) **Regular assessment/Scrutiny assessment [Section 143(2)/(3)]** - If the Assessing Officer or the prescribed income-tax authority [i.e., an income-tax authority not below the rank of an Income-tax Officer who has been authorised by the CBDT to act as income-tax authority] considers it necessary or expedient to ensure that the assessee has not understated his income or has not computed excessive loss or has not underpaid his tax in any manner he can **issue a notice for making the assessment** in the normal manner as at present. This will be a scrutiny assessment.

Notice for assessment u/s 143(2) to be issued within 3 months from the end of F.Y. in ROI is furnished

It may be noted that notice for detailed scrutiny under section 143(2) **cannot be served after the expiry of 3 months from the end of the financial year** in which the return of income is furnished.

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 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.

It is also obligatory for research associations, news agency, associations and other institutions exempt under clauses (21), (22B), (23A) and (23B) 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 research associations, news agency, associations and other institutions has been withdrawn or notification rescinded [First proviso to section 143(3)].

If any trust or institution or educational institution or hospital or medical institution referred in section 10(23C)(iv), (v), (vi) and (via) or any trust or institution referred to in section 11, has committed any “specified violation” as mentioned under section 10(23C) or under section 12AB(4), the Assessing Officer shall

- send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration, as the case may be, and
- no order making an assessment of the total income or loss of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner either cancelling the approval or refusing to cancel the approval of such trust or institution or educational institution or hospital or medical institution under section 10(23C) or section 12AB(4) [Second proviso to section 143(3)].

The time period for completing the assessment in such cases will exclude the period between the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner and date on which copy of the order is received by the Assessing Officer [Clause (xiii) of Explanation 1 of section 153].

Meaning of Specified Violation: The following are considered as Specified Violation

- (a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, **has been applied, other than for the objects of the trust or institution;** or
- (b) the trust or institution has **income from profits and gains of business which is not incidental** to the attainment of its objectives **or separate books of account are not maintained** by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or
- (c) the trust or institution has **applied** any part of its income from the property held under a trust for **private religious purposes**, which does not enure for the benefit of the public; or
- (d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has **applied** any part of its income for the benefit of any **particular religious community or caste;** or
- (e) any activity being carried out by the trust or institution—
 - (i) **is not genuine;** or

Specified Violation

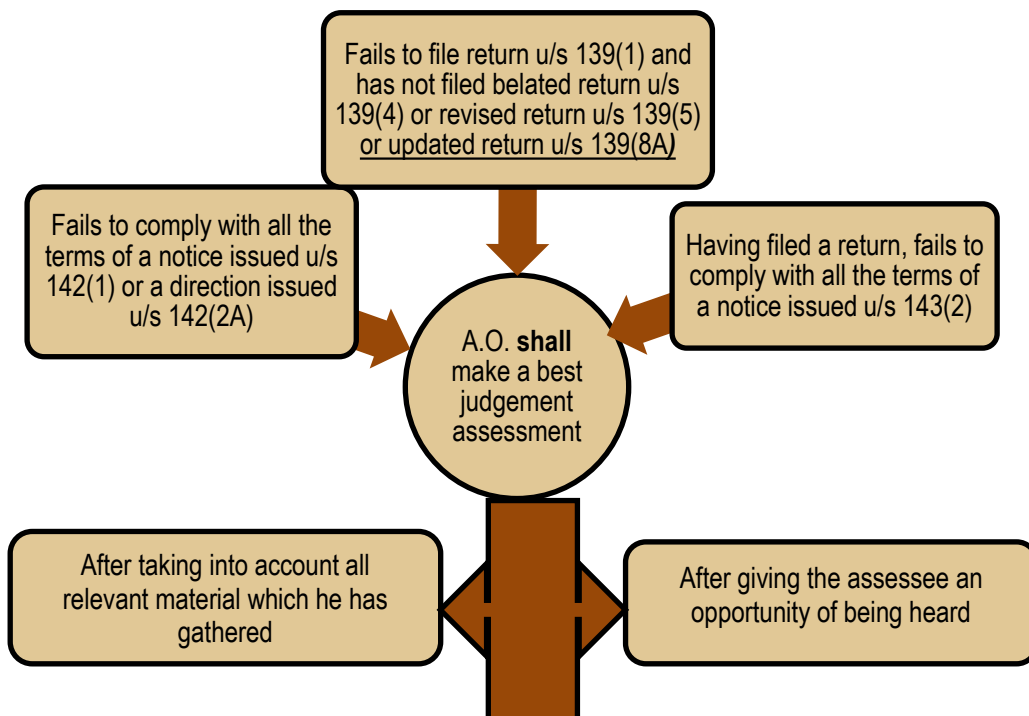
- (ii) **is not being carried out in accordance with all or any of the conditions** subject to which it was registered; or
- (f) the trust or institution **has not complied with the requirement of any other law**, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.
- (g) where the registration application filed by the trust or institution is incomplete or contains false or incorrect information.

Note – The situations mentioned in (c) and (d) are mentioned only in the case of a trust or institution registered under section 11.

The Assessing Officer is 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), 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.

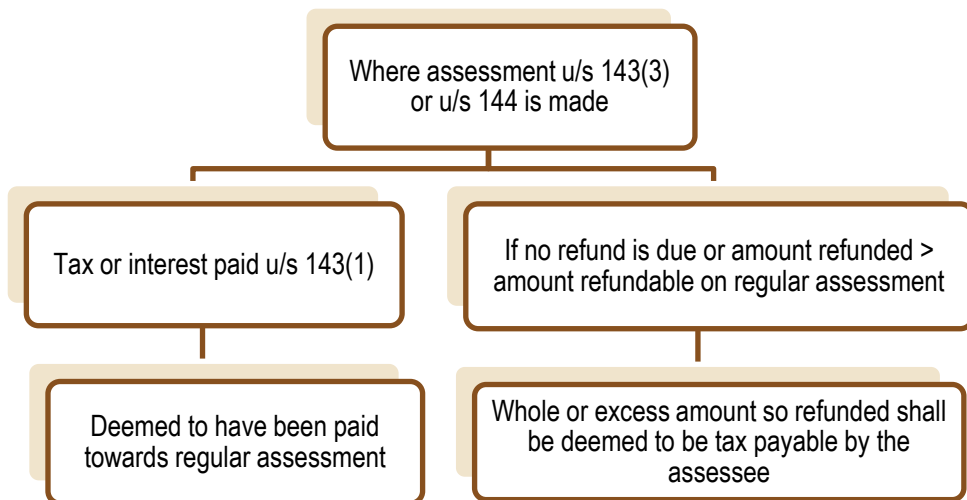
The Central Government may, by order, withdraw the approval and forward a copy of the order to the concerned university, college or other institution and to the Assessing Officer.

(4) **Best judgment assessment [Section 144]**



- (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 the 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 an opportunity.



15.14 POWER OF JOINT COMMISSIONER TO ISSUE DIRECTIONS IN CERTAIN CASES [SECTION 144A]

- (1) 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.

- (2) 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.

15.15 FACELESS ASSESSMENT [SECTION 144B]

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 has introduced faceless assessment under section 144B w.e.f. 1st April, 2021. "Faceless assessment" means the assessment proceedings conducted electronically in the 'e-Proceeding' facility through the assessee's registered account in the designated portal. CBDT has ordered www.incometax.gov.in as the "designated portal" for the purpose of Faceless Assessment.

- (1) **Procedure for Faceless Assessment [Section 144B(1)]** - Section 144B(1) provides that assessment under section 143(3) or best judgment assessment under section 144 or income escaping assessment under section 147 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 a faceless manner in accordance with the following procedure:

**Faceless assessment u/s
14(3), 144 and 147**

Clause	Provision
Assignment of the case to a Specific Assessment Unit	
(i)	The National Faceless Assessment Centre (NFAC) has to assign the case selected for the purposes of faceless assessment under this section to a specific assessment unit through an automated allocation system.
Intimation by NFAC to the assessee	
(ii)	The NFAC has to intimate the assessee that the assessment in his case would be completed following the procedure laid down under this section.
Serving of notice on the assessee	
(iii)	Service of notice: Notice shall be served on the assessee through the NFAC under section 143(2) or section 142(1).

(iii)	Filing of response to the notice by the assessee: The assessee may file his <u>response to the notice within the date specified therein</u> to the NFAC which shall forward the same to the assessment unit.
Request by Assessment Unit to NFAC for obtaining information/conducting enquiry	
(iv)	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 enquiry or verification by verification unit; and (c) seeking technical assistance in respect of the determination of arm's length price, valuation of property, withdrawal of registration, approval, exemption or any other technical matter from the technical unit.
Course of Action when Assessment Unit requests for obtaining further information to NFAC as per sub clause (a) of clause (iv)	
(v)	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. Assessee to file a response to the notice within the 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 based on an application in this regard to the NFAC, which shall forward the reply to the assessment unit.
Course of Action when Assessment Unit makes request for conducting enquiry or seeks technical assistance to NFAC as per sub clause (b) and (c) of clause (iv)	
(vi)	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, the request would be assigned by the NFAC to a verification unit through an automated allocation system. 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 through an automated allocation system.
(vii)	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.

Failure on the part of the assessee	
(viii)	NFAC to intimate the failure to assessment unit: Where the assessee fails to comply with the notice served for obtaining the information, documents or evidence or notice issued under section 142(1) or the terms of a notice issued under section 143(2), the NFAC shall intimate such failure to the assessment unit.
(ix)	Serving notice u/s 144 for failure on the part of the assessee: The assessment unit shall serve upon such assessee a notice, through the NFAC, under section 144, giving him an opportunity to show-cause on a date and time as specified in such notice as to why the assessment in his case should not be completed to the best of its judgment.
(x)	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 which shall forward the same to the assessment unit.
(xi)	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.
Step to be taken by Assessment Unit after assessee files his response or fails to file his response	
(xii)	The assessment unit shall, after taking into account all the relevant material available on the record, prepare, in writing— (a) <u>an income or loss determination proposal</u> , where <u>no variation prejudicial to the assessee is proposed</u> and send a copy of such income or loss determination proposal to the NFAC; or (b) in any other case, <u>a show cause notice</u> stating the <u>variations prejudicial to the interest of the assessee proposed to be made</u> to the income of the assessee and calling upon him to submit as to why the proposed variation should not be made and serve such show cause notice, on the assessee, through the NFAC
Assessee to file reply of show cause notice served under sub-clause (b) of clause (xii)	
(xiii)	Assessee to file a response to the notice within the specified time: The assessee shall file his reply to the show-cause notice on a date and time as specified therein or such time as may be extended based on an application made in this regard, to the NFAC which shall forward the reply to the assessment unit.
(xiv)	Intimation to Assessment Unit in case of no response from assessee: Where the assessee fails to file a response to the notice served within the time specified therein or within the extended time, if any, the NFAC shall intimate such failure to the assessment unit.

Procedure to be followed after assessee files his response or fails to file his response to show cause notice served under sub-clause (b) of clause (xii)	
(xv)	Assessment unit to prepare an income or loss determination proposal: The assessment unit shall, after considering the response received under clause (xiii) or after receipt of intimation under clause (xiv), as the case may be, and taking into account all relevant material available on record, <u>prepare an income or loss determination proposal and send the same to the NFAC.</u>
(xvi)	Upon receipt of the income or loss determination proposal, as referred to in sub-clause (a) of clause (xii) [where no variations prejudicial to the assessee were proposed] or clause (xv) [where variations prejudicial to the assessee were proposed and then show cause notice was issued to him], as the case may be, the NFAC <u>may</u> , on the basis of guidelines issued by the Board - <ol style="list-style-type: none"> (a) <u>convey to the assessment unit to prepare draft order</u> in accordance with the income or loss determination proposal, which shall thereafter prepare a draft order; or (b) assign the income or loss determination proposal to a review unit through an automated allocation system, for conducting a review of such proposal.
Where the proposal is assigned to a review unit	
(xvii)	Review Unit to prepare the review report: The review unit shall conduct a review of the income or loss determination proposal assigned to it by the NFAC, after that, it shall <u>prepare a review report</u> and send the same to the NFAC;
(xviii)	NFAC to forward the review report to the assessment unit, which has proposed the income or loss determination proposal.
Preparation of Draft Order	
(xix)	Assessment Unit to prepare draft order: The assessment unit shall, after considering such review report, accept or reject some or all of the modifications proposed therein and, after recording reasons in case of rejection of such modifications, prepare a draft order.
(xx)	Draft order to be sent to NFAC: The assessment unit shall send such draft order prepared under sub-clause (a) of clause (xvi) [where a proposal is not forwarded to review unit] or under clause (xix) [where a proposal is assigned to review unit] to the NFAC.
Preparation of final assessment order (other than cases in relation to eligible assessee)	
(xxii)	Passing of final assessment order by Assessment Unit: The NFAC shall convey to the assessment unit to pass the final assessment order in accordance with such draft order. After that, the assessment unit shall pass the final assessment order, initiate penalty proceedings, if any, and send it to the NFAC.

(xxiii)	NFAC to serve a copy of such order to the assessee: The NFAC shall serve a copy of the final assessment order and notice for initiating penalty proceedings, if any, on 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.
Procedure to be followed by NFAC in case of an eligible assessee (as defined under section 144C)	
(xxi)	NFAC to serve draft order to the eligible assessee: Where there is a proposal to make any <u>variation which is prejudicial to the interest of an eligible assessee</u> , as mentioned under section 144C(1), the NFAC shall serve the draft order referred to in clause (xx) on such assessee.
(xxiv)	Procedure to be followed by the assessee: Where a draft order is served on the assessee, he shall— (a) <u>file his acceptance</u> of the variations proposed in such draft order to the NFAC; or (b) <u>file his objections</u> , if any, to such variations, with— (I) the Dispute Resolution Panel, and (II) the NFAC, within 30 days of the receipt by him of the draft order.
(xxv)	Intimation by NFAC to Assessment Unit: The NFAC shall intimate the assessment unit to complete the assessment based on the draft order: (a) upon receipt acceptance from of the eligible assessee; or (b) if no objections are received from the eligible assessee within 30 days of his receipt of the draft order.
(xxvi)	Assessment Unit to pass the assessment order: Upon receipt of intimation from NFAC under clause (xxv), the assessment unit shall pass the assessment order, in accordance with the relevant draft order within one month from the end of the month in which - the acceptance is received or - the period of 30 days for filing an objection expired and initiate penalty proceedings, if any, and send the order to the NFAC.
Procedure in case eligible assessee files objection with Dispute Resolution Panel (DRP)	
(xxvii)	NFAC to intimate assessment unit about objections filed by assessee: Where the eligible assessee files objections with the DRP, under sub-clause (b) of clause (xxiv), the NFAC shall send such intimation along with a copy of objections filed to the assessment unit.

(xxviii)	NFAC to forward directions of Dispute Resolution Panel (DRP) to Assessment Unit: Where the eligible assessee files his objections with the DRP, the NFAC has to, <u>upon receipt of the directions</u> issued by the DRP under section 144C(5), <u>forward such directions to the Assessment Unit.</u>
(xxix)	Assessment Unit to prepare the assessment order: In conformity with the directions issued by the DRP under section 144C(5), the Assessment Unit has to complete the assessment within the time allowed under section 144C(13) and initiate penalty proceedings, if any and send a copy of such order to the NFAC .
Serving a copy of assessment order in case of eligible assessee	
(xxx)	NFAC to serve a copy of the order to the assessee: The NFAC shall, upon receipt of the assessment order referred to in clause (xxvi) or clause (xxix), as the case may be, serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice, specifying the sum payable by, or the amount of refund due to, the assessee based on such assessment.
Procedure to be followed by NFAC on completion of the assessment	
(xxxi)	On completion of the assessment, the NFAC shall 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 provisions of this Act.

- (2) **NFAC/AUs/VUs/TUs/RUs to be set up for the purpose of faceless assessment [Section 144B(3)]-** For the purpose of faceless assessment, the CBDT, may set up the following Centers and Units and specify their function and jurisdiction –

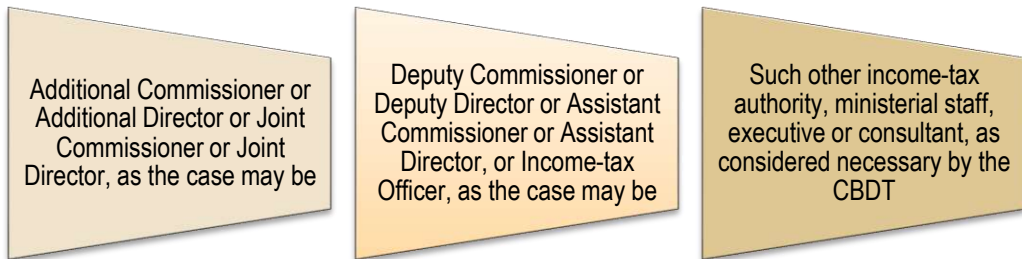
National Faceless Assessment Center (NFAC)	To facilitate the conduct of faceless assessment proceedings in a centralised manner.
Assessment Units (AUs)	To conduct the faceless assessment, to perform the function of making assessment, which includes <ul style="list-style-type: none"> • identification of points or issues 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.

	<p>The term "assessment unit", shall refer to an Assessing Officer having powers assigned by the Board.</p>
Verification Units (VUs)	<p>To facilitate the conduct of faceless assessment, to perform the function of verification, which includes</p> <ul style="list-style-type: none"> - enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification. <p>The term "verification unit", shall refer to an Assessing Officer having powers assigned by CBDT.</p> <p>The function of the verification unit under section 144B 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 through the NFAC to such a verification unit.</p>
Technical Units (TUs)	<p>To facilitate the conduct of faceless assessment, to 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 or any other technical matter under this Act or an agreement entered into under section 90 or 90A, which may be required in a particular case or a class of cases, under this section.</p> <p>The term "technical unit", shall refer to an Assessing Officer having powers assigned by CBDT.</p>
Review Units (RUs)	<p>To facilitate the conduct of faceless assessment, to perform the function of the review of the income determination proposal assigned to it by NFAC after receiving from the assessment unit under sub-clause (b) of clause (xvi) of sub-section (1). The function of review includes checking whether-</p> <ul style="list-style-type: none"> • the relevant and material evidence has been brought on record, • the relevant points of fact and law have been duly incorporated, • the issues requiring addition or disallowance have been incorporated, and

such other functions as may be required for the purposes of review.

The term "review unit, shall refer to an Assessing Officer having powers assigned by CBDT.

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



- (4) **Communication among the units or with assessee [Section 144B(5)]:**

- (i) **Communication among units to be routed through NFAC:** 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 NFAC.
- (ii) **Communication to be exchanged exclusively in electronic mode:** All communications between the NFAC, the assessee, his authorised representative, or any other person shall be exchanged exclusively in electronic mode. Similarly, all internal communications between the NFAC and various units must be exchanged exclusively in electronic mode.

However, in certain circumstances, enquiry or verification may be conducted by the verification unit otherwise than by electronic mode. Such circumstances may be specified by the CBDT.

- (5) **Authentication of electronic record through digital signature [Section 144B(6)]:** For the purposes of faceless assessment, an electronic record has to be authenticated by—

- (a) **NFAC:** by way of an electronic communication
- (b) **Various Units:** by affixing digital signature
- (c) **Assessee or any other person:** by affixing his digital signature or under electronic verification code (EVC), or by logging into his registered account in the designated portal.

(6) **Delivery of notice/order electronically to the assessee or any other person [Section 144B(6)(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 authorised representative; or
- (c) uploading an authenticated copy on the assessee's Mobile App

e-communication

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.

(7) **No personal appearance required [Section 144B(6)(vi)]:** A person shall not be required to appear either personally or through an authorised representative in connection with any proceedings before any unit set up under this section.

(8) **Request by the assessee for a personal hearing in specific cases [Section 144B(6)(vii)]:** In a case where a variation is proposed in the income or loss determination proposal or the draft 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 income or loss determination proposal, the assessee or his authorised representative, as the case may be, may request for personal hearing to make his oral submissions or present his case before the income-tax authority of the relevant unit.

(9) **Approval of request for personal hearing [Section 144B(6)(viii)]:** Where the request for a personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through NFAC. Such hearing has to be conducted exclusively through video conferencing or video telephony, including the use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, 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(6)(ix)/(x)]:** Other than enquiry or verification conducted by the verification unit, otherwise than by electronic mode, in the circumstances specified by the CBDT, 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 the relevant unit, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, 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) **Standards to be laid down for effective function of NFAC and other units [Section 144B(6)(xi)]:** The Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the NFAC shall, with the prior approval of CBDT, lay down the standards, procedures and processes for effective functioning of the NFAC and the units set up, in an automated and mechanised environment.

- (12) **Audit may be invoked under section 142(2A) during faceless assessment [Section 144B(1)(xxxii)]:** If, at any stage of the proceedings before it, the assessment unit is of the opinion that it is necessary to do so,

- having regard to the nature and complexity of the accounts,
- volume of the accounts,
- doubts about the correctness of accounts,
- multiplicity of transactions in the accounts or
- specialised nature of the business activity of the assessee,

it may, upon recording its reasons in writing, refer the case to the NFAC stating that the provisions of section 142(2A) may be invoked. Such a case may be dealt with in accordance with section 144B(7).

NFAC's discretion to forward the reference of invoking audit or inventory valuation under section 142(2A) [Section 144B(7)]:

- (a) The Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the NFAC shall, in accordance with the procedure laid down by CBDT in this regard, if he considers appropriate that the provisions of section 142(2A) may be invoked in the case,—
- (i) forward the reference received from an assessment unit to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case. The assessment unit shall be informed accordingly.
- (ii) transfer the case to the Assessing Officer having jurisdiction over such case with the prior approval of CBDT.
- (b) Once the reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of section 142(2A)
- (c) It can happen that NFAC may not consider appropriate to forward the reference to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case.

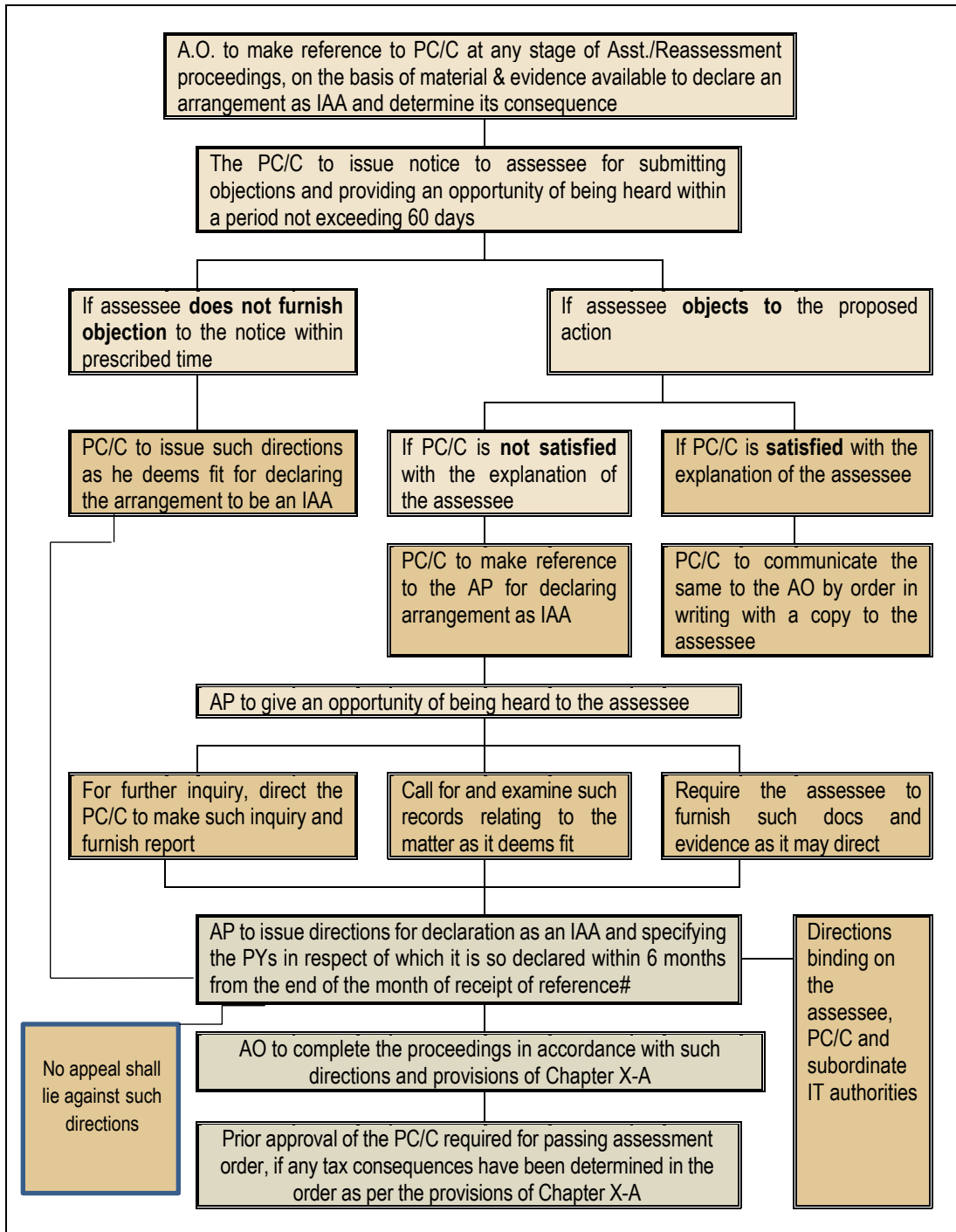
In such a case, the assessment unit has to proceed to complete the assessment in accordance with the procedure laid down in this section.

- (13) 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.

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

The diagram given on the next page will give you an understanding of the procedure for declaring any arrangement as an impermissible avoidance arrangement. The short forms used in the diagram are:

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



# The following period has to be excluded in computing the said period:	
(i)	The period commencing from the date on which the first direction is issued by the Approving Panel to the Principal Commissioner or the Commissioner for getting inquiries conducted through the authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is last received by the Approving Panel or one year, whichever is less.
(ii)	The period during which the proceeding of the Approving Panel is stayed by an order or injunction of any court.
Note – If, immediately after the exclusion of the aforesaid time or period, the period available to the Approving Panel for issue of directions is less than 60 days, such remaining period shall be extended to 60 days. Consequently, the aforesaid period of six months shall be deemed to have been extended accordingly.	

Approving Panel

(1)	Constitution	The Central Government may constitute one or more Approving Panels as may be necessary
(2)	Composition	Each Approving Panel may shall consist of three members including a Chairperson
(3)	Qualification of members	(i) The Chairman shall be a person who is or has been a judge of a High Court
		(ii) One member shall be a member of IRS not below the rank of PCCIT/CCIT
		(iii) One member shall be an academic or scholar having special knowledge of matters, such as direct taxes, business accounts and international trade practices.
(4)	Term	Ordinarily for one year; May be extended from time to time upto a period of three years.
(5)	Frequency of Meeting	The Chairperson and members of the Approving Panel shall meet, as and when required, to consider the references made to the Panel. They shall be paid the remuneration as may be prescribed.
(6)	Powers	(i) The Approving Panel has to issue such directions, as it deems fit, in respect of declaration of the arrangement as an impermissible avoidance arrangement in accordance with the provisions of Chapter X-A including specifying the previous year or years to which such declaration of an arrangement as an impermissible avoidance arrangement shall apply.

		(ii)	The Approving Panel, may, before issuing any direction under section 144BA(6), if it is of the opinion that any further inquiry in the matter is necessary, direct the PC/C to make such inquiry or cause the inquiry to be made by any other IT authority and furnish a report containing the result of such inquiry to it.
		(iii)	Call for and examine such records relating to the matter as it deems fit.
		(iv)	Require the assessee to furnish such documents and evidence as it may direct
		(v)	All the powers which are the vested in the AAR u/s 245U
(7)	Officers		The CBDT shall provide to the Approving Panel such officials as may be necessary for the efficient exercise of powers and discharge of functions of the Approving Panel under the Income-tax Act, 1961.
(8)	Rules		The CBDT may make rules for the purpose of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references received.



15.17 REFERENCE TO DISPUTE RESOLUTION PANEL [SECTION 144C]

An alternate dispute resolution mechanism which will aid in speedy resolution of disputes on a fast-track basis has now been provided for under the Income-tax Act, 1961.

The provisions of this section shall not apply to any proceedings under Chapter XIV-B, i.e. for assessments of search cases.

The significant features of the alternate dispute resolution mechanism are briefed hereunder –

- (1) 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

“Eligible assessee” means,-

- (i) 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
- (ii) any non-corporate non-resident or any foreign company.

Such eligible assessee shall not include person referred to in section 158BA(1) or other person referred to in section 158BD.

- (2) 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.

File acceptance or objection within 30 days

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

- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.

- (9) 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.

DRP direction binding on AO

- (10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.
- (11) 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.

- (12) 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.
- (13) 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.
- (14) 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.
- (15) 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.
- (16) 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.

Issue direction within 9 months from the end of month in which draft order is forwarded to eligible assessee

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, 2025**.

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



15.18 INCOME ESCAPING ASSESSMENT [SECTIONS 147 TO 151]

The Finance Act, 2021 amended the procedure for assessment or reassessment of income in the Act with effect from the 1st April, 2021. The amendments modified, inter alia, section 148, section 149 and a new section 148A was introduced in the Act. Also, the provisions of section 153A and section 153C of the Act were amended to provide that the said provision shall only apply to search and seizure proceedings under section 132 or requisition under section 132A of the Act initiated on or before 31.03.2021. The separate regime for search assessments was abolished, and such assessments were subsumed into the reassessment provisions.

Income Escaping Assessment

There were multiple problems that were arising under the present scheme of search assessment under section 148. The absence of any legal requirement for consolidated assessments in search cases has led to a situation where every year only the time-barring year is reopened in the case of the searched assessee. This resulted in staggered search assessments for the same search, and consequentially, the searched assessee may have been engaged in the search assessment process for almost ten years. This was time-consuming process which escalated the litigation cost for the taxpayer as well as for the department. For the duration of such period, legal position on an issue may undergo change, leading to different additions in different years, on the same issue. Moreover, since such a long duration is involved, there is a possibility of change of opinion with respect to the line of enquiry. Further, due to such staggered assessments, coordinated investigation were not feasible in search cases.

In order to make the procedure of assessment of search cases cost-effective, efficient and meaningful, the scheme of block assessment is introduced for the cases in which search under section 132 or requisition under section 132A has been initiated or made.

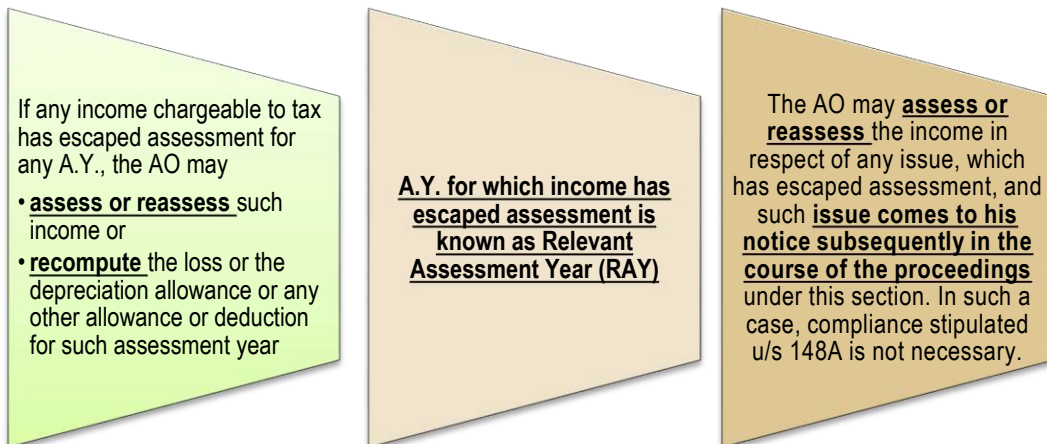
Accordingly, with effect from 1st September 2024, the Finance (No. 2) Act, 2024, has excluded search and requisition cases from Sections 147 to 153 and brought them within the purview of the newly inserted Chapter XIV-B dealing with Block Assessments. Thus, where a search is initiated or a requisition is made on or after 1st September 2024, the assessment, reassessment, or recomputation shall be undertaken in accordance with the provisions of Chapter XIV-B (Sections 158B to 158BI). However, in cases where the search or requisition is initiated or made during the period commencing on 1st April 2021 and ending on 31st August 2024, the assessment, reassessment, or recomputation shall be governed by the provisions of sections 147 to 151, as they

stood prior to the amendments brought by the Finance (No. 2) Act, 2024. The provisions of section 148, 148A, 149 and 151 relevant upto 31.8.2024 are discussed later under point no. (5) at the end of provisions applicable from 1st September, 2024.

- (1) **Income escaping assessment [Section 147]** - 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 recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (i.e., relevant assessment year).

The Assessing Officer may also, 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 (Explanation to Section 147).

In other words, Assessing Officer may assess any income in respect of any issue that has escaped assessment which comes to his notice subsequently in the course of the proceeding, even if the steps prescribed in section 148A were not followed in relation thereto.



- (2) **Conducting inquiry, providing opportunity before issue of notice [Section 148A]-**

- (i) *Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant assessment year, he shall, before issuing any notice under section 148 provide an opportunity of being heard to such assessee by serving upon him a notice to show cause as to why a notice under section 148 should not be issued in his case and such notice to show cause shall be accompanied by the information which suggests that income*

chargeable to tax has escaped assessment in his case for the relevant assessment year.

- (ii) On receipt of the notice, the assessee may furnish his reply within such period, as may be specified in the notice.
- (iii) The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee, if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 148.
- (iv) The provisions of this section shall not apply to income chargeable to tax escaping assessment for any assessment year in the case of an assessee where the Assessing Officer has received information under the scheme notified under section 135A.

Section 151- “Specified authority” for the purposes of sections 148 and 148A shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be.

- (3) **Issue of notice where income has escaped assessment [Section 148]** – Before making the assessment, reassessment or recomputation under section 147,
- a) the Assessing Officer shall, subject to the provisions of section 148A, issue a notice under section 148 to the assessee, along with a copy of the order passed under section 148A.
 - b) requiring the assessee to furnish, within such period as may be specified in the notice, not exceeding three months from the end of the month in which such notice is issued, a return of his income or income of any other person in respect of whom he is assessable under this Act during the previous year corresponding to the relevant assessment year
 - c) The return of income shall be furnished 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 apply accordingly as if such return were a return required to be furnished under section 139.

Furnish return within 3 months from the end of month of issue of notice

However, where a return of income is furnished beyond the period allowed above, such return would not be deemed to be a return under section 139 and accordingly, the assessing officer can proceed with best judgment assessment in such a case.

Conditions: 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
- Where the Assessing Officer has received information under the scheme notified under section 135A, with the prior approval of the specified authority.

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** 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; or
- (ii) 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 this Act; or
- (iii) any **information** received under **an agreement** referred to in section 90 or section 90A ; or
- (iv) any **information made available** to the Assessing Officer under the scheme notified in respect of faceless collection of information **under section 135A**; or
- (v) any information which requires action in consequence of the **order of a Tribunal or a Court**.
- (vi) any **information** emanating from a **survey conducted under section 133A** (other than conducted under section 133A(2A) for verifying TDS and TCS) on or after 01.09.2024.

Information or deemed information

(4) Time limit for notices under sections 148 and 148A [Section 149]

- (i) No notice under section 148 shall be issued for the relevant assessment year -
 - (a) if three years and three months have elapsed from the end of the relevant assessment year, unless the case falls under clause (b)
 - (b) if three years and three months, but not more than five years and three months, 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 related to any asset or expenditure or transaction or entries which show that the income chargeable to tax, which has escaped assessment,

amounts to or is likely to amount to ₹ 50 lakhs or more.

(ii) No notice to show cause under section 148A 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 five years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment, as per the information with the Assessing Officer, amounts to or is likely to amount to ₹ 50 lakh or more.

(5) The provisions of section 148, 148A, 149 and 151 relevant upto 31.8.2024 are as follows-

(i) **Issue of notice where income has escaped assessment [Section 148]** – 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 a period of 3 months from the end of the month in which such notice is issued or such further period, as may be allowed by the Assessing Officer on the basis of an application made in this regard by the assessee,
- 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.

Furnish return within 3 months from the end of month of notice

However, where return of income is furnished beyond the period allowed above, such return would not be deemed to be a return under section 139.

The Assessing Officer has to conduct an enquiry, provide an opportunity of being heard to the assessee and consider the assessee's reply as per the procedure laid down under section 148A to decide whether or not it is a fit case for the issue of notice

under section 148. If it is a fit case for the 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 is initiated under section 132 or books of account requisitioned under section 132A or Assessing Officer has received any information under the scheme notified under section 135A.

Conditions: 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.

No such approval is required where the Assessing Officer, with the prior approval of the specified authority, has passed an order based on material available on record, including the reply of the assessee under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section.

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—

- any **information** 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; or
- 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 this Act; or
- any **information** received under **an agreement** referred to in section 90 or section 90A ; or
- any **information made available** to the Assessing Officer under the scheme notified in respect of faceless collection of information **under section 135A**; or
- any information which requires action in consequence of the **order of a Tribunal or a Court.**

Information or deemed information

Cases where Assessing Officer shall be deemed to have information- 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 where-

- **a search is initiated under section 132** or books of account, other documents or any assets are requisitioned under section 132A, on or after 01.04.2021 **but before 1.9.2024**, in the case of the assessee; or
- **a survey is conducted under section 133A**, other than survey conducted for verifying tax is deducted or collected at source under section 133A(2A), on or after 01.04.2021 **but before 1.9.2024**, in the case of the assessee; or
- 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 under section 132 or section 132A** in case of any other person on or after 01.04.2021 **but before 1.9.2024**, belongs to the assessee; or
- the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that **any books of account or documents, seized or requisitioned under section 132 or section 132A** in case of any other person on or after 01.04.2021 **but before 1.9.2024**, 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 where 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.

Note: Order of assessment or reassessment or recomputation in respect of an assessment year to which the above four cases apply shall NOT be passed by an Assessing Officer below the rank of Joint Commissioner except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director [Section 148B].

- (ii) **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 by serving upon him a show cause notice to** 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.

Non-applicability of section 148A – The procedure laid down in section 148A 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 ***but before 1.9.2024***; 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 ***but before 1.9.2024***, 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 ***but before 1.9.2024***, pertains or pertain to, or any information contained therein, relate to, the assessee.
- (d) the Assessing Officer has received any information under the scheme notified in respect of faceless collection of information under section 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee

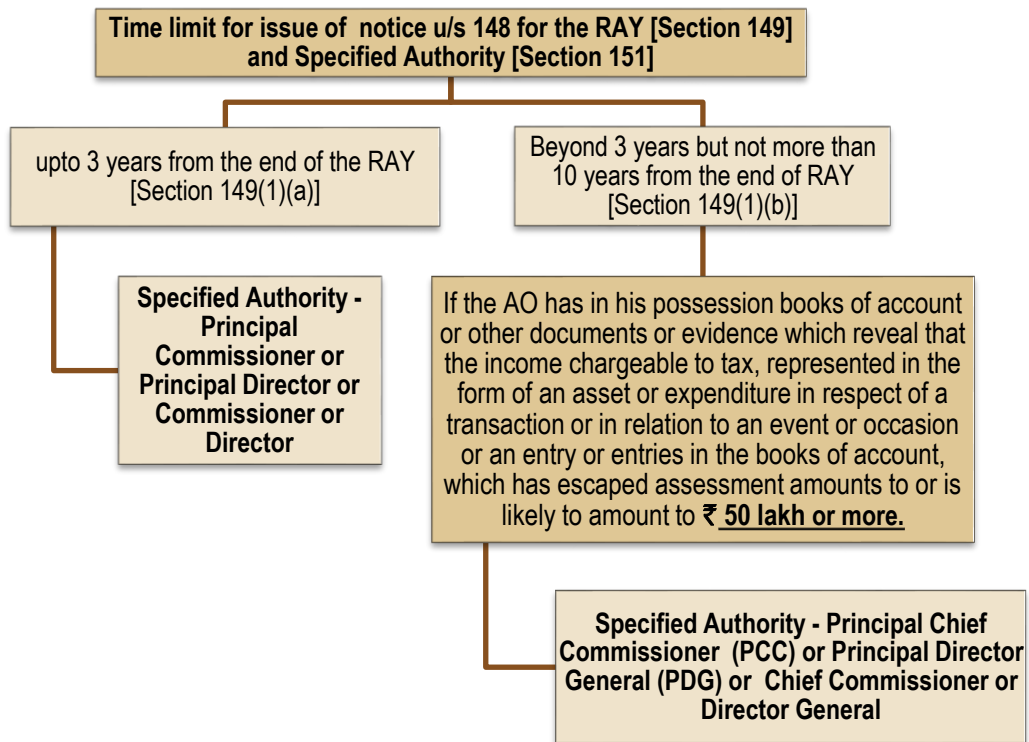
In other words, in cases mentioned above, the Assessing Officer need not conduct enquiry and provide an opportunity of being heard as required under section 148A before issuing notice under section 148.

What is the meaning of “Relevant Assessment Year (RAY)”?

Explanation 1 to Section 148	Explanation 2 to Section 148²
I. Where the information with AO suggests that income has escaped assessment:	II. Where AO shall be <u>deemed to have information</u> suggesting that income has escaped assessment
In such a case, the <u>RAY</u> is the assessment year: <ul style="list-style-type: none"> - for which any information is in the system in accordance with risk management strategy formulated by the CBDT or - for which any audit objection to the effect that the assessment in the case of the assessee has not been made in accordance with the provisions of this Act; or - for which any information is received under an agreement referred to in section 90 or section 90A ; or - for which any information is made available to the Assessing Officer under the scheme notified under section 135A; or - for which any information requires action in consequence of the order of a Tribunal or a Court. 	**Where the search is initiated u/s 132 or survey is conducted u/s 133A 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, the <u>RAY can be any A.Y</u> which is not time-barred under section 149. **(This applies in respect of search initiated or books of account requisitioned on or after 1.4.2021 but before 1.9.2024)

(iii) **Time limit for notice [Section 149]** – Section 149(1) provides time limit upto which notice under section 148 can be issued for the relevant assessment year. Further, section 149(2), provides that notice under section 149(1) shall be issued subject to the approval of Specified Authority prescribed under section 151 [Section 149(2)].

² Where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in section 149(1)(b), 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 referred to in the said clause, a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.



Where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to above (₹ 50 lakhs 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 referred to in (b), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be [Section 149(1A)].

"Asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

Meaning of Asset

Extended time limit of 15 days would be available in the following cases -

- (a) where search is initiated or a search for which the last of the authorization is executed or requisition is made under section 132A after the 15th March of any financial year [in cases where the AO is deemed to have information suggesting that income has escaped assessment as per Explanation 2 to section 148]

- (b) where the information as referred to in Explanation 1 to section 148 emanates from a statement recorded or documents impounded under section 131 i.e., summons or section 133A i.e., survey, as the case may be, on or before the 31st March of a financial year, in consequence of, a search initiated or last of the authorization executed under section 132 or a requisition made under section 132A, after the 15th March of such financial year,

and the period for issue of notice under section 148 expires on the 31st March of such financial year. In such cases, a period of 15 days shall be excluded for the purpose of computing the period of limitation as per section 149. Further, notice issued under section 148 and the show cause notice issued under clause (b) of section 148A, as the case may be, shall be deemed to have been issued on the 31st March of such financial year [**Third and Fourth proviso to section 149**].

Specified Authority would continue to be same even where the time period is extended by 15 days.

Notes – (1) *To compute the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under section 148A(b) or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded.*

- (2) *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) **does not exceed seven days**, such remaining period shall be extended to seven days and the period of limitation under this section 149(1) shall be deemed to be extended accordingly.*
- (3) *The provisions of section 149(1) 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 31.3.2021.*

Notice for A.Y. 2020-21 or earlier A.Y.s to be issued keeping in mind the time limits prescribed under erstwhile sections 149, 153A and 153C:

No notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 01.04.2021, if a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of section 149(1)(b) or section 153A or section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021.

The following are the time limits specified in the erstwhile sections 149(1)(b) or under section 153A or under section 153C:

Section 149(1)(b)	Section 153A	Section 153C
within 6 years from the end of the relevant A.Y.	<ul style="list-style-type: none"> - 6 A.Y.'s immediately preceding the A.Y. relevant to the P.Y. in which the search was conducted under section 132 or requisition was made under section 132A - for the relevant assessment year or years i.e., beyond 6 assessment years but upto 10 assessment years prior to the assessment year relevant to the previous year in which the search or requisition is conducted, where the AO has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of assets, which has escaped assessment amounts to or is likely to amount to ₹ 50 lakhs or more in the RAY or in aggregate in the RAYs. 	<ul style="list-style-type: none"> - 6 A.Y.'s immediately preceding the A.Y. relevant to the A.Y. in which search is conducted or requisition is made <p>And for the relevant assessment year or years as referred in section 153A.</p>
For the purpose of erstwhile section 153A, asset shall include immovable property being land or building or both, shares and securities, deposits in bank account, loans and advances.		

(6) **Provision for cases where assessment is in pursuance of an order on appeal, etc.**

[Section 150]

- (i) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.
- (ii) These provisions shall not apply in any case where any such assessment,

reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation 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 any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

15.19 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 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) optimising utilisation of the resources through economies of scale and functional specialisation;
 - (c) introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.
- (2) **Notification to be laid before each House of Parliament:** Every notification issued has to be laid before each House of Parliament, as soon as may be after the issue.

Accordingly, the Central Government has, vide Notification no. 18/2022 dated 29.3.2022 specified that:

- (a) assessment, reassessment or recomputation under section 147 or
- (b) issuance of notice under section 148

would be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in section 148 for issuance of notice, and in a faceless manner, to the extent provided in section 144B with reference to making assessment or reassessment of total income or loss of assessee.

- (3) 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.



15.20 OTHER PROVISIONS [SECTION 152]

- (1) **Income escaping assessment to be charged to tax at rates applicable for respective years [Section 152(1)]**

In the case of any assessment or reassessment or recomputation 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.

- (2) **Assessee entitled to claim dropping of proceedings under section 147 in certain cases [Section 152(2)]**

Where an assessment is reopened under section 147, the assessee may claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount not lower than what he would be rightly liable for, even if the income alleged to have escaped assessment had been taken into account. Alternatively, he can make such a claim on showing that the assessment or computation had been properly made. An assessee can avail of this benefit only if he had not challenged any part of the original assessment order either by filing an appeal or filing a revision petition.

The assessee, while making such claim, shall not be entitled to reopen matters concluded by an order under sections 154, 155, 260, 262 or 263.

- (3) **Pre-Amendments provisions to apply for search and requisition cases before 01.09.2024 [Section 152(3)]**

Where a search has been initiated under section 132 or requisition is made under section 132A, or a survey is conducted under section 133A [other than under section 133A(2A)], on or after 01.04.2021 but before 01.09.2024, the provisions of sections 147 to 151 shall apply as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.

- (4) **Validity of notices issued before 01.09.2024 [Section 152(4)]**

Where, in a case other than that covered (3), a notice under section 148 has been issued or

an order under section 148A has been passed prior to 01.09.2024, the assessment, reassessment or recomputation in such case shall be governed as per the provisions of sections 147 to 151, as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.



15.21 TIME LIMIT FOR COMPLETION OF ASSESSMENTS AND REASSESSMENTS [SECTION 153]

(1) Time limits in different cases/circumstances –

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 the income was first assessable
		A.Y.2018-19	18 months from the end of the assessment year in which the income was first assessable
		A.Y.2019-20	12 months from the end of the assessment year in which the income was first assessable
		A.Y. 2020-21	18 months from the end of the assessment year in which the income was first assessable
		A.Y.2021-22 and thereafter	9 months from the end of the assessment year in which the income was first assessable
		A.Y. 2022-23 and thereafter	12 months from the end of the assessment year in which the income was first assessable
Where an updated return under section 139(8A) is furnished, an order of assessment under section 143 or section 144 may be made at any time <u>before the expiry of 12 months</u> from the end of the financial year in which such return was furnished.			
Where a return is furnished in consequence of an order under section 119(2)(b), an order of assessment under section 143 or section 144 may be			

	<i>made at any time before the expiry of 12 months from the end of the financial year in which such return was furnished. (w.e.f. 01.10.2024)</i>		
153(2)	Order of assessment, reassessment or recomputation 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 was served
		Where notice u/s 148 is served on or after 1.4.2019	12 months from the end of the financial year in which the notice was served
153(3)	Fresh assessment u/s 143/144/ 147 or an fresh order u/s 92CA (reference to TPO), as the case may be, where the original assessment or order u/s 92CA, has been set aside, cancelled and referred back to the Assessing Officer by an order u/s 250 (inserted w.e.f 1.10.2024) / 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 250 (inserted w.e.f 1.10.2024) or 254 is received by the PCC/CC/PC/CIT ³ or the order u/s 263 or u/s 264 is passed by the PCC/CC/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 250 (inserted w.e.f 1.10.2024) or 254 is received by the PCC/CC/PC/CIT or the order u/s 263 or u/s 264 is passed by the PCC/CC/PC/CIT
153(3A)	Where an assessment or reassessment is pending on the date of initiation of search u/s 132 or making of requisition u/s 132A.		<p>Period available for completion of assessment or reassessment referred under section 153(1)/(1A)/(2)/(3) shall be extended by 12 months in -</p> <ul style="list-style-type: none"> - a case where such search is initiated u/s 132 or such requisition is made u/s 132A; - the case of an assessee, to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; - the case of an assessee, to whom

³Principal Chief Commissioner (PCC) / Chief Commissioner (CC) / Principal Commissioner (PC) / Commissioner of Income-tax (CIT).

			any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to.
153(4)	Where a reference is made to the TPO u/s 92CA(1) during the course of proceeding for assessment or reassessment:		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:
	Completion of assessment u/s 143 or u/s 144.	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	24 months from the end of the assessment year in which the income is first assessable
		In relation to A.Y. 2020-21	30 months from the end of the assessment year in which the income is first assessable
		A.Y.2021-22 and thereafter	21 months from the end of the assessment year in which the income was first assessable
		A.Y.2022-23 and thereafter	24 months from the end of the assessment year in which the income was first assessable
	Where an updated return under section 139(8A) is furnished, an order of assessment under section 143 or section 144 may be made at any time <u>before the expiry of 24 months from the end of the financial year</u> in which such return was furnished.		
	Completion of assessment/ reassessment/re-computation u/s 147	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
	Completion of fresh assessment or	Where order u/s 250 (inserted w.e.f	21 months from the end of the financial year in which such order

	<p>fresh order u/s 92CA in pursuance of an order u/s 250 (inserted w.e.f 1.10.2024) or 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.</p>	<p>1.10.2024) or 254 is received or order u/s 263/264 is passed before 01.04.2019</p>	<p>u/s 250 (inserted w.e.f 1.10.2024) or 254 is received by the PCC or CC/PC or CIT or such order u/s 263 or 264 is passed by the PCC or CC or PC or CIT, as the case may be.</p>
	<p>Completion of pending assessment or reassessment on the date of initiation of search u/s 132 or making of requisition u/s 132A.</p>	<p>Where order u/s 250 (inserted w.e.f 1.10.2024) or 254 is received or order u/s 263/264 is passed on or after 01.04.2019</p>	<p>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 PCC/CC/PC/CIT if order u/s 250 (inserted w.e.f 1.10.2024) /254/263/264 is passed on or after 01.04.2019</p>
153(5)	<p>Effect to be given by the Assessing Officer or the Transfer Pricing officer, as the case may be, to an order u/s 250/254/260/262/263/264, wholly or partly, otherwise than by making a fresh assessment or reassessment or fresh order u/s 92CA, as the case may be</p>	<p>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.</p>	<p>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.</p>

		In any other case	<p>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 PCC/CC/PC/CIT.</p> <p>Note – Additional period of 6 months may be allowed to the A.O./T.P.O. to give effect to order if the PC/CIT is satisfied, on an application from the A.O./T.P.O., that the order could not be given effect to within 3 months due to reasons beyond the control of the A.O./T.P.O.</p>
153(5A)	Where the Transfer Pricing Officer gives effect to an order or direction u/s 263 by an order u/s 92CA and forwards such order to the Assessing Officer		The Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing Officer, within 2 months from the end of the month in which such order of the Transfer Pricing Officer is received by him.
153(6)(i)	Where the assessment, reassessment or recomputation 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 otherwise 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 PCC or CC or 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.
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Notwithstanding anything contained in the above provisions of this section or section 158BE, the order of assessment or reassessment, relating to any assessment year, which stands revived under section 158BA(5), shall be made within a period of one year from the end of the month of such revival or within the period specified in this section or section 158BE, whichever is later. [Section 153(8)].

- (2) **Exclusion of period [Explanation 1 to section 153]** - 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)	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 first proviso to section 143(3)	the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, is received by the A.O.
(ii)	Direction to get accounts audited or inventory valued under section 142(2A)	the date on which the A.O. directs the assessee to get his accounts audited or inventory valued under section 142(2A)	the last date on which the assessee is required to furnish a report of such audit or inventory valuation (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.
(iii)	Reference to the Valuation Officer	the date on which the Assessing Officer makes	the date on which the report of the Valuation Officer is

	under section 142A(1)	a reference to the Valuation Officer	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 Board for Advance Rulings u/s 245Q(1)	the date on which an application is made 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)
(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)	Where the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over by the Authorising Officer to the Assessing Officer having jurisdiction over the assessee	the date on which a search is initiated under section 132 or a requisition is made under section 132A	on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee— (a) in whose case such search is initiated under section 132 or such requisition is made under section 132A; or (b) to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or (c) to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to (However, such period should not be more than 180 days)

			<i>Where after exclusion of this period, the period of limitation for making an order of assessment, reassessment or recomputation, as the case may be, ends before the end of the month, such period shall be extended to the end of such month.</i>
(ix)	Where the Assessing Officer is satisfied that any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C)(iv)/(v)/(vi)/(via) or any trust or institution referred to in section 11, has committed any specified violation under section 10(23C) or section 12AB(4), as the case may be	the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under section 143(3)	the date on which the copy of the order either cancelling the approval/ registration, as the case may be or refusing to cancel the approval/ registration under section 10(23C) or section 12AB(4), as the case may be, is received by the Assessing Officer
(x)		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	
(xii)		the period during which the assessment proceeding is stayed by an order or injunction of any court.	

(3) **Period of limitation in certain cases**

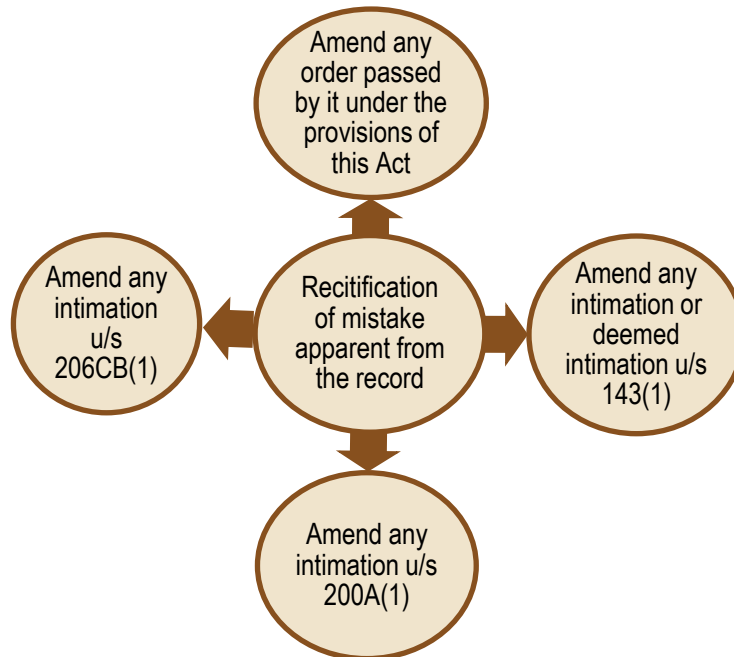
	Case	Period of limitation
(i)	Where immediately after the exclusion of the aforesaid period, the period of limitation referred to in section 153(1)/(2)/(3)/(8) available to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, is less than 60 days	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.

(4) **Deeming provisions in respect of assessment of excluded income for another assessment year or on another person**

(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.


15.22 RECTIFICATION OF MISTAKES [SECTION 154]

- (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.
- (i) **Mistake apparent from the record may be a mistake of fact as well as a 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.
- (ii) **Mere change of opinion cannot be a 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 a mistake or error apparent from the record.
- (iii) **Subsequent decision of Supreme Court** - A mistake arising as a result of subsequent interpretation of law by the Supreme Court would also constitute an error apparent from the record.

Mistake apparent from record

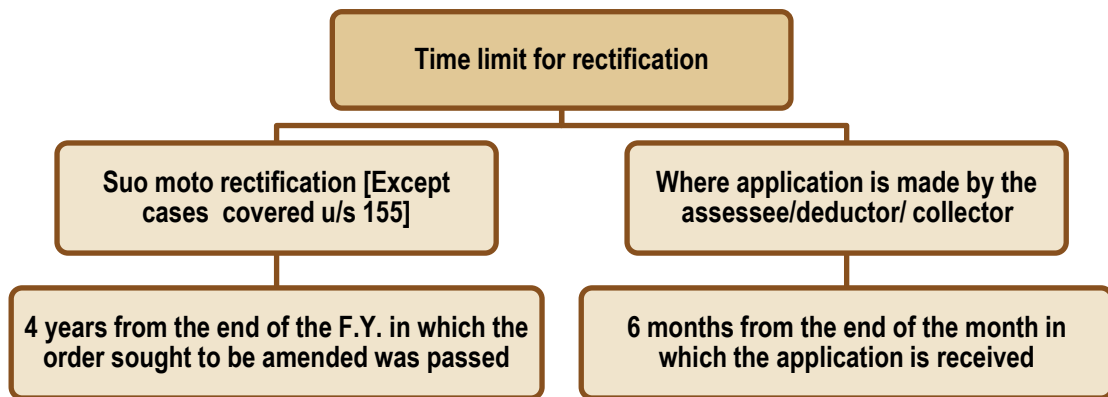
- (iv) **Retrospective amendment of law** - could also lead to rectification if an order is plainly and obviously inconsistent with the specific and clear provision, as amended retrospectively.
- (3) **Doctrine of Partial Merger** - Where any matter has been considered and decided in any proceeding by 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 motu 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 Joint Commissioner (Appeals) or 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.



15.23 OTHER AMENDMENTS [SECTION 155]

Where any assessment made in respect of any assessment year is required to be amended on account of any specific provisions in the Act mentioned hereunder, such an order can be passed within the time mentioned below and in these cases, the time limit of 4 years would not be reckoned from the end of the year in which the order sought to be amended was passed but would be reckoned from the end of the financial year mentioned in column (4) in the table below -

Sub-section	Circumstances – head note	Circumstances – details	Time limit
(1)	(2)	(3)	(4)
(1A)	Rectification of order of assessment of partners consequent to disallowance of the	Where a partner is assessed in respect of any remuneration from a firm under section 28(v) and later	The four years period for making the amendment in the assessment of partners would be

	remuneration in the hands of the firm	in the assessment or reassessment of the firm or reduction or enhancement made in the income of the firm under sections 154/155/250/254/263/264, such remuneration is found not deductible under section 40(b), the assessment order of the partner shall be amended to exclude such remuneration which is not deductible in the firm's case. This is in view of the proviso to section 28(v) which states that the remuneration disallowed in the firm's case cannot be charged to tax in the partner's hands.	reckoned from the end of the financial year in which the final order was passed in the case of the firm.
(2)	Rectification of member's assessment consequent to enhancement or reduction of income of the AOP/BOI	Where a member is assessed in respect of any income from the AOP/BOI and later in the assessment of such AOP/BOI, an addition or disallowance is made resulting in variation of the income of the AOP/BOI, or where there is any enhancement or reduction in the income of the AOP/BOI as a result of an order in appeal, reference, revision or rectification, consequential amendment in the assessment of a member of an AOP/BOI is to be made.	The four year period for making the amendment in the case of member would be reckoned from the end of the financial year in which the final order was passed in the case of the AOP/BOI.
(4)	Rectification of assessment consequent to disallowance of excess loss or depreciation allowed as a result of proceedings initiated under section 147	Losses incurred in one year is claimed by the assessee in the subsequent year(s). However, the year of incurring loss may be subject to reassessment proceedings u/s 147 leading	The four year period for making the amendment of the subsequent years' order or intimation or deemed intimation would be reckoned from the end of the financial year in

		<p>re-computation of total income, where excessive loss or depreciation allowance had been allowed.</p> <p>This would result in amending the order/intimation/deemed intimation of the subsequent years in which the loss/allowance (computed as per return/intimation or original assessment) was claimed.</p> <p>The order / intimation / deemed intimation of the subsequent years may need to be amended to give effect to the reduced loss or allowance in consequence of any proceedings initiated u/s 147.</p>	<p>which the order was passed under section 147.</p>
(7B)	<p>Rectification necessitated on account of capital gains, which were not charged to tax by virtue of section 47(iv) or 47(v), becoming chargeable under section 47A</p>	<p>Under the provisions of section 47A, capital gains which were not charged to tax by virtue of section 47(iv) or (v) may be deemed to be chargeable to tax, if, before the expiry of 8 years from the date of transfer.</p> <p>(i) the relevant capital asset was converted into or treated as stock-in-trade or, as the case may be,</p> <p>(ii) the parent company ceases to hold the entire share capital of the subsidiary company</p> <p>In such circumstances, the Assessing Officer, may, accordingly, make an order amending the original order</p>	<p>Four years from the end of the previous year in which the relevant capital asset was converted into or treated as stock-in-trade or, as the case may be, the parent company ceases to hold the entire share capital of the subsidiary company.</p>

		for withdrawal of the exemption granted under section 47(iv)/(v).	
(11A)	Rectification to give effect to deduction under section 10AA which was not allowed earlier.	Deduction u/s 10AA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India or has not been brought into India and subsequently such income or part thereof has been or is received in, or brought into, India. In such case, the AO shall amend the order of assessment so as to allow deduction u/s 10AA in respect of such income or part thereof as is so received in, or brought into, India.	The period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.
(14)	Rectification to give effect to TDS/TCS not deducted while computing tax liability	Where credit for TDS/TCS has not been given owing to TDS/TCS certificates not being furnished along with the return of income and such certificates are produced subsequently before the Assessing Officer within two years from the end of the assessment year in which such income is assessable, the Assessing Officer can amend the order of assessment or intimation or deemed intimation under section 143(1). However, such rectification under section 155(14) is possible only if the income from which tax has been deducted or the income on which tax has been collected has been disclosed in the return of income filed by the	The law does not explicitly state that the time limit of 4 years for the purpose of section 154(7) would get extended from the end of the year in which the TDS/TCS certificates are produced before the Assessing Officer. All that it says is that the provisions of section 154 shall apply in all such cases. Therefore, one view would be that the time limit of 4 years would be reckoned from the end of the year in which the order / intimation / deemed intimation was passed. The second view could be that the time limit of 4 years should be reckoned from the end of the year in

		assessee for the relevant assessment year.	<p>which the TDS/TCS certificates are produced before the Assessing Officer.</p> <p>Going by the purpose of introduction of section 155, it appears that the second view seems more reasonable.</p>
(14A)	Rectification to give effect to credit for income-tax paid outside India	<p>The assessee may claim rebate or relief u/s 90, 90A or 91 in respect of tax paid outside India on income which was subject matter of double taxation. The credit shall be allowed in India based on the proof of payment of such tax outside India. Sometimes the levy of tax outside India on the assessee may be in dispute and therefore, the assessee might not have paid the same. In the absence of the proof of payment, the credit for the same cannot be given in Indian Income tax proceedings. When the dispute is finally settled, the assessee may pay the tax outside India and seek to claim the same u/s. 90, 90A or 91, to the extent permissible.</p> <p>In such cases, the assessee is required to make the claim within a period of six months from the end of the month in which the dispute is settled with</p> <ol style="list-style-type: none"> evidence of settlement of dispute evidence of payment of such tax 	<p>The law does not explicitly state that the time limit of 4 years for the purpose of section 154(7) would get extended from the end of the year in which the application is made by the assessee after the settlement of the dispute. All that it says is that the provisions of section 154 shall apply in all such cases.</p> <p>Therefore, one view would be that the time limit of 4 years would be reckoned from the end of the year in which the order / intimation / deemed intimation was passed.</p> <p>The second view could be that the time limit of 4 years should be reckoned from the end of the year in which the assessee files the application after the dispute in the other country got settled.</p> <p>Going by the purpose of introduction of section 155, it appears that the second view seems more reasonable.</p>

		<p>c) undertaking that no credit for such tax has been directly or indirectly claimed or shall be claimed in any other assessment year.</p> <p>In such cases, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under section 143(1), as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto.</p> <p>However, the credit of tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India.</p>	
(15)	Rectification consequent to revision of full value of consideration in appeal or revision	Where the Assessing Officer adopts stamp duty value as full value of consideration under section 50C and later, such value is revised in any appeal or revision, the Assessing Officer shall amend the assessment order to compute the capital gain by taking the full value of consideration to be the value so revised in such appeal or revision.	The period of four years shall be reckoned from the end of the previous year in which the order revising the value was passed in that appeal or revision.
(16)	Recomputation of capital gains on account of reduction of any compensation in a compulsory acquisition by any Court, Tribunal or any other authority	Where capital gains are computed u/s 45(5) based on the original or enhanced compensation in a compulsory acquisition and the same is required to be recomputed on account of any reduction of any compensation by any Court,	The four years time period shall be reckoned from the end of the previous year in which the order reducing the compensation was passed by the Court, Tribunal or other authority.

		Tribunal, or any other authority, the Assessing Officer shall amend the assessment order so as to re-compute the capital gain by taking the compensation or consideration as reduced by any Court, Tribunal or other authority.	
(17)	Rectification consequent to revoking of patent or exclusion of name of the assessee from patents register as patentee	Where deduction under section 80RRB is allowed and subsequent to the allowance of such deduction in respect of any patent, the Controller or the High Court passes an order under the Patents Act, 1970 revoking the patent or excluding the name of the assessee from the Patents Register as patentee in respect of that patent, the Assessing Officer shall recompute the total income of assessee for the relevant previous year and make necessary amendments	For the purpose of amending the order (in which deduction under section 80RRB was originally granted), the period of 4 years is to be reckoned from the end of the previous year in which such order of the Controller or High Court, as the case may be, is passed.
(18)	Where any deduction in respect of any surcharge or cess, which is not allowable as deduction under section 40, has been claimed and allowed in the case of an assessee in any previous year	Explanation 3 to Section 40(a)(ii), inserted by Finance Act, 2022 with retrospective effect from A.Y. 2005-06, provides that the term 'tax' shall include and be deemed to have always included 'surcharge' or 'cess' and hence shall be an inadmissible deduction under section 40(a)(ii). If an assessee has claimed the deduction on account of 'surcharge' or 'cess' in any previous year, it shall be deemed that the assessee	Four year period will begin from the end of the previous year commencing on 1.4.2021. (i.e., from 31.3.2022). Note: If the assessee makes an application to the Assessing Officer in the prescribed form and within the prescribed time (on or before 31.3.2023), requesting for recomputation of the total income of the previous year without allowing the claim for deduction of

		<p>has under-reported income for such previous years for the purpose of Section 270A(3) and the Assessing Officer shall recompute the total income of the assessee for such previous year and make necessary amendment.</p>	<p>surcharge or cess and pays the amount due thereon within the specified time, such claim shall not be deemed to be under-reported income for the purposes of section 270A(3).</p> <p>The A.O., on receipt of such application, has to recompute the total income by amending the relevant order and issuing notice u/s 156 specifying the time period within which amount of tax payable, if any, is to be paid –</p> <p>(i) for the A.Y. relevant to the P.Y. for which the assessee has made an application for recomputation of total income; and</p> <p>(ii) for the A.Y.s subsequent to such A.Y. referred to in (i) above, if the order for such A.Y. results in variation in carry forward of loss or allowance or unabsorbed depreciation or credit for tax u/s 115JAA or 115JD [Rule 132 of Income-tax Rules, 1962]</p> <p>After paying the tax determined, the assessee has to furnish the details of payment of tax to the Assessing Officer within 30 days from the date of making the payment.</p>
(20)	Where any income has been included in the	The Assessing Officer shall, on an application made by	The period of four years shall be reckoned from the

	return of income furnished by an assessee u/s 139 for any assessment year (being the relevant assessment year) and tax on such income has been deducted at source and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent financial year.	the assessee in such prescribed form, within a period of 2 years from the end of the financial year in which such tax was deducted at source, amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year. The credit of such tax deducted at source shall not be allowed in any other assessment year.	end of the financial year in which such tax has been deducted.
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15.24 NOTICE OF DEMAND [SECTION 156]

- (1) When any tax, interest, penalty or fine or any other sum is payable consequent to any order passed under this Act, the Assessing Officer shall serve upon the assessee, a notice of demand in the prescribed form, specifying the sum so payable.

An intimation under section 143(1) or section 200A(1) or section 206CB(1) would be deemed to be a notice of demand for the purpose of section 156, where any sum is determined to be payable by the assessee under section 143(1) or by the deductor under section 200A(1) or by the collector under section 206CB(1).

Notice of Demand

The Apex Court has, in *Sri Mohan Wahi v. CIT (2001) 248 ITR 799*, held that failure to serve notice of demand renders the recovery proceedings invalid.

Note - As per section 292BB, where an assessee had appeared in any proceedings or co-operated in any enquiry relating to an assessment or reassessment, it shall be deemed that any notice required to be served upon him, has been duly served upon him in time in accordance with the provisions of the Act and such assessee shall be precluded from raising any objection in any proceeding or enquiry that the notice was (a) not served upon him or (b) not served upon him in time or (c) served upon him in an improper manner. However, the above provision shall not be applicable where the assessee has raised such objection before the completion of such assessment or reassessment.

(2) Tax on perquisite of specified securities and sweat equity shares must be paid in the year of exercising of option. However, where such shares or securities are allotted by the current employer, being an eligible start-up referred to in section 80-IAC, the perquisite is taxable in the year -

- after the expiry of 48 months from the end of the relevant assessment year
 - in which sale of such security or share are made by the assessee
 - in which the assessee ceases to be the employee of the employer,
- whichever is earliest.

In such cases, tax or interest on such income included in the notice of demand referred to in (1) above shall be payable by the assessee within 14 days –

- after the expiry of 48 months from the end of the relevant assessment year
 - from the date of sale of such security or share are made by the assessee
 - from the date when the assessee ceases to be the employee of the employer,
- whichever is earliest.

15.25 MODIFICATION AND REVISION OF NOTICE IN CERTAIN CASES [SECTION 156A]

Where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under section 156, is reduced as a result of an order of the Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016, the Assessing Officer shall modify the demand payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any. Such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall accordingly, apply in relation to such notice.

Where the order referred to above is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand issued by the Assessing Officer earlier shall be revised accordingly.

15.26 INTIMATION OF LOSS [SECTION 157]

When, in the course of the assessment of total income of any assessee, it is established that a loss has taken place which the assessee is entitled to have carried forward and set-off business loss under section 72(1), speculation business loss under section 73(2), losses under the head "Capital

Gains” under section 74 and loss from activity of owning and maintain race horses under section 74A(3), the Assessing Officer shall notify the assessee by an order in writing the amount of the loss as computed by him for this purpose.

15.27 FACELESS RECTIFICATION, AMENDMENTS AND ISSUANCE OF NOTICE OR INTIMATION [SECTION 157A]

Section 157A provide for faceless rectification, amendments and issuance of notice or intimation.

- (1) **Faceless rectification, amendments and issuance scheme for income escaping assessment:** The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of rectification of any mistake apparent from record under section 154 or other amendments under section 155 or issue of notice of demand under section 156, or intimation of loss under section 157, 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) optimising utilisation of the resources through economies of scale and functional specialisation;
 - (c) introducing a team-based rectification of mistakes, amendment of orders, issuance of notice of demand or intimation of loss, 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, direct that any of the provisions of this Act would not apply or would apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no direction shall be issued after 31.03.2022.
- (3) **Notification to be laid before each House of Parliament:** Every notification issued has to be laid before each House of Parliament, as soon as may be after the notification is issued.

15.28 BLOCK ASSESSMENT IN SEARCH AND REQUISITION CASES [EFFECTIVE FROM 01.09.2024]

The Finance Act, 2021, amended search and reassessment provisions, abolishing separate search assessments and streamlining processes under sections 147 to 151A. Challenges like staggered assessments, prolonged litigation, and inconsistent outcomes were identified, emphasizing the need

for consolidated assessments to reduce taxpayer burden, improve efficiency, and ensure coordinated investigations in search cases.

Accordingly, in order to make the procedure of assessment of search cases cost effective, efficient and meaningful, the Finance (No. 2) Act, 2024 reintroduced the scheme of block assessment by substituting Chapter XIV-B (Sections 158B to 158BI) in cases where a search under section 132 or a requisition under section 132A has been made on or after 01.09.2024. The main objective for the introduction of this scheme are early finalisation of search assessments, coordinated investigation during search assessments and reduction in multiplicity of proceedings.

(1) **Definitions of certain terms under the scheme**

Before we proceed to the procedure laid down in the scheme, let's understand crucial terms for block assessment defined under section 158B:

Term	Meaning
<i>Block Period</i>	<p>The period comprising previous years relevant to six assessment years preceding the previous year in which the search was initiated under section 132 or any requisition was made under section 132A.</p> <p>It also includes the period starting from 1st April of the previous year in which the search was initiated, or requisition was made and ending on the date of the execution of the last of the authorizations for such search or such requisition.</p> <p>The last of the authorisations shall be deemed to have been executed,—</p> <p>(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 authorisation has been issued.</p> <p>(b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.</p>
	<p>For example, if the search was initiated on 10-12-2024 and last of authorization executed on 18.12.2024, the block period will comprise of assessment years relevant to previous years 2023-24, 2022-23, 2021-22, 2020-21, 2019-20 and 2018-19 including period from 1st April 2024 to 18.12.24.</p>
<i>Undisclosed Income</i>	<p>It includes:</p> <ul style="list-style-type: none"> - any money, bullion, jewellery or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the

	<p>books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or</p> <ul style="list-style-type: none"> - any expense, exemption, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period.
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(2) **Assessment of total income as a result of search [Section 158BA]**

- (i) Where on or after 01.09.2024, 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 any person, then, the Assessing Officer shall proceed to assess or reassess the total income of the block period in accordance with the provisions of this Chapter XIV-B.

Note - Where the search was initiated before but concluded on or after 01-09-2024, the assessment shall be done as per the other provisions of this Act.

- (ii) The assessment or reassessment or recomputation under any other provisions (i.e. regular assessment or income escaping assessment) of the Act (other than this Chapter), if any, pertaining to any assessment year falling in the block period, **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** and shall be deemed to have abated on the date of initiation of search or making of requisition.
- (iii) Where during the course of any pending proceeding for the assessment or reassessment or recomputation under the provisions of this Act (other than this Chapter), a reference under section 92CA(1) has been made, or an order under section 92CA(3) has been passed, such assessment or reassessment or recomputation, along with such reference made or order passed, as the case may be, shall also **abate** and shall be deemed to have abated on the date of initiation of search or making of requisition.
- (iv) Where any assessment under the provisions of this Chapter is pending in the case of an assessee in whose case a subsequent search is initiated or a requisition is made, such assessment shall be duly completed, and thereafter, the assessment in respect of such subsequent search or requisition shall be made under the provisions of this Chapter, i.e. the AO must complete the initial assessment before starting the new one.

Where the period of completing the assessment with respect to the subsequent search is less than three months, such period shall be extended to three months from the end of the month in which the assessment with respect to the earlier search was completed.

- (v) *If any proceeding initiated under this Chapter or any order of assessment or reassessment made under section 158BC(1)(c) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything in this Chapter or section 153, the assessment or reassessment relating to any assessment year which has abated above, shall revive with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner. It is to be noted that such revival shall cease to have effect, if such order of annulment is set aside.*

The consequential impacts have been made under section 153 to provide the time limit to complete such revived assessment or reassessment.

- (vi) *The total income (other than undisclosed income) of the assessment year relevant to the previous year in which the last of the authorisations for a search is executed or a requisition is made shall be assessed separately in accordance with the other provisions of this Act. Thereby, only undisclosed income of the block period of six years shall be subject to the provisions of this chapter.*
- (vii) *The total income relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates.*

As per section 113, the total income of the block period, determined under section 158BC, shall be chargeable to tax @60% as increased by the surcharge, if any and Health and Education Cess.

(3) **Computation of total income of block period [Section 158BB]**

- (i) *The total income of the block period shall be an **aggregate** of the following:*
- a) *Total income disclosed in the return furnished under section 158BC.*
 - b) *Total income assessed under section 143(3) or section 144 or section 147 or section 153A or section 153C prior to the date of initiation of the search or the date of requisition, as the case may be.*
 - c) *Total income declared in the return of income filed under section 139 or in response to a notice under section 142(1) or section 148 and not covered above in (a) or (b) above.*
 - d) *Total income determined where the previous year has not ended, on the basis of entries relating to such income or transactions as recorded in the books of account*

and other documents maintained in the normal course on or before the date of last of the authorisations for the search or requisition relating to such previous year;

- e) *Undisclosed income determined by the Assessing Officer. The undisclosed income falling within the block period, forming part of the total income under section 158BA(1), shall be computed in accordance with the provisions of this Act, on the basis of evidence found as a result of search or survey or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter.*

Note: *As per section 158BB(5), the tax on undisclosed income shall be charged on the total income as specified above as reduced by the total income referred to in clause (b), clause (c) and clause (d) of point (i).*

If the disclosed income in (a), (b), (c) or (d) of point (i) is a loss, the same shall be ignored [Section 158BB(6)].

Losses brought forward from the previous year (prior to the first previous year comprising the block period) under Chapter VI or unabsorbed depreciation under section 32(3) shall not be set off against the undisclosed income determined in the block assessment under this Chapter but may be carried forward for being set off in the previous year subsequent to the assessment year in which the block period ends, for the remaining period, taking into account the block period and such assessment year, and in accordance with the provisions of this Act [Section 158BB(7)].

- (ii) *Where any evidence found as a result of search or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter, or determined on the basis of entries relating to such income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the search or requisition, relates to any international transaction or specified domestic transaction referred to in section 92CA, pertaining to the period beginning from the April 1st of the previous year in which last of the authorisations was executed and ending with the date on which last of the authorisations was executed, such evidence **shall not be considered** for the purposes of determining the total income of the block period and such income shall be considered in the assessment made under the other provisions of this Act.*

(iii) Special provision for the determination of the undisclosed income:

- For a firm assessee, such income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called to any partner not being a working partner;
- The provisions of sections 68, 69, 69A, 69B, and 69C shall, so far as may be, apply and references to "financial year" in those sections shall be construed as references to the relevant previous year falling in the block period;
- The provisions of section 92CA shall, so far as may be, apply and references to "previous year" in that section shall be construed as reference to the relevant previous year falling in the block period excluding the period beginning from the April 1st of the previous year in which last of the authorisations was executed and ending with the date on which last of the authorisations was executed .

(4) **Procedure for block assessment [Section 158BC]**

Where any search has been initiated under section 132 or books of account, other documents or assets are requisitioned under section 132A, in the case of any person, then:

- (i) The Assessing Officer shall, in respect of search initiated, or books of account or other documents or any assets requisitioned, on or after 01.09.2024, **issue a notice** to such person, requiring him to furnish within such period, not exceeding a period of sixty days, as may be specified in the notice, a return in the form and verified in the manner, as may be prescribed, setting forth his total income, including the undisclosed income, for the block period:
- Such return shall be considered as if it was a return furnished under the provisions of section 139 and notice under section 143(2) shall thereafter be issued.
 - Returns filed under this section and furnished beyond the period allowed in the notice are not deemed to be a return under section 139.
 - No notice under section 148 is required to be issued for the purpose of proceeding under this Chapter:
 - A person who has furnished a return under this clause shall not be entitled to furnish a revised return.

- (ii) The Assessing Officer shall proceed to **determine the total income including the undisclosed income of the block period**, in the manner laid down in section 158BB and the provisions of section 142, 143(2), 143(3), 144, 145, 145A and 145B shall apply.
- (iii) The Assessing Officer, on determination of the total income of the block period in accordance with this Chapter, shall **pass an order of assessment or reassessment** and **determine the tax payable** by him on the basis of such assessment or reassessment.
- The provisions of section 144C, which deals with the Dispute Resolution Panel, do not apply to orders made under this scheme.
 - Where the order of assessment or reassessment is made in pursuance of section 158BD, the block period for such assessment or reassessment shall be the same as that determined in respect of the person in whose case search was made under section 132, or whose books of account or other documents or any assets were requisitioned under section 132A, and proceedings under section 158BD were initiated due to such search or requisition, as the case may be.
- (iv) The **assets seized** under section 132 or requisitioned under section 132A shall be dealt with in accordance with the provisions of section 132B.
- (v) The computerised processing of returns under Section 143(1) does not apply to returns filed under this section.
- (vi) The Assessing Officer must obtain **prior approval** from an Additional Commissioner, Additional Director, Joint Commissioner, or Joint Director before issuing a notice under this section 158BC.
- (5) **Undisclosed income of any other person [Section 158BD]**

Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person, other than the person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, then, any money, bullion, jewellery or other valuable article or thing, or assets, or expenditure, or books of account, other documents, or any information contained therein, seized or requisitioned **shall be handed over to the Assessing Officer having jurisdiction over such other person** and that Assessing Officer shall proceed under section 158BC against such other person and the provisions of this Chapter shall apply accordingly.

(6) **Time-limit for completion of block assessment [Section 158BE]**

Notwithstanding the provisions of section 153, the order under section 158BC shall be passed within **twelve months from the end of the month in which the last of the authorisations for search under section 132, or requisition under section 132A, was executed or made, as the case may be.**

The period of limitation for completion of assessment or reassessment for the block period in the case of the other person referred to in section 158BD shall be twelve months from the end of the month in which the notice under section 158BC in pursuance of section 158BD, was issued to such other person.

Where a reference is made under section 92CA(1) (to Transfer pricing officer) during the assessment or reassessment of the total income for the relevant block period, the time limit for making the order is extended by an additional twelve months.

(i) **Exclusion from the limitation period**

- The period (not exceeding 180 days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated under section 132 or such requisition is made under section 132A, as the case may be, shall be excluded.

Where after exclusion of the period referred above, the period of limitation for making an order of assessment or reassessment, as the case may be, expires before the end of a month, such period shall be extended to the end of such month.

- the period during which the assessment proceeding is stayed by an order or injunction of any court; or
- the period commencing from 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 and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

- *the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee to be re-heard under the proviso to section 129; or*
- *the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under section 142(2A) and—*
 - (a) *ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation; or*
 - (b) *where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or*
- *the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 142A(1A) and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or*
- *the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) of section 10, under sub-clause (i) of the first proviso to section 143(3) and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or*
- *the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to section 143(3) and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to section 10(23C) or clause (ii) or clause (iii) of section 12AB(4), as the case may be, is received by the Assessing Officer; or*
- *the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under section 144BA(1) and ending on the date on which a direction under section 144BA(3)/(6) or an order under section 144BA(5) is received by the Assessing Officer; or*
- *the period commencing from the date on which an application is made before the Board for Advance Rulings under section 245Q(1) and ending with the date on*

which the order rejecting the application is received by the Principal Commissioner or Commissioner under section 245R(3); or

- the period commencing from the date on which an application is made before the Board for Advance Rulings under section 245Q(1) and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under section 245R(7).

Where immediately after excluding the period specified above, the period of limitation available with the Assessing Officer for making the assessment is less than 60 days, then such period shall be extended to 60 days, and the period of limitation shall be deemed to be extended accordingly. Further, if the period of limitation expires before the end of a month after an extension, it is extended to the end of that month.

(7) **Certain interests and penalties not to be levied or imposed [Section 158BF]**

No interest under section 234A, 234B or 234C or penalty under section 270A shall be levied or imposed upon the assessee in respect of the undisclosed income assessed or reassessed for the block period.

(8) **Levy of interest and penalty in certain cases [Section 158BFA]**

- (i) **Interest for delay in filing of return** - When the assessee fails to furnish the return of total income, including undisclosed income, within the specified time in the notice issued under section 158BC or does not file it at all, the assessee is liable to pay interest at the rate of **1.5% of the tax** on the undisclosed income. The interest shall be charged for each month or part thereof, and the period shall start from the day immediately following the expiry of the time specified in the notice and ending on the date of completion of the assessment under section 158BC.
- (ii) **Penalty for undisclosed income** - The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that the person shall pay by way of penalty a sum which shall be equal to **50% of tax** so leviable in respect of the undisclosed income determined by the Assessing Officer under section 158BC.
- (iii) **Immunity from Penalty** - No order imposing penalty under this section or section 271AAD(1) or section 271D or section 271DA or section 271E shall be made for the block period in respect of a person if—
 - such person has furnished a return under section 158BC;

- the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;
- evidence of tax paid is furnished along with the return; and
- an appeal is not filed against the assessment of that part of income which is shown in the return.

However, no immunity shall be available where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return. In such cases, the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of income shown in the return.

- (iv) **Procedure to impose the penalty:** No order imposing penalty shall be made -
- (a) unless an assessee has been given a reasonable opportunity of being heard;
 - (b) by the Deputy Commissioner or Assistant Commissioner or the Deputy Director or Assistant Director, as the case may be, where the amount of penalty exceeds ` 2 lakhs except with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be
 - (c) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246A or an appeal to the Appellate Tribunal under section 253, **after the expiry of the financial year** in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the financial year in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Commissioner or Commissioner, whichever period expires later.
 - (d) in a case where the assessment is the subject-matter of revision under section 263, after the expiry of six months from the end of the financial year in which such order of revision is passed.
 - (e) in any case other than those mentioned in clause (c) and clause (d), after the expiry of the financial year in which the proceedings, in the course of which notice for the imposition of penalty has been issued, are completed, or six months from the end of the financial year in which notice for imposition of penalty is issued, whichever period expires later.

In computing the period of limitation under this section, the following period shall be excluded:

- *the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129 (change of incumbent of an office),*
- *the period during which the proceedings are stayed by an order or injunction of any court.*

If the remaining period after such exclusions is less than 60 days, it shall be extended to 60 days. Further, if the period of limitation expires before the end of a month after an extension, it is extended to the end of that month.

- (v) *A copy of the order imposing penalty shall be send to an Assessing Officer unless such order is passed by Assessing Officer himself.*

(9) **Authority competent to make assessment of block period [Section 158BG]**

The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of a Deputy Commissioner or an Assistant Commissioner or a Deputy Director or an Assistant Director, as the case may be.

However, no such order shall be passed without the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be, in respect of search initiated under section 132, or books of account, other documents or any assets requisitioned under section 132A, on or after 01.09.2024.

Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter [Section 158BH].

SIGNIFICANT SELECT CASES

S. No.	Case Law	
1.	<i>CIT v. Govind Nagar Sugar Ltd. (2011) 334 ITR 13 (Delhi)</i>	
	Issue	Analysis & Decision
	Can unabsorbed depreciation be allowed to be carried forward in case the return of income is not filed within the due date?	The provisions of section 80 and section 139(3), requiring the return of income claiming loss to be filed within the due date, applies to, <i>inter alia</i> , carry forward of business loss and not for the carrying forward of unabsorbed depreciation. As per the provisions of section 32(2), the unabsorbed depreciation becomes part of the next year's depreciation allowance and is allowed to be set-off as per the provisions of the Income-tax Act, 1961, irrespective of whether the return of earlier year was filed within due date or not.
2.	<i>Orissa Rural Housing Development Corpn. Ltd. v. ACIT (2012) 343 ITR 316 (Orissa)</i>	
	Issue	Analysis & Decision
	Can an assessee revise the particulars filed in the original return of income by filing a revised statement of income other than by way of filing revised return as contemplated u/s 139(5) of the Act?	<p>The assessee can make a fresh claim before the Assessing Officer or make a change in the originally filed return of income only by filing revised return of income under section 139(5). There is no provision under the Income-tax Act, 1961 to enable an assessee to revise his income by filing a revised statement of income. Therefore, filing of revised statement of income is of no value and will not be considered by the Assessing Officer for assessment purposes.</p> <p>Therefore, the Assessing Officer has no power to entertain a fresh claim made by the assessee after filing of the original return except by way of filing a revised return.</p> <p>Note: As per section 139(8A) an updated return of income by any person, whether he has filed a return previously for the relevant assessment year, or not, can be furnished within 24 months from the end of the relevant assessment year. However, an assessee cannot file a return of loss or decrease the tax liability determined or increase its refund based on return furnished under section 139(1) or 139(4) or</p>

		<i>139(5). For making a fresh claim, the assessee only has an option to file a revised return under section 139(5).</i>
3.	<i>CIT v. Tony Electronics Limited (2010) 320 ITR 378 (Delhi)</i>	
	Issue	Analysis & Decision
	Whether the time limit of 4 years as per section 154(7) would apply from the date of original assessment order or the order of the Appellate Authority.	Once an appeal against the order passed by an authority is preferred and is decided by the appellate authority, the order of the Assessing Officer merges with the order of the appellate authority. After merger, the order of the original authority ceases to exist and the order of the appellate authority prevails. Thus, the period of limitation of 4 years for the purpose of section 154(7) has to be counted from the date of the order of the Appellate Authority.

TEST YOUR KNOWLEDGE**Questions**

1. *Teachwell Education is a trust approved under section 10(23C)(vi) which runs various educational institutions. During the course of assessment under section 143(3), the Assessing Officer finds that the trust has carried out its activities in contravention of the section under which it was approved for exemption. Hence, the Assessing Officer wants to pass an order without giving exemption under section 10, which the assessee objects. You are required to examine the following with respect to the provisions of Income-tax Act, 1961.*
 - (a) *Whether the Assessing Officer can pass an order without giving exemption under section 10?*
 - (b) *Can the Assessing Officer get any additional time limit in completing this assessment?*
2. *State with reasons whether return of income is to be filed in the following cases for the Assessment Year 2025-26:*
 - (i) *Mr. X, a resident individual, aged 80 years, has a total income of ₹ 2,85,000. He has claimed deduction of ₹ 1,50,000 under section 80C. Long-term capital gains of ₹ 80,000 is not taxable by virtue of the exemption available upto specified threshold under section 112A. Assume that he has opted for the normal provisions of the Income-tax Act.*

Would your answer change if Mr. X has incurred ₹ 1,05,000 towards payment of electricity bills for F.Y. 2024-25?
 - (ii) *ABC, a partnership firm, has a loss of ₹ 10,000 during the previous year 2024-25.*
 - (iii) *A registered association, eligible for exemption under section 10(23B), has income from house property of ₹ 6,60,000.*
 - (iv) *Mr. Y, aged 45 years, an employee of ABC (P) Ltd, draws a salary of ₹ 5,90,000 and has income from fixed deposits with bank of ₹ 10,000.*
3. *The Assessing Officer issued a notice under section 142(1) on the assessee on 24th February, 2025 calling upon him to file return of income for Assessment Year 2024-25. In response to the said notice, the assessee furnished a return of loss and claimed carry forward of business loss and unabsorbed depreciation. State whether the assessee would be entitled to carry forward as claimed in the return.*

4. State whether the following assessees have to file return of income and if so, the due date for the assessment year 2025-26:
 - (i) A registered trade union having income from let out property of ₹ 1,00,000.
 - (ii) A public trust hospital having an aggregate annual receipt of ₹ 505 lacs and availing exemption of ₹ 3,10,000 under section 10(23C)(via) with total income of ₹ 2,40,000
5. What will be the consequences when Mr. Raghav paid ₹ 75,000 in cash to a travel agent for his travel to Saudi Arabia to be undertaken for business purposes by intentionally quoting the wrong PAN? Would your answer be different if such cash payment was made for his travel to Nepal, instead of Saudi Arabia?
6. For facilitating expeditious resolution of disputes relating to international transactions involving transfer pricing and foreign companies, the Income-tax Act, 1961, has provided for "alternate dispute resolution mechanism". In this context, you are required to answer the following:
 - (i) What meanings have been assigned to "dispute resolution panel" and the "eligible assessee" under this mechanism?
 - (ii) When can a grievance for resolution be filed by an assessee?
 - (iii) What evidences are being considered by the panel to redress the grievance of the assessee?
7. The Assessing Officer has the power to make an assessment to the best of his judgment, in certain situations. What are they?
8. Mr. Sanskar is engaged in the business of retail trade and has been declaring income of ₹ 10 lakhs to ₹ 15 lakhs every year in the last 10 years. A search was conducted under section 132 in the business premises of Sanskar on 5th July, 2024. The search was concluded by executing last of authorisation for search on 10th August, 2024. The A.O. has in his possession documents which revealed that Mr. Sanskar has incurred ₹ 5 crores in May 2018 for the marriage of his daughter. The A.O intends to issue notice under section 148 to Sanskar for the Assessment Year relevant to the previous year 2018-19. Can he do so?
9. Examine whether the Assessing Officer has the power to make any adjustment to income disclosed by the assessee in the return of income in course of processing the return under section 143(1)?

10. *Tai Ltd. filed its return of income for assessment year 2024-25 on 26th September, 2024. The return is selected for regular assessment under section 143(3) for which notice under section 143(2) is served on the company on 3rd July, 2025. The company responded to the notice under section 143(2). Examine whether the service of the notice is within time and if not, whether the assessment order can be challenged by the assessee.*
11. *Discuss the correctness or otherwise of the following proposition in the context of the Income-tax Act, 1961:*
- “A fresh claim before the Assessing Officer can be made only by filing a revised return and not otherwise”.*
12. *The Assessing Officer within the powers vested in him under section 142(2A), while examining the accounts of PNF Ltd., had ordered to get the same audited. The company challenges this order on the ground “that the opportunity was not provided to them by the Assessing Officer prior to passing of such an order”. Decide the correctness of the action of the Assessing Officer.*
13. *Smt. Kanti, aged 49 years engaged in the business of growing, curing, roasting and grounding of coffee in India after mixing chicory had income of ₹ 6,00,000 from this business which was her only source of income during the year ended on 31.3.2025 She consults you to have an opinion whether she is required to file return of income for the A.Y. 2025-26 as per provisions of section 139(1).*
- Would your answer change if she had travelled to the USA during the P.Y.2024-25 and incurred ₹ 2.20 lakhs for the same?*
14. *Ram, an individual, filed his return of income for the assessment year 2025-26 on 15.6.2025. He later discovered that he had not claimed deduction under section 80C in the said return though he had opted for the normal provisions of the Act. He claimed the said deduction through a letter addressed to the Assessing Officer. The Assessing Officer completed the assessment without allowing the deduction claimed by Ram. Is the Assessing Officer justified in doing so?*
15. *Examine the correctness or otherwise of the following statements in the context of provisions contained in the Income-tax Act, 1961 and the decided case laws:*
- “The Assessing Officer is bound to allow the set-off of brought forward losses under section 72 even if the assessee has not claimed the same in the return filed”.*

16. X, an individual, has got his books of account for the year ending 31.3.2025 audited under section 44AB. His total income for the assessment year 2025-26 is ₹ 5,20,000. He desires to know if he can furnish his return of income for the assessment year 2025-26 through a Tax Return Preparer.

Answers

1. (a) As per second proviso to section 143(3), if any educational institution referred to in section 10(23C)(iv) has committed any "specified violation" as mentioned under section 10(23C), the Assessing Officer shall send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration, as the case may be. Specified violation *inter alia* includes a case where income of the institution has been applied other than for the objects for which it is established.

No order making an assessment of the total income or loss of such educational institution shall be made by AO without giving effect to the order passed by the Principal Commissioner or Commissioner either cancelling the approval or refusing to cancel the approval of such educational institution⁴.

Therefore, in the aforesaid case, the Assessing Officer can pass an assessment order without giving exemption under section 10 to Teachwell Education, which is an educational institution approved under section 10(23C)(vi), if he has referred the matter to Principal Commissioner or Commissioner and they have subsequently cancelled the approval of such educational institution under clause (ii) of fifteenth proviso section 10(23C).

- (b) As per *Explanation 1* to section 153, the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under section 143(3)⁵ and ending with the date on which the copy of the order either cancelling the approval or refusing to cancel the approval under section 10(23C)⁶ is received by the Assessing Officer, shall be excluded for computing the period of limitation for completing the assessment.

Further, in case the time limit available to the Assessing Officer for passing an assessment order, after such exclusion is less than 60 days, such remaining period of

⁴ under clause (ii) or clause (iii) of the fifteenth proviso to section 10(23C)

⁵ second proviso to section 143(3)

⁶ under clause (ii) or clause (iii) of the fifteenth proviso to section 10(23C)

assessment shall be deemed to have been extended to 60 days.

Therefore, the Assessing Officer will get the above mentioned additional time for completing the assessment of Teachwell Education.

2.

S. No.	Is filing of return required?	Reason
(i)	No	<p>As per the provisions of section 139(1), every person, whose total income without giving effect to the provisions of Chapter VI-A exceeds the maximum amount not chargeable to tax, is required to furnish the return of income for the relevant assessment year on or before the due date. The gross total income of Mr. X before giving effect to deduction of ₹ 1,50,000 under section 80C is ₹ 4,35,000, which is less than the basic exemption limit of ₹ 5,00,000 applicable to an individual aged 80 years or more. Therefore, Mr. X need not furnish his return of income for the A.Y. 2024-25.</p> <p><i>Yes, the answer would change, since Mr. X has incurred expenditure of an amount exceeding ₹ 1 lakh towards the consumption of electricity and he is not liable to file return of income under section 139(1). In such a case, he would have to file his return for A.Y.2025-26 on or before the due date u/s 139(1).</i></p>
(ii)	Yes	<p>As per section 139(1), it is mandatory for a firm to furnish its return of income or loss on or before the specified due date. Therefore, M/s ABC has to furnish its return of loss for the A.Y. 2025-26 on or before the due date under section 139(1), even if it has incurred a loss.</p>
(iii)	Yes	<p>As per section 139(4C), every institution referred to, <i>inter alia</i>, in section 10(23B), whose total income without giving effect to the provisions of section 10 exceeds the maximum amount not chargeable to tax, is required to furnish the return of income for the relevant assessment year on or before the due date u/s 139(2).</p> <p>In the above case, the registered association has income from house property of ₹ 6,60,000 before exemption under section 10, which exceeds the basic exemption limit of ₹ 3,00,000. Therefore, it is under an obligation to furnish its return of income for the A.Y. 2025-26.</p>
(iv)	Yes	<p>As per the provisions of section 139(1), every person, whose gross total income exceeds the maximum amount not chargeable to tax, is required to furnish the return of income for the relevant assessment year on or before the due date. Mr. Y's salary income is ₹ 5,40,000</p>

		(i.e., ₹ 5,90,000 less standard deduction of ₹ 50,000). The gross total income of Mr. Y is ₹ 5,50,000 (₹ 5,40,000 + ₹ 10,000) which exceeds the basic exemption limit of ₹ 3,00,000 applicable to an individual as per default regime of section 115BAC. Therefore, Mr. Y has to furnish his return of income for the A.Y. 2025-26.
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3. As per the provisions of section 139(3), any person who has sustained loss under the head 'Profit and gains of business or profession' is allowed to carry forward such a loss under section 72(1) or section 73(2), only if he has filed the return of loss within the time allowed under section 139(1). Also, the provisions of section 80 specify that a loss which has not been determined as per the return filed under section 139(3) shall not be allowed to be carried forward and set-off under, inter alia, section 72(1) (relating to business loss) or section 73(2) (losses in speculation business) or section 74(1) (loss under the head "Capital gains") or section 74A(3) (loss from the activity or owning and maintaining race horses) or section 73A (loss relating to a "specified business"). However, there is no such condition for carry forward of loss from house property under section 71B or unabsorbed depreciation under section 32.

In the given case, the assessee has filed its return of loss in response to notice under section 142(1). As per the provisions stated above, assessee furnished return in response to notice under section 142(1) after the due date specified under section 139(1) and therefore, the benefit of carry forward of business loss under section 72(1) or section 73(2) or section 73A shall not be available. The assessee shall, however, be entitled to carry forward the unabsorbed depreciation as per provisions of section 32(2).

4. (i) A registered trade union is having income from house property, which is exempt under section 10(24). Section 139(4C) mandates filing of return only when the total income exceeds the maximum amount which is not chargeable to tax without giving effect to the provisions of section 10. In this case, even without giving effect to section 10(24), the total income of the registered trade union is below basic exemption limit and therefore, there is no mandatory requirement to file the return of income.
- (ii) Since the total income without giving effect to the exemption under section 10(23C)(via) is ₹ 5,50,000, which exceeds ₹ 3,00,000, the trust has to file its return of income by 31st October 2025.
5. If a person who is required to quote his permanent account number in any document referred to in section 139A(5)(c), quotes a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such a person shall pay by way of penalty a sum of ₹ 10,000 under section 272B(2).

In the given case, if Mr. Raghav travels to Saudi Arabia and pays his travel agent cash in excess of ₹ 50,000, such a transaction is covered by section 139A(5)(c) read with Rule 114B and therefore, Mr. Raghav has to quote his PAN. Since Mr. Raghav has misquoted his PAN, penalty under section 272B(2) is leviable. Mr. Raghav has to be given an opportunity of being heard in the matter. If Mr. Raghav is not able to prove that there was a reasonable cause for the said failure, penalty under section 272B(2) would be imposable.

The answer would remain the same even if such cash payment was made for his travel to Nepal.

6. (i) The term "Dispute Resolution Panel" has been defined to mean a collegium comprising of three Principal Commissioners or Commissioners of Income-tax constituted by the Board for this purpose.

The term "Eligible Assessee" means any person in whose case the variation referred to in section 144C(1) arises as a consequence of the order of the Transfer Pricing Officer passed under section 92CA(3) and any non-corporate non-resident or any foreign company.

- (ii) In case of an assessment of the eligible assessee, the Assessing Officer shall forward a draft of the proposed order of assessment. The eligible assessee shall file his objections to such variation within 30 days of receipt of such order, with the Dispute Resolution Panel and with the Assessing Officer.

- (iii) The Dispute Resolution Panel shall, in a case where any objections are received, take into consideration:-

- (a) the draft order
- (b) the objections filed by the assessee
- (e) the evidence furnished by the assessee
- (d) the report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority
- (e) the records relating to the draft order
- (f) the evidence collected by, or caused to be collected by it
- (g) the result of any enquiry made by or caused to be made by it.

7. Under section 144, the Assessing Officer, after taking into account all relevant material which he has gathered, is under an obligation to make an assessment of the total income or loss to

the best of his judgment and determine the sum payable by the assessee in the following cases –

- (1) Where any person fails to make the return under section 139(1) and has not filed a belated return under section 139(4) or a revised return under section 139(5) or an updated return under section 139(8A).
- (2) Where any person fails to comply with all the terms of a notice issued under section 142(1) or fails to comply with a direction issued under section 142(2A) for getting the accounts audited.
- (3) Where any person, having made a return, fails to comply with all the terms of a notice issued under section 143(2).

Further, section 145(3) of the Income-tax Act, 1961 permits the Assessing Officer to make an assessment in the manner provided in section 144:

- (i) where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee; or
- (ii) where the method of accounting under section 145(1) has not been regularly followed by the assessee;
- (iii) where the income has not been computed in accordance with “Income Computation and Disclosure Standards” notified by the Central Government under section 145(2).

Faceless assessment as per section 144B shall be applicable to best judgement assessment under section 144 i.e., the assessment proceedings shall be conducted electronically in e-Proceeding facility through assessee’s registered account in designated portal. The faceless assessment shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.

8. As per section 148, the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in case of an assessee where a search is initiated under section 132 on or after 01.04.2021 but before 1.9.2024. Further, in case of search under section 132, notice under section 148 need not be accompanied by order u/s 148A. Thus, the Assessing Officer can issue a notice under section 148 for any of the relevant assessment years -

- (a) if three years have not elapsed from the end of the relevant assessment year,

- (b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year and 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**
- (i) asset: or
 - (ii) expenditure in respect of a transaction or in relation to an event or occasion; or
 - (iii) an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to ₹ 50 lakhs or more for that year.

Where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in (b) above, 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 referred to in (b), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.

In this case, Mr. Sanskar has incurred expenditure of ₹ 5 crores in relation to marriage of his daughter. Hence, the Assessing Officer can issue notice under section 148 for A.Y. 2019-20, since it falls within the 10 year period.

Note – As per section 153A, the Assessing Officer shall assess or reassess the total income of each of the six assessment years immediately preceding the assessment year relevant to the previous year in which the search was conducted under section 132 or requisition was made under section 132A. Moreover, where 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 assets, which has escaped assessment amounts to or is likely to amount to ₹ 50 lakhs or more in the relevant assessment year or in aggregate in the relevant assessment years, notice under section 153A can be issued for beyond 6 assessment years but upto 10 assessment years prior to the assessment year relevant to the previous year in which the search or requisition is conducted. In the present case, notice under section 153A can be issued for A.Y. 2019-20, since it falls within the 6 A.Y. immediately preceding the A.Y. 2025-26 relevant to the P.Y. 2024-25 in which search is conducted.

9. The procedure to be followed for summary assessment is contained in section 143(1). As per section 143(1), the total income or loss of an assessee shall be computed after making

the following adjustments to the returned income:

- (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 is filed beyond due date u/s 139(1)
- (iv) disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return
- (v) disallowance of deduction claimed under *section 10AA or under any of the provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes"*, if return is filed beyond due date u/s 139(1)

No such adjustment shall be made unless an intimation is given to the assessee of such adjustment either in writing or electronic mode. Further, Assessing Officer shall make any adjustment after considering the response received from the assessee, if any. Where no response is received within 30 days of the issue of such notice, the above adjustment can be made.

For the purpose of section 143(1), "an incorrect claim apparent from any information in the return" means such claim on the basis of an entry, in the return of income:

- (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 required to be furnished under the Income-tax Act, 1961 to substantiate such entry, has not been so furnished;
 - (iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may be expressed as monetary amount or percentage or ratio or fraction.
- 10.** The time limit for service of notice under section 143(2) is three months from the end of the financial year in which the return of income was furnished by the assessee. The return of income for assessment year 2024-25 was filed by the assessee on 26th September, 2024. Therefore, the notice under section 143(2) has to be served by 30th June, 2025. However, the notice was served on the assessee only on 3rd July, 2025. Hence, the notice issued under section 143(2) is time-barred.

However, as per section 292BB, where an assessee had appeared in any proceedings or co-operated in any enquiry relating to an assessment or reassessment, it shall be deemed that any notice required to be served upon him, has been duly served upon him in time in

accordance with the provisions of the Act and such assessee shall be precluded from raising any objection in any proceeding or enquiry that the notice was (a) not served upon him or (b) not served upon him in time or (c) served upon him in an improper manner.

The above provision shall not be applicable where the assessee has raised such objection before the completion of such assessment or reassessment. Therefore, in the instant case, if the assessee, Tai Limited, had raised an objection to the proceeding, on the ground of non-service of the notice under section 143(2) upon it on time, then, the validity of the assessment order can be challenged. In absence of such objection, the assessment order cannot be challenged.

11. This proposition is correct.

A return of income filed within the due date under section 139(1) or a belated return filed under section 139(4) may be revised by filing a revised return under section 139(5) where the assessee finds any omission or wrong statement in the original return subject to satisfying other conditions. There is no provision in the Income-tax Act, 1961, to make changes or modification in the return of income by filing a letter before the Assessing Officer. The revised return can be filed at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier. In a case where a return of income has been filed within the due date under section 139(1) or a belated return is filed under section 139(4), the only option available to the assessee to make an amendment to such return is by way of filing a revised return under section 139(5). Therefore, a fresh claim can be made before the Assessing Officer only by filing a revised return and not otherwise. The Supreme Court, in *Goetze (India) Ltd. vs. CIT (2006) 284 ITR 323*, has held that there is no power available under the provisions of the Income-tax Act, 1961 enabling the Assessing Officer to allow a claim made by the assessee except by way of filing a revised return.

Note – Section 139(8A), provides an option to an assessee to file an updated return for an assessment year, at any time within **24 months** from the end of the relevant assessment year. But such updated return should not be a return of a loss or have the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or 139(4) or 139(5) or result in refund or increases the refund due on the basis of return furnished under section 139(1) or 139(4) or 139(5). Hence, for making a fresh claim the only option available with the assessee is to file a revised return under section 139(5).

12. As per the proviso to section 142(2A), the Assessing Officer shall not direct the assessee to get the accounts so audited unless the assessee has been given a reasonable opportunity of being heard.

Therefore, in this case, the order of the Assessing Officer is not valid, since the assessee was not given an opportunity of being heard prior to passing of such order.

13. The clarification regarding filing return of income by the coffee growers being individuals covered by Rule 7B of the Income-tax Rules, 1962 is given in *Circular No.10/2006 dated 16.10.2006*. According to the Circular, an individual deriving income from growing, curing, roasting and grounding of coffee with or without mixing chicory would not be required to file the return of income if the aggregate of 40% of his or her income from growing, curing, roasting and grounding of coffee with or without mixing chicory and income from all other sources liable to tax in accordance with the provisions of this Act, is equal to or less than the basic exemption limit prescribed in the First Schedule of the Finance Act of the relevant year.

In this case, Smt. Kanti has a total income of ₹ 6,00,000 from this business, which was her only source of income for P.Y. 2024-25. 40% of her income works out to ₹ 2,40,000, which is less than the basic exemption limit of ₹ 3,00,000 (under section 115BAC, being default regime) / ₹ 2,50,000 (if opting for normal provisions) in respect of an individual assessee. Therefore, Smt. Kanti is not required to file a return of income for the A.Y. 2025-26 as per the provisions of section 139(1).

If Smt. Kanti had travelled to the USA during the P.Y. 2024-25 and incurred ₹ 2.20 lakhs on such travel, she would be required to mandatorily file a return of income for A.Y. 2025-26 on or before the due date u/s 139(1), even though her total income does not exceed the basic exemption limit.

14. The Supreme Court has, in *Goetze (India) Ltd. v. CIT (2006) 284 ITR 323*, ruled that the Assessing Officer has no power to entertain a claim for deduction made after filing of the return of income otherwise than by way of a revised return. In the instant case, Ram has claimed the deduction under section 80C, which he omitted to claim in the original return of income, through a letter addressed to the Assessing Officer and not by filing a revised return under section 139(5). In view of the decision of the Supreme Court cited above, the Assessing Officer was justified in completing the assessment without allowing the deduction under section 80C.

15. **The statement is correct.**

The Supreme Court has, in *CIT v. Mahalakshmi Sugar Mills Co. Ltd. (1986) 160 ITR 920*, held that it is the duty of the Assessing Officer to apply the relevant provisions of the Act for the purpose of determining the true figure of the assessee's total income and consequential tax liability. Merely because the assessee has not claimed the set-off in the return filed, it cannot relieve the Assessing Officer of his duty to apply section 72 in the appropriate case.

As per *CBDT Circular No.14 (XL-35) of 1955 dated 11.04.1955*, it is the duty of the Assessing Officer to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard, they should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him.

Therefore, on the basis of the above Supreme Court ruling and the CBDT Circular, the Assessing Officer is bound to allow the set-off of brought forward losses under section 72, even if the assessee has not claimed the same in the return filed, provided the loss was determined in pursuance of a return filed under section 139(3) in any earlier previous year.

Moreover, the wording used in section 72 is “shall”, indicating that the provisions relating to set off of brought forward business loss are mandatory.

Therefore, the Assessing Officer is bound to allow the claim for set off of brought forward business losses even if the assessee has not claimed the same in the return filed.

16. Section 139B provides for submission of return of income through Tax Return Preparers. It empowers the Central Board of Direct Taxes (CBDT) to frame a scheme for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income through Tax Return Preparers. Specified class or classes of persons have been defined to mean any person, other than a company or a person whose accounts are required to be audited under section 44AB or under any other existing law, who is required to furnish a return of income under the Act. Thus, companies and persons whose accounts are liable for tax audit under section 44AB do not fall within the definition of ‘specified class or classes of persons’ and consequently, cannot furnish their returns of income through Tax Return Preparers. In the instant case, the books of account of X for the year ending 31.3.2025 have been audited under section 44AB. As such, he **cannot** furnish his return of income for the A.Y. 2025-26 through a Tax Return Preparer.