

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed ¹[two lakh and fifty thousand rupees]:

²[Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).]

Explanation.—For the purposes of this section,—

(i) “agricultural land” means agricultural land in India including land situate in any area referred to in items (a) and (b) of sub-clause (iii) of clause (14) of section 2;

(ii) “immovable property” means any land (other than agricultural land) or any building or part of a building.]

³[**194LB. Income by way of interest from infrastructure debt fund.**—Where any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred to in clause (47) of section 10, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.]

⁴[**194LBA. Certain income from units of a business trust.**—(1) Where any distributed income referred to in section 115UA, being of the nature referred to ⁵[in sub-clause (a) of clause (23FC)] ⁶[or clause (23FCA)] of section 10, is payable by a business trust to its unit holder being a resident, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

(2) Where any distributed income referred to in section 115UA, being of the nature referred to ⁵[in sub-clause (a) of clause (23FC)] of section 10, is payable by a business trust to its unit holder, ⁷[being a non-resident (not being a company)] or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.]

⁶[(3) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder, being a non-resident (not being a company), or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.]

1. Subs. by Act 28 of 2016, s. 81, for “two hundred thousand rupees” (w.e.f. 1-6-2016).

2. Ins. by Act 7 of 2017, s. 67 (w.e.f. 1-4-2017).

3. Ins. by Act 8 of 2011, s. 28 (w.e.f. 1-6-2011).

4. Ins. by Act 25 of 2014, s. 58 (w.e.f. 1-10-2014).

5. Subs. by Act 28 of 2016, s. 82, for “in clause (23FC)” (w.e.f. 1-6-2016).

6. Ins. by Act 20 of 2015, s. 46 (w.e.f. 1-6-2015).

7. Subs. by s. 46, *ibid.*, for “being a non-resident, not being a company” (w.e.f. 1-6-2015).

¹[**194LBB. Income in respect of units of investment fund.**—Where any income, other than that proportion of income which is of the same nature as income referred to in clause (23FBB) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the *Explanation 1* to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier,²[deduct income-tax thereon,—

(i) at the rate of ten per cent, where the payee is a resident;

(ii) at the rates in force, where the payee is a non-resident (not being a company) or a foreign company:

Provided that where the payee is a non-resident (not being a company) or a foreign company, no deduction shall be made in respect of any income that is not chargeable to tax under the provisions of the Act.]

Explanation.—For the purposes of this section,—

(a) “unit” shall have the meaning assigned to it in clause (c) of the *Explanation 1* to section 115UB;

(b) where any income as aforesaid is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.]

³[**194LBC. Income in respect of investment in securitization trust.**—(1) Where any income is payable to an investor, being a resident, in respect of an investment in a securitisation trust specified in clause (d) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rate of—

(i) twenty-five per cent., if the payee is an individual or a Hindu undivided family;

(ii) thirty per cent., if the payee is any other person.

(2) Where any income is payable to an investor, being a non-resident (not being a company) or a foreign company, in respect of an investment in a securitisation trust specified in clause (d) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rates in force.

Explanation.—For the purposes of this section,—

(a) “investor” shall have the meaning assigned to it in clause (a) of the *Explanation* occurring after section 115TCA;

1. Ins. by Act 20 of 2015, s. 47 (w.e.f. 1-6-2015).

2. Subs. by Act 28 of 2016, s. 83, for “deduct income-tax thereon at the rate of ten per cent.” (w.e.f. 1-6-2016).

3. Ins. by s. 84, *ibid* (w.e.f. 1-6-2016).

(b) where any income as aforesaid is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.]

¹[194LC. Income by way of interest from Indian company.—(1) Where any income by way of interest referred to in sub-section (2) is payable to a non-resident, not being a company or to a foreign company by a specified company ²[or a business trust], the person responsible for making the payment, shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct the income-tax thereon at the rate of five per cent.

(2) The interest referred to in sub-section (1) shall be the income by way of interest payable by the specified company ²[or the business trust],—

³[(i) in respect of monies borrowed by it in foreign currency from a source outside India,—

(a) under a loan agreement at any time on or after the 1st day of July, 2012 but before the ⁴[1st day of July, 2020]; or

(b) by way of issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of October, 2014; or

(c) by way of issue of any long-term bond including long-term infrastructure bond at any time on or after the 1st day of October, 2014 but before the ⁴[1st day of July, 2020],

as approved by the Central Government in this behalf;⁵[or]

⁶[(ia) in respect of monies borrowed by it from a source outside India by way of issue of rupee denominated bond before the 1st day of July, 2020, and]

(ii) to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment.

Explanation.—For the purpose of this section—

(a) “foreign currency” shall have the meaning assigned to it in clause (m) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(b) “specified company” means an Indian company.]

1. Ins. by Act 23 of 2012, s. 76 (w.e.f. 1-7-2012).

2. Ins. by Act 25 of 2014, s. 59 (w.e.f. 1-10-2014).

3. Subs. by s. 59, *ibid.*, for clause (i) (w.e.f. 1-10-2014).

4. Subs. by Act 7 of 2017, s. 68, for “1st day of July, 2017” (w.e.f. 1-4-2018).

5. Subs. by s. 68, *ibid.*, for “and” (w.e.f. 1-4-2018).

6. Ins. by s. 68, *ibid.* (w.e.f. 1-4-2016).

¹[194LD. Income by way of interest on certain bonds and Government securities.—(1) Any person who is responsible for paying to a person being a Foreign Institutional Investor or a Qualified Foreign Investor, any income by way of interest referred to in sub-section (2), shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.

(2) The income by way of interest referred to in sub-section (1) shall be the interest payable on or after the 1st day of June, 2013 but before the ²[1st day of July, 2020] in respect of investment made by the payee in—

(i) a rupee denominated bond of an Indian company ; or

(ii) a Government security:

Provided that the rate of interest in respect of bond referred to in clause (i) shall not exceed the rate as may be notified by the Central Government in this behalf.

Explanation.—For the purpose of this section,—

(a)“Foreign Institutional Investor” shall have the meaning assigned to it in clause (a) of the *Explanation* to section 115AD;

(b)“Government security” shall have the meaning assigned to it in clause (b) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c)“Qualified Foreign Investor” shall have the meaning assigned to it in the Circular No. Cir/IMD/DF/14/2011, dated the 9th August, 2011, as amended from time to time, issued by the Securities and Exchange Board of India, under section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).]

195. Other sums.—³[(1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, ⁴[any interest (not being interest referred to in section 194LB or section 194LC)]⁵[or section 194LD] ⁶*** or any other sum chargeable under the provisions of this Act (not being income chargeable under the head “Salaries” ⁷***)] shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force:

⁸[Provided that in the case of interest payable by the Government or a public sector bank within the meaning of clause (23D) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode:]

1. Ins. by Act 17 of 2013, s. 47 (w.e.f. 1-6-2013).

2. Subs. by Act 7 of 2017, s. 69, for “1st day of July, 2017” (w.e.f. 1-4-2018).

3. Subs. by Act 11 of 1987, s. 49, for sub-section (1) (w.e.f. 1-6-1987).

4. Subs. by Act 23 of 2012, s. 77, for “any interest” (w.e.f. 1-4-2012).

5. Ins. by Act 17 of 2013, s. 48 (w.e.f. 1-6-2013).

6. The words “(not being interest on securities)” omitted by Act 32 of 2003, s. 80 (w.e.f. 1-6-2003).

7. The words “or dividends” omitted by Act 49 of 1991, s. 56 (w.e.f. 1-10-1991).

8. Ins. by Act 36 of 1989, s. 23 (w.e.f. 1-6-1987).

¹[Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

Explanation ²[1].—For the purposes of this section, where any interest or other sum as aforesaid is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

³[*Explanation* 2.—For the removal of doubts, it is hereby clarified that the obligation to comply with sub-section (1) and to make deduction thereunder applies and shall be deemed to have always applied and extends and shall be deemed to have always extended to all persons, resident or non-resident, whether or not the non-resident person has—

(i) a residence or place of business or business connection in India; or

(ii) any other presence in any manner whatsoever in India.]

(2) Where the person responsible for paying any such sum chargeable under this Act (⁴[other than salary]) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the ⁵[Assessing Officer] to determine, ⁶[by general or special order], the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

⁷* * * * *

⁸[(3) Subject to rules made under sub-section (5), any person entitled to receive any interest or other sum on which income-tax has to be deducted under sub-section (1) may make an application in the prescribed form to the ⁵[Assessing Officer] for the grant of a certificate authorising him to receive such interest or other sum without deduction of tax under that sub-section, and where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon under sub-section (1).

(4) A certificate granted under sub-section (3) shall remain in force till the expiry of the period specified therein or, if it is cancelled by the ⁵[Assessing Officer] before the expiry of such period, till such cancellation.

1. Ins. by Act 32 of 2003, s. 80 (w.e.f. 1-4-2003). Earlier the proviso was omitted by Act 20 of 2002, s. 80 (w.e.f. 1-6-2002) which was inserted by Act 26 of 1997, s. 49 (w.e.f. 1-6-1997).

2. The *Explanation* renumbered as *Explanation* 1 thereof by Act 23 of 2012, s. 77 (w.r.e.f. 1-4-1962).

3. Ins. by s. 77, *ibid.* (w.r.e.f. 1-4-1962).

4. Subs. by Act 32 of 2003, s. 80, for “other than interest on securities and salary” (w.e.f. 1-6-2003). Earlier the words “other than interest including interest on securities” substituted by Act 66 of 1976, s. 22, for “other than interest on securities” (w.e.f. 1-6-1976) and the word “dividend” was omitted by Act 49 of 1991, s. 56 (w.e.f. 1-10-1991).

5. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

6. Subs. by Act 26 of 1988, s. 39, for “in the prescribed manner (w.r.e.f. 1-3-1988). Earlier the quoted words were substituted by Act 11 of 1987, s. 49 for “by general or special order” (w.e.f. 1-6-1987).

7. The proviso omitted by Act 49 of 1991, s. 56 (w.e.f. 1-10-1991). Earlier the proviso was inserted by Act 11 of 1987, s. 49 (w.e.f. 1-6-1987).

8. Ins. by Act 19 of 1970, s. 24 (w.e.f. 1-4-1970).

(5) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (3) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]

¹[(6) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.]

²[(7) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine, by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.]

³**[195A. Income payable “net of tax”.—**⁴[In a case other than that referred to in sub-section (1A) of section 192, where under an agreement] or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon at the rates in force for the financial year in which such income is payable, be equal to the net amount payable under such agreement or arrangement.]

⁵**[196. Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations.—**Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(i) the Government, or

(ii) the Reserve Bank of India, or

(iii) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or

(iv) a Mutual Fund specified under clause (23D) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.]

⁶**[196A. Income in respect of units of non-residents.—**(1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent :

1. Subs. by Act 20 of 2015, s. 49, for sub-section (6) (w.e.f. 1-6-2015). Earlier sub-section (6) was inserted by Act 18 of 2008, s. 44 (w.e.f. 1-4-2008).

2. Ins. by Act 23 of 2012, s. 77 (w.e.f. 1-7-2012).

3. Ins. by Act 11 of 1987, s. 50 (w.e.f. 1-6-1987).

4. Subs. by Act 20 of 2002, s. 81, for “Where, under an agreement” (w.e.f. 1-6-2002).

5. Subs. by Act 4 of 1988, s. 75, for section 196 (w.e.f. 1-4-1988). Earlier section 196 was substituted by Act 20 of 1967, s. 30 (w.e.f. 1-4-1967).

6. Subs. by Act 22 of 1995, s. 37, for section 196A (w.e.f. 1-7-1995).

¹[Provided that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003.]

(2) Notwithstanding anything contained in sub-section (1), no deduction of tax shall be made from any income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, where the units have been acquired from the Unit Trust of India out of the funds in a Non-resident (External) Account maintained with any bank in India or by remittance of funds in foreign currency, in accordance, in either case, with the provisions of ²[the Foreign Exchange Management Act, 1999 (42 of 1999)], and the rules made thereunder.

Explanation.—For the purposes of this section—

(a) “foreign currency” shall have the meaning assigned to it in ²[the Foreign Exchange Management Act, 1999 (42 of 1999)];

(b) “non-resident Indian” shall have the meaning assigned to it in clause (e) of section 115C;

(c) “Unit Trust of India” means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(d) where any income as aforesaid is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

³[**196B. Income from units.**—⁴[Where any income in respect of units referred to in section 115AB or by way of long-term capital gains arising from the transfer of such units is payable to an Offshore Fund], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.]

⁵[**196C. Income from foreign currency bonds or shares of Indian company.**—⁶[Where any income by way of interest or dividends in respect of ⁷[bonds or Global Depository Receipts] referred to in section 115AC or by way of long-term capital gains arising from the transfer of such ⁷[bonds or Global Depository Receipts] is payable to a non-resident], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.]:

⁸[Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

1. Ins. by Act 32 of 2003, s. 81 (w.e.f. 1-4-2003). Earlier the proviso omitted by Act 20 of 2002, s. 82 (w.e.f. 1-6-2002) which was inserted by Act 27 of 1999, s. 75 (w.e.f. 1-6-1999).

2. Subs. by Act 17 of 2013, s. 4, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

3. Ins. by Act 49 of 1991, s. 58 (w.e.f. 1-10-1991).

4. Subs. by Act 38 of 1993, s. 26, for “Where any income is payable in respect of units referred to in section 115AB to an Offshore Fund” (w.e.f. 1-6-1993).

5. Ins. by Act 18 of 1992, s. 75 (w.e.f. 1-6-1992).

6. Subs. by Act 38 of 1993, s. 27, for “Where any income by way of interest or dividends is payable in respect of bonds or shares referred to in section 115AC to a non-resident” (w.e.f. 1-6-1993).

7. Subs. by Act 14 of 2001, s. 72, for “bonds or shares” (w.e.f. 1-4-2002).

8. Ins. by Act 32 of 2003, s. 82 (w.e.f. 1-4-2003). Earlier the proviso was omitted by Act 20 of 2002, s. 83 (w.e.f. 1-6-2002) which was inserted by Act 26 of 1997, s. 50 (w.e.f. 1-6-1997).

¹[**196D. Income of Foreign Institutional Investors from securities.**—(I) Where ²[any income in respect of securities referred to in clause (a) of sub-section (I) of section 115AD, not being income by way of interest referred to in section 194LD, is payable] to a Foreign Institutional Investor, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent.:

³[Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

(2) No deduction of tax shall be made from any income, by way of capital gains arising from the transfer of securities referred to in section 115AD, payable to a Foreign Institutional Investor.]

197. Certificate for deduction at lower rate.—(I) ⁴[Subject to rules made under sub-section (2A), ⁵[where, in the case of ⁶[any income of any person or sum payable to any person], income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, ⁷[194,] ⁸[194A, ⁹[194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA ¹⁰[, 194LBB, 194LBC]]] and 195, the Assessing Officer is satisfied]] that the total income ¹¹*** of the recipient justifies the deduction of income-tax ¹²*** at any lower rates or no deduction of income-tax ¹²***, as the case may be, the ¹³[Assessing Officer] shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the ¹³[Assessing Officer], deduct income-tax ¹⁴*** at the rates specified in such certificate or deduct no tax, as the case may be.

¹⁵[(2A) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (I) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]

¹⁶* * * * *

1. Ins. by Act 38 of 1993, s. 28 (w.e.f. 1-6-1993).

2. Subs. by Act 17 of 2013, s. 49, for “any income in respect of securities referred to in clause (a) of sub-section (I) of section 115AD is payable” (w.e.f. 1-6-2013).

3. Ins. by Act 32 of 2003, s. 83 (w.e.f. 1-4-2003). Earlier the proviso was omitted by Act 20 of 2002, s. 84 (w.e.f. 1-6-2002) which was inserted by Act 26 of 1997, s. 50 (w.e.f. 1-6-1997).

4. Subs. by Act 11 of 1987, s. 51, for “Where in the case of any income of any person other than a company” (w.e.f. 1-6-1987).

5. Subs. by Act 18 of 1992, s. 76, for certain words (w.e.f. 1-6-1992).

6. Subs. by Act 32 of 2003, s. 84, for “any income of any person” (w.e.f. 1-6-2003).

7. Ins. by Act 38 of 1993, s. 29 (w.e.f. 1-6-1993).

8. Subs. by Act 32 of 2003, s. 84, for “194A, 194D, 194H, 194-I, 194K, 194L” (w.e.f. 1-6-2003).

9. Subs. by Act 23 of 2004, s. 39, for “194C, 194D, 194G, 194H, 194-I, 194J, 194K” (w.e.f. 1-10-2004).

10. Ins. by Act 28 of 2016, s. 85 (w.e.f. 1-6-2016).

11. The words “or the total world income” omitted by Act 10 of 1965, s. 48 (w.e.f. 1-4-1965).

12. The words “or super-tax” omitted by s. 48, *ibid.* (w.e.f. 1-4-1965).

13. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

14. The words “and super-tax” omitted by Act 10 of 1965, s. 48 (w.e.f. 1-4-1965).

15. Ins. by Act 11 of 1987, s. 51 (w.e.f. 1-6-1987).

16. Sub-section (3) omitted by Act 23 of 1986, s. 39 (w.e.f. 1-4-1987).

¹[**197A. No deduction to be made in certain cases.**—(I) Notwithstanding anything contained in ^{2***} section 194 ^{3***} ⁴[or section 194EE], no deduction of tax shall be made under any of the said sections in the case of an individual, who is resident in India, if such individual furnishes to the person responsible for paying any income of the nature referred to in ^{2***} section 194 ⁵[^{3***} or, as the case may be, section 194EE], a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that ⁶[the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.]

⁷[(IA)Notwithstanding anything contained in ⁸[section 192A or section 193 or section 194A ⁹[or section 194D] or section 194DA] ¹⁰[or section 194-I] or section 194K, no deduction of tax shall be made under ¹¹[any of] the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in ⁸[section 192A or section 193 or section 194A ⁹[or section 194D] or section 194DA] ¹⁰[or section 194-I] or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.]

¹²[(IB) The provisions of this section shall not apply where the amount of any income of the nature referred to in sub-section (I) or sub-section (IA), as the case may be, or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.]

¹³[(IC) Notwithstanding anything contained in ¹⁴[section 192A or section 193 or section 194 or section 194A ⁹[or section 194D] or section 194DA] or section 194EE ¹⁰[or section 194-I] or section 194K or sub-section (IB) of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of ¹⁵[sixty years] or more at any time during the previous year^{16***}, if such individual furnishes to the person responsible for paying any income of the nature referred to in ¹⁴[section 192A or section 193 or section 194 or section 194A ⁹[or section 194D] or section 194DA] or section 194EE ¹⁰[or section 194-I] or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.]

1. Ins. by Act 14 of 1982, s. 26 (w.e.f. 1-6-1982).

2. The words and figures “section 193 or” omitted by Act 27 of 1999, s. 77 (w.e.f. 1-6-1999).

3. The words and figures “or section 194A” omitted by Act 18 of 1992, s. 77 (w.e.f. 1-6-1992).

4. Ins. by Act 49 of 1991, s. 59 (w.e.f. 1-10-1991).

5. Subs. by s. 59, *ibid.*, for “or, as the case may be, section 194A” (w.e.f. 1-10-1991).

6. Subs. by Act 12 of 1990, s. 50, for “his estimated total income of the previous year in which such income is to be included in computing his total income will be less than the minimum liable to income-tax” (w.e.f. 1-4-1990).

7. Subs. by Act 22 of 1995, s. 39, for sub-section (IA) (w.e.f. 1-7-1995).

8. Subs. by Act 20 of 2015, s. 50, for “section 193 or section 194A” (w.e.f. 1-6-2015).

9. Ins. by Act 7 of 2017, s. 70 (w.e.f. 1-6-2017).

10. Ins. by Act 28 of 2016, s. 86 (w.e.f. 1-6-2016).

11. Subs. by Act 27 of 1999, s. 77, for “either of” (w.e.f. 1-6-1999).

12. Ins. by Act 20 of 2002, s. 85 (w.e.f. 1-6-2002).

13. Ins. by Act 32 of 2003, s. 85 (w.e.f. 1-6-2003).

14. Subs. by Act 20 of 2015, s. 50, for “section 193 or section 194 or section 194A” (w.e.f. 1-6-2015).

15. Subs. by Act 23 of 2012, s. 78, for “sixty-five years” (w.e.f. 1-7-2012).

16. The words, figures and letter “and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B” omitted by Act 22 of 2007, s. 58 (w.e.f. 1-4-2006).

¹[(1D) Notwithstanding anything contained in this section, no deduction of tax shall be made by the Offshore Banking Unit from the interest paid—

(a) on deposit made on or after the 1st day of April, 2005, by a non-resident or a person not ordinarily resident in India; or

(b) on borrowing, on or after the 1st day of April, 2005, from a non-resident or a person not ordinarily resident in India.

Explanation.—For the purposes of this sub-section “Offshore Banking Unit” shall have the same meaning as assigned to it in clause (u) of section 2 of the Special Economic Zones Act, 2005.]

²[(1E) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.]

³[(1F) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from such specified payment to such institution, association or body or class of institutions, associations or bodies as may be notified by the Central Government in the Official Gazette, in this behalf.]

(2) The person responsible for paying any income of the nature referred to in sub-section (I) ⁴[or sub-section (IA)] ⁵[or sub-section (IC)] shall deliver or cause to be delivered to the ⁶[⁷[Principal Chief Commissioner or Chief Commissioner] or ⁸[Principal Commissioner or Commissioner]] one copy of the declaration referred to in sub-section (I) ⁴[or sub-section (IA)] ⁵[or sub-section (IC)] on or before the seventh day of the month next following the month in which the declaration is furnished to him.]

198. Tax deductedis income received.—All sums deducted in accordance with ⁹[the foregoing provisions of this Chapter] shall, for the purpose of computing the income of an assessee, be deemed to be income received:

¹⁰[Provided that the sum being the tax paid, under sub-section (IA) of section 192 for the purpose of computing the income of an assessee, shall not be deemed to be income received.]

¹¹[**199. Credit for tax deducted.**—(I) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (IA) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

1. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).

2. Ins. by Act 33 of 2009, s. 63 (w.e.f. 1-4-2009).

3. Ins. by Act 23 of 2012, s. 78 (w.e.f. 1-7-2012).

4. Ins. by Act 18 of 1992, s. 77 (w.e.f. 1-6-1992).

5. Ins. by Act 32 of 2003, s. 85 (w.e.f. 1-6-2003).

6. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

7. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

8. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

9. Subs. by Act 23 of 2004, s. 40, for certain words (w.e.f. 1-10-2004).

10. Ins. by Act 20 of 2002, s. 86 (w.e.f. 1-6-2002).

11. Subs. by Act 18 of 2008, s. 45, for section 199 (w.e.f. 1-4-2008).

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.]

200. Duty of person deducting tax.—¹[(1)] Any person deducting any sum in accordance with ²[the foregoing provisions of this Chapter] shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

³[(2) Any person being an employer, referred to in sub-section (1A) of section 192 shall pay, within the prescribed time, the tax to the credit of the Central Government or as the Board directs.]

⁴[(2A) In case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.]

⁵[(3) Any person deducting any sum on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this Chapter or, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed:]

⁶[Provided that the person may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be specified by the authority.]

⁷**[200A. Processing of statements of tax deducted at source.]**—(1) Where a statement of tax deduction at source ⁸[or a correction statement] has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner, namely:—

(a) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement; or

1. Section 200 re-numbered as sub-section (1) thereof by Act 20 of 2002, s. 88 (w.e.f. 1-6-2002).

2. Subs. by Act 23 of 2004, s. 42, for certain words (w.e.f. 1-10-2004).

3. Ins. by Act 20 of 2002, s. 88 (w.e.f. 1-6-2002).

4. Ins. by Act 20 of 2015, s. 51 (w.e.f. 1-6-2015).

5. Ins. by Act 23 of 2004, s. 42 (w.e.f. 1-4-2005).

6. Ins. by Act 25 of 2014, s. 60 (w.e.f. 1-10-2014).

7. Ins. by Act 33 of 2009, s. 65 (w.e.f. 1-4-2010).

8. Ins. by Act 25 of 2014, s. 61 (w.e.f. 1-10-2014).

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

¹[(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor:]

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.

Explanation.—For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section.]

201. Consequences of failure to deduct or pay.—²[(1) Where any person, including the principal officer of a company,—

(a) who is required to deduct any sum in accordance with the provisions of this Act; or

(b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax:

³[Provided that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such resident—

(i) has furnished his return of income under section 139;

1. Subs. by Act 20 of 2015, s. 52, for clauses (c) to (e) (w.e.f. 1-6-2015).

2. Subs. by Act 18 of 2008, s. 46, for sub-section (1) (w.r.e.f. 1-6-2002).

3. Ins. by Act 23 of 2012, s. 79 (w.e.f. 1-7-2012).

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:]

¹[Provided further that] no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.]

²[(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

(i) at one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and

(ii) at one and one-half per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid,

and such interest shall be paid before furnishing the statement in accordance with the provisions of sub-section (3) of section 200:]

¹[Provided that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident but is not deemed to be an assessee in default under the first proviso to sub-section (1), the interest under clause (i) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident.]

(2) Where the tax has not been paid as aforesaid after it is deducted, ³[the amount of the tax together with the amount of simple interest thereon referred to in sub-section (1A) shall be a charge] upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1).

⁴⁵[(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of seven years from the end of the financial year in which payment is made or credit is given.]

(4) The provisions of sub-clause (ii) of sub-section (3) of section 153 and of *Explanation 1* to section 153 shall, so far as may, apply to the time limit prescribed in sub-section (3).]

⁶[*Explanation.*—For the purposes of this section, the expression “accountant” shall have the meaning assigned to it in the *Explanation* to sub-section (2) of section 288.]

202. Deduction only one mode of recovery.—The power to ⁷[recover tax] by deduction under ⁸[the foregoing provisions of this Chapter] shall be without prejudice to any other mode of recovery.

1. Subs. by Act 23 of 2012, s. 79, for “Provided that” (w.e.f. 1-7-2012)

2. Subs. by Act 14 of 2010, s. 42, for sub-section (1A) (w.e.f. 1-7-2010).

3. Subs. by Act 13 of 1966, s. 26, for “it shall be a charge” (w.e.f. 1-4-1966).

4. Ins. by Act 33 of 2009, s. 66 (w.e.f. 1-4-2010).

5. Subs. by Act 25 of 2014, s. 62, for sub-section (3) (w.e.f. 1-10-2014). Earlier sub-section (3) was amended by Act 23 of 2012, s. 79 (w.r.e.f. 1-4-2010).

6. Ins. by Act 23 of 2012, s. 79 (w.e.f. 1-7-2012).

7. Subs. by Act 11 of 1987, s. 53 for “levy tax” (w.e.f. 1-6-1987).

8. Subs by Act 23 of 2004, s. 43, for certain words, figures and letters the portion beginning with the words “the provisions of section 192” and ending with the words “section 196D” (w.e.f. 1-10-2004).

¹**[203. Certificate for tax deducted.—**²*[(1)]* Every person deducting tax in accordance with ³*[the foregoing provisions of this Chapter]*⁴*[shall, within such period as may be prescribed from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any dividend to a shareholder],* furnish to the person to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.]

⁵*[(2) Every person, being an employer, referred to in sub-section (1A) of section 192 shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.]*

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⁷**[203A. Tax deduction and collection account number.—***(1)* Every person, deducting tax or collecting tax in accordance with the provisions of this Chapter, who has not been allotted a tax deduction account number or, as the case may be, a tax collection account number, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a “tax deduction and collection account number”.

(2) Where a “tax deduction account number” or, as the case may be, a “tax collection account number” or a “tax deduction and collection account number” has been allotted to a person, such person shall quote such number—

(a) in all challans for the payment of any sum in accordance with the provisions of section 200 or sub-section (3) of section 206C;

(b) in all certificates furnished under section 203 or sub-section (5) of section 206C;

⁸*[(ba) in all the ⁹*** statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200 or sub-section (3) of section 206C;]*

(c) in all the returns, delivered in accordance with the provisions of section 206 or sub-section (5A) or sub-section (5B) of section 206C to any income-tax authority; and

(d) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.]

¹⁰*[(3) The provisions of this section shall not apply to such person, as may be notified by the Central Government in this behalf.]*

1. Subs. by Act 20 of 1967, s. 30, for section 203, (w.e.f. 1-4-1967).

2. Section 203 renumbered as sub-section (1) thereof by Act 20 of 2002, s. 90 (w.e.f. 1-6-2002).

3. Subs. by Act 23 of 2004, s. 44, for the portion beginning with the words “the provisions of section 192” and ending with the words “section 196D” (w.e.f. 1-10-2004).

4. Subs. by Act 11 of 1987, s. 54, for “shall, at the time of credit of payment of the sum, or, as the case may be, at the time of issue of a cheque or warrant for payment of any dividend to a shareholder” (w.e.f. 1-6-1987).

5. Ins. by Act 20 of 2002, s. 90 (w.e.f. 1-6-2002).

6. Sub-section (3) omitted by Act 14 of 2010, s. 43 (w.e.f. 1-4-2010).

7. Subs. by Act 23 of 2004, s. 45, for section 203A (w.e.f. 1-10-2004).

8. Ins. by Act 21 of 2006, s. 44 (w.e.f. 1-6-2006).

9. The word “quarterly” omitted by Act 33 of 2009, s. 67 (w.e.f. 1-10-2009).

10. Ins. by Act 20 of 2015, s. 53 (w.e.f. 1-6-2015).

¹[**203AA. Furnishing of statement of tax deducted.**—The prescribed income-tax authority or the person authorised by such authority referred to in sub-section (3) of section 200, shall, within the prescribed time after the end of each financial year beginning on or after the ²[1st day of April, 2008] prepare and deliver to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid a statement in the prescribed form specifying the amount of tax deducted or paid and such other particulars as may be prescribed.]

204. Meaning of “person responsible for paying”.—For the purposes of ³[the foregoing provisions of this Chapter] and section 285, the expression “person responsible for paying” means—

(i) in the case of payments of income chargeable under the head “Salaries”, other than payments by the Central Government or the Government of a State, the employer himself or, if the employer is a company, the company itself, including the principal officer thereof;

(ii) in the case of payments of income chargeable under the head “Interest on securities”, other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, corporation or company, including the principal officer thereof;

⁴[(iii) in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short-term capital asset, the ⁵[authorised person] responsible for remitting such sum to the non-resident Indian or for crediting such sum to his Non-resident (External) Account maintained in accordance with ⁶[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder;]

⁷[(iib) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;]

(iii) ⁸[in the case of credit, or, as the case may be, payment] of any other sum chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;

⁹[(iv) in the case of credit, or as the case may be, payment of any sum chargeable under the provisions of this Act made by or on behalf of the Central Government or the Government of a State, the drawing and disbursing officer or any other person, by whatever name called, responsible for crediting, or as the case may be, paying such sum.]

¹⁰[*Explanation.*—For the purposes of this section,—

(a) “non-resident Indian” and “foreign exchange asset” shall have the meanings assigned to them in Chapter XII-A;

¹¹[(b) “authorised person” shall have the meaning assigned to it in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

1. Ins. by Act 23 of 2004, s. 46 (w.e.f. 1-4-2005).

2. Subs. by Act 21 of 2006, s. 45, for “1st day of April, 2005” (w.e.f. 1-4-2006).

3. Subs. by Act 23 of 2004, s. 47, for certain words, figures and letter (w.e.f. 1-10-2004). Earlier to amended by Act 20 of 1967, s. 30 (w.e.f. 1-4-1967).

4. Ins. by Act 23 of 1986, s. 32 (w.e.f. 1-6-1986).

5. Subs. by Act 17 of 2013, s. 50, for “authorized dealer” (w.e.f. 1-4-2013).

6. Subs. by s. 4, *ibid.*, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

7. Ins. by Act 7 of 2017, s. 71 (w.e.f. 1-4-2017).

8. Subs. by Act 20 of 1967, s. 30, for “in the case of payment” (w.e.f. 1-4-1967).

9. Ins. by Act 23 of 2012, s. 80 (w.e.f. 1-7-2012).

10. Added by Act 23 of 1986, s. 32 (w.e.f. 1-6-1986).

11. Subs. by Act 17 of 2013, s. 50, for clause (b) (w.e.f. 1-4-2013).

205. Bar against direct demand on assessee.—Where tax is deductible at the source under ¹[the foregoing provisions of this Chapter], the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

²**206. Persons deducting tax to furnish prescribed returns.**—³[(1)] The prescribed person in the case of every office of Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, every private employer and every other person ⁴[responsible for deducting tax before the 1st day of April, 2005] under the foregoing provisions of this Chapter ⁵[shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered] to the ⁶[prescribed income-tax authority or such other authority or agency as may be prescribed], such returns in such form and verified in such manner and setting forth such particulars as may be prescribed:]

⁷[Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.]

⁸[(2) Without prejudice to the provisions of sub-section (1), the person responsible for deducting tax under the foregoing provisions of this Chapter ⁹[other than the prescribed person in the case of every office of the Government and the principal officer in the case of every company] may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

¹⁰[Provided that the prescribed person in the case of every office of Government and the principal officer in the case of every company responsible for deducting tax under the foregoing provisions of this Chapter shall, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.]

(3) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(4) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (2) is defective, he may intimate the defect to the person responsible for deducting tax or the principal officer in the case of a company, as the case may be, and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.]

1. Subs. by Act 23 of 2004, s. 48, for certain words, figures and letter (w.e.f. 1-10-2004).

2. Subs. by Act 11 of 1987, s. 56, for section 206 (w.e.f. 1-6-1987).

3. Section 206 renumbered as sub-section (1) by Act 26 of 1997, s. 52 (w.e.f. 1-4-1997).

4. Subs. by Act 21 of 2006, s. 46, for “responsible for deducting tax” (w.e.f. 1-4-2006).

5. Subs. by Act 49 of 1991, s. 62, for “shall prepare, within the prescribed time after the end of each financial year, and deliver or cause to be delivered” (w.e.f. 27-9-1991).

6. Subs. by Act 23 of 2004, s. 49, for “prescribed income-tax authority” (w.e.f. 1-10-2004).

7. Ins. by s. 49, *ibid.* (w.e.f. 1-10-2004).

8. Subs. by Act 32 of 2003, s. 86, for sub-sections (2) and (3) (w.e.f. 1-6-2003).

9. Subs. by Act 23 of 2004, s. 49, for “other than the principal officer in the case of every company” (w.e.f. 1-4-2005).

10. Subs. by s. 49, *ibid.*, for the proviso (w.e.f. 1-4-2005).

¹[**206A. Furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.**—(1) Any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income ²[not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case] by way of interest (other than interest on securities), shall prepare ³[such statements for such period as may be prescribed] and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority the quarterly returns as aforesaid, in the prescribed form, verified in such manner and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

(2) The Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare and deliver or cause to be delivered ⁴[such statements] in the prescribed form and verified in such manner and within such time as may be prescribed, to the prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.]

⁵[**206AA. Requirement to furnish Permanent Account Number.**—(1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIIB (hereafter referred to as deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely:—

- (i) at the rate specified in the relevant provision of this Act; or
- (ii) at the rate or rates in force; or
- (iii) at the rate of twenty per cent.

(2) No declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under section 197 shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor and the provisions of sub-section (1) shall apply accordingly.]

⁶[(7) The provisions of this section shall not apply to a non-resident, not being a company, or to a foreign company, in respect of—

- (i) payment of interest on long-term bonds as referred to in section 194LC; and
- (ii) any other payment subject to such conditions as may be prescribed.]

206B. [Person paying dividend to certain residents without deduction of tax to furnish prescribed return].—*Omitted by the Finance (No. 2) Act, 1996(33 of 1996), s. 51(w.e.f. 1-10-1996).*

1. Ins. by Act 18 of 2005, s. 52 (w.e.f. 1-6-2005).

2. Subs. by Act 22 of 2007, s. 60, for “not exceeding five thousand rupees” (w.e.f. 1-6-2007).

3. Subs. by Act 33 of 2009, s. 68, for “quarterly returns for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year” (w.e.f. 1-10-2009).

4. Subs. by s. 68, *ibid.*, for “quarterly returns” (w.e.f. 1-10-2009).

5. Ins. by s. 69, *ibid.* (w.e.f. 1-4-2010).

6. Subs. by Act 28 of 2016, s. 87, for sub-section (7) (w.e.f. 1-6-2016).

206C. Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.—²[(1) Every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

³[TABLE]

<i>Sl. No.</i>	<i>Nature of goods</i>	<i>Percentage</i>
(1)	(2)	(3)
(i)	Alcoholic Liquor for human consumption	One per cent
(ii)	Tendu leaves	Five per cent
(iii)	Timber obtained under a forest lease	Two and one-half per cent
(iv)	Timber obtained by any mode other than under a forest lease	Two and one-half per cent
(v)	Any other forest produce not being timber or tendu leaves	Two and one-half per cent
(vi)	Scrap	One per cent]
⁴ [(vii)	Minerals, being coal or lignite or iron ore	One per cent:]

⁵[Provided that every person, being a seller shall at the time, during the period beginning on the 1st day of June, 2003 and ending on the day immediately preceding the date on which the Taxation Laws (Amendment) Act, 2003 comes into force, of debiting of the amount payable by the buyer to the account of the buyer or of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table as it stood immediately before the 1st day of June, 2003, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax in accordance with the provisions of this section as they stood immediately before the 1st day of June, 2003.]]

⁶[(1A) Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things ⁴[or for the purposes of generation of power] and not for trading purposes.

1. Ins. by 26 of 1988, s. 40 (w.e.f. 1-6-1988).

2. Subs. by Act 18 of 1992, s. 79, for sub-section (1) (w.e.f. 1-4-1992). Earlier sub-section (1) amended by Act 3 of 1989, s. 34 (w.e.f. 1-6-1988).

3. Subs. by Act 54 of 2003, s. 9, for the Table (w.e.f. 8-9-2003). Earlier substitution by 18 of 1992, s. 75 (w.e.f. 1-4-1992), as so amended by Act 32 of 2003, s. 86 (w.e.f. 1-6-2003).

4. Ins. by Act 23 of 2012, s. 81 (w.e.f. 1-7-2012).

5. Subs. by Act 54 of 2003, s. 9, for the proviso (w.e.f. 8-9-2003).

6. Ins. by s. 9, *ibid.* (w.e.f. 8-9-2003).

(1B) The person responsible for collecting tax under this section shall deliver or cause to be delivered to the ¹[Principal Chief Commissioner or Chief Commissioner] or ²[Principal Commissioner or Commissioner] one copy of the declaration referred to in sub-section (1A) on or before the seventh day of the month next following the month in which the declaration is furnished to him.]

³[(1C) Every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereafter in this section referred to as “licensee or lessee”) for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

<i>Sl. No.</i>	<i>Nature of contract or licence or lease, etc.</i>	<i>Percentage</i>
(1)	(2)	(3)
(i)	Parking lot	Two per cent.
(ii)	Toll plaza	Two per cent.
(iii)	Mining and quarrying	Two per cent.]

⁴[*Explanation 1.*—For the purposes of this sub-section, “mining and quarrying” shall not include mining and quarrying of mineral oil.

Explanation 2.—For the purposes of *Explanation 1*, “mineral oil” includes petroleum and natural gas.]

⁵* * * * *

(1F) Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ten lakh rupees, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to one per cent of the sale consideration as income-tax.]

(2) The power to recover tax by collection under sub-section (1) ³[or sub-section (1C)] ⁶***shall be without prejudice to any other mode of recovery.

(3) Any person collecting any amount under sub-section (1) ³[or sub-section (1C)] ⁶***shall pay within ⁷[the prescribed time] the amount so collected to the credit of the Central Government or as the Board directs:

⁸[Provided that the person collecting tax on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this section shall, after paying the tax collected to the credit of the Central Government within the prescribed time, ⁹[prepare such statements for such period as may be prescribed] and deliver or cause to be delivered to the prescribed income-tax authority, or the person authorised by such authority, such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.]

1. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

2. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

3. Ins. by Act 23 of 2004, s. 50 (w.e.f. 1-10-2004).

4. The *Explanations* ins. by Act 22 of 2007, s. 61 (w.e.f. 1-6-2007).

5. Sub-sections (1D) and (1E) omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

6. The words “or sub-section (1D)” omitted by s. 72, *ibid.* (w.e.f. 1-4-2017).

7. Subs. by Act 54 of 2003, s. 9, for “seven days” (w.e.f. 8-9-2003).

8. Ins. by Act 23 of 2003, s. 50 (w.e.f. 1-4-2005).

9. Subs. by Act 33 of 2009, s. 70, for “prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year” (w.e.f. 1-10-2009).

¹[Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.]

²[(5B) Without prejudice to the provisions of sub-section (5A), any person collecting tax, other than in a case where the seller is a company, the Central Government or a State Government, may at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

Provided that where the person collecting tax is a company or the Central Government or a State Government, such person shall, in accordance with the provisions of this section, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

(5C) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of sub-section (5A) and the rules made thereunder and shall be admissible in any proceedings made thereunder, without further proof of production of the original, as evidence of any contents of the original or of any facts stated therein.

(5D) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (5B) is defective, he may intimate the defect to the person collecting tax and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.]

(6) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of this section, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (3).

³[(6A) If any person responsible for collecting tax in accordance with the provisions of this section does not collect the whole or any part of the tax or after collecting, fails to pay the tax as required by or under this Act, he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax:

⁴[Provided that any person⁵***responsible for collecting tax in accordance with the provisions of this section, who fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee shall not be deemed to be an assessee in default in respect of such tax if such buyer or licensee or lessee—

(i) has furnished his return of income under section 139;

1. Ins. by Act 23 of 2004, s. 50 (w.e.f. 1-10-2004).

2. Subs. by s. 50, *ibid.*, for sub-sections (5B) and (5C) (w.e.f. 1-4-2005).

3. Ins. by Act 21 of 2006, s. 47 (w.e.f. 1-4-2007).

4. Ins. by Act 23 of 2012, s. 81 (w.e.f. 1-7-2012).

5. The words “, other than a person referred to in sub-section (1D),” omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

(ii) has taken into account such amount for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:]

¹[Provided further that] no penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that the person has without good and sufficient reasons failed to collect and pay the tax.]

(7) Without prejudice to the provisions of sub-section (6), if the ²[person responsible for collecting tax] does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of ³[one per cent.] per month or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid ⁴[and such interest shall be paid before furnishing the quarterly statement for each quarter in accordance with the provisions of sub-section (3)]:

⁵[Provided that in case any person^{6***}responsible for collecting tax in accordance with the provisions of this section, fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee but is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee.]

(8) Where the tax has not been paid as aforesaid, after it is collected, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the ²[person responsible for collecting tax].]

⁷[(9) Where the Assessing Officer is satisfied that the total income of the ⁸[buyer or licensee or lessee] justifies the collection of the tax at any lower rate than the relevant rate specified in sub-section (1) ⁹[or sub-section (1C)] ^{10***}, the Assessing Officer shall, on an application made by the buyer or licensee or lessee in this behalf, give to him a certificate for collection of tax at such lower rate than the relevant rate specified in sub-section (1) ⁹[or sub-section (1C)] ^{10***}.

(10) Where a certificate under sub-section (9) is given, the person responsible for collecting the tax shall, until such certificate is cancelled by the Assessing Officer, collect the tax at the rates specified in such certificate.

1. Subs. by Act 23 of 2012, s. 81, for "Provided that" (w.e.f. 1-7-2012).

2. Subs. by Act 21 of 2006, s. 47, for "seller" (w.e.f. 1-4-2007).

3. Subs. by Act 54 of 2003, s. 9, for "one and one-fourth per cent." (w.e.f. 8-9-2003).

4. Ins. by Act 21 of 2006, s. 47 (w.e.f. 1-6-2006).

5. Ins. by Act 23 of 2012, s. 81 (w.e.f. 1-7-2012).

6. The words "other than a person referred to in sub-section (1D)," omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

7. Ins. by Act 27 of 1999, s. 80 (w.e.f. 1-6-1999).

8. Subs. by Act 23 of 2004, s. 50, for "buyer" (w.e.f. 1-10-2004).

9. Ins. by s. 50, *ibid.* (w.e.f. 1-10-2004).

10. The words "or sub-section (1D)" omitted by Act 7 of 2017, s. 72 (w.e.f. 1-4-2017).

¹**[206CA. Tax collection account number.—**(1) Every person collecting tax in accordance with the provisions of section 206C, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a tax collection account number.

(2) Where a tax collection account number has been allotted to a person, such person shall quote such number—

(a) in all challans for the payment of any sum in accordance with the provisions of sub-section (3) of section 206C;

(b) in all certificates furnished under sub-section (5) of section 206C;

(c) in all the returns delivered in accordance with the provisions of sub-section (5A) or sub-section (5B) of section 206C to any income-tax authority; and

(d) in all other documents pertaining to such transactions as may be prescribed in the interest of revenue:]

²[Provided that the provisions of this section shall not apply on or after the 1st day of October, 2004.]

³**[206CB. Processing of statements of tax collected at source.—**(1) Where a statement of tax collection at source or a correction statement has been made by a person collecting any sum (herein referred to as collector) under section 206C, such statement shall be processed in the following manner, namely:—

(a) the sums collectible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement;

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums collectible as computed in the statement;

(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the collector, shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 206C or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the collector specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the collector in pursuance of the determination under clause (d) shall be granted to the collector:

Provided that no intimation under this sub-section shall be sent after the expiry of the period of one year from the end of the financial year in which the statement is filed.

Explanation.—For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

1. Ins. by Act 20 of 2002, s. 91 (w.e.f. 1-6-2002).

2. Ins. by Act 23 of 2004, s. 51 (w.e.f. 1-10-2004).

3. Ins. by Act 20 of 2015, s. 55 (w.e.f. 1-6-2015).

(ii) in respect of rate of collection of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) The Board may make a scheme for centralised processing of statements of tax collected at source to expeditiously determine the tax payable by, or the refund due to, the collector, as required under sub-section (1).]

¹**[206CC. Requirement to furnish Permanent Account number by collectee.—(1)** Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the higher of the following rates, namely:—

(i) at twice the rate specified in the relevant provision of this Act; or

(ii) at the rate of five per cent.

(2) No declaration under sub-section (1A) of section 206C shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under sub-section (9) of section 206C shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The collectee shall furnish his Permanent Account Number to the collector and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the collector is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his Permanent Account Number to the collector and the provisions of sub-section (1) shall apply accordingly.

(7) The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.]

²**[207. Liability for payment of advance tax.—³[(1)]** Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year, such income being hereafter in this Chapter referred to as “current income”.

⁴[(2) The provisions of sub-section (1) shall not apply to an individual resident in India, who—

(a) does not have any income chargeable under the head “Profits and gains of business or profession”; and

1. Ins. by Act 7 of 2017, s. 73 (w.e.f. 1-4-2017).

2. Subs. by Act 4 of 1988, s. 76, for sections 207 and 208 (w.e.f. 1-4-1988). Earlier amended by Act 16 of 1972, s. 33 (w.e.f. 1-4-1972).

3. Section 207 renumbered as sub-section (1) thereof by Act 23 of 2012, s. 82 (w.e.f. 1-4-2012).

4. Ins. by s. 82, *ibid.* (w.e.f. 1-4-2012).

(b) is of the age of sixty years or more at any time during the previous year.]

208. Conditions of liability to pay advance tax.—Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is ten thousand rupees or more.]

209. Computation of advance tax.—¹[(1) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (2) and (3), be computed as follows, namely:—

(a) where the calculation is made by the assessee for the purposes of payment of advance tax under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year;

(b) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (3) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (4) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(d) the income-tax calculated under clause (a) or clause (b) or clause (c) shall, in each case, be reduced by the amount of income-tax which would be ²[deductible or collectible at source] during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or, as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable:]

³[Provided that for computing liability for advance tax, income-tax calculated under clause (a) or clause (b) or clause (c) shall not, in each case, be reduced by the aforesaid amount of income-tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income, if the person responsible for deducting tax has paid or credited such income without deduction of tax or it has been received or debited by the person responsible for collecting tax without collection of such tax.]

1. Subs. by Act 4 of 1988, s. 77, for sub-section (1) (w.e.f. 1-4-1988).

2. Subs. by Act 3 of 1989, s. 35, for “deductible at source” (w.r.e.f. 1-6-1988).

3. Ins. by Act 23 of 2012, s. 83 (w.e.f. 1-4-2012).

¹[(2) Where the Finance Act of the relevant year provides that, in the case of any class of assessee, net agricultural income (as defined in that Act) shall be taken into account for the purposes of computing advance tax, then, the net agricultural income to be taken into account in the case of any assessee falling in that class, shall be—

(a) in cases ²[where the Assessing Officer makes an order under sub-section (3) or sub-section (4) of section 210],—

(i) if the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, the net agricultural income which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or

³[(ii) if the total income declared by the assessee for the later previous year referred to in sub-section (4) of section 210 forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to such later previous year;]

⁴[(b) in cases where the advance tax is paid by the assessee on the basis of his estimate of his current income under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year.]

(3) Where the Finance Act of the relevant year specifies any separate rate or rates for the purposes of computing advance tax in the case of every Hindu undivided family which has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax in his case, then, the ⁵[Assessing Officer] shall, for making an order under ⁶[sub-section (3) or sub-section (4) of section 210] in the case of any such Hindu undivided family, compute (subject to the provisions of section 164) the advance tax at such rate or rates—

(a) in a case where the total income of the latest previous year in respect of which the Hindu undivided family has been assessed by way of regular assessment forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such latest previous year exceeds the maximum amount not chargeable to income-tax in his case;

(b) in a case where the total income of the previous year ⁷[in respect of which a return of income is furnished by the Hindu undivided family under section 139 or in response to a notice under sub-section (1) of section 142] forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such previous year exceeds the maximum amount not chargeable to income-tax in his case.]

1. Ins. by Act 20 of 1974, s. 11 (w.e.f. 1-4-1974).

2. Subs. by Act 4 of 1988, s. 77, for “where the assessee sends a statement under sub-section (1) of section 209A or where the Income-tax Officer makes an order under sub-section (1) or sub-section (3) of section 210” (w.e.f. 1-4-1988).

3. Subs. by s. 77, *ibid.*, for sub-clause (ii) (w.e.f. 1-4-1988).

4. Subs. by s. 77, *ibid.*, for clause (b) (w.e.f. 1-4-1988).

5. Subs. by s. 2, *ibid.*, for “Income-tax Officer” (w.e.f. 1-4-1988).

6. Subs. by s. 77, *ibid.*, for “under section 210” (w.e.f. 1-4-1988).

7. Subs. by s. 77, *ibid.*, for “on the basis of which tax has been paid by the Hindu undivided family under section 140A” (w.e.f. 1-4-1988).

209A. [Computation and payment of advance tax by assessee.] *Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 78 (w.e.f. 1-4-1988). Original section was inserted by the Finance Act, 1978 (19 of 1978), s. 24 (w.e.f. 1-6-1978).*

¹**[210. Payment of advance tax by the assessee of his own accord or in pursuance of order of Assessing Officer.]**—(1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.

(2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year, ^{2****} the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.

(4) If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.

(5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.

(6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209.]

1. Subs. by Act 4 of 1988, s. 79, for section 210 (w.e.f. 1-4-1988).

2. The words “and who has not paid any advance tax under sub-section (1)” omitted by Act 20 of 2002, s. 92 (w.e.f. 1-6-2002).

¹[**211. Instalments of advance tax and due dates.**—²(1) Advance tax on the current income calculated in the manner laid down in section 209 shall be payable by—

(a) all the assesseees, other than the assessee referred to in clause (b), who are liable to pay the same, in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below:

TABLE

Due date of instalment	Amount payable
On or before the 15th June	Not less than fifteen per cent. of such advance tax.
On or before the 15th September	Not less than forty-five per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent. of such advance tax, as reduced by the amount of amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;

(b) ³[an assessee who declares profits and gains in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA, as the case may be], to the extent of the whole amount of such advance tax during each financial year on or before the 15th March:

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.]

(2) If the notice of demand issued under section 156 in pursuance of an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 is served after any of the due dates specified in sub-section (1), the appropriate part or, as the case may be, the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand.]

212. [Estimate by assessee.] *Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 81 (w.e.f. 1-4-1988).*

213. [Commission receipts.] *Omitted by s.81, ibid. (w.e.f. 1-4-1988).*

1. Subs. by Act 4 of 1988, s. 80, for section 211 (w.e.f. 1-4-1988).

2. Subs. by Act 28 of 2016, s. 89, for sub-section (1) (w.e.f. 1-6-2016).

3. Subs. by Act 7 of 2017, s. 74, for “an eligible assessee in respect of an eligible business referred to in section 44AD” (w.e.f. 1-4-2017).

214. Interest payable by Government.—⁽¹⁾ The Central Government shall pay simple interest at ¹[fifteen per cent.] per annum on the amount by which the aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under sections 207 to 213 exceeds the amount of the ²[assessed tax] from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year, and where any such instalment is paid after the expiry of the financial year, during which it is payable by reason of the provisions of section 213, interest as aforesaid shall also be payable on that instalment from the date of its payment to the date of regular assessment:

³[Provided that in respect of any amount refunded on a provisional assessment under section 141A, no interest shall be paid for any period after the date of such provisional assessment.]

⁴[(1A) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 ⁵[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the ⁶[Assessing Officer] shall serve on the assessee, a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.]

(2) On any portion of such amount which is refunded under this Chapter, interest shall be payable only up to the date on which the refund was made.

⁷[(3) This section and sections 215, 216 and 217 shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year and, in the application of the said sections to the assessment for any earlier assessment year, references therein [except in sub-section (1A) and sub-section (3) of section 215] to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

⁸[*Explanation 1.*—In this section, “assessed tax” shall have the same meaning as in sub-section (5) of section 215.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.]

215. Interest payable by assessee.—⁹[(1)Where, in any financial year, an assessee has paid ¹⁰[advance tax under section 209A or section 212 on the basis of his own estimate (including revised

1. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984).

2. Subs. by s. 35, *ibid.*, for “tax determined on regular assessment” (w.e.f. 1-4-1985).

3. Added by Act 19 of 1968, s. 16 (w.e.f. 1-4-1968).

4. Subs. by Act 67 of 1984, s. 35, for sub-section (1A) (w.e.f. 1-4-1985).

5. Ins. by Act 4 of 1988, s. 82 (w.e.f. 1-4-1989).

6. Subs. by s. 2, *ibid.*, for “Income-tax Officer” (w.e.f. 1-4-1988).

7. Ins. by s. 82, *ibid.* (w.e.f. 1-4-1989).

8. Ins. by Act 67 of 1984, s. 35 (w.e.f. 1-4-1985).

9. Subs. by Act 14 of 1969, s. 18, for sub-section (1) (w.e.f. 1-4-1970).

10. Subs. by Act 19 of 1978, s. 27, for “advance tax under section 212 on the basis of his own estimate” (w.e.f. 1-6-1978).

estimate)], and the advance tax so paid is less than seventy-five per cent. of the assessed tax, simple interest at the rate of¹[fifteen per cent.] per annum from the 1st day of April next following the said financial year up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax so paid falls short of the assessed tax:]

²[Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words “seventy-five per cent.”, the words “eighty-three and one-third per cent.” had been substituted.]

³[(2) Where before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(i) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax is so paid ; and

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid (in so far as it relates to income subject to advance tax) falls short of the assessed tax.]

⁴[(3) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264⁵[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the ⁶[Assessing Officer] shall serve on the assessee, a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.]

(4) In such cases and under such circumstances as may be prescribed, the ⁶[Assessing Officer] may reduce or waive the interest payable by the assessee under this section.

⁷[(5) In this section and sections 217 and 273, “assessed tax” means the tax determined on the basis of the regular assessment (reduced by the amount of tax deductible in accordance with the provisions of sections 192 to 194, ⁸[section 194A, section 194C] ⁹[, section 194D] ¹⁰[, section 195 and section 196A] so far as such tax relates to income subject to advance tax and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made.]

¹¹[(6) Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section and sections 216, 217 and 273.]

1. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984).

2. Ins. by Act 44 of 1980, s. 32 (w.e.f. 1-9-1980).

3. Subs. by Act 42 of 1970, s. 37, for sub-section (2) (w.e.f. 1-4-1971).

4. Subs. by Act 67 of 1984, s. 36, for sub-section (3) (w.e.f. 1-4-1985).

5. Ins. by Act 4 of 1988, s. 83 (w.e.f. 1-4-1989).

6. Subs. by s. 2, *ibid.*, for “Income-tax Officer” (w.e.f. 1-4-1988).

7. Ins. by Act 14 of 1969, s. 18 (w.e.f. 1-4-1970).

8. Subs. by Act 16 of 1972, s. 38, for “section 194A” (w.e.f. 1-4-1972).

9. Ins. by Act 21 of 1973, s. 19 (w.e.f. 1-4-1973).

10. Subs. by Act 3 of 1989, s. 33, for “and section 195” (w.e.f. 1-4-1989).

11. Ins. by Act 67 of 1984, s. 36 (w.e.f. 1-4-1985).

216. Interest payable by assessee in case of under-estimate, etc.—Where, on making the regular assessment, the ¹[Assessing Officer] finds that any assessee has—

²[(a) under ³[section 209A or section 212] under-estimated the advance tax payable by him and thereby reduced the amount payable in either of the first two instalments; or

(b) under section 213 wrongly deferred the payment of advance tax on a part of his income;

he may direct that the assessee shall pay simple interest at ⁴[fifteen per cent.] per annum—

(i) in the case referred to in clause (a), for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance tax actually paid during the year; and

(ii) in the case referred to in clause (b), for the period during which the payment of advance tax was so deferred.

Explanation.—For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.

217. Interest payable by assessee when no estimate made.—⁵[(1) Where, on making the regular assessment, ⁶[the ¹[Assessing Officer] finds—

(a) that any such person as is referred to in clause (a) of sub-section (1) of section 209A has not sent the statement referred to in that clause or the estimate in lieu of such statement referred to in sub-section (2) of that section; or

(b) that any such person as is referred to in clause (b) of sub-section (1) of section 209A has not sent the estimate referred to in that clause,

simple interest at the rate of ⁴[fifteen per cent.] per annum] from the 1st day of April next following the financial year in which the advance tax was payable in accordance with ⁷[the said sub-section (1) or sub-section (2)] up to the date of the regular assessment shall be payable by the assessee upon the amount equal to the assessed tax as defined in sub-section (5) of section 215.

(1A) Where, on making the regular assessment, the ¹[Assessing Officer] finds that ⁸[any person who is required to send an estimate under sub-section (4) of section 209A or] any such person as is referred to in sub-section (3A) of section 212 has not sent the estimate referred to therein, simple interest at the rate of ⁴[fifteen per cent.] per annum from the 1st day of April next following the financial year in which the advance tax was payable in accordance with ⁹[the said sub-section (4) or, as the case may be, sub-section (3A)] up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax paid by him falls short of the assessed tax as defined in sub-section (5) of section 215.]

1. Subs. by Act 4 of 1988, s. 2, for “Income-tax officer” (w.e.f. 1-4-1988).

² Subs. by Act 14 of 1969, s. 19, for clause (a) (w.e.f. 1-4-1970).

3. Subs. by Act 19 of 1978, s. 28, for “sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212” (w.e.f. 1-6-1978).

4. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984). Earlier the quoted words were substituted by Act 16 of 1972, s. 25 for “nine per cent.” (w.e.f. 1-4-1972).

5. Subs. by Act 14 of 1969, s. 20, for sub-section (1) (w.e.f. 1-4-1970).

6. Subs. by Act 19 of 1978, s. 29, for “the Income-tax Officer finds that any such person as is referred to in sub-section (3) of section 212 has not sent the estimate referred to therein, simple interest at the rate of twelve per cent. per annum” (w.e.f. 1-6-1978).

7. Subs. by s. 29, *ibid.*, for “the said sub-section” (w.e.f. 1-6-1978).

8. Ins. by s. 29, *ibid.* (w.e.f. 1-6-1978).

9. Subs. by s. 29, *ibid.*, for “the said sub-section” (w.e.f. 1-6-1978).

(2) The provisions of sub-sections (2), (3) and (4) of section 215 shall apply to interest payable under this section as they apply to interest payable under that section.

¹[**218. When assessee deemed to be in default.**—If any assessee does not pay on the date specified in sub-section (1) of section 211, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (5) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (6) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments.]

219. Credit for advance tax.—Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

²* * * *

D.—Collection and recovery

220. When tax payable and when assessee deemed in default.—(1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within ³[thirty days] of the service of the notice at the place and to the person mentioned in the notice :

Provided that, where the ⁴[Assessing Officer] has any reason to believe that it will be detrimental to revenue if the full period of ³[thirty days] aforesaid is allowed, he may, with the previous approval of the ⁵[Joint Commissioner], direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of ³[thirty days] aforesaid, as may be specified by him in the notice of demand.

⁶[(1A) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then, such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (11 of 1964).]

(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at ⁷⁸[one per cent.] for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid]:

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1. Subs. by Act 4 of 1988, s. 84, for section 218 (w.e.f. 1-4-1988). Earlier section 218 was amended by Act 21 of 1979, s. 19 (w.e.f. 1-4-1979) which was substituted by Act 19 of 1978, s. 30 (w.e.f. 1-6-1978).
 2. The proviso omitted by s. 126, *ibid.* (w.e.f. 1-4-1989).
 3. Subs. by s. 85, *ibid.*, for “thirty-five days” (w.e.f. 1-4-1989).
 4. Subs. by s. 2, *ibid.*, for “Income-tax Officer” (w.e.f. 1-4-1988).
 5. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioner” (w.e.f. 1-10-1998). Earlier the quoted words were substituted by Act 4 of 1988, s. 2, for “Inspecting Assistant Commissioner” (w.e.f. 1-4-1988).
 6. Ins. by Act 25 of 2014, s. 64 (w.e.f. 1-10-2014).
 7. Subs. by Act 4 of 1988, s. 85 for “fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)” (w.e.f. 1-4-1989).
 8. Subs. by Act 54 of 2003, s. 10, for “one and one-fourth per cent.” (w.e.f. 8-9-2003). Earlier the quoted words were subs. by Act 14 of 2001, s. 76, for “one and one-half per cent.” (w.e.f. 1-6-2001).

¹[Provided that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 ²[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded:]

³[Provided further that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under this section is increased, the assessee shall be liable to pay interest under sub-section (2) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1) and ending with the day on which the amount is paid:]

²⁴[Provided also] that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent for every month or part of a month.]

⁵[(2A) Notwithstanding anything contained in sub-section (2), ⁶[the ⁷⁸[Principal Chief Commissioner or Chief Commissioner] or ⁹[Principal Commissioner or Commissioner]] may] reduce or waive the amount of ¹⁰[interest paid or payable by an assessee] under the said sub-section if, ¹¹[he is satisfied] that—

(i) payment of such amount ¹²[has caused or would cause genuine hardship] to the assessee;

(ii) default in the payment of the amount on which ¹³[interest has been paid or was payable] under the said sub-section was due to circumstances beyond the control of the assessee; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him:]

¹⁴[Provided that the order accepting or rejecting the application of the assessee, either in full or in part, shall be passed within a period of twelve months from the end of the month in which the application is received:

1. Ins. by Act 13 of 1963, s. 14 (w.r.e.f. 1-4-1962).

2. Ins. by Act 4 of 1988, s. 85 (w.e.f. 1-4-1989).

3. Ins. by Act 25 of 2014, s. 64 (w.e.f. 1-10-2014).

4. Subs. by s. 64, *ibid.*, for “Provided further” (w.e.f. 1-10-2014).

5. Ins. by Act 67 of 1984, s. 37 (w.e.f. 1-10-1984).

6. Subs. by Act 46 of 1986, s. 13, for “the Board may” (w.e.f. 1-4-1987).

7. Subs. by Act 4 of 1988, s. 2, for “Commissiонер” (w.e.f. 1-4-1988).

8. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

9. Subs. by s. 4, *ibid.*, for “Commissiонер” (w.r.e.f. 1-6-2013).

10. Subs. by Act 46 of 1986, s. 13, for “interest payable by an assessee” (w.r.e.f. 1-10-1984).

11. Subs. by s. 13, *ibid.*, for “on the recommendation made by the Commissioner in this behalf, if is satisfied” (w.e.f. 1-4-1987).

12. Subs. by s. 13, *ibid.*, for “would cause genuine hardship” (w.r.e.f. 1-10-1984).

13. Subs. by s. 13, *ibid.*, for “interest was payable” (w.r.e.f. 1-10-1984).

14. Ins. by Act 28 of 2016, s. 90 (w.e.f. 1-6-2016).

Provided further that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided also that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.]

¹[(2B) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (1A) of section 201 on the amount of tax specified in the intimation issued under sub-section (1) of section 200A for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.]

²[(2C) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (7) of section 206C on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.]

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the ³[Assessing Officer] may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default.

(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits defaults in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where an assessee has presented an appeal under section 246 ⁴[or section 246A] the ³[Assessing Officer] may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.

(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the ³[Assessing Officer] shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

Explanation.—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form.

1. Ins. by Act 23 of 2012, s. 84 (w.e.f. 1-7-2012).

2. Ins. by Act 20 of 2015, s. 56 (w.e.f. 1-6-2015).

3. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

4. Ins. by Act 10 of 2000, s. 62 (w.e.f. 1-6-2000).

221. Penalty payable when tax in default.—¹[(1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable, by way of penalty, to pay such amount as the ²[Assessing Officer] may direct, and in the case of a continuing default, such further amount or amounts as the ²[Assessing Officer] may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard:

³[Provided further that where the assessee proves to the satisfaction of the ²[Assessing Officer] that the default was for good and sufficient reasons, no penalty shall be levied under this section.]]

⁴[*Explanation.*—For the removal of doubt, it is hereby declared that an assessee shall not cease to be liable to any penalty under this sub-section merely by reason of the fact that before the levy of such penalty he has paid the tax.]

(2) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

222. Certificate to Tax Recovery Officer.—(1) ⁵[When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form specifying the amount of arrears due from the assessee (such statement being hereafter in this Chapter and in the Second Schedule referred to as “certificate”) and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—]

(a) attachment and sale of the assessee’s movable property;

(b) attachment and sale of the assessee’s immovable property;

(c) arrest of the assessee and his detention in prison;

(d) appointing a receiver for the management of the assessee’s movable and immovable properties.

⁶[*Explanation.*—For the purposes of this sub-section, the assessee’s movable or immovable property shall include any property which has been transferred, directly or indirectly on or after the 1st day of June, 1973, by the assessee to his spouse or minor child or son’s wife or son’s minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property so transferred to his minor child or his son’s minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son’s minor child, as the case may be, continue to be included in the assessee’s movable or immovable property for recovering any arrears due from the assessee in respect of any period prior to such date.]

⁷[(2) The Tax Recovery Officer may take action under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.]

1. Subs. by Act 42 of 1970, s. 38, for sub-section (1) (w.e.f. 1-4-1971).

2. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Subs. by Act 46 of 1986, s. 14, for the second proviso (w.e.f. 10-9-1986).

4. Ins. by Act 41 of 1975, s. 53 (w.e.f. 1-10-1975).

5. Subs. by Act 4 of 1988, s. 86, for certain words (w.e.f. 1-4-1989).

6. Ins. by Act 41 of 1975, s. 54 (w.e.f. 1-10-1975).

7. Subs. by Act 4 of 1988, s. 86, for sub-section (2) (w.e.f. 1-4-1989).

¹[**223. Tax Recovery Officer by whom recovery is to be effected.**—(1) The Tax Recovery Officer competent to take action under section 222 shall be—

(a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by the ²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner] who is authorised in this behalf by the Board in pursuance of section 120.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(a) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property and, thereupon, that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or copy thereof had been drawn up by him.

224. Validity of certificate and cancellation or amendment thereof.—It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.

225. Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.—(1) It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.

(2) Where the order giving rise to a demand of tax for which a certificate has been drawn up is modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Tax Recovery Officer shall stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(3) Where a certificate has been drawn up and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it, as the case may be.]

1. Subs. by Act 4 of 1988, s. 87, for sections 223, 224 and 225 (w.e.f. 1-4-1989).

2. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

226. Other modes of recovery.—¹[(1) Where no certificate has been drawn up under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

(1A) Where a certificate has been drawn up under section 222, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.]

(2) If any assessee is in receipt of any income chargeable under the head “Salaries”, the ²[Assessing Officer] ³[or Tax Recovery Officer] may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs:

Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any requisition made under this sub-section.

(3) (i) The ²[Assessing Officer] ³[or Tax Recovery Officer] may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the ²[Assessing Officer] ³[or Tax Recovery Officer] either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the assessee at his last address known to the ²[Assessing Officer] ³[or Tax Recovery Officer], and in the case of a joint account to all the joint holders at their last addresses known to the ²[Assessing Officer] ³[or Tax Recovery Officer].

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the ²[Assessing Officer] ³[or Tax Recovery Officer] to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee’s liability for any sum due under this Act, whichever is less.

1. Subs. by Act 4 of 1988, s. 88, for sub-section (1) (w.e.f. 1-4-1989).

2. Subs. by Act 3 of 1989, s. 36, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Ins. by s. 37, *ibid* (w.e.f. 1-4-1989).

(vii) The ¹[Assessing Officer] ²[or Tax Recovery Officer] may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The ¹[Assessing Officer] ²[or Tax Recovery Officer] shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid.

(ix) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the ¹[Assessing Officer] ²[or Tax Recovery Officer] to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the ¹[Assessing Officer] ²[or Tax Recovery Officer], he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222.

(4) The ¹[Assessing Officer] ²[or Tax Recovery Officer] may apply to the court in whose custody there is money belonging to the assessee for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax.

³[(5) The ¹[Assessing Officer] ²[or Tax Recovery Officer] may, if so authorised by the ⁴[⁵[Principal Chief Commissioner or Chief Commissioner] or ⁶[Principal Commissioner or Commissioner]] by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner laid down in the Third Schedule.]

227. Recovery through State Government.—If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof; that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

228. [Recovery of Indian tax in Pakistan and Pakistan tax in India.] *Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 89 (w.e.f. 1-4-1989).*

⁷[**228A. Recovery of tax in pursuance of agreements with foreign countries.**—(1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board may forward such certificate to any Tax

1. Subs. by Act 3 of 1989, s. 36, for "Income-tax Officer" (w.e.f. 1-4-1988).

2. Ins. by s. 37, *ibid.* (w.e.f. 1-4-1989).

3. Subs. by Act 10 of 1965, s. 54, for sub-section (5) (w.e.f. 1-4-1965).

4. Subs. by Act 4 of 1988, s. 2, for "Commissioner" (w.e.f. 1-4-1988).

5. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).

6. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013).

7. Ins. by Act 16 of 1972, s. 39 (w.e.f. 1-4-1972).

Recovery Officer within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—

(a) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount ¹[specified in a certificate drawn up by him under section 222]; and

(b) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

²[(2) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate drawn up by him under section 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.]]

229. Recovery of penalties, fine, interest and other sums.—Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax.

230. Tax clearance certificate.—³[(1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person,—

(a) who is not domiciled in India;

(b) who has come to India in connection with business, profession or employment; and

(c) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as may be prescribed—

(i) an undertaking in the prescribed form from his employer; or

(ii) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause (i) or the person referred to in clause (ii), and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India:

Provided that nothing contained in sub-section (1) shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(1A) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form to the income-tax authority or such other authority as may be prescribed—

(a) the permanent account number allotted to him under section 139A:

1. Subs. by Act 4 of 1988, s. 90, for “specified in a certificate received from an Assessing Officer” (w.e.f. 1-4-1989).

2. Subs. by s. 90, *ibid.*, for sub-section (2) (w.e.f. 1-4-1989).

3. Subs. by Act 32 of 2003, s. 88, for sub-section (1) (w.e.f. 1-6-2003).

Provided that in case no such permanent account number has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under this Act, such person shall furnish a certificate in the prescribed form;

(b) the purpose of his visit outside India;

(c) the estimated period of his stay outside India:

Provided that no person—

(i) who is domiciled in India at the time of his departure; and

(ii) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liabilities under this Act, or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Expenditure-tax Act, 1987 (35 of 1987), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person:

Provided that no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the ¹[Principal Chief Commissioner or Chief Commissioner] of Income-tax.]

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) ²[or the first proviso to sub-section (1A)] applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the ³[Assessing Officer] may, having regard to the circumstances of the case, determine.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax.

(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

Explanation.—For the purposes of this section, the expressions “owner” and “charterer” include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

230A. [Restrictions on registration of transfers of immovable property in certain cases.]—*Omitted by the Finance Act, 2001 (14 of 2001), s. 77 (w.e.f. 1-6-2001).*

1. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

2. Ins. by Act 54 of 2003, s. 11 (w.e.f. 1-6-2003).

3. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

231. [Period for commencing recovery proceedings.]—*Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 93 (w.e.f. 1-4-1989).*

232. Recovery by suit or under other law not affected.—The several modes of recovery specified in this Chapter shall not affect in any way—

(a) any other law for the time being in force relating to the recovery of debts due to Government;
or

(b) the right of the Government to institute a suit for the recovery of the arrears due from the assessee;

and it shall be lawful for the ¹[Assessing Officer] or the Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax due is being recovered from the assessee by any mode specified in this Chapter.

E.—Tax payable under provisional assessment

233. [Recovery of tax payable under provisional assessment.]—*Omitted by the Taxation Laws (Amendment) Act, 1970 (42 of 1970), s. 39 (w.e.f. 1-4-1971).*

234. [Tax paid by deduction or advance payment.]—*Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 126 (w.e.f. 1-4-1989).*

²[*F.—Interest chargeable in certain cases*

234A. Interest for defaults in furnishing return of income.—(1) Where the return of income for any assessment year under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of ³[one per cent.] for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

(a) where the return is furnished after the due date, ending on the date of furnishing of the return;
or

(b) where no return has been furnished, ending on the date of completion of the assessment under section 144,

⁴[on the amount of the tax on the total income as determined under sub-section (1) of section 143, and where a regular assessment is made, on the amount of the tax on the total income determined under regular assessment, as reduced by the amount of,—

(i) advance tax, if any, paid;

(ii) any tax deducted or collected at source;

(iii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iv) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(v) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

1. Subs. by Act 4 of 1988, s. 2, for “Income-tax” (w.e.f. 1-4-1988).

2. Ins. by s. 94, *ibid.* (w.e.f. 1-4-1989).

3. Subs. by Act 54 of 2003, s. 12, for “one and one-fourth per cent.” (w.e.f. 8-9-2003). Earlier substitution by Act 27 of 1999, s. 81 (w.e.f. 1-6-1999).

4. Subs. by Act 21 of 2006, s. 48, for “on the amount of the tax on the total income as determined under sub-section (1) of section 143 or on regular assessment as reduced by the advance tax, if any, paid and any tax deducted or collected at source” (w.e.f. 1-4-2007). Earlier were amended by 3 of 1989, s. 38 (w.e.f. 1-4-1989).

(vi) any tax credit allowed to be set off in accordance with the provisions of section 115JAA ¹[or section 115JD].]

Explanation 1.—In this section, “due date” means the date specified in sub-section (1) of section 139 as applicable in the case of the assessee.

²[*Explanation 2.*—In this sub-section, “tax on the total income as determined under sub-section (1) of section 143” shall not include the additional income-tax, if any, payable under section 143.]

Explanation 3.—Where, in relation to an assessment year, an assessment is made for the first time ³[under section 147 or section 153A], the assessment so made shall be regarded as a regular assessment for the purposes of this section.

⁴* * * *

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

(3) Where the return of income for any assessment year, required ³[by a notice under section 148 or section 153A] issued ⁵[after the determination of income under sub-section (1) of section 143 or] after the completion of an assessment under sub-section (3) of section 143 or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of ⁶[one per cent.] for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the reassessment or recomputation under section 147 ⁷[or reassessment under section 153A],

on the amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total ⁸[income determined under sub-section (1) of section 143 or on the basis of the earlier assessment aforesaid].

⁹* * * *

(4) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of tax on which interest was payable under sub-section (1) or sub-section (3) of this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]

1. Ins. by Act 23 of 2012, s. 85 (w.e.f. 1-4-2013).

2. Subs. by Act 3 of 1989, s. 38, for Explanation (w.e.f. 1-4-1989).

3. Subs. by Act 32 of 2003, s. 89, for “under section 147” (w.e.f. 1-6-2003).

4. *Explanation* omitted by Act 14 of 2001, s. 78 (w.r.e.f. 1-4-1989).

5. Ins. by Act 3 of 1989, s. 38 (w.e.f. 1-4-1989).

⁶ Subs. by Act 54 of 2003, s. 12, for “one and one-fourth per cent.” (w.e.f. 8-9-2003). Earlier substitution by Act 27 of 1999, s. 81 (w.e.f. 1-6-1999).

7. Ins. by Act 32 of 2003, s. 89 (w.e.f. 1-6-2003).

8. Subs. by Act 3 of 1989, s. 38, for “income determined on the basis of the earlier assessment aforesaid” (w.e.f. 1-4-1989).

9. The *Explanation* omitted by s. 38, *ibid.* (w.e.f. 1-4-1989).

234B. Interest for defaults in payment of advance tax.—(1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent. of the assessed tax, the assessee shall be liable to pay simple interest at the rate of ¹[one per cent.] for every month or part of a month comprised in the period from the 1st day of April next following such financial year ²[to the date of determination of total income under sub-section (1) of section 143 ³[and where a regular assessment is made, to the date of such regular assessment, on an amount]] equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

⁴[*Explanation 1.*—In this section, “assessed tax” means the tax on the total income determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

(i) any tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA ⁵[or section 115JD].]

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time ⁶[under section 147 or section 153A], the assessment so made shall be regarded as a regular assessment for the purposes of this section.

⁷[*Explanation 3.*—In *Explanation 1* and in sub-section (3) “tax on the total income determined under sub-section (1) of section 143” shall not include the additional income-tax, if any, payable under section 143.]

(2) Where, before the date of ⁸[determination of total income under sub-section (1) of section 143 or] completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(i) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

1. Subs. by Act 54 of 2003, s. 13, for “one and one-fourth per cent.” (w.e.f. 8-9-2003).

2. Subs. by Act 3 of 1989, s. 39, for “to the date of the regular assessment” (w.e.f. 1-4-1989).

3. Subs. by Act 22 of 1995, s. 42, for “or regular assessment, on an amount” (w.e.f. 1-4-1989).

4. Subs. by Act 21 of 2006, s. 49, for *Explanation 1* (w.e.f. 1-4-2007).

5. Ins. by Act 23 of 2012, s. 86 (w.e.f. 1-4-2013).

6. Subs. by Act 32 of 2003, s. 90, for “under section 147” (w.e.f. 1-6-2003).

7. Subs. by Act 3 of 1989, s. 39, for *Explanation 3* (w.e.f. 1-4-1989).

8. Ins. by s. 39, *ibid* (w.e.f. 1-4-1989).

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

¹[(2A) (a) where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section;

(b) where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C;

(c) where, as a result of an order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (b) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly;]

²[(3) where, as a result of an order of reassessment or recomputation under section 147 or section 153A, the amount on which interest was payable in respect of shortfall in payment of advance tax for any financial year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment or recomputation under section 147 or section 153A, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the regular assessment as referred to in sub-section (1), as the case may be;]

(4) where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 ^{3****}, the amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded;

(5) the provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]

1. Ins. by Act 20 of 2015, s. 57 (w.e.f. 1-6-2015).

2. Subs. by s. 57, *ibid.*, for sub-section (3) (w.e.f. 1-6-2015).

3. The words, brackets, figures and letter “or an order of the Settlement Commission under sub-section (4) of section 245D” omitted by s. 57, *ibid* (w.e.f. 1-6-2015).

234C. Interest for deferment of advance tax.—¹[(I) Where in any financial year,—

²[(a) an assessee, other than ³[the assessee referred to in clause (b)], who is liable to pay advance tax under section 208 has failed to pay such tax or—

(i) the advance tax paid by such assessee on its current income on or before the 15th day of June is less than fifteen per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent. of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent. per month for a period of three months on the amount of the shortfall from fifteen per cent or forty-five per cent. or seventy-five per cent., as the case may be, of the tax due on the returned income;

(ii) the advance tax paid by the assessee on the current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent. on the amount of the shortfall from the tax due on the returned income:]

Provided that if the advance tax paid by the assessee on the current income, on or before the 15th day of June or the 15th day of September, is not less than twelve per cent or, as the case may be, thirty-six per cent. of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates;]

(b) ⁴[⁵[an assessee who declares profits and gains in accordance with the provisions of sub-section (I) of section 44AD or sub-section (I) of section 44ADA, as the case may be], who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent on the amount of the shortfall from the tax due on the returned income:]

⁶[Provided that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate—

(a) the amount of capital gains; or

(b) income of the nature referred to in sub-clause (ix) of clause (24) of ⁷[section 2; or]

⁸[(c) income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the ⁹[first time; or]]

¹⁰[(d) income of the nature referred to in sub-section (I) of section 115BBDA,]

1. Subs. by Act 32 of 1994, s. 45, for certain words (w.e.f. 1-4-1995).

2. Subs. by Act 28 of 2016, s. 91, for clause (a) (w.e.f. 1-6-2016).

3. Subs. by Act 7 of 2017, s. 75, for “an eligible assessee in respect of the eligible business referred to in section 44AD” (w.e.f. 1-4-2017).

4. Subs. by Act 28 of 2016, s. 91, for certain words (w.e.f. 1-6-2016).

5. Subs. by Act 7 of 2017, s. 75, for “an eligible assessee in respect of the eligible business referred to in section 44AD” (w.e.f. 1-4-2017).

6. Ins. by Act 3 of 1989, s. 40 (w.e.f. 1-4-1989).

7. Subs. by Act 28 of 2016, s. 91, for “section 2” (w.e.f. 1-6-2016).

8. Ins. by s. 91, *ibid.* (w.e.f. 1-6-2016).

9. Subs. by Act 7 of 2017, s. 75, for “first time,” (w.e.f. 1-4-2017).

10. Ins. by s. 75, *ibid.* (w.e.f. 1-4-2017).

and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (a) ¹[or clause (b) or clause (c) ²[or clause (d)]]], as the case may be, had such income been a part of the total income, as part of the ³[remaining instalments of advance tax which are due or where no such instalments are due], by the 31st day of March of the financial year:]

⁴[Provided further that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000), as amended by the Taxation Laws (Amendment) Act, 2000 (1 of 2001), and the assessee has paid the amount of shortfall, on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and the 15th day of December, 2000:]

⁵[Provided also that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000) as amended by the Taxation Laws (Amendment) Act, 2001 (4 of 2001) and the assessee has paid the amount of shortfall on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and 15th day of December, 2000.]

⁶[*Explanation.*—In this section, “tax due on the returned income” means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid or payable, as reduced by the amount of,—

(i) any tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA ⁷[or section 115JD].]

(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]]

1. Subs. by Act 28 of 2016, s. 91, for “or clause (b)” (w.e.f. 1-6-2016).

2. Ins. by Act 7 of 2017, s. 75 (w.e.f. 1-4-2017).

3. Subs. by Act 33 of 1996, s. 54, for “instalment of advance tax which is immediately due or where no such instalment is so due” (w.e.f. 1-4-1997).

4. Ins. by Act 1 of 2001, s. 4 (w.e.f. 4-1-2001).

5. Ins. by Act 4 of 2001, s. 7 (w.e.f. 3-2-2001).

6. Subs. by Act 21 of 2006, s. 50, for the *Explanation* (w.e.f. 1-4-2007).

7. Ins. by Act 23 of 2012, s. 87 (w.e.f. 1-4-2013).

¹**[234D. Interest on excess refund.]—**(1) Subject to the other provisions of this Act, where any refund is granted to the assessee under sub-section (1) of section 143, and—

(a) no refund is due on regular assessment; or

(b) the amount refunded under sub-section (1) of section 143 exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of ²[one-half per cent.] on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

(2) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of refund granted under sub-section (1) of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then, the interest chargeable, if any, under sub-section (1) shall be reduced accordingly.

³[*Explanation 1.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.]

⁴[*Explanation 2.*—For the removal of doubts, it is hereby declared that the provisions of this section shall also apply to an assessment year commencing before the 1st day of June, 2003 if the proceedings in respect of such assessment year is completed after the said date.]

⁵[*G.—Levy of fee in certain cases*

234E. Fee for default in furnishing statements.—(1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (1) shall not exceed the amount of tax deductible or collectible, as the case may be.

(3) The amount of fee referred to in sub-section (1) shall be paid before delivering or causing to be delivered a statement in accordance with sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.]

1. Ins. by Act 32 of 2003, s. 91 (w.e.f. 1-6-2003).

2. Subs. by Act 54 of 2003, s. 15, for “two-third per cent.” (w.e.f. 8-9-2003).

3. The *Explanation* numbered as *Explanation 1* by Act 23 of 2012, s. 88 (w.e.f. 1-6-2003).

4. Ins. by s. 88, *ibid.* (w.e.f. 1-6-2003).

5. Ins. by s. 89, *ibid.* (w.e.f. 1-7-2012).

¹[**234F. Fee for default in furnishing return of income.**—(1) Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (1) of the said section, he shall pay, by way of fee, a sum of,—

(a) five thousand rupees, if the return is furnished on or before the 31st day of December of the assessment year;

(b) ten thousand rupees in any other case:

Provided that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.

(2) The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018.]

CHAPTER XVIII

RELIEF RESPECTING TAX ON DIVIDENDS IN CERTAIN CASES

235. Relief to shareholders in respect of agricultural income-tax attributable to dividends.—[*Omitted by the Finance (No. 2) (Act, 32 of 1971), s. 28 (w.e.f. 1-4-1972). Prior to its omission, it was amended by the Taxation Laws (Amendment) (Act, 42 of 1970), s. 41 (w.e.f. 1-4-1971) and with retrospective effect from 1-4-1962, the Finance Act, (13 of 1966), s. 27 (w.e.f. 1-4-1966) and the Finance Act, 10 of 1965, s. 55 (w.e.f. 1-4-1965).*]

236. Relief to company in respect of dividend paid out of past taxed profits.—(1) Where in respect of any previous year relevant to the assessment year commencing after the 31st day of March, 1960, an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, pays any dividend wholly or partly out of its profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960, and deducts tax therefrom in accordance with the provisions of Chapter XVIIIB, credit shall be given to the company against the income-tax, if any, payable by it on the profits and gains of the previous year during which the dividend is paid, of a sum calculated in accordance with the provisions of sub-section (2), and, where the amount of credit so calculated exceeds the income-tax payable by the company as aforesaid, the excess shall be refunded.

(2) The amount of income-tax to be given as credit under sub-section (1) shall be a sum equal to ten per cent of so much of the dividends referred to in sub-section (1) as are paid out of the profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960.

Explanation 1.—For the purposes of this section, the aggregate of the dividends declared by a company in respect of any previous year shall be deemed first to have come out of the distributable income of that previous year and the balance, if any, out of the undistributed part of the distributable income of one or more previous years immediately preceding that previous year as would be just sufficient to cover the amount of such balance and as has not likewise been taken into account for covering such balance of any other previous year.

1. Ins. by Act 7 of 2017, s. 76 (w.e.f. 1-4-2018).

Explanation 2.—The expression “distributable income of any previous year” shall mean ¹[the total income (as computed before making any deduction under Chapter VIA) assessed for that year] as reduced by—

(i) the amount of tax payable by the company in respect of ²[its total income];

(ii) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income;

³[(iii) any sum with reference to which a deduction is allowable to the company under the provisions of section 80G; and]

(iv) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (10 of 1949),

and as increased by—

(a) any profits and gains or receipts of the company, not included in its ⁴[total income (as computed before making any deduction under Chapter VIA)]; and

(b) any amount attributable to any allowance made in computing the profits and gains of the company for purposes of assessment, which the company has not taken into account in its profit and loss account.

⁵**[236A. Relief to certain charitable institutions or funds in respect of certain dividends.—(1)**
⁶[Where seventy-five per cent of the share capital of any company is throughout the previous year beneficially held by an institution or fund established in India for a charitable purpose the income from dividend whereof is exempt under section 11], credit shall be given to the institution or fund against the tax, if any, payable by it, of a sum calculated in accordance with the provisions of sub-section (2), in respect of its income from dividends (other than dividends on preference shares) declared or distributed during the previous year relevant to any assessment year beginning on or after the ⁷[1st day of April, 1966] ⁸[by such company], and where the amount of credit so calculated exceeds the tax, if any, payable by the said institution or fund, the excess shall be refunded.

⁹[(2) The amount to be given as credit under sub-section (1) shall be a sum which bears to the amount of the tax payable by the company under the provisions of the annual Finance Act with reference to the relevant amount of distributions of dividends by it the same proportion as the amount of the dividends (other than dividends on preference shares) received by the institution or fund from the company bears to the total amount of dividends (other than dividends on preference shares) declared or distributed by the company during the previous year.

1. Subs. by Act 20 of 1967, s. 33 and the Third Schedule for “the total income assessed for that year” (w.e.f. 1-4-1967).

2. Subs. by s. 33 and the Third Schedule, *ibid.*, for “the said total income” (w.e.f. 1-4-1968).

3. Subs. by s. 33 and the Third Schedule, *ibid.*, for clause (iii) (w.e.f. 1-4-1968).

4. Subs. by s. 33 and the Third Schedule, *ibid.*, for “total income” (w.e.f. 1-4-1968).

5. Ins. by Act 31 of 1964, s. 11 (w.e.f. 1-4-1964).

6. Subs. by Act 11 of 1987, s. 74, for “In the case of an institution or fund referred to in clause (iii) of sub-section (2) of section 104” (w.e.f. 1-4-1988).

7. Subs. by Act 13 of 1966, s. 28, for “1st day of April, 1964” (w.e.f. 1-4-1966).

8. Subs. by Act 11 of 1987, s. 74, for “by such a company as is referred to in the said clause” (w.e.f. 1-4-1988).

9. Subs. by Act 13 of 1966, s. 28, for sub-section (2) (w.e.f. 1-4-1966).

Explanation.—In sub-section (2) of this section and in section 280ZB, the expression “the relevant amount of distributions of dividends” has the meaning assigned to it in the Finance Act of the relevant year.]]

CHAPTER XIX

REFUNDS

237. Refunds.—If any person satisfies the ¹[AssessingOfficer] that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

238. Person entitled to claim refund in certain special cases.—(1) Where the income of one person is included under any provision of this Act in the total income of any other person, the latter alone shall be entitled to a refund under this Chapter in respect of such income.

²[(1A) Where the value of fringe benefits provided or deemed to have been provided by one employer is included under any provisions of Chapter XII-H in the value of fringe benefits provided or deemed to have been provided by any other employer, the latter alone shall be entitled to a refund under this Chapter in respect of such fringe benefits.]

(2) Where through death, incapacity, insolvency, liquidation or other cause, a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

239. Form of claim for refund and limitation.—(1) Every claim for refund under this Chapter shall be made in the prescribed form and verified in the prescribed manner.

³[(2) No such claim shall be allowed, unless it is made within the period specified hereunder, namely:—

(a) where the claim is in respect of income which is assessable for any assessment year commencing on or before the 1st day of April, 1967, four years from the last day of such assessment year;

(b) where the claim is in respect of income which is assessable for the assessment year commencing on the first day of April, 1968, three years from the last day of the assessment year;

(c) where the claim is in respect of income which is assessable for any other assessment year, ⁴[one year] from the last day of such assessment year;]

⁵[(d) where the claim is in respect of fringe benefits which are assessable for any assessment year commencing on or after the first day of April, 2006, one year from the last day of such assessment year.]

240. Refund on appeal, etc.—Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the ¹[AssessingOfficer] shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf:

1. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

2. Ins. by Act 18 of 2005, s. 54, (w.e.f. 1-4-2006).

3. Subs. by Act 19 of 1968, s. 18, for sub-section (2) (w.e.f. 1-4-1968).

4. Subs. by Act 18 of 1992, s. 82, for “two years” (w.e.f. 1-4-1993).

5. Ins. by Act 18 of 2005, s. 55 (w.e.f. 1-4-2006).

¹[Provided that where, by the order aforesaid,—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.]

241. [Power to withhold refund in certain cases.]—*Omitted by the Finance Act, 14 of 2001, s. 81 (w.e.f. 1-6-2001).*

²**[241A. Withholding of refund in certain cases.]**—For every assessment year commencing on or after the 1st day of April, 2017, where refund of any amount becomes due to the assessee under the provisions of sub-section (1) of section 143 and the Assessing Officer is of the opinion, having regard to the fact that a notice has been issued under sub-section (2) of section 143 in respect of such return, that the grant of the refund is likely to adversely affect the revenue, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, as the case may be, withhold the refund up to the date on which the assessment is made.]

242. Correctness of assessment not to be questioned. — In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same, and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

243. Interest on delayed refunds.—³[(1) If the ⁴[Assessing Officer] does not grant the refund,—

(a) in any case where the total income of the assessee does not consist solely of income from interest on securities or dividends, within three months from the end of the month in which the total income is determined under this Act, and

(b) in any other case, within three months from the end of the month in which the claim for refund is made under this Chapter,

the Central Government shall pay the assessee simple interest at ⁵[fifteen per cent.] per annum on the amount directed to be refunded from the date immediately following the expiry of the period of three months aforesaid to the date of the order granting the refund.

Explanation.—If the delay in granting the refund within the period of three months aforesaid is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.]

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the ⁶[⁷[Principal Chief Commissioner or Chief Commissioner] or ⁸[Principal Commissioner or Commissioner]] whose decision shall be final.

⁹[(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.]

1. The proviso added by Act 4 of 1988, s. 95 (w.e.f. 1-4-1989).

2. Ins. by Act 7 of 2017, s. 77 (w.e.f. 1-4-2017).

3. Subs. by Act 42 of 1970, s. 42, for sub-section (1) (w.e.f. 1-4-1971).

4. Subs. by Act 4 of 1988, s. 2, for “Income-tax” (w.e.f. 1-4-1988).

5. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984).

6. Subs. by Act 4 of 1988, s. 2 for “Commissioner” (w.e.f. 1-4-1988).

7. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

8. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

9. Ins. by Act 4 of 1988, s. 96, (w.e.f. 1-4-1989).

244. Interest on refund where no claim is needed.—(1) Where a refund is due to the assessee in pursuance of an order referred to in section 240 and the ¹[Assessing Officer] does not grant the refund ²[within a period of three months from the end of the month in which such order is passed], the Central Government shall pay to the assessee simple interest at ³[fifteen per cent.] per annum on the amount of refund due from the date immediately following the expiry of ⁴[the period of three months aforesaid] to the date on which the refund is granted.

⁵[(1A) Where the whole or any part of the refund referred to in sub-section (1) is due to the assessee, as a result of any amount having been paid by him after the 31st day of March, 1975, in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (1) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted :

Provided that where the amount so found to be in excess was paid in instalments, such interest shall be payable on the amount of each such instalment or any part of such instalment, which was in excess, from the date on which such instalment was paid to the date on which the refund is granted :

Provided further that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding:

Provided also that where any interest is payable to an assessee under this sub-section, no interest under sub-section (1) shall be payable to him in respect of the amount so found to be in excess.]

⁶[(1B) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVIIB, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one-half per cent. for every month or part of a month comprised in the period, from the date on which—

(a) claim for refund is made in the prescribed form; or

(b) tax is paid, where refund arises on account of giving effect to an order under section 250 or section 254 or section 260 or section 262,

to the date on which the refund is granted.]

(2) Where a refund is withheld under the provisions of section 241, the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of ⁷[three months from the end of the month in which the order referred to in section 241 is passed] to the date the refund is granted.

1. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

2. Subs. by Act 42 of 1970, s. 43, for “six months from the date of such order” (w.e.f. 1-4-1971).

³. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984).

4. Subs. by Act 42 of 1970, s. 43, for “the period of six months aforesaid” (w.e.f. 1-4-1971).

5. Ins. by Act 41 of 1975, s. 56 (w.e.f. 1-10-1975).

6. Ins. by Act 7 of 2017, s. 78 (w.e.f. 1-4-2017).

7. Subs. by Act 42 of 1970, s. 43, for “six months from the date of the order referred to in section 241” (w.e.f. 1-4-1971).

¹[(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment years.]

²[**244A. Interest on refunds.**—(1) ³[Where refund of any amount becomes due to the assessee under this Act], he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely:—

⁴[(a) where the refund is out of any tax collected at source under section 206C or paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period,—

(i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under sub-section (1) of section 139; or

(ii) from the date of furnishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (i);

(aa) where the refund is out of any tax paid under section 140A, such interest shall be calculated at the rate of ⁵[one-half per cent.] for every month or part of a month comprised in the period, from the date of furnishing of return of income or payment of tax, whichever is later, to the date on which the refund is granted:

Provided that no interest under clause (a) or clause (aa) shall be payable, if the amount of refund is less than ten per cent of the tax as determined under sub-section (1) of section 143 or on regular assessment;]

(b) in any other case, such interest shall be calculated at the rate of ⁵[one-half per cent.] for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, “date of payment of tax or penalty” means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand.

⁶[(1A) In a case where a refund arises as a result of giving effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1), an additional interest on such amount of refund calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.]

1. Ins. by Act 4 of 1988, s. 97 (w.e.f. 1-4-1989).

2. Ins. by s. 98, *ibid.* (w.e.f. 1-4-1989).

3. Subs. by Act 3 of 1989, s. 41, for “Where, in pursuance of any order passed under this Act, refund of any amount becomes due to the assessee” (w.e.f. 1-4-1989).

4. Subs. by Act 28 of 2016, s. 92, for clause (a) (w.e.f. 1-6-2016).

5. Subs. by Act 54 of 2003, s. 16, for “two-third per cent.” (w.e.f. 8-9-2003).

6. Ins. by Act 28 of 2016, s. 92 (w.e.f. 1-6-2016).

¹[(1B) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one-half per cent for every month or part of a month comprised in the period, from the date on which—

(a) claim for refund is made in the prescribed form; or

(b) tax is paid, where refund arises on account of giving effect to an order under section 250 or section 254 or section 260 or section 262,

to the date on which the refund is granted.]

(2) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee ¹[or the deductor, as the case may be,] whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable ²[under sub-section (1) or (1A)] ¹[or (1B)], and where any question arises as to the period to be excluded, it shall be decided by the ³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner] whose decision thereon shall be final.

(3) Where, as a ⁵[result of an order under sub-section (3) of section 115WE or section 115WF or section 115WG or] ⁶[sub-section (3) of section 143 or section 144 or] section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.

(4) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years:]

⁷[Provided that in respect of assessment of fringe benefits, the provisions of this sub-section shall have effect as if for the figures “1989”, the figures “2006” had been substituted.]

245. Set off of refunds against tax remaining payable.—Where under any of the provisions of this Act, a refund is found to be due to any person, the ⁸[Assessing Officer], ⁹[Deputy Commissioner (Appeals)] ¹⁰[, or the Commissioner (Appeals) or Commissioner or] ¹¹³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]], as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.

1. Ins. by Act 7 of 2017, s. 78 (w.e.f. 1-4-2017).

2. Ins. by Act 28 of 2016, s. 92 (w.e.f. 1-6-2016).

3. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

5. Subs. by Act 18 of 2005, s. 56, for “result of an order” (w.e.f. 1-4-2006).

6. Ins. by Act 3 of 1989, s. 41 (w.e.f. 1-4-1989).

7. The proviso ins. by Act 18 of 2005, s. 56 (w.e.f. 1-4-2006).

8. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

9. Subs. by s. 2, *ibid.*, “Appellate Assistant Commissioner” (w.e.f. 1-4-1988).

10. Ins. by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

11. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

¹[CHAPTER XIXA

SETTLEMENT OF CASES

²**[245A. Definitions.]**—In this Chapter, unless the context otherwise requires,—

(a) “Bench” means a Bench of the Settlement Commission;

³[(b) “case” means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made.

4* * *

Explanation.—For the purposes of this clause—

⁵[(i) a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—

(a) from the date on which a notice under section 148 is issued for any assessment year;

(b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142;]

6* * * *

⁷[(iii) a proceeding for making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment shall be deemed to have commenced from the date on which such order, setting aside or cancelling an assessment was passed;]

⁸[(*iii*) a proceeding for assessment or reassessment for any of the assessment years, referred to in clause (*b*) of sub-section (*I*) of section 153A in case of a person referred to in section 153A or section 153C, shall be deemed to have commenced on the date of issue of notice initiating such proceeding and concluded on the date on which the assessment is made;]

(iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in ⁹[clause (i) or clause (iii) or clause (iiia)], shall be deemed to have commenced ¹⁰[from the date on which the return of income for that assessment year is furnished under section 139 or in response to a notice served under section 142 and concluded on the date on which the assessment is made; or on the expiry of ¹¹[the time specified for making assessment under sub-section (1) of section 153], in case where no assessment is made];]

(c) “Chairman” means the Chairman of the Settlement Commission;

1. Ins. by Act 41 of 1975, s. 57 (w.e.f. 1-4-1976).

2. Subs. by Act 11 of 1987, s. 57, for section 245A (w.e.f. 1-6-1987).

3. Subs. by Act 22 of 2007, s. 62, for clause (b) (w.e.f. 1-6-2007).

4. The proviso omitted by Act 25 of 2014, s. 65 (w.e.f. 1-10-2014).

5. Subs. by Act 20 of 2015, s. 58, for clause (i) (w.e.f. 1-6-2015).

6. Clause (ii) omitted by Act 14 of 2010, s. 45 (w.e.f. 1-6-2010).

7. Subs. by Act 25 of 2014, s. 65, for clause (iii) (w.e.f. 1-10-2014).

8. Ins. by Act 14 of 2010, s. 45 (w.e.f. 1-6-2010).

9. Subs. by Act 25 of 2014, s. 65, for “clause (i) or clause (iv) of the proviso or clause (iiia) of the *Explanation*” (w.e.f. 1-10-2014).

10. Subs. by Act 20 of 2015, s. 58, for “from the 1st day of the assessment year and concluded on the date on which the assessment is made” (w.e.f. 1-6-2015).

11. Subs. by Act 7 of 2017, s. 79, for “two years from the end of the relevant assessment year” (w.e.f. 1-4-2017).

Provided that if at any stage of the hearing of any such case or matter, it appears to the Presiding Officer that the case or matter is of such a nature that it ought to be heard of by a Bench consisting of three Members, the case or matter may be referred by the Presiding Officer of such Bench to the Chairman for transfer to such Bench as the Chairman may deem fit.

¹[(5A) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a Special Bench consisting of more than three Members.]

(6) Subject to the other provisions of this Chapter, the places at which the principal Bench and the additional Benches shall ordinarily sit shall be such as the Central Government may, by notification in the Official Gazette, specify ¹[and the Special Bench shall sit at a place to be fixed by the Chairman].]

²[**245BB. Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances.**—(1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.]

²[**245BC. Power of Chairman to transfer cases from one Bench to another.**— On the application of the assessee or the ³[⁴[Principal Chief Commissioner or Chief Commissioner] or ⁵[Principal Commissioner or Commissioner]] and after notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.]

²[**245BD. Decision to be by majority.**— If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.]

245C. Application for settlement of cases.—⁶[(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the ⁷[Assessing Officer], the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided:

1. Ins. by Act 49 of 1991, s. 65 (w.e.f. 1-10-1991).

2. Ins. by Act 11 of 1987, s. 59 (w.e.f. 1-6-1987)

3. Subs. by Act 4 of 1988, s. 2 for “Commissioner” (w.e.f. 1-4-1988).

4. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

5. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

6. Subs. by Act 67 of 1984, s. 40 for sub-section (1) (w.e.f. 1-10-1984).

7. Subs. by Act 4 of 1988, s. 2, for “Income tax” (w.e.f. 1-4-1988).

¹[Provided that no such application shall be made unless,—

(i) in a case where proceedings for assessment or reassessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of a person referred to in section 153A or section 153C have been initiated, the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees,

²[(ia) in a case where—

(A) the applicant is related to the person referred to in clause (i) who has filed an application (hereafter in this sub-section referred to as “specified person”); and

(B) the proceedings for assessment or re-assessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of the applicant, being a person referred to in section 153A or section 153C, have been initiated,

the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,]

(ii) in any other case, the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,

and such tax and the interest thereon, which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.]

²[*Explanation.*—For the purposes of clause (ia),—

(a) the applicant, in relation to the specified person referred to in clause (ia), means,—

(i) where the specified person is an individual, any relative of the specified person;

(ii) where the specified person is a company, firm, association of persons or Hindu undivided family, any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;

(iii) any individual who has a substantial interest in the business or profession of the specified person, or any relative of such individual;

(iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the specified person or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member;

(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the specified person; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(vi) any person who carries on a business or profession,—

(A) where the specified person being an individual, or any relative of such specified person, has a substantial interest in the business or profession of that person; or

(B) where the specified person being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person;

1. The proviso subs. by Act 14 of 2010, s. 46, (w.e.f. 1-6-2010).

2. Ins. by Act 8 of 2011, s. 29, (w.e.f. 1-6-2011).

(b) a person shall be deemed to have a substantial interest in a business or profession, if—

(A) in a case where the business or profession is carried on by a company, such person is,¹[on the date of search], the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power; and

(B) in any other case, such person is,¹[on the date of search], beneficially entitled to not less than twenty per cent of the profits of such business or profession.]

(1A) For the purposes of sub-section (I) of this section ^{2****}, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (I) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

³[(1B) Where the income disclosed in the application relates to only one previous year,—

(i) if the applicant has not furnished a return in respect of the total income of that year, then, tax shall be calculated on the income disclosed in the application as if such income were the total income;

(ii) if the applicant has furnished a return in respect of the total income of that year, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income.]

⁴[(1C) The additional amount of income-tax payable in respect of the income disclosed in the application relating to the previous year referred to in sub-section (1B) shall be,—

(a) in a case referred to in clause (i) of that sub-section, the amount of tax calculated under that clause;

(b) in a case referred to in clause (ii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the total income returned for that year;

⁵* * * * *

(1D) Where the income disclosed in the application relates to more than one previous year, the additional amount of income-tax payable in respect of the income disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (I) shall be the additional amount of income-tax payable in respect of the income disclosed in the application.

⁶* * * * *

(2) Every application made under sub-section (I) shall be accompanied by such fees as may be prescribed.

(3) An application made under sub-section (I) shall not be allowed to be withdrawn by the applicant.

⁷[(4) An assessee shall, on the date on which he makes an application under sub-section (I) to the Settlement Commission, also intimate the Assessing Officer in the prescribed manner of having made such application to the said Commission.]

1. Subs. by Act 23 of 2012, s. 90, for “at any time during the previous year” (w.e.f. 1-7-2012).

2. The words, brackets, figures and letters “and sub-sections (2A) to (2D) of section 245D” omitted by Act 22 of 2007, s. 63 (w.e.f. 1-6-2007).

3. Subs. by Act 11 of 1987, s. 60 for sub-sections (1B) or (1C) (w.e.f. 1-6-1987).

4. Subs. by 22 of 2007, s. 63, for sub-section (1B) (w.e.f. 1-6-2007). Earlier it was substituted by Act 11 of 1987, s. 60 (w.e.f. 1-6-1987).

5. Clause (c) omitted by Act 22 of 2007, s. 63 (w.e.f. 1-6-2007).

6. Sub-section (1E) omitted by Act 94 of 2002, s. 94 (w.e.f. 1-6-2002).

7. Ins. by Act 22 of 2007, s. 63 (w.e.f. 1-6-2007).

245D. Procedure on receipt of an application under section 245C.—¹[(1) On receipt of an application under section 245C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

Provided that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.]

2* * * *

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the ³[Principal Commissioner or Commissioner].

⁴[(2A) Where an application was made under section 245C before the 1st day of June, 2007, but an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional tax on the income disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

Explanation.—In respect of the applications referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (1).

(2B) The Settlement Commission shall,—

(i) in respect of an application which is allowed to be proceeded with under sub-section (1), within thirty days from the date on which the application was made; or

(ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007,

call for a report from the ³[Principal Commissioner or Commissioner], and the ³[Principal Commissioner or Commissioner] shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(2C) Where a report of the ³[Principal Commissioner or Commissioner] called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the ³[Principal Commissioner or Commissioner]:

1. Subs. by Act 22 of 2007, s. 64, for sub-section (1) (w.e.f. 1-6-2007).

2. Sub-section (1A) omitted by Act 49 of 1991, s. 66 (w.e.f. 27-9-1991).

3. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

4. Subs. by Act 22 of 2007, s. 64, for sub-sections (2A), (2B), (2C) and (2D) (w.e.f. 1-6-2007).

Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further that where the ¹[Principal Commissioner or Commissioner] has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the ¹[Principal Commissioner or Commissioner].

(2D) Where an application was made under sub-section (1) of section 245C before the 1st day of June, 2007 and an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional tax on the income disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.]

²[(3) The Settlement Commission, in respect of—

(i) an application which has not been declared invalid under sub-section (2C); or

(ii) an application referred to in sub-section (2D) which has been allowed to be further proceeded with under that sub-section,

may call for the records from the ¹[Principal Commissioner or Commissioner] and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the ¹[Principal Commissioner or Commissioner] to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the ¹[Principal Commissioner or Commissioner] shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

Provided that where the ¹[Principal Commissioner or Commissioner] does not furnish the report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

(4) After examination of the records and the report of the ¹[Principal Commissioner or Commissioner], if any, received under—

(i) sub-section (2B) or sub-section (3), or

(ii) the provisions of sub-section (1) as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the ¹[Principal Commissioner or Commissioner] to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

2. Subs. by Act 22 of 2007, s. 64, for sub-sections (3), (4) and (4A) (w.e.f. 1-6-2007).

application and any other matter relating to the case not covered by the application, but referred to in the report of the ¹[Principal Commissioner or Commissioner].

(4A) The Settlement Commission shall pass an order under sub-section (4),—

(i) in respect of an application referred to in sub-section (2A) or sub-section (2D), on or before the 31st day of March, 2008;

(ii) in respect of an application made on or after the 1st day of June, 2007 ²[but before the 1st day of June, 2010], within twelve months from the end of the month in which the application was made;]

³[(iii) in respect of an application made on or after the 1st day of June, 2010, within eighteen months from the end of the month in which the application was made.]

⁴[(5) Subject to the provisions of section 245BA, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (4) and, in relation to the passing of such order, the provisions of section 245BD shall apply.]

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of ⁵[tax, penalty or interest], the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

⁶[(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at ⁷[one and one-fourth per cent. for every month or part of a month] on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.]

⁸[(6B) The Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4)—

(a) at any time within a period of six months from the end of the month in which the order was passed; or

(b) at any time within the period of six months from the end of the month in which an application for rectification has been made by the Principal Commissioner or the Commissioner or the applicant, as the case may be:

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

2. Ins. by Act 14 of 2010, s. 47 (w.e.f. 1-4-2010).

3. Ins. by s. 47, *ibid.* (w.e.f. 1-6-2010).

4. Ins. by Act 11 of 1987, s. 61 (w.e.f. 1-6-1987).

5. Subs. by s. 61, *ibid.*, for “tax or penalty” (w.e.f. 1-6-1987).

6. Ins. by Act 67 of 1984, s. 41 (w.e.f. 1-10-1984).

7. Subs. by Act 22 of 2007, s. 64, for “fifteen per cent. per annum” (w.e.f. 1-4-2008).

8. Subs. by Act 20 of 2015, s. 59, for sub-section (6B) (w.e.f. 1-6-2015).

Provided that no application for rectification shall be made by the Principal Commissioner or the Commissioner or the applicant after the expiry of six months from the end of the month in which an order under sub-section (4) is passed by the Settlement Commission:

Provided further that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Principal Commissioner or Commissioner of its intention to do so and has allowed the applicant and the Principal Commissioner or Commissioner an opportunity of being heard.]

(7) Where a settlement becomes void as provided under sub-section (6), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the income-tax authority concerned, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement became void.

¹[(8) For the removal of doubts, it is hereby declared that nothing contained in section 153 shall apply to any order passed under sub-section (4) or to any order of assessment, reassessment or recomputation required to be made by the ²[Assessing Officer] in pursuance of any directions contained in such order passed by the Settlement Commission ³[and nothing contained in the proviso to sub-section (1) of section 186 shall apply to the cancellation of the registration of a firm required to be made in pursuance of any such directions as aforesaid.]]

⁴**[245DD. Power of Settlement Commission to order provisional attachment to protect revenue.—**(1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner provided in the Second Schedule:

Provided that where a provisional attachment made under section 281B is pending immediately before an application is made under section 245C, an order under this sub-section shall continue such provisional attachment up to the period up to which an order made under section 281B would have continued if such application had not been made:

Provided further that where the Settlement Commission passes an order under this sub-section after the expiry of the period referred to in the preceding proviso, the provisions of sub-section (2) shall apply to such order as if the said order had originally been passed by the Settlement Commission.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit ⁵***.]

1. Ins. by Act 67 of 1984, s. 41 (w.e.f. 1-10-1984).

2. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Ins. by Act 11 of 1987, s. 61 (w.e.f. 1-6-1987).

4. Ins. by Act 26 of 1988, s. 42 (w.e.f. 1-4-1988).

5. The words “, so, however, that the total period of extension shall not in any case exceed two years” omitted by Act 22 of 2007, s. 65 (w.e.f. 1-6-2008).

245E. Power of Settlement Commission to reopen completed proceedings.—If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed ^{1***} under this Act by any income-tax authority before the application under section 245C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

²[Provided that no proceeding shall be reopened by the Settlement Commission under this section if the period between the end of the assessment year to which such a proceeding relates and the date of application for settlement under section 245C exceeds nine years:]

³[Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 245C is made on or after the 1st day of June, 2007.]

245F. Powers and procedure of Settlement Commission.—(1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in an income-tax authority under this Act.

(2) Where an application made under section 245C has been allowed to be proceeded with under section 245D, the Settlement Commission shall, until an order is passed under sub-section (4) of section 245D, have, subject to the provisions of sub-section (3) of that section, exclusive jurisdiction to exercise the powers and perform the functions of an income-tax authority under this Act in relation to the case:

⁴[Provided that where an application has been made under section 245C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

Provided further that where—

(i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D; or

(ii) an application is not allowed to be proceeded with under sub-section (2A) of section 245D, or, as the case may be, is declared invalid under sub-section (2C) of that section; or

(iii) an application is not allowed to be further proceeded with under sub-section (2D) of section 245D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction upto the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.]

(3) Notwithstanding anything contained in sub-section (2) and in the absence of any express direction to the contrary by the Settlement Commission, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment ^{5***} in relation to the matters before the Settlement Commission.

(4) For the removal of doubt, it is hereby declared that, in the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

⁶[⁷* * * * *]

1. The word and figures “under the Indian Income-tax Act, 1922, or” omitted by Act 67 of 1984, s. 42 (w.e.f. 1-10-1984).

2. Subs. by Act 11 of 1987, s. 62, for the proviso (w.e.f. 1-6-1987).

3. Ins. by Act 22 of 2007, s. 66 (w.e.f. 1-6-2007).

4. Ins. by s. 67, *ibid.* (w.e.f. 1-6-2007).

5. The words “or by way of advance tax” omitted by the 11 of 1987, s. 63 (w.e.f. 1-6-1987).

6. Subs. by Act 46 of 1986, s. 17, for sub-section (5) (w.e.f. 10-9-1986).

7. Sub-sections (5) and (6) omitted by Act 11 of 1987, s. 63 (w.e.f. 1-6-1987).

(7) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.]

245G. Inspection, etc., of reports.—No person shall be entitled to inspect, or obtain copies of, any reports made by any income-tax authority to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

245H. Power of Settlement Commission to grant immunity from prosecution and penalty.—(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose ¹[for the reasons to be recorded in writing], immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force ²[and also (either wholly or in part) from the imposition of any penalty] under this Act, with respect to the case covered by the settlement:

³[Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 245C:]

⁴[Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code (45 of 1860) or under any Central Act other than this Act and the Wealth-tax Act, 1957 (27 of 1957) to a person who makes an application under section 245C on or after the 1st day of June, 2007.]

³[(1A) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of settlement passed under sub-section (4) of section 245D within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.]

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person ^{5***} had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

⁶[**245HA. Abatement of proceeding before Settlement Commission.**—(1) Where—

(i) an application made under section 245C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 245D; or

1. Ins. by Act 20 of 2015, s. 60 (w.e.f. 1-6-2015).

2. Subs. by Act 67 of 1984, s. 43, for “and also from the imposition of any penalty” (w.e.f. 1-10-1984).

3. Ins. by Act 11 of 1987, s. 64 (w.e.f. 1-6-1987).

4. Ins. by Act 22 of 2007, s. 68 (w.e.f. 1-6-2007).

5. The words “has not complied with the conditions subject to which the immunity was granted or that such person” omitted by Act 11 of 1987, s. 64 (w.e.f. 1-6-1987).

6. Ins. by Act 22 of 2007, s. 69 (w.e.f. 1-6-2007). Earlier section 245HA was inserted by Act 11 of 1987, s. 65 (w.e.f. 1-6-1987) which was amended by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and later on omitted by Act 20 of 2002, s. 96 (w.e.f. 1-6-2002).

(ii) an application made under section 245C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of section 245D; or

(iii) an application made under section 245C has been declared as invalid under sub-section (2C) of section 245D; or

¹[(*iiia*) in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed not providing for the terms of settlement; or]

(iv) in respect of any other application made under section 245C, an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D,

the proceedings before the Settlement Commission shall abate on the specified date.

Explanation.—For the purposes of this sub-section, "specified date" means—

(a) in respect of an application referred to in clause (i), the day on which the application was rejected;

(b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;

(c) in respect of an application referred to in clause (iii), the last day of the month in which the application was declared invalid;

¹[(*ca*) in respect of an application referred to clause (*iiia*), the day on which the order under sub-section (4) of section 245D was passed not providing for the terms of settlement;]

(d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of section 245D expires.

(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made.

(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other income-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other income-tax authority or held or recorded by him in the course of the proceedings before him.

(4) For the purposes of the time-limit under sections 149, 153, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or reassessment under sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 245C and ending with "specified date" referred to in sub-section (1) shall be excluded; and where the assessee is a firm, for the purposes of the time-limit for cancellation of registration of the firm under sub-section (1) of section 186, the period aforesaid shall, likewise, be excluded.

245HAA. Credit for tax paid in case of abatement of proceedings.—Where an application made under section 245C on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D, or any other application made under section 245C is not allowed to be proceeded with under sub-section (2A) of section 245D or is declared invalid under sub-section (2C) of section 245D or has not been allowed to be further proceeded with under sub-section (2D) of section 245D or an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.]

1. Ins. by Act 20 of 2015, s. 61 (w.e.f. 1-6-2015).

245-I. Order of settlement to be conclusive.—Every order of settlement passed under sub-section (4) of section 245D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

245J. Recovery of sums due under order of settlement.—Any sum specified in an order of settlement passed under sub-section (4) of section 245D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of Chapter XVII, by the ¹[Assessing Officer] having jurisdiction over the person who made the application for settlement under section 245C.

²**[245K. Bar on subsequent application for settlement.**—(1) Where—

(i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or

(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case; or

(iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, ³[he or any person related to such person (herein referred to as related person) shall not be entitled to apply] for settlement under section 245C in relation to any other matter.

(2) Where a person has made an application under section 245C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 245D, such person ⁴[or any related person shall not be subsequently entitled] to make an application under section 245C.]

⁵[*Explanation.*—For the purposes of this section, “related person” with respect to a person means,—

(i) where such person is an individual, any company in which such person holds more than fifty per cent of the shares or voting rights at any time, or any firm or association of persons or body of individuals in which such person is entitled to more than fifty per cent of the profits at any time, or any Hindu undivided family in which such person is a *karta*;

(ii) where such person is a company, any individual who held more than fifty per cent of the shares or voting rights in such company at any time before the date of application before the Settlement Commission by such person;

1. Subs. by Act 4 of 1988, s. 2, for “Income tax Officer” (w.e.f. 1-4-1988).

2. Subs. by Act 22 of 2007, s. 70, for section 245K (w.e.f. 1-6-2007).

3. Subs. by Act 20 of 2015, s. 62, for “he shall not be entitled to apply” (w.e.f. 1-6-2015).

4. Subs. by s. 62, *ibid.*, for “shall not be subsequently entitled” (w.e.f. 1-6-2015).

5. Ins. by s. 62, *ibid.* (w.e.f. 1-6-2015).

(iii) where such person is a firm or association of persons or body of individuals, any individual who was entitled to more than fifty per cent of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person;

(iv) where such person is a Hindu undivided family, the *karta* of that Hindu undivided family.]

245L. Proceedings before Settlement Commission to be judicial proceedings.—Any proceeding under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860).

245M. Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.—[Omitted by the Finance Act 11 of 1987 s. 67, (w.e.f. 1-6-1987).]

¹[CHAPTER XIX-B

ADVANCE RULINGS

245N. Definitions.—In this Chapter, unless the context otherwise requires,—

²[(a) “advance ruling” means—

(i) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(ii) a determination by the Authority in relation to the ³[tax liability of a non-resident arising out of] a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with ⁴[such non-resident]; ⁵[or]

⁵[(iia) a determination by the Authority in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant,]

and such determination shall include the determination of any question of law or of fact specified in the application;

(iii) a determination or decision by the Authority in respect of an issue relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application;

1. Chapter XIX-B, consisting of sections 245N to 245V, inserted by Act 38 of 1993, s. 31 (w.e.f. 1-6-1993).

2. Subs. by Act 10 of 2000, s. 63, for clauses (a) and (b) (w.e.f. 1-6-2000).

3. Ins. by Act 32 of 2003, s. 92 (w.e.f. 1-6-2000).

4. Subs. by s. 92, *ibid.*, for “a non-resident” (1-6-2000).

5. Ins. by Act 25 of 2014, s. 66 (w.e.f. 1-10-2014).

¹[(iv) a determination or decision by the Authority whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter X-A or not:]

²[Provided that where an advance ruling has been pronounced, before the date on which the Finance Act, 2003 receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause (ii) of this clause as it stood immediately before such date, such ruling shall be binding on the persons specified in section 245S;]

³[(b) “applicant” means—

(A) any person who—

(I) is a non-resident referred to in sub-clause (i) of clause (a); or

(II) is a resident referred to in sub-clause (ii) of clause (a); or

(III) is a resident referred to in sub-clause (iia) of clause (a) falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify; or

(IV) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf; or

(V) is referred to in sub-clause (iv) of clause (a),

and makes an application under sub-section (I) of section 245Q;

(B) an applicant as defined in clause (c) of section 28E of the Customs Act, 1962 (52 of 1962);

(C) an applicant as defined in clause (c) of section 23A of the Central Excise Act, 1944 (1 of 1944);

(D) an applicant as defined in clause (b) of section 96A of the Finance Act, 1994 (32 of 1994);]

(c) “application” means an application made to the Authority under sub-section (I) of section 245Q;

(d) “Authority” means the Authority for Advance Rulings constituted under section 245-O;

(e) “Chairman” means the Chairman of the Authority;

⁴[(f) “Member” means a Member of the Authority and includes the Chairman and Vice-chairman;

(g) “Vice-chairman” means the Vice-chairman of the Authority.]

245-O. Authority for Advance Rulings.—(I) The Central Government shall constitute an Authority for giving advance rulings, to be known as “Authority for Advance Rulings”:

⁵[Provided that the Authority shall cease to act as an Authority for Advance Rulings for the purposes of Chapter V of the Customs Act, 1962 on and from the date of appointment of the Customs Authority for Advance Rulings under section 28EA of that Act.]

⁵[(IA) On and from the date of appointment of the Customs Authority for Advance Rulings referred to in the proviso to sub-section (1), the Authority shall act as an Appellate Authority, for the purpose of Chapter V of the Customs Act, 1962:

1. Ins. by Act 17 of 2013, s. 53 (w.e.f. 1-4-2015).

2. Ins. by Act 32 of 2003, s. 92 (w.e.f. 14-5-2003).

3. Subs. by Act 7 of 2017, s. 80 (w.e.f. 1-4-2017).

4. Subs. by Act 25 of 2014, s. 66, for clause (f) (w.e.f. 1-10-2014).

5. Ins. by Act 13 of 2018, s. 50 (w.e.f. 1-4-2018).

Provided that the Authority shall not admit any appeal against any ruling or order passed earlier by it in the capacity of the Authority for Advance Rulings in relation to any matter under Chapter V of the Customs Act, 1962 after the date of such appointment of the Customs Authority for Advance Rulings.]

¹[(2) The Authority shall consist of a Chairman and such number of Vice-chairmen, revenue Members and law Members as the Central Government may, by notification, appoint.

(3) A person shall be qualified for appointment as—

(a) Chairman, who has been a Judge of the Supreme Court ²[or the Chief Justice of a High Court or for at least seven years a Judge of a High Court];

(b) Vice-chairman, who has been Judge of a High Court;

³[(c) a revenue Member—

(i) from the Indian Revenue Service, who is, or is qualified to be, a Member of the Board; or

(ii) from the Indian Customs and Central Excise Service, who is, or is qualified to be, a Member of the Central Board of Excise and Customs,

on the date of occurrence of vacancy;]

⁴[(d) a law Member from the Indian Legal Service, who is, or is qualified to be, an Additional Secretary to the Government of India ²[on the date of occurrence of vacancy].]

(4) The terms and conditions of service and the salaries and allowances payable to the Members shall be such as may be prescribed.

(5) The Central Government shall provide to the Authority with such officers and employees, as may be necessary, for the efficient discharge of the functions of the Authority under this Act.

(6) The powers and functions of the Authority may be discharged by its Benches as may be constituted by the Chairman from amongst the Members thereof.

²[(6A) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the senior-most Vice-chairman shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(6B) In case the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Vice-Chairman shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.]

(7) A Bench shall consist of the Chairman or the Vice-chairman and one revenue Member and one law Member:

⁵[Provided that where the Authority is dealing with an application seeking advance ruling in any matter relating to this Act, the revenue Member of the Bench shall be such Member as referred to in sub-clause (i) of clause (c) of sub-section (3).]

(8) The Authority shall be located in the National Capital Territory of Delhi and its Benches shall be located at such places as the Central Government may, by notification specify.]

⁶**[245-OA. Qualifications, terms and conditions of service of Chairman, Vice-Chairman and Member.—**Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Authority appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

1. Subs. by Act 25 of 2014, s. 67, for sub-sections (2), (3), (4) and (5) (w.e.f. 1-10-2014).

2. Ins. by Act 7 of 2017, s. 81 (w.e.f. 1-4-2017).

3. Subs. by s. 81, *ibid.*, for clause (c) (w.e.f. 1-4-2017).

4. Subs. by Act 20 of 2015, s. 63, for clause (d) (w.e.f. 1-4-2015).

5. Ins. by Act 13 of 2018, s. 50 (w.e.f. 1-4-2018).

6. Ins. by Act 7 of 2017, s. 174 (w.e.f. 1-4-2017).

Provided that the Chairman, Vice-Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

245P. Vacancies, etc., not to invalidate proceedings.—No proceeding before, or pronouncement of advance ruling by, the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

245Q. Application for advance ruling.—(1) An applicant desirous of obtaining an advance ruling under this Chapter ¹[²*** or under Chapter IIIA of the Central Excise Act, 1944 (1 of 1944) or under Chapter VA of the Finance Act, 1994 (32 of 1994)] may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The application shall be made in quadruplicate and be accompanied by a fee of ³[ten thousand rupees or such fee as may be prescribed in this behalf, whichever is higher].

(3) An applicant may withdraw an application within thirty days from the date of the application.

245R. Procedure on receipt of application.—(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the ⁴[Principal Commissioner or Commissioner] and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the ³[Principal Commissioner or Commissioner].

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

⁵[Provided that the Authority shall not allow the application where the question raised in the application,—

(i) is already pending before any income-tax authority or Appellate Tribunal [except in the case of a resident applicant falling in sub-clause (iii) of clause (b) of section 245N] or any court;

(ii) involves determination of fair market value of any property;

(iii) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax [except in the case of a resident applicant falling in sub-clause (iii) of clause (b) of section 245N ⁶*** ⁷[or in the case of an applicant falling in sub-clause (iia) of clause (b) of section 245N]]:]

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the ³[Principal Commissioner or Commissioner].

(4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

1. Ins. by Act 7 of 2017, s. 82 (w.e.f. 1-4-2017).

2. The words and figures “or under Chapter V of the Customs Act, 1962 (52 of 1962)” shall stand omitted (date to be notified) by Act 13 of 2018, s. 51.

3. Subs. by Act 23 of 2012, s. 92, for “two thousand five hundred rupees” (w.e.f. 1-7-2012).

4. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

5. Subs. by Act 10 of 2000, s. 64, for the proviso (w.e.f. 1-6-2000).

6. The words “or in the case of an applicant falling in sub-clause (iia) of clause (b) of section 245N” omitted by Act 17 of 2013, s. 54 (w.e.f. 1-4-2013).

7. Ins. by s. 54, *ibid.* (w.e.f. 1-4-2015).

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.—For the purposes of this sub-section, “authorised representative” shall have the meaning assigned to it in sub-section (2) of section 288, as if the applicant were an assessee.

(6) The Authority shall pronounce its advance ruling in writing within six months of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the ¹[Principal Commissioner or Commissioner], as soon as may be, after such pronouncement.

²[**245RR.Appellate authority not to proceed in certain cases.**—No income-tax authority or the Appellate Tribunal shall proceed to decide any issue in respect to which an application has been made by an applicant, being a resident, ³[under sub-section(1) of section 245Q]].

245S. Applicability of advance ruling.—(1) The advance ruling pronounced by the Authority under section 245R shall be binding only—

(a) on the applicant who had sought it;

(b) in respect of the transaction in relation to which the ruling had been sought; and

(c) on the ¹[Principal Commissioner or Commissioner], and the income-tax authorities subordinate to him, in respect of the applicant and the said transaction.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

245T. Advance ruling to be void in certain circumstances.—(1) Where the Authority finds, on a representation made to it by the ¹[Principal Commissioner or Commissioner] or otherwise, that an advance ruling pronounced by it under sub-section (6) of section 245R has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the ¹[Principal Commissioner or Commissioner].

245U.Powers of the Authority.—(1) The Authority shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) as are referred to in section 131 of this Act.

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI, of the Code of Criminal Procedure, 1973 (2 of 1974) and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

245V. Procedure of Authority.—The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.]

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

2. Ins. by Act 21 of 1998, s. 48 (w.e.f. 1-10-1998).

3. Subs. by Act 23 of 2004, s. 52, for “under sub-section (1) of section 245R” (w.e.f. 1-10-1998).

CHAPTER XX

APPEALS AND REVISION

¹[A.—*Appeals*^{2***} to the Deputy Commissioner (*Appeals*) and Commissioner (*Appeals*)

246. Appealable orders.—(1) Subject to the provisions of sub-section (2), any assessee aggrieved by any of the following orders of an Assessing Officer (other than the Deputy Commissioner) may appeal to the Deputy Commissioner (*Appeals*)³[before the 1st day of June, 2000] against such order—

(a) an order against the assessee, where the assessee denies his liability to be assessed under this Act⁴[or an intimation under sub-section (1) or sub-section (1B) of section 143, where the assessee objects to the making of adjustments,] or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(b) an order of assessment, reassessment or recomputation under section 147 or section 150;

(c) an order under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order under sub-section (2) or sub-section (3) of section 170;

(f) an order under section 171;

(g) any order under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185^{5***}⁶[in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992];

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186^{5***}⁶[in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992];

(i) an order under section 201;

(j) an order under section 216 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(k) an order under section 237;

1. Subs. by Act 4 of 1988, s. 99, for the Sub-heading and section 246 (w.e.f. 1-4-1989).

2. The words “or applications” omitted by Act 3 of 1989, s. 42 (w.e.f. 1-4-1989).

3. Ins. by Act 10 of 2000, s. 65 (w.e.f. 1-6-2000).

4. Ins. by Act 32 of 1994, s. 46 (w.e.f. 1-6-1994).

5. The words, figures and letters “in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year” omitted by Act 3 of 1989, s. 43 (w.e.f. 1-4-1989).

6. Ins. by Act 18 of 1992, s. 83 (w.e.f. 1-4-1993).

(I) an order imposing a penalty under—

(i) section 221, or

(ii) section 271, section 271A, section 271B, ¹[*** section 272A, section 272AA or section 272BB];

(iii) ²*** section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment years.

³[(IA) Notwithstanding anything contained in sub-section (I), every appeal filed, on or after the 1st day of October, 1998 but before the 1st day of June, 2000, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day.]

(2) Notwithstanding anything contained in sub-section (I), any assessee aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) ³[before the 1st day of June, 2000] against such order—

(a) ⁴[an intimation or order specified in sub-section (I) where such intimation is sent or such order] is made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 120 or section 124;

(b) an order specified in clauses (a) to (e) (both inclusive) and clauses (i) to (l) (both inclusive) of sub-section (I) ⁵[or an order under section 104, as it stood immediately before the 1st day of April, 1988 in respect of any assessment for the assessment year commencing on the 1st day of April, 1987 or any earlier assessment year] made against the assessee, being a company;

(c) an order of assessment made after the 30th day of September, 1984, on the basis of the directions issued by the Deputy Commissioner under section 144A;

(d) an order made by the Deputy Commissioner under section 154;

⁶[(da) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997;

(db) an order imposing a penalty under sub-section (2) of section 158BFA;]

1. The words, figures and letters “section 271C, section 271D, section 271E,” omitted by Act 12 of 1990, s. 41 (w.e.f. 1-4-1990). Earlier “Section 271E, Section 272A, Section 272AA or Section 272BB” were substituted for “Section 271E or Section 272A” by Act 3 of 1989, s. 43 (w.e.f. 1-4-1989).

2. The words, brackets and figures “sub-section (I) of section 271,” omitted by Act 3 of 1989, s. 43 (w.e.f. 1-4-1989).

3. Ins. by Act 10 of 2000, s. 65 (w.e.f. 1-6-2000).

4. Subs. by Act 32 of 1994, s. 46, for “an order specified in sub-section (I) where such order” (w.e.f. 1-6-1994).

5. Ins. by Act 3 of 1989, s. 43 (w.e.f. 1-4-1989).

6. Ins. by Act 14 of 1997, s. 8 (w.e.f. 1-1-1997).

(e) an order imposing a penalty under section 271B ¹[or section 271BB];

²[(ee) an order made by a Deputy Commissioner imposing a penalty under section 271C, section 271D or section 271E;]

(f) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

³[(ff) an order made by a Deputy Commissioner imposing a penalty under section 272AA;]

⁴[(g) an order imposing a penalty under Chapter XXI by the Income-tax Officer or the Assistant Commissioner where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (2) of section 274;]

(h) an order made by an Assessing Officer (other than Deputy Commissioner) under the provisions of this Act in the case of such person or classes of persons as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

(3) Notwithstanding anything contained in sub-section (1), the Board or the ⁵[Principal Director General or Director General], or the ⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner] if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board or, as the case may be, the ⁵[Principal Director General or Director General] or ⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner] (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter, from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be reheard.

Explanation.—For the purposes of this section,—

(a) “appointed day” means the 10th day of July, 1978, being the day appointed under section 39 of the Finance (No. 2) Act, 1977 (29 of 1977);

(b) “status” means the category under which the assessee is assessed as “individual”, “Hindu undivided family” and so on.]

1. Ins. by Act 12 of 1990, s. 50 (w.e.f. 1-4-1990).

2. Ins. by s. 41, *ibid.* (w.e.f. 1-4-1990).

3. Ins. by Act 3 of 1989, s. 43 (w.e.f. 1-4-1989).

4. Subs. by s. 43, *ibid.*, for clause (g) (w.e.f. 1-4-1989).

5. Subs. by Act 25 of 2014, s. 4, for “Director General” (w.e.f. 1-6-2013).

6. Subs. by s. 4, *ibid.*, for “Chief Commissioner” (w.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

¹[**246A. Appealable orders before Commissioner (Appeals).**—(1) ²[Any assessee or any deductor ³[or any collector] aggrieved] by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—

(a) ⁴[an order passed by a Joint Commissioner under clause (ii) of sub-section (3) of section 115VP or an order against the assessee] where the assessee denies his liability to be assessed under this Act or an intimation under sub-section (1) or sub-section (1B) of ⁵[section 143 or ⁶[sub-section (1) of section 200A or sub-section (1) of section 206CB, where the assessee or the deductor or the collector] objects] to the making of adjustments, or any order of assessment under sub-section (3) of section 143 ⁷[except an order passed in pursuance of directions of the Dispute Resolution Panel ^{8***} ⁹[or an order referred to in sub-section (12) of section 144BA]] or section 144, to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

¹⁰[(aa) an order of assessment under sub-section (3) of section 115WE or section 115WF, where the assessee, being an employer objects to the value of fringe benefits assessed;

(ab) an order of assessment or reassessment under section 115WG;

(b) an order of assessment, reassessment or recomputation under section 147 ⁷[except an order passed in pursuance of directions of the Dispute Resolution Panel ^{8***} ⁹[or an order referred to in sub-section (12) of section 144BA]] or section 150;

¹¹[(ba) an order of assessment or reassessment ¹²[under section 153A ⁷[except an order passed in pursuance of directions of the ¹³[Dispute Resolution Panel]] ^{8***} ⁹[or an order referred to in sub-section (12) of section 144BA];]

¹⁴[(bb) an order of assessment or reassessment under sub-section (3) of section 92CD;]

(c) an order made under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections ^{15***} ⁹[except an order referred to in sub-section (12) of section 144BA];

1. Ins. by Act 21 of 1998, s. 49 (w.e.f. 1-10-1998).

2. Subs. by Act 23 of 2012, s. 94, for “Any assessee aggrieved” (w.e.f. 1-7-2012).

3. Ins. by Act 20 of 2015, s. 64, (w.e.f. 1-6-2015).

4. Subs. by Act 23 of 2004, s. 53, for “an order against the assessee” (w.e.f. 1-10-2004).

5. Subs. by Act 23 of 2012, s. 94, for “section 143, where the assessee objects” (w.e.f. 1-7-2012).

6. Subs. by Act 20 of 2015, s. 64, for “sub-section (1) of section 200A, where the assessee or the deductor” (w.e.f. 1-6-2015).

7. Subs. by Act 23 of 2012, s. 94, for “except an order passed in pursuance of directions of the Dispute Resolution Panel” (w.e.f. 1-4-2013).

8. The words, brackets, figures and letters “or an order referred to in sub-section (12) of section 144BA” omitted by Act 17 of 2013, s. 55 (w.e.f. 1-4-2013).

9. Ins. by s. 55, *ibid.* (w.e.f. 1-4-2016).

10. Ins. by Act 18 of 2005, s. 57 (w.e.f. 1-4-2006).

11. Ins. by Act 32 of 2003, s. 93 (w.e.f. 1-6-2003).

12. Subs. by Act 23 of 2012, s. 94, for “under section 153A” (w.e.f. 1-10-2009).

13. Subs. by s. 94, *ibid.*, for “Dispute Resolution Panel” (w.e.f. 1-4-2013).

14. Ins. by s. 94, *ibid.* (w.e.f. 1-7-2012).

15. The words, brackets, figures and letters “except where it is in respect of an order as referred to in sub-section (12) of section 144BA” omitted by Act 17 of 2013, s. 55 (w.e.f. 1-4-2013).

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order made under sub-section (2) or sub-section (3) of section 170;

(f) an order made under section 171;

(g) an order made under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of an assessment for the assessment year commencing on or before the 1st day of April, 1992;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992 or any earlier assessment year;

¹[(ha) an order made under section 201;]

²[(hb) an order made under sub-section (6A) of section 206C;]

(i) an order made under section 237;

(j) an order imposing a penalty under—

(A) section 221; or

(B) section 271, section 271A, ²[section 271AAA,] ³[section 271AAB,] ⁴[section 271F, section 271FB,] section 272AA or section 272BB;

(C) section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of an assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment years;

⁵[(ja) an order of imposing or enhancing penalty under sub-section (1A) of section 275;]

(k) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997;

(l) an order imposing a penalty under sub-section (2) of section 158BFA;

(m) an order imposing a penalty under section 271B or section 271BB;

(n) an order made by a Deputy Commissioner imposing a penalty under ⁶[section 271C, section 271CA,] section 271D or section 271E;

1. Ins. by Act 10 of 2000, s. 66 (w.e.f. 1-6-2000).

2. Ins. by Act 22 of 2007, s. 71 (w.e.f. 1-6-2007).

3. Ins. by Act 23 of 2012, s. 94 (w.e.f. 1-7-2012).

4. Subs. by Act 18 of 2005, s. 57, for “Section 271F” (w.e.f. 1-4-2006).

5. Ins. by Act 29 of 2006, s. 17 (w.e.f. 13-7-2006).

6. Subs. by Act 21 of 2006, s. 51, for “section 271C” (w.e.f. 1-4-2007).

(o) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(p) an order made by a Deputy Commissioner imposing a penalty under section 272AA;

(q) an order imposing a penalty under Chapter XXI;

(r) an order made by an Assessing Officer other than a Deputy Commissioner under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

Explanation.—For the purposes of this sub-section, where on or after the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director, the references in this sub-section for “Deputy Commissioner” and “Deputy Director” shall be substituted by “Joint Commissioner” and “Joint Director” respectively.

¹[(1A) Every appeal filed by an assessee in default against an order under section 201 on or after the 1st day of October, 1998 but before the 1st day of June, 2000 shall be deemed to have been filed under this section.]

²[(1B) Every appeal filed by an assessee in default against an order under sub-section (6A) of section 206C on or after the 1st day of April, 2007 but before the 1st day of June, 2007 shall be deemed to have been filed under this section.]

(2) Notwithstanding anything contained in sub-section (1) of section 246, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeals and which is so pending shall stand transferred on that date to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day :

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be re-heard.

Explanation.—For the purposes of this section, “appointed day” means the day appointed by the Central Government by notification in the Official Gazette.]

247. [Appeal by partner].—*Omitted by the Finance Act, 1992 (18 of 1992), s. 84 (w.e.f. 1-4-1993).*

³[**248. Appeal by a person denying liability to deduct tax in certain cases.**—Where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.]

249. Form of appeal and limitation. (1) Every appeal under this Chapter shall be in the prescribed form and shall be verified in the prescribed manner ⁴[and shall, in case of an appeal made to the Commissioner (Appeals) on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto be accompanied by a fee of,—

(i) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one hundred thousand rupees or less, two hundred fifty rupees;

1. Ins. by Act 10 of 2000, s. 66 (w.e.f. 1-6-2000).

2. Ins. by Act 22 of 2007, s. 71 (w.e.f. 1-6-2007).

3. Subs. by s. 72, *ibid.*, for section 248 (w.e.f. 1-6-2007). Earlier it was substituted by Act 29 of 1977, s. 39 and the fifth Schedule (w.e.f. 10-7-1978).

4. Ins. by Act 21 of 1998, s. 50 (w.e.f. 1-10-1998).

(ii) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, five hundred rupees;

(iii) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one thousand rupees;]

¹[(iv) where the subject matter of an appeal is not covered under clauses (i), (ii) and (iii), two hundred fifty rupees.]

(2) The appeal shall be presented within thirty days of the following date, that is to say,—

²[(a) where the appeal is under section 248, the date of payment of the tax, or]

³[(b) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty:

Provided that, where an application has been made under section 146 for reopening an assessment, the period from the date on which the application is made to the date on which the order passed on the application is served on the assessee shall be ⁴[excluded :]]

⁵[Provided further that where an application has been made under sub-section (1) of section 270AA, the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded or:]

(c) in any other case, the date on which intimation of the order sought to be appealed against is served.

⁶[(2A) Notwithstanding anything contained in sub-section (2), where an order has been made under section 201 on or after the 1st day of October, 1998 but before the 1st day of June, 2000 and the assessee in default has not presented any appeal within the time specified in that sub-section, he may present such appeal before the 1st day of July, 2000.]

(3) The ⁷[*** Commissioner (Appeals)] may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

⁸[(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

1. Ins. by Act 27 of 1999, s. 83 (w.e.f. 1-6-1999).

2. Subs. by Act 22 of 2007, s. 73, for clause (a) (w.e.f. 1-6-2007).

3. Subs. by Act 41 of 1975, s. 59, for clause (b) (w.e.f. 1-10-1975).

4. Subs. by Act 28 of 2016, s. 93, for “excluded, or” (w.e.f. 1-4-2017).

5. The proviso inserted by s. 93, *ibid.* (w.e.f. 1-4-2017).

6. Ins. by Act 10 of 2000, s. 67 (w.e.f. 1-6-2000).

7. The words and brackets “Deputy Commissioner (Appeals) or, as the case may be, the” omitted by Act 21 of 1998, s. 50 (w.e.f. 1-10-1998). Earlier “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets “or, as the case may be, the Commissioner (Appeals)” were inserted by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

8. Ins. by Act 41 of 1975, s. 59 (w.e.f. 1-10-1975).

(b) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him:

Provided that, ¹[in a case falling under clause (b) and] on an application made by the appellant in this behalf, the ²[*** Commissioner (Appeals)] may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of ³[that clause].]

250. Procedure in appeal.—(1) The ⁴[*** Commissioner (Appeals)] shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the ⁵[Assessing Officer] against whose order the appeal is preferred.

(2) The following shall have the right to be heard at the hearing of the appeal—

(a) the appellant, either in person or by an authorised representative;

(b) the ⁵[Assessing Officer,] either in person or by a representative.

(3) The ⁴[*** Commissioner (Appeals)] shall have the power to adjourn the hearing of the appeal from time to time.

(4) The ⁴[*** Commissioner (Appeals)] may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the ⁵[Assessing Officer] to make further inquiry and report the result of the same to the ⁴[*** Commissioner (Appeals)].

(5) The ⁴[*** Commissioner (Appeals)] may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the ⁴[*** Commissioner (Appeals)] is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(6) The order of the ⁴[*** Commissioner (Appeals)] disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.

⁶[(6A) In every appeal, the ⁴[*** Commissioner (Appeals)], where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed before him under sub-section (1) of section 246A.]

(7) On the disposal of the appeal, the ⁴[*** Commissioner (Appeals)] shall communicate the order passed by him to the assessee and to the ⁷[⁸Principal Chief Commissioner or Chief Commissioner] or ⁹[Principal Commissioner or Commissioner]].

1. Ins. by Act 3 of 1989, s. 45 (w.e.f. 1-4-1989).

2. The words and brackets “Deputy Commissioner (Appeals) or, as the case may be, the” omitted by Act 21 of 1998, s. 50 (w.e.f. 1-10-1998). Earlier “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets “or, as the case may be, the Commissioner (Appeals)” were inserted by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

3. Subs. by Act 3 of 1989, s. 45, for “this sub-section” (w.e.f. 1-4-1989).

4. The words and brackets “Deputy Commissioner (Appeals) or, as the case may be, the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Earlier “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets “or, as the case may be, the Commissioner (Appeals)” were inserted by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

5. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

6. Ins. by Act 27 of 1999, s. 84 (w.e.f. 1-6-1999).

7. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

8. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

9. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

251. Powers of the ¹[* Commissioner (Appeals)].**—(1) In disposing of an appeal, the ¹[*** Commissioner (Appeals)] shall have the following powers—

(a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment²***;

³[(aa) in an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section 245HA, he may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;]

(b) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(c) in any other case, he may pass such orders in the appeal as he thinks fit.

(2) The ¹[*** Commissioner (Appeals)] shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.

Explanation.—In disposing of an appeal, the ¹[*** Commissioner (Appeals)] may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the ¹[*** Commissioner (Appeals)] by the appellant.

B.—Appeals to the Appellate Tribunal

252. Appellate Tribunal.—(1) The Central Government shall constitute an Appellate Tribunal consisting of as many judicial and accountant members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

⁴[(2) A judicial member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the ⁵[Indian Legal Service] and has held a post in ⁶[Grade II] of that Service or any equivalent or higher post for at least three years or who has been an advocate for at least ten years.

Explanation.—For the purposes of this sub-section,—

(i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a Tribunal or any post, under the Union or a State, requiring special knowledge of law;

1. The words and brackets “Deputy Commissioner (Appeals) or, as the case may be, the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Earlier “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets “or, as the case may be, the Commissioner (Appeals)” were inserted by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

2. The certain words omitted by Act 14 of 2001, s. 83 (w.e.f. 1-6-2001).

3. Ins. by Act 18 of 2008, s. 49 (w.e.f. 1-4-2008).

4. Subs. by Act 16 of 1981, s. 18, for sub-section (2) (w.e.f. 1-4-1981).

5. Subs. by Act 21 of 1998, s. 51, for “Central Legal Service” (w.e.f. 1-8-1998).

6. Subs. by s. 51, *ibid.*, for “Grade I” (w.e.f. 1-8-1998).

(2A) An accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant, or who has been a member of the Indian Income-tax Service, Group A and has held the post of ¹[Additional Commissioner of Income-tax] or any equivalent or higher post for at least three years.]

(b) ^{3***} one of the Vice-Presidents of the Appellate Tribunal,

⁴[(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, as the case may be, Vice-Presidents thereof.]

5^* * * *

⁸[252A. **Qualifications, terms and conditions of service of President, Vice-President and Member.**—Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President, Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 (7 of 2017) had not come into force.]

8. Section 252A shall stand inserted by Act 7 of 2017, s. 174.

253. Appeals to the Appellate Tribunal.—(1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—

(a) an order passed by ¹[an ²[Deputy Commissioner (Appeals)] ³[before the 1st day of October, 1998] or, as the case may be, a Commissioner (Appeals)] under ^{4****} ⁵[section 154], ^{6****} section 250, ⁷[section 270A] ⁸[, section 271, section 271A ⁹[, section 271J] or section 272A]; or

¹⁰[(b) an order passed by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or]

¹¹[(ba) an order passed by an Assessing Officer under sub-section (1) of section 115VZC; or]

(c) ¹²[an order passed by a ¹³[Principal Commissioner or Commissioner] ¹⁴[under section 12AA or under clause (vi) of sub-section (5) of section 80G] or under section 263] ⁷[or under section 270A] ¹⁵[or under section 271] ¹⁶[or under section 272A] ⁵[^{17****} or an order passed by him under section 154 amending his order under section 263] ¹⁸[or an order passed by a ¹⁹[Principal Chief Commissioner or Chief Commissioner] or a ²⁰[Principal Director General or Director General] or a ²¹[²²[Principal Director or Director] under section 272A]; or]

²³[(d) an order passed by an Assessing Officer under sub-section (3), of section 143 or ²⁴[section 147 or section 153A or section 153C] in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order;]

²⁵[(e) an order passed by an Assessing Officer under sub-section (3) of section 143 or section 147 or section 153A or section 153C with the approval of the ¹³[Principal Commissioner or Commissioner] as referred to in sub-section (12) of section 144BA or an order passed under section 154 or section 155 in respect of such order;]

²⁶[(f) an order passed by the prescribed authority under ²⁷[sub-clause (iv) or sub-clause (v) or] sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.]

1. Subs. by Act 29 of 1977, s. 39 and the Fifth Schedule, for “an Appellate Assistant Commissioner” (w.e.f. 10-7-1978).

2. Subs. by Act 4 of 1988, s. 2, for “Appellate Assistant Commissioner” (w.e.f. 1-4-1988).

3. Ins. by Act 21 of 1998, s. 52 (w.e.f. 1-10-1998).

4. The words, brackets and figures “sub-section (2) of section 131” omitted by Act 3 of 1989, s. 46 (w.e.f. 1-4-1989).

5. Ins. by Act 31 of 1964, s. 12 (w.e.f. 6-10-1964).

6. The word, figures and letters “section 246A,” omitted by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier the quoted expression portion inserted by Act 4 of 1988, s. 126 (w.e.f. 1-4-1989).

7. Ins. by Act 28 of 2016, s. 95 (w.e.f. 1-4-2017).

8. Subs. by Act 41 of 1975, s. 60, for “or section 271” (w.e.f. 1-4-1976).

9. Ins. by Act 13 of 2018, s. 52 (w.e.f. 1-4-2018).

10. Subs. by Act 14 of 1997, s. 9, for clause (b) (w.e.f. 1-1-1997). Earlier the clause (b) was inserted by Act 22 of 1995, s. 45 (w.e.f. 1-7-1995).

11. Ins. by Act 23 of 2004, s. 54 (w.e.f. 1-10-2004).

12. Subs. by Act 27 of 1999, s. 85, for “an order passed by a Commissioner under section 263” (w.e.f. 1-6-1999).

13. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

14. Subs. by Act 22 of 2007, s. 74, for “under section 12AA” (w.e.f. 1-6-2007).

15. Ins. by Act 20 of 2002, s. 98 (w.e.f. 1-6-2002).

16. Ins. by Act 41 of 1975, s. 60 (w.e.f. 1-4-1976).

17. The words “or under section 285A” omitted by Act 26 of 1988, s. 54 (w.e.f. 1-4-1988).

18. Ins. by Act 3 of 1989, s. 46 (w.e.f. 1-4-1989).

19. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

20. Subs. by s. 4, *ibid.*, for “Director General” (w.r.e.f. 1-6-2013).

21. Subs. by Act 33 of 2009, s. 73, for “Director under section 272A.” (w.e.f. 1-10-2009).

22. Subs. by Act 25 of 2014, s. 4, for “Director” (w.r.e.f. 1-6-2013).

23. Ins. by Act 33 of 2009, s. 73 (w.e.f. 1-10-2009).

24. Subs. by Act 23 of 2012, s. 95, for “section 147” (w.e.f. 1-10-2009).

25. Ins. by Act 17 of 2013, s. 57 (w.e.f. 1-4-2016). Earlier clause (e) was omitted by Act 17 of 2013, s. 57 (w.e.f. 1-4-2016) which was inserted by Act 23 of 2012, s. 95 (w.e.f. 1-4-2013).

26. Ins. by Act 20 of 2015, s. 65 (w.e.f. 1-6-2015).

27. Ins. by Act 7 of 2017, s. 83 (w.e.f. 1-4-2017).

(2) The ¹[Principal Commissioner or Commissioner] may, if he objects to any order passed by ²[an ³Deputy Commissioner (Appeals)] ⁴[before the 1st day of October, 1998] or, as the case may be, a Commissioner (Appeals)] under ⁵[section 154 or] section 250, direct the ⁶[Assessing Officer] to appeal to the Appellate Tribunal against the order.

⁷* * * * *

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the ¹[Principal Commissioner or Commissioner], as the case may be:

⁸[Provided that in respect of any appeal under clause (b) of sub-section (1), this sub-section shall have effect as if for the words “sixty days”, the words “thirty days” had been substituted.]

⁹* * * * *

¹⁰[(4) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Commissioner (Appeals), has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).]

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

¹¹[(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

(a) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees,

(b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees,

(c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one per cent of the assessed income, subject to a maximum of ten thousand rupees,

¹²[(d) where the subject matter of an appeal relates to any matter, other than those specified in clauses (a), (b) and (c), five hundred rupees:]

¹³[Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2), or, sub-section (2A) as it stood before its amendment by the Finance Act, 2016, or, a memorandum of cross objections referred to in sub-section (4).]

(7) An application for stay of demand shall be accompanied by a fee of five hundred rupees.]

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

2. Subs. by Act 29 of 1977, s. 39 and the Fifth Schedule, for “an Appellate Assistant Commissioner” (w.e.f. 10-7-1978).

3. Subs. by Act 4 of 1988, s. 2, for “Appellate Assistant Commissioner” (w.e.f. 1-4-1988).

4. Ins. by Act 21 of 1998, s. 52 (w.e.f. 1-10-1998).

5. Ins. by Act 31 of 1964, s. 12 (w.e.f. 6-10-1964).

6. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

7. Sub-section (2A) omitted by Act 28 of 2016, s. 95 (w.e.f. 1-6-2016).

8. Ins. by Act 22 of 1995, s. 45 (w.e.f. 1-7-1995).

9. Sub-section (3A) omitted by Act 28 of 2016, s. 95 (w.e.f. 1-6-2016).

10. Subs. by s. 95, *ibid.*, for sub-section (4) (w.e.f. 1-6-2016).

11. Subs. by Act 21 of 1998, s. 52, for sub-section (6) (w.e.f. 1-10-1998).

12. Ins. by Act 27 of 1999, s. 85 (w.e.f. 1-6-1999).

13. Subs. by Act 28 of 2016, s. 95, for the proviso (w.r.e.f. 1-7-2012).

254. Orders of Appellate Tribunal.—(1) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

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(2) The Appellate Tribunal may, at any time within²[six months from the end of the month in which the order was passed], with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1), and shall make such amendment if the mistake is brought to its notice by the assessee or the ³[Assessing Officer]:

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard:

⁴[Provided further that any application filed by the assessee in this sub-section on or after the 1st day of October, 1998, shall be accompanied by a fee of fifty rupees.]

⁵[(2A) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year in which such appeal is filed under sub-section (1) ⁶[or sub-section (2)] ⁷*** of section 253:

⁸[Provided that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under sub-section (1) of section 253, for a period not exceeding one hundred and eighty days from the date of such order and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order:

Provided further that where such appeal is not so disposed of within the said period of stay as specified in the order of stay, the Appellate Tribunal may, on an application made in this behalf by the assessee and on being satisfied that the delay in disposing of the appeal is not attributable to the assessee, extend the period of stay, or pass an order of stay for a further period or periods as it thinks fit; so, however, that the aggregate of the period originally allowed and the period or periods so extended or allowed shall not, in any case, exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed:

⁹[Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed three hundred and sixty-five days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.]]

1. Sub-section (1A) omitted by Act 45 of 1972, s. 3 (w.e.f. 1-1-1973).

2. Subs. by Act 28 of 2016, s. 96, for “four years from the date of the order” (w.e.f. 1-6-2016).

3. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

4. Ins. by Act 21 of 1998, s. 53 (w.e.f. 1-10-1998).

5. Ins. by Act 27 of 1999, s. 86 (w.e.f. 1-6-1999).

6. Ins. by Act 10 of 2000, s. 68 (w.e.f. 1-6-2000).

7. The words, brackets, figure and letter “or sub-section (2A)” omitted by Act 28 of 2016, s. 96 (w.e.f. 1-6-2016).

8. Subs. by Act 22 of 2007, s. 75, for the provisos (w.e.f. 1-6-2007).

9. Subs. by Act 18 of 2008, s. 50, for the third proviso (w.e.f. 1-10-2008).

(2B) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.]

(3) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the ¹[^{2***}³[Principal Commissioner or Commissioner]].

(4) ⁴[Save as provided in section 256 or section 260A], orders passed by the Appellate Tribunal on appeal shall be final.

255. Procedure of Appellate Tribunal.—(1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one judicial member and one accountant member.

(3) The President or any other member of the Appellate Tribunal authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the ⁵[Assessing Officer] in the case does not exceed ⁶[fifty lakh rupees], and the President may, for the disposal of any particular case, constitute a Special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member.

(4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it.

(5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(6) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the income-tax authorities referred to in section 131, and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860), and the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

1. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

2. The words “Chief Commissioner or” omitted by Act 49 of 1991, s. 67 (w.e.f. 27-9-1991).

3. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

4. The words, figures and letter shall stand substituted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule to read as “Save as provided in the National Tax Tribunal Act, 2005” (This amendment has been struck down by the Supreme Court’s Order dated 25th September, 2014 in the Madras Bar Association Vs. Union of India.) Earlier “section 256 or section 260A” was substituted for “section 256” by Act 27 of 1999, s. 86 (w.e.f. 1-6-1999).

5. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

6. Subs. by Act 28 of 2016, s. 97, for “fifteen lakh rupees” (w.e.f. 1-6-2016).

¹[*C. Reference to High Court*

256. Statement of case to the High Court.—(1) The assessee or the ²[Principal Commissioner or Commissioner] may, within sixty days of the date upon which he is served with notice of ³[an order passed before the 1st day of October, 1998, under section 254], by application in the prescribed form, accompanied where the application is made by the assessee by a fee of ⁴[two hundred rupees], require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court :

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days.

(2) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the ²[Principal Commissioner or Commissioner], as the case may be, may, within six months from the date on which he is served with notice of such refusal, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

⁵[(2A) The High Court may admit an application after the expiry of the period of six months referred to in sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.]

(3) Where in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of such refusal, withdraw his application, and, if he does so, the fee paid shall be refunded.]

257. Statement of case to Supreme Court in certain cases.—If, on ⁶[an application made against an order made under section 254 before the 1st day of October, 1998, under section 256] the Appellate Tribunal is of the opinion that, on account of a conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.

⁷[**258. Power of High Court or Supreme Court to require statement to be amended.**—If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.]

259. Case before High Court to be heard by not less than two judges.—(1) When any case has been referred to the High Court under section 256, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(2) Where there is no such majority, the judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.]

1. Sub-heading “*C. Reference to High Court*” and section 256 shall stand omitted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule.

2. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-4-2013).

3. Subs. by Act 21 of 1998, s. 55, for “and order under section 254” (w.e.f. 1-10-1998).

4. Subs. by Act 16 of 1981, s. 20, for “one hundred and twenty-five rupees” (w.e.f. 1-6-1981).

5. Ins. by Act 14 of 2010, s. 48 (w.e.f. 1-6-2010).

6. Subs. by Act 21 of 1998, s. 56, for “an application made under Amendment section 256” (w.e.f. 1-10-1998).

7. Section 258 shall stand omitted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule.

¹[**260. Decision of High Court or Supreme Court on the case stated.**—(1) The High Court or the Supreme Court upon hearing any such case shall decide the questions of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

²[(1A) Where the High Court delivers a judgment in an appeal filed before it under section 260A, effect shall be given to the order passed on the appeal by the Assessing Officer on the basis of a certified copy of the judgment.]

(2) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.]

³[CC. —*Appeals to High Court*

260A. Appeal to High Court.—(1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal ⁴[before the date of establishment of the National Tax Tribunal], if the High Court is satisfied that the case involves a substantial question of law.

(2) ⁵[The ⁶[Principal Chief Commissioner or Chief Commissioner] or the ⁷[Principal Commissioner or Commissioner] or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—]

(a) filed within one hundred and twenty days from the date on which the order appealed against is ⁸[received by the assessee or the ⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner];

⁹* * * * *

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

¹⁰[(2A) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in clause (a) of sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.]

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

1. The words in bracket shall stand inserted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule (This Amendment has been struck down by the Supreme Court's Order dated 25th September, 2014 in the Madras Bar Association Vs. Union of India).

2. Ins. by Act 21 of 1998, s. 57 (w.e.f. 1-10-1998).

3. Ins. by s. 58, *ibid.* (w.e.f. 1-10-1998).

4. The words in bracket shall stand inserted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule (This Amendment has been struck down by the Supreme Court's Order dated 25th September, 2014 in the Madras Bar Association Vs. Union of India).

5. Subs. by Act 27 of 1999, s. 87, for "An appeal under this sub-section shall be—" (w.e.f. 1-6-1999).

6. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for "Commissioner" (w.r.e.f. 1-6-2013).

8. Subs. by Act 27 of 1999, s. 87, for "Communicated to the appellant" (w.e.f. 1-6-1999).

9. Clause (b) omitted by s. 87, *ibid.* (w.e.f. 1-6-1999).

10. Ins. by Act 14 of 2010, s. 49 (w.r.e.f. 1-10-1998).

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

¹[(7) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.]

260B. Case before High Court to be heard by not less than two Judges.—(1) When an appeal has been filed before the High Court under section 260A, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.]

D.—Appeals to the Supreme Court

261. Appeal to Supreme Court.—An appeal shall lie to the Supreme Court from any judgment of the High Court ²[delivered ³[before the establishment of the National Tax Tribunal] on a reference made under section 256 against an order made under section 254 before the 1st day of October, 1998 or an appeal made to High Court in respect of an order passed under section 254 on or after that date] in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

262. Hearing before Supreme Court.—(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 261 as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this section shall be deemed to affect the provisions of sub-section (1) of section 260 or section 265.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 260 in the case of a judgment of the High Court.

1. Ins. by Act 27 of 1999, s. 87 (w.e.f. 1-6-1999).

2. Subs. by Act 21 of 1998, s. 59, for the words and figures “delivered on a reference made under section 256” (w.e.f. 1-10-1998).

3. The words in bracket shall stand inserted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule This amendment has been struck down by the Supreme Court’s Order dated 25th September, 2014 in the Madras Bar Association Vs. Union of India.).

E.—Revision by the ¹[Principal Commissioner or Commissioner]

263. Revision of orders prejudicial to revenue.—(1) The ¹[Principal Commissioner or Commissioner] may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the ²[Assessing Officer] is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

³⁴[*Explanation 1.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—

(a) an order passed ⁵[on or before or after the 1st day of June, 1988] by the Assessing Officer shall include—

(i) an order of assessment made by the ⁶[Assistant Commissioner or Deputy Commissioner] or the Income-tax Officer on the basis of the directions issued by the ⁷[Joint Commissioner] under section 144A;

(ii) an order made by the ⁷[Joint Commissioner] in exercise of the powers or in the performance of the functions of an Assessing Officer conferred on, or assigned to, him under the orders or directions issued by the Board or by the ⁸[Principal Chief Commissioner or Chief Commissioner] or ⁹[Principal Director General or Director General] or ¹[Principal Commissioner or Commissioner] authorised by the Board in this behalf under section 120;

(b) “record”¹⁰[shall include and shall be deemed always to have included] all records relating to any proceeding under this Act available at the time of examination by the ¹[Principal Commissioner or Commissioner];

(c) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject matter of any appeal ⁵[filed on or before or after the 1st day of June, 1988], the powers of the ¹[Principal Commissioner or Commissioner] under this sub-section shall extend ¹¹[and shall be deemed always to have extended] to such matters as had not been considered and decided in such appeal.]

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

2. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Subs. by Act 26 of 1988, s. 44, for the *Explanation* (w.e.f. 1-6-1988).

4. The *Explanation* numbered as *Explanation 1* thereof by Act 20 of 2015, s. 67 (w.e.f. 1-6-2015).

5. Ins. by Act 13 of 1989, s. 23 (w.e.f. 1-6-1988).

6. Subs. by Act 21 of 1998, s. 3, for “Assistant Commissioner” (w.e.f. 1-10-1998).

7. Subs. by s. 3, *ibid.*, for “Deputy Commissioner” (w.e.f. 1-10-1998).

8. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

9. Subs. by s. 4, *ibid.*, for “Director General” (w.e.f. 1-6-2013).

10. Subs. by Act 13 of 1989, s. 23, for “includes” (1-6-1988).

11. Ins. by s. 23, *ibid.* (w.e.f. 1-6-1988).

¹[*Explanation 2.*—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.]

²[(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.]

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, ³[National Tax Tribunal,] the High Court or the Supreme Court.

Explanation.—In computing the period of limitation for the purposes of sub-section (2), the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

264.Revision of other orders.—(1) In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the ⁴[Principal Commissioner or Commissioner] may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The ⁴[Principal Commissioner or Commissioner] shall not of his own motion revise any order under this section if the order has been made more than one year previously.

1. Ins. by Act 20 of 2015, s. 67 (w.e.f. 1-6-2015).

2. Subs. by Act 67 of 1984, s. 47, for sub-section (2) (w.e.f. 1-10-1984).

3. The words in bracket shall stand inserted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule (This amendment has been struck down by the Supreme Court's Order dated 25th September, 2014 in the Madras Bar Association Vs. Union of India.).

4. Subs. by Act 25 of 2014, s. 4, for "Commissioner" (w.e.f. 1-6-2013).

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

Provided that the¹[Principal Commissioner or Commissioner] may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The¹[Principal Commissioner or Commissioner] shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the²[Deputy Commissioner (Appeals)]³[or to the Commissioner (Appeals)] or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal⁴[to the Commissioner (Appeals) or] to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(b) where the order is pending on an appeal before the²[Deputy Commissioner(Appeals)]; or

(c) where the order has been made the subject of an appeal⁴[to the Commissioner (Appeals) or] to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by⁵[a fee of five hundred rupees].

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

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

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

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

2. Subs. by Act 4 of 1988, s. 2, for “Appellate Assistant Commissioner” (w.e.f. 1-4-1988).

3. Ins. by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

4. Ins. by s. 39 and the Fifth Schedule, *ibid* (w.e.f. 10-7-1978).

5. Subs. by Act 14 of 2001, s. 85, for “a fee of twenty-five rupees” (w.e.f. 1-6-2001).

6. Ins. by Act 21 of 1998, s. 60 (w.e.f. 1-10-1998).

7. The words in bracket shall stand inserted (date to be notified) by Act 49 of 2005, s. 30 and the Schedule (This amendment has been struck down by the Supreme Court’s Order dated 25th September, 2014 in the Madras Bar Association Vs. Union of India.).

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

Explanation 2.—For the purposes of this section, the ²[Deputy Commissioner (Appeals)] shall be deemed to be an authority subordinate to the ¹[Principal Commissioner or Commissioner].

F.—General

265. Tax to be paid notwithstanding reference, etc.—Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made in the case.

266. Execution for costs awarded by Supreme Court.—The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

³[**267. Amendment of assessment on appeal.**—Where as a result of an appeal under section 246 ⁴[or section 246A] or section 253, any change is made in the assessment of a body of individuals or an association of persons or a new assessment of a body of individuals or an association of persons is ordered to be made, the ^{5***} Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made on any member of the body or association or make a fresh assessment on any member of the body or association.]

268. Exclusion of time taken for copy.—In computing the period of limitation prescribed for an appeal ⁶[or an application] under this Act, the day on which the order complained of was served and, if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.

⁷[**268A. Filing of appeal or application for reference by income-tax authority.**—(1) The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal or application for reference by any income-tax authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an income-tax authority has not filed any appeal or application for reference on any issue in the case of an assessee for any assessment year, it shall not preclude such authority from filing an appeal or application for reference on the same issue in the case of—

(a) the same assessee for any other assessment year; or

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

2. Subs. by Act 4 of 1988, s. 2, for “Appellate Assistant Commissioner” (w.e.f. 1-4-1988).

3. Ins. by Act 18 of 1992, s. 87 (w.e.f. 1-4-1993).

4. Ins. by Act 10 of 2000, s. 69 (w.e.f. 1-6-2000).

5. The words “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998).

6. Ins. by Act 12 of 1990, s. 42 (w.e.f. 1-4-1990).

7. Ins. by Act 18 of 2008, s. 51 (w.r.e.f. 1-4-1999).

(b) any other assessee for the same or any other assessment year.

(3) Notwithstanding that no appeal or application for reference has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal or reference, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case.

(5) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal or application for reference shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.]

269. Definition of "High Court".—In this Chapter,—

“High Court” means—

(i) in relation to any State, the High Court for that State;

¹[(ii) in relation to the Union territory of Delhi, the High Court of Delhi;

²* * * * *

³* * * * *

(iv) in relation to the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta ;

(v) in relation to the Union territory of ⁴[Lakshadweep], the High Court of Kerala;]

⁵[(va) in relation to the Union territory of Chandigarh, the High Court of Punjab and Haryana;

⁶[(vi) in relation to the Union territories of Dadra and Nagar Haveli and ⁷*** Daman and Diu, the High Court at Bombay; and

(vii) in relation to the Union territory of Pondicherry, the High Court at Madras.]

1. Subs. by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) order, 1968, for clause (ii) (w.r.e.f. 1-11-1966).
2. Clause (iia) omitted by State of Himachal Pradesh (Adaptation of Laws on Union Subjects) Order, 1973 (w.r.e.f. 25-1-1971).
3. Clause (iii) omitted by Act 32 of 1994, s. 47 (w.e.f. 1-4-1995).
4. Subs. by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974, s. 3 and the Schedule, for “the Laccadive, Minicoy and Amindivi Islands” (w.r.e.f. 1-11-1973).
5. Ins. by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) Order, 1968 (w.r.e.f. 1-11-1966).
6. Ins. by Act 3 of 1963, s. 3(2) the Schedule (w.e.f. 1-4-1963).
7. The word “Goa,” omitted by Act 32 of 1994, s. 47 (w.e.f. 1-4-1995).

¹[CHAPTER XXA

ACQUISITION OF IMMOVABLE PROPERTIES IN CERTAIN CASES OF TRANSFER TO COUNTERACT EVASION OF
TAX

269A. Definitions.—In this Chapter, unless the context otherwise requires,—

(a) ²[“apparent consideration”,—

(I) in relation to any immovable property transferred, being immovable property of the nature referred to in sub-clause (i) of clause (e), means,—]

(i) if the transfer is by way of sale, the consideration for such transfer as specified in the instrument of transfer;

(ii) if the transfer is by way of exchange,—

(A) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer;

(B) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer and such sum;

³[(iii) if the transfer is by way of lease,—

(A) in a case where the consideration for the transfer consists of premium only, the amount of premium as specified in the instrument of transfer;

(B) in a case where the consideration for the transfer consists of rent only, the aggregate of the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the instrument of transfer;

(C) in a case where the consideration for the transfer consists of premium and rent, the aggregate of the amount of the premium, the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the instrument of transfer,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such transfer, the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such transfer, determined by adopting the rate of interest at eight per cent per annum;

1. Chapter XXA, consisting of sections 269A to 269S, ins. by Act 45 of 1972, s. 4, (w.e.f. 15-11-1972).

2. Subs. by Act 22 of 1981, s. 2, for “certain words” (w.e.f. 1-7-1982).

3. Ins. by s. 2, *ibid*, (w.e.f. 1-7-1982).

(2) in relation to any immovable property transferred, being immovable property of the nature referred to in sub-clause (ii) of clause (e), means,—

(i) in a case where the consideration for the transfer consists of a sum of money only, such sum;

(ii) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date of the transfer;

(iii) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date of the transfer and such sum,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such transfer, the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such transfer, determined by adopting the rate of interest at eight per cent per annum.;

(b) “competent authority” means ¹[a ²[Joint] Commissioner] authorised by the Central Government under section 269B to perform the functions of a competent authority under this Chapter;

(c) “court” means a principal civil court of original jurisdiction unless the Central Government has appointed (as it is hereby authorised to do) any special judicial officer within any specified local limits to perform the functions of the court under this Chapter;

³[(d) “fair market value”,—

(i) in relation to any immovable property transferred by way of sale or exchange, being immovable property of the nature referred to in sub-clause (i) of clause (e), means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;

(ii) in relation to any immovable property transferred by way of lease, being immovable property of the nature referred to in sub-clause (i) of clause (e), means the premium that such transfer would ordinarily fetch in the open market on the date of execution of the instrument of transfer of such property, if the consideration for such transfer had been by way of premium only;

(iii) in relation to any immovable property transferred, being immovable property of the nature referred to in sub-clause (ii) of clause (e), means the consideration in the form of money that such transfer would ordinarily fetch in the open market on the date of the transfer, if such transfer had been made only for consideration in money;]

(e) ⁴[“immovable property” means,—

(i) any land or any building] or part of a building, and includes, where any land or any building or part of a building is transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also.

1. Subs. by Act 3 of 1989, s. 48, for “an Assistant Commissioner of Income-tax” (w.e.f. 1-4-1988).

2. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioner” (w.e.f. 1-10-1998).

3. Subs. by Act 22 of 1981, s. 2, for clause (d) (w.e.f. 1-7-1982).

4. Subs. by s. 2, *ibid.*, for “Immovable property means any land or any building” (w.e.f. 1-7-1982).

Explanation.—For the purposes of this ¹[sub-clause], land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein;

²[(ii) any rights of the nature referred to in clause (b) of sub-section (I) of section 269AB;]

³[(f) “instrument of transfer” means the instrument of transfer registered under the Registration Act, 1908 (16 of 1908), or, as the case may be, the statement registered under section 269AB with the competent authority;]

(g) “person interested”, in relation to any immovable property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that property under this Chapter ;

⁴[(h) “transfer”,—

(i) in relation to any immovable property referred to in sub-clause (i) of clause (e), means transfer of such property by way of sale or exchange or lease for a term of not less than twelve years, and includes allowing the possession of such property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882).

Explanation.—For the purposes of this sub-clause, a lease which provides for the extension of the term thereof by a further term or terms shall be deemed to be a lease for a term of not less than twelve years if the aggregate of the term for which such lease has been granted and the further term or terms for which it can be so extended is not less than twelve years ;

(ii) in relation to any immovable property of the nature referred to in sub-clause (ii) of clause (e), means the doing of anything (whether by way of transfer of shares in a co-operative society or company or by way of any agreement or arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, such property.]

⁵[**269AB. Registration of certain transactions.**—(I) The following transactions, that is to say,—

(a) every transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), and

(b) every transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature) whereby a person acquires any rights in or with respect to any building or part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein) which has been constructed or which is to be constructed (not being a transaction by way of sale, exchange or lease of such building or part of a building which is required to be registered under the Registration Act, 1908 (16 of 1908)),

shall be reduced to writing in the form of a statement by each of the parties to such transaction or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.

(2) Every statement in respect of a transaction referred to in sub-section (I) shall—

(a) be in the prescribed form;

1. Subs. by Act 22 of 1981, s. 2, for “this clause” (w.e.f. 1-7-1982).

2. Ins. by s. 2, *ibid.* (w.e.f. 1-7-1982).

3. Subs. by s. 2, *ibid.*, for clause (f) (w.e.f. 1-7-1982).

4. Subs. by s. 2, *ibid.*, for clause (h) (w.e.f. 1-7-1982).

5. Ins. by s. 3, *ibid.* (w.e.f. 1-7-1982).

(b) set forth such particulars as may be prescribed ; and

(c) be verified in the prescribed manner,

and registered with the competent authority, in such manner and within such time as may be prescribed, by each of the parties to such transaction or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.]

269B. Competent authority.—(1) The Central Government may, by general or special order published in the Official Gazette,

(a) authorise as many ¹[²Joint Commissioners], as it thinks fit, to perform the functions of a competent authority under this Chapter ; and

(b) define the local limits within which the competent authorities shall perform their functions under this Chapter.

(2) In respect of any function to be performed by a competent authority under any provision of this Chapter in relation to any immovable property referred to in section 269C, the competent authority referred to therein shall,—

(a) in a case where such property is situate within the local limits of the jurisdiction of only one competent authority, be such competent authority ;

(b) in a case where such property is situate within the local limits of the jurisdiction of two or more competent authorities, be the competent authority empowered to perform such functions in relation to such property in accordance with rules made in this behalf by the Board under section 295.

³[*Explanation.*—For the purposes of this sub-section, immovable property, being rights of the nature referred to in clause (b) of sub-section (1) of section 269AB in, or with respect to, any building or part of a building which has been constructed or which is to be constructed shall be deemed to be situate at the place where the building has been constructed or is to be constructed.]

(3) No person shall be entitled to call in question the jurisdiction of a competent authority in respect of any immovable property after the expiry of thirty days from the date on which such competent authority initiates proceedings under section 269D for the acquisition of such property.

(4) Subject to the provisions of sub-section (3), where the jurisdiction of a competent authority is questioned, the competent authority shall, if satisfied with the correctness of the claim, by order in writing, determine the question accordingly and if he is not so satisfied, he shall refer the question to the Board and the Board shall, by order in writing, determine the question.

269C. Immovable property in respect of which proceedings for acquisition may be taken.—(1) Where the competent authority has reason to believe that any immovable property of a fair market value exceeding ⁴[one hundred thousand rupees] has been transferred by a person (hereafter in this Chapter referred to as the transferor) to another person (hereafter in this Chapter referred to as the transferee) for an apparent consideration which is less than the fair market value of the property and that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of—

(a) facilitating the reduction or evasion of the liability of the transferor to pay tax under this Act in respect of any income arising from the transfer ; or

1. Subs. by Act 3 of 1989, s. 49, for “Assistant Commissioners of Income-tax” (w.r.e.f. 1-4-1988).

2. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioners” (w.e.f. 1-10-1998).

3. Ins. by Act 22 of 1981, s. 4 (w.e.f. 1-7-1982).

4. Subs. by Act 21 of 1984, s. 25, for “twenty-five thousand rupees” (w.e.f. 1-6-1984).

(b) facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act or the Wealth-tax Act, 1957 (27 of 1957),

the competent authority may, subject to the provisions of this Chapter, initiate proceedings for the acquisition of such property under this Chapter:

Provided that before initiating such proceedings, the competent authority shall record his reasons for doing so:

Provided further that no such proceedings shall be initiated unless the competent authority has reason to believe that the fair market value of the property exceeds the apparent consideration therefor by more than fifteen per cent of such apparent consideration.

(2) In any proceedings under this Chapter in respect of any immovable property,—

(a) where the fair market value of such property exceeds the apparent consideration therefor by more than twenty-five per cent of such apparent consideration, it shall be conclusive proof that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer ;

(b) where the property has been transferred for an apparent consideration which is less than its fair market value, it shall be presumed, unless the contrary is proved, that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1).

269D. Preliminary notice.—(1) The competent authority shall initiate proceedings for the acquisition, under this Chapter, of any immovable property referred to in section 269C by notice to that effect published in the Official Gazette:

Provided that no such proceedings shall be initiated in respect of any immovable property after the expiration of a period of ¹[nine months] from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908 (16 of 1908), ²[or, as the case may be, section 269AB]:

Provided further that—

(a) in a case where it is determined under sub-section (4) of section 269B by the competent authority who has initiated proceedings for the acquisition of any immovable property under this Chapter or by the Board that such competent authority has no jurisdiction to initiate such proceedings, the competent authority having jurisdiction may initiate such proceedings within—

(i) the period of ¹[nine months] specified in the foregoing proviso; or

(ii) a period of thirty days from the date of such determination,

whichever period expires later;

1. Subs. by Act 66 of 1973, s. 2, for “six month” (w.r.e.f. 15-11-1972).

2. Ins. by Act 22 of 1981, s. 5 (w.e.f. 1-7-1982).

(b) in a case where proceedings for the acquisition of any immovable property under this Chapter could not be initiated during any period of time by reason of any injunction or order of any court prohibiting the initiation of such proceedings or preventing the examination of documents or other materials required to be examined for the purpose of determining whether such proceedings should be initiated, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded in computing the period during which such proceedings may be initiated under this sub-section.

(2) The competent authority shall—

(a) cause a notice under sub-section (1) in respect of any immovable property to be served on the transferor, the transferee, the person in occupation of the property, if the transferee is not in occupation thereof, and on every person whom the competent authority knows to be interested in the property ;

(b) cause such notice to be published—

(i) in his office by affixing a copy thereof to a conspicuous place;

(ii) in the locality in which the immovable property to which it relates is situate, by affixing a copy thereof to a conspicuous part of the property and also by making known in such manner as may be prescribed the substance of such notice at convenient places in the said locality.

¹[*Explanation.*—The provisions of the *Explanation* to sub-section (2) of section 269B shall apply for the purposes of this sub-section as they apply for the purposes of that sub-section.]

269E. Objections.—(1) Objections against the acquisition of the immovable property in respect of which a notice has been published in the Official Gazette under sub-section (1) of section 269D may be made—

(a) by the transferor or the transferee or any other person referred to in clause (a) of sub-section (2) of that section, within a period of forty-five days from the date of such publication or a period of thirty days from the date of service of notice on such person under the said clause, whichever period expires later;

(b) by any other person interested in such immovable property, within forty-five days from the date of such publication.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing.

(3) For the removal of doubts, it is hereby declared that objection may be made under sub-section (1) that the provisions of clause (a) of sub-section (2) of section 269C do not apply in relation to any immovable property on the ground that the fair market value of such property does not exceed the apparent consideration therefor by more than twenty-five per cent of such apparent consideration.

1. Ins. by Act 22 of 1981, s. 5 (w.e.f. 1-7-1982).

269F. Hearing of objections.—(1) The competent authority shall fix a day and place for the hearing of the objections made under section 269E against the acquisition under this Chapter of any immovable property, and shall give notice of the same to every person who has made such objection :

Provided that such notice shall also be given to the transferee of such property even if he has not made any such objection.

(2) Every person to whom a notice is given under sub-section (1) shall have the right to be heard at the hearing of the objections.

(3) The competent authority shall have the power to adjourn the hearing of the objections from time to time.

(4) The competent authority may, before disposing of the objections, make such further inquiry as he thinks fit.

(5) The decision of the competent authority in respect of the objections heard shall be in writing and shall state the reasons for the decision with respect to each objection.

(6) If after hearing the objections, if any, and after taking into account all the relevant material on record, the competent authority is satisfied that,—

(a) the immovable property to which the proceedings relate is of a fair market value exceeding¹[one hundred thousand rupees];

(b) the fair market value of such property exceeds the apparent consideration therefor by more than fifteen per cent of such apparent consideration ; and

(c) the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1) of section 269C,

he may, after obtaining the approval of the ²[Principal Commissioner or Commissioner], make an order for the acquisition of the property under this Chapter.

Explanation.—In this sub-section, ²[Principal Commissioner or Commissioner], in relation to a competent authority, means such ²[Principal Commissioner or Commissioner] as the Board may, by general or special order in writing, specify in this behalf.

(7) If the competent authority is not satisfied as provided in sub-section (6), he shall, by order in writing, declare that the property will not be acquired under this Chapter.

(8) The competent authority shall serve a copy of his order under sub-section (6) or sub-section (7), as the case may be, on the transferor, the transferee and on every person who has made objections against such acquisition under section 269E.

1. Subs. by Act 21 of 1984, s. 26, for “twenty-five thousand rupees” (w.e.f. 1-6-1984).

2. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

(9) In any proceedings under this Chapter in respect of any immovable property, no objection shall be entertained on the ground that although the apparent consideration for the property is less than the fair market value of the property on the ¹[date of the execution of the instrument of transfer or where such property is of the nature referred to in sub-clause (ii) of clause (e) of section 269A on the date of the transfer], the consideration as agreed to between the parties has been truly stated in the instrument of transfer because such consideration was agreed to having regard to the price that such property would have ordinarily fetched ²[on such transfer in the open market on the date of the conclusion of the agreement to transfer the property], except where such agreement has been registered under the Registration Act, 1908 (16 of 1908).

269G. Appeal against order for acquisition.—(1) An appeal may be preferred to the Appellate Tribunal against the order for the acquisition of any immovable property made by the competent authority under section 269F,—

(a) by the transferor or the transferee or any other person referred to in sub-section (8) of that section, within a period of forty-five days from the date of such order or a period of thirty days from the date of service of a copy of the order on such person under the said sub-section, whichever period expires later;

(b) by any other person interested in such immovable property, within forty-five days from the date of such order:

Provided that the Appellate Tribunal may, on an application made in this behalf before the expiry of the said period of forty-five days or, as the case may be, thirty days, permit, by order, the appeal to be presented within such further period as may be specified therein if the applicant satisfies the Appellate Tribunal that he has sufficient cause for not being able to present the appeal within the said period of forty-five days or, as the case may be, thirty days.

(2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of ³[two hundred rupees].

(3) The Appellate Tribunal shall fix a day and place for the hearing of the appeal and shall give notice of the same to the appellant and to the competent authority.

(4) The Appellate Tribunal may, after giving the appellant and the competent authority an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal may, at any time within thirty days from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4) and shall make such amendment if the mistake is brought to its notice by the appellant or the competent authority:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

(6) The Appellate Tribunal shall send a copy of any orders passed under this section to the appellant and to the ⁴[Principal Commissioner or Commissioner].

(7) Save as provided in section 269H, orders passed by the Appellate Tribunal on appeal shall be final.

1. Subs. by Act 22 of 1981, s. 6, for “date of execution of the instrument of transfer” (w.e.f. 1-7-1982).

2. Subs. by s. 6, *ibid.*, for “on sale in the open market on the date of the conclusion of the agreement to sell the property” (w.e.f. 1-7-1982).

3. Subs. by Act 16 of 1981, s. 21, for “one hundred and twenty-five rupees” (w.e.f. 1-6-1981).

4. Subs. by Act 25 of 2014, s. 4, for “commissioner” (w.r.e.f. 1-6-2013).

(8) Every appeal under this section shall be disposed of as expeditiously as possible and endeavour shall be made to dispose of every such appeal within ninety days from the date on which it is presented.

(9) The provisions of section 255 (except sub-section (3) thereof) shall, so far as may be, apply in relation to the powers, functions and proceedings of the Appellate Tribunal under this section as they apply in relation to the powers, functions and proceedings of the Appellate Tribunal under Chapter XX.

269H. Appeal to High Court.—(1) The ¹[Principal Commissioner or Commissioner] or any person aggrieved by any order of the Appellate Tribunal under section 269G may, within sixty days of the date on which he is served with notice of such order under that section, prefer an appeal against such order to the High Court on any question of law :

Provided that the High Court may, on an application made in this behalf before the expiry of the said period of sixty days, permit, by order, the appeal to be presented within such further period as may be specified therein, if the applicant satisfies the High Court that he has sufficient cause for not being able to present the appeal within the said period of sixty days.

(2) An appeal under sub-section (1) shall be heard by a Bench of not less than two Judges of the High Court and the provisions of section 259 shall apply in relation to any such appeal as they apply in relation to a case referred to the High Court under section 256.

(3) The costs of the appeal shall be in the discretion of the High Court.

269-I. Vesting of property in Central Government.—(1) As soon as may be after the order for acquisition of any immovable property made under sub-section (6) of section 269F becomes final, the competent authority may, by notice in writing, order any person who may be in possession of the immovable property to surrender or deliver possession thereof to the competent authority or any other person duly authorised in writing by the competent authority in this behalf, within thirty days of the date of the service of the notice.

Explanation.—For the purposes of this sub-section, an order for the acquisition of any immovable property (hereafter in this *Explanation* referred to as the order for acquisition) made under sub-section (6) of section 269F becomes final,—

(a) in a case where the order for acquisition is not made the subject of an appeal to the Appellate Tribunal under section 269G, upon the expiry of the period during which such appeal may be presented under that section;

(b) in a case where the order for acquisition is made the subject of an appeal to the Appellate Tribunal under section 269G,—

(i) if the order for acquisition is confirmed by the Appellate Tribunal and the order of the Appellate Tribunal is not made the subject of an appeal to the High Court under section 269H, upon the expiry of the period during which such appeal may be presented under that section to the High Court;

(ii) if the order of the Appellate Tribunal is made the subject of an appeal to the High Court under section 269H, upon the confirmation of the order for acquisition by the High Court.

(2) If any person refuses or fails to comply with the notice under sub-section (1), the competent authority or other person duly authorised by the competent authority under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary.

1. Subs. by Act 25 of 2014, s. 4, for “commissioner” (w.r.e.f. 1-6-2013).

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(4) When the possession of the immovable property is surrendered or delivered under sub-section (1) to the competent authority or a person duly authorised by him in that behalf or, as the case may be, when the possession thereof is taken under sub-section (2) or sub-section (3) by such authority or person, the property shall vest absolutely in the Central Government free from all encumbrances:

Provided that nothing in this sub-section shall operate to discharge the transferee or any other person (not being the Central Government) from liability in respect of such encumbrances and, notwithstanding anything contained in any other law, such liability may be enforced against the transferee or such other person by a suit for damages.

¹[(5) Notwithstanding anything contained in sub-section (4) or any other law or any instrument or any agreement for the time being in force, where an order for acquisition of any immovable property, being rights of the nature referred to in clause (b) of sub-section (1) of section 269AB, in or with respect to any building or part of a building which has been constructed or which is to be constructed, has become final, then, such order shall, by its own force, have the effect of—

(a) vesting such rights in the Central Government, and

(b) placing the Central Government in the same position in relation to such rights as the person in whom such rights would have continued to vest if such order had not become final,

and the competent authority may issue such directions as he may deem fit to any person concerned for taking the necessary steps for compliance with the provisions of clauses (a) and (b).]

(6) In the case of any immovable property, being rights of the nature referred to in clause (b) of sub-section (1) of section 269AB, in or with respect to any building or part of a building, the provisions of sub-sections (1), (2) and (3) shall have effect as if the references to immovable property therein were a reference to such building or, as the case may be, part of such building.]

269J. Compensation.—(1) Where any immovable property is acquired under this Chapter, the Central Government shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of the apparent consideration for its transfer and fifteen per cent of the said amount:

²[Provided that in a case where, under the agreement between the parties concerned, the whole or any part of the consideration for the transfer of such immovable property is payable on any date or dates falling after the date on which such property is acquired, the compensation payable by the Central Government shall be the aggregate of the following amounts, namely:—

(i) an amount equal to fifteen per cent of the apparent consideration;

(ii) the amount, if any, that has become payable in accordance with such agreement on or before the date on which such property is acquired under this Chapter ; and

(iii) the amount payable after the date on which such property is acquired under this Chapter.]

1. Ins. by Act 22 of 1981, s. 7 (w.e.f. 1-7-1982).

2. Ins. by s. 8 *ibid.* (w.e.f. 1-7-1982).

(2) Notwithstanding anything contained in sub-section (1),—

(a) where, after the transfer to the transferee of the property referred to in that sub-section but before the vesting of the property in the Central Government, the property has been damaged (otherwise than as a result of normal wear and tear), the compensation payable under that sub-section shall be reduced by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount that may have to be expended for restoring the property to the condition in which it was at the time of such transfer ;

(b) where, after the transfer of such property to the transferee but before the date of publication in the Official Gazette of the notice in respect of such property under sub-section (1) of section 269D, any improvements have been made to the property, whether by way of addition or alteration or in any other manner, the compensation payable in respect of such property under sub-section (1) shall be increased by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount spent for making such improvements.

(3) Every reference under clause (a) or clause (b) of sub-section (2) shall be made within thirty days of the date on which the immovable property to which it relates becomes vested in the Central Government or within such further period as the court may, on an application made in this behalf before the expiry of the said period and on being satisfied that there is sufficient cause for doing so, allow and such reference shall state clearly the compensation payable under sub-section (1) in respect of the immovable property and the amount by which, according to the estimate of the competent authority, such compensation shall be reduced under clause (a) or, as the case may be, increased under clause (b), of sub-section (2).

(4) The amount by which the compensation payable under sub-section (1) in respect of any immovable property acquired under this Chapter falls short of the amount which would have been payable as compensation if that property had been acquired under the Land Acquisition Act, 1894 (1 of 1894), after the issue of a preliminary notice under section 4 of that Act on the date of publication in the Official Gazette of the notice in respect of the property under sub-section (1) of section 269D, shall be deemed to have been realised by the Central Government as a penalty from the transferee for being a party to a transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1) of section 269C, and no penalty shall be levied for any assessment year on the transferee—

(a) under clause (iii) of sub-section (1) of section 271, for concealing the particulars or furnishing inaccurate particulars of so much of his income as is utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such amount is included in the income of the transferee;

(b) under clause (iii) of sub-section (1) of section 18 of the Wealth-tax Act, 1957 (27 of 1957), for concealing the particulars or furnishing inaccurate particulars of so much of his assets as are utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such assets are included in the net wealth of the transferee.

269K. Payment or deposit of compensation.—(1) The amount of compensation payable in accordance with the provisions of section 269J for the acquisition of any immovable property shall be tendered to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Central Government under sub-section (4) of section 269-I:

¹[Provided that in a case falling under the proviso to sub-section (1) of section 269J, the amounts referred to in clause (i) and clause (ii) of that proviso shall be tendered to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Central Government under section 269-I, and the amount referred to in clause (iii) of the said proviso shall be tendered on the date on which it would be payable in accordance with the agreement between the parties concerned, and where such amount is payable in instalments on different dates, then in such instalments on those dates:

Provided further that] in any case where a reference is or has to be made under sub-section (2) of section 269J to the court for the determination of the amount by which the compensation payable under sub-section (1) of that section shall be reduced or increased, the amount of such compensation as reduced or increased by the amount estimated in that behalf by the competent authority for the purposes of such reference shall be tendered as aforesaid.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the compensation amongst persons claiming to be entitled thereto, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer such dispute for the decision of the court and the decision of the court thereon shall be final.

(3) Notwithstanding anything contained in sub-section (1), if the persons entitled to compensation do not consent to receive it, or if there is no person competent to alienate the immovable property, or if there is any dispute as to the title to receive the compensation, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer the matter for the decision of the court:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the compensation for any immovable property acquired under this Chapter to pay the same to the person lawfully entitled thereto.

(4) If the Central Government fails to tender under sub-section (1) or deposit under sub-section (2) or sub-section (3) the whole or any part of the compensation required to be tendered or deposited thereunder within thirty days of the date on which the immovable property to which the compensation relates becomes vested in the Central Government under sub-section (4) of section 269-I, the Central Government shall be liable to pay simple interest at the rate of ²[fifteen per cent per.] annum reckoned from the day immediately following the date of expiry of the said period up to the date on which it so tenders or deposits such compensation or, as the case may be, such part of the compensation.

(5) Where any amount of compensation (including interest, if any, thereon) has been deposited in the court under this section, the court may, either of its own motion or on an application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be.

269L. Assistance by Valuation Officers.—(1) The competent authority may,—

(a) for the purpose of initiating proceedings for the acquisition of any immovable property under section 269C or for the purpose of making an order under section 269F in respect of any immovable property, require a Valuation Officer to determine the fair market value of such property and report the same to him;

1. Subs. by Act 22 of 1981, s. 9, for “Provided that” (w.e.f. 1-7-1982).

2. Subs. by Act 67 of 1984, s. 24, for “twelve per cent.” (w.e.f. 1-10-1984).

(b) for the purpose of estimating the amount by which the compensation payable under sub-section (1) of section 269J in respect of any immovable property may be reduced or, as the case may be, increased under clause (a) or clause (b) of sub-section (2) of that section, require the Valuation Officer to make such estimate and report the same to him.

(2) The Valuation Officer to whom a reference is made under clause (a) or clause (b) of sub-section (1) shall, for the purpose of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957 (27 of 1957).

(3) If in an appeal under section 269G against the order for acquisition of any immovable property, the fair market value of such property is in dispute, the Appellate Tribunal shall, on a request being made in this behalf by the competent authority, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the competent authority.

Explanation.—In this section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

269M. Powers of competent authority.—The competent authority shall have, for the purposes of this Chapter, all the powers that a ¹[Principal Commissioner or Commissioner] has, for the purposes of this Act, under section 131.

269N. Rectification of mistakes.—With a view to rectifying any mistake apparent from the record, the competent authority may amend any order made by him under this Chapter at any time before the time for presenting an appeal against such order has expired, either on his own motion or on the mistake being brought to his notice by any person affected by the order:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

269-O. Appearance by authorised representative or registered valuer.—Any person who is entitled or required to attend before a competent authority or the Appellate Tribunal in any proceeding under this Chapter, otherwise than when required to attend personally for examination on oath or affirmation, may attend—

(a) by an authorised representative in connection with any matter;

(b) by a registered valuer in connection with any matter relating to the valuation of any immovable property for the purposes of this Chapter or the estimation of the amount by which the compensation payable under sub-section (1) of section 269J for the acquisition of any immovable property may be reduced or, as the case may be, increased in accordance with the provisions of clause (a) or clause (b) of sub-section (2) of that section.

Explanation.—In this section,—

(i) “authorised representative” has the (b) by a registered valuer in connection with any matter relating to the valuation of any immovable property for the purposes of this Chapter or the estimation of the amount by which the compensation payable under sub-section (1) of section 269J for the acquisition of any immovable property may be reduced or, as the case may be, increased in accordance with the provisions of clause (a) or clause (b) of sub-section (2) of that section.

Explanation.—In this section,—

(i) “authorised representative” has the same meaning as in section 288;

(ii) “registered valuer” has the same meaning as in clause (oaa) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

1. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

269P. Statement to be furnished in respect of transfers of immovable property.—(1) Notwithstanding anything contained in any other law for the time being in force, no registering officer appointed under the Registration Act, 1908 (16 of 1908), shall register any document which purports to transfer any immovable property belonging to any person unless a statement in duplicate in respect of such transfer, in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed, is furnished to him along with the instrument of transfer :

¹[Provided that the provisions of this sub-section shall not apply in relation to any document which purports to transfer any immovable property for an apparent consideration not exceeding ²[fifty thousand rupees].

Explanation.—For the purposes of this proviso, “apparent consideration” shall have the meaning assigned to it in clause (a) of section 269A subject to the modifications that for the expressions “immovable property transferred” and “instrument of transfer” occurring in that clause, the expressions “immovable property purported to be transferred” and “document purporting to transfer such immovable property” shall, respectively, be substituted.]

(2) The registering officer shall, at the end of every fortnight, forward to the competent authority,—

(a) one set of the statements received by him under sub-section (1) during the fortnight ; and

(b) a return in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed in respect of documents of the nature referred to in sub-section (1) which have been registered by him during the fortnight.

269Q. Chapter not to apply to transfers to relatives.—The provisions of this Chapter shall not apply to or in relation to any transfer of immovable property made by a person to his relative on account of natural love and affection for a consideration which is less than its fair market value if a recital to that effect is made in the instrument of transfer.

269R. Properties liable for acquisition under this Chapter not to be acquired under other laws.—Notwithstanding anything contained in the Land Acquisition Act, 1894 (1 of 1894), or any corresponding law for the time being in force, no immovable property referred to in section 269C shall be acquired for any purpose of the Union under that Act or such law unless the time for initiation of proceedings for the acquisition of such property under this Chapter has expired without such proceedings having been initiated or unless the competent authority has declared that such property will not be acquired under this Chapter.

³[**269RR. Chapter not to apply where transfer of immovable property made after a certain date.**—The provisions of this Chapter shall not apply to or in relation to the transfer of any immovable property made after the 30th day of September, 1986.]

269S. Chapter not to extend to State of Jammu and Kashmir.—The provisions of this Chapter shall not extend to the State of Jammu and Kashmir.

1. Ins. by Act 66 of 1973, s. 2 (w.e.f. 1-1-1974).

2. Subs. by Act 21 of 1984, s. 27, for “ten thousand rupees” (w.e.f. 1-6-1984).

3. Ins. by Act 23 of 1986, s. 33 (w.e.f. 1-10-1986).

¹[CHAPTER XXB

REQUIREMENT AS TO ²[MODE OF ACCEPTANCE, PAYMENT OR REPAYMENT] IN CERTAIN CASES TO COUNTERACT EVASION OF TAX

³[**269SS.Mode of taking or accepting certain loans, deposits and specified sum.**—No person shall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if,—

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more:

Provided that the provisions of this section shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,—

(a) the Government;

(b) any banking company, post office savings bank or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

Provided further that the provisions of this section shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agricultural income and neither of them has any income chargeable to tax under this Act.

Explanation.—For the purposes of this section,—

(i) “banking company” means a company to which the provisions of the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(ii) “co-operative bank” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(iii) “loan or deposit” means loan or deposit of money;

(iv) “specified sum” means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.]

1. Ins. by Act 38 of 1981, s. 2 (w.e.f. 11-7-1981).

2. Subs. by Act 21 of 1984, s. 28, for “MODE OF REPAYMENT” (w.e.f. 1-4-1984).

3. Subs. by Act 20 of 2015, s. 68, for section 269SS (w.e.f. 1-6-2015).

¹[**269ST. Mode of undertaking transactions.**—No person shall receive an amount of two lakh rupees or more—

- (a) in aggregate from a person in a day; or
- (b) in respect of a single transaction; or
- (c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall not apply to—

- (i) any receipt by—
 - (a) Government;
 - (b) any banking company, post office savings bank or co-operative bank;
- (ii) transactions of the nature referred to in section 269SS;
- (iii) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(a) “banking company” shall have the same meaning as assigned to it in clause (i) of the Explanation to section 269SS;

(b) “co-operative bank” shall have the same meaning as assigned to it in clause (ii) of the Explanation to section 269SS.]

²[**269T. Mode of repayment of certain loans or deposits.**—No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it ³[or any specified advance received by it] otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit ³[or paid the specified advance,] ⁴[or by use of electronic clearing system through a bank account] if—

(a) the amount of the loan or deposit ³[or specified advance] together with the interest, if any, payable thereon, or

(b) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits, ³[or]

³[(c) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances,]

1. Ins. by Act 7 of 2017, s. 84 (w.e.f. 1-4-2017).

2. Subs. by Act 20 of 2002, s. 99, for section 269T (w.e.f. 1-6-2002).

3. Ins. by Act 20 of 2015, s. 69 (w.e.f. 1-6-2015).

4. Ins. by Act 25 of 2014, s. 69 (w.e.f. 1-4-2015).

is twenty thousand rupees or more:

Provided that where the repayment is by a branch of a banking company or co-operative bank, such repayment may also be made by crediting the amount of such loan or deposit to the savings bank account or the current account (if any) with such branch of the person to whom such loan or deposit has to be repaid:

¹[Provided further that nothing contained in this section shall apply to repayment of any loan or deposit ²[or specified advance] taken or accepted from—

(i) Government;

(ii) any banking company, post office savings bank or co-operative bank;

(iii) any corporation established by a Central, State or Provincial Act;

(iv) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(v) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.]

Explanation.—For the purposes of this section,—

(i) “banking company” shall have the meaning assigned to it in clause (i) of the *Explanation* to section 269SS;

(ii) “co-operative bank” shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(iii) “loan or deposit” means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature;]]

²[(iv) “specified advance” means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.]

³[**269TT.Mode of repayment of Special Bearer Bonds, 1991.**—Notwithstanding anything contained in any other law for the time being in force, the amount payable on redemption of Special Bearer Bonds, 1991, shall be paid only by an account payee cheque or account payee bank draft drawn in the name of the person to whom such payment is to be made.]

1. Ins. by Act 32 of 2003, s. 94 (w.e.f. 1-6-2002).

2. Ins. by Act 20 of 2015, s. 69 (w.e.f. 1-6-2015).

3. Ins. by Act 38 of 1981, s. 3 (w.e.f. 19-9-1981).

PURCHASE BY CENTRAL GOVERNMENT OF IMMOVABLE PROPERTIES IN CERTAIN CASES OF TRANSFER

269U. Commencement of Chapter.—The provisions of this Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different areas.

269UA. Definitions.—In this Chapter, unless the context otherwise requires,—

(a) “agreement for transfer” means an agreement, whether registered under the Registration Act, 1908 (16 of 1908) or not, for the transfer of any immovable property ;

(b) “apparent consideration”,—

(I) in relation to any immovable property in respect of which an agreement for transfer is made, being immovable property of the nature referred to in sub-clause (i) of clause (d), means,—

(i) if the immovable property is to be transferred by way of sale, the consideration for such transfer as specified in the agreement for transfer;

(ii) if the immovable property is to be transferred by way of exchange,—

(A) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made;

(B) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made, and such sum;

(iii) if the immovable property is to be transferred by way of lease,—

(A) in a case where the consideration for the transfer consists of premium only, the amount of premium as specified in the agreement for transfer;

(B) in a case where the consideration for the transfer consists of rent only, the aggregate of the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the agreement for transfer;

(C) in a case where the consideration for the transfer consists of premium and rent, the aggregate of the amount of the premium, the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the agreement for transfer,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such agreement for transfer, the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such agreement for transfer, determined by adopting such rate of interest as may be prescribed in this behalf;

(2) in relation to any immovable property in respect of which an agreement for transfer is made, being immovable property of the nature referred to in sub-clause (ii) of clause (d), means,—

(i) in a case where the consideration for the transfer consists of a sum of money only, such sum;

1. Ins. by Act 23 of 1986, s. 34 (w.e.f. 13-5-1986).

(ii) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made;

(iii) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made, and such sum,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such agreement for transfer, the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such agreement for transfer, determined by adopting such rate of interest as may be prescribed in this behalf;

(c) “appropriate authority” means an authority constituted under section 269UB to perform the functions of an appropriate authority under this Chapter;

(d) “immovable property” means—

(i) any land or any building or part of a building, and includes, where any land or any building or part of a building is to be transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also.

Explanation.—For the purposes of this sub-clause, “land, building, part of a building, machinery, plant, furniture, fittings and other things” include any rights therein;

(ii) any rights in or with respect to any land or any building or a part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein) which has been constructed or which is to be constructed, accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease of such land, building or part of a building;

(e) “person interested”, in relation to any immovable property, includes all persons claiming, or entitled to claim, an interest in the consideration payable on account of the vesting of that property in the Central Government under this Chapter;

(f) “transfer”,—

(i) in relation to any immovable property referred to in sub-clause (i) of clause (d), means transfer of such property by way of sale or exchange or lease for a term of not less than twelve years, and includes allowing the possession of such property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882).

Explanation.—For the purposes of this sub-clause, a lease which provides for the extension of the term thereof by a further term or terms shall be deemed to be a lease for a term of not less than twelve years, if the aggregate of the term for which such lease is to be granted and the further term or terms for which it can be so extended is not less than twelve years;

(ii) in relation to any immovable property of the nature referred to in sub-clause (ii) of clause (d), means the doing of anything (whether by way of admitting as a member of or by way of transfer of shares in a co-operative society or company or other association of persons or by way of any agreement or arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, such property.

269UB. Appropriate authority.—(1) The Central Government may, by order, publish in the Official Gazette,—

(a) constitute as many appropriate authorities, as it thinks fit, to perform the functions of an appropriate authority under this Chapter; and

(b) define the local limits within which the appropriate authorities shall perform their functions under this Chapter.

(2) An appropriate authority shall consist of three persons, two of whom shall be members of the Indian Income-tax Service, Group A, holding the post of Commissioner of Income-tax or any equivalent or higher post, and one shall be a member of the Central Engineering Service, Group A, holding the post of Chief Engineer or any equivalent or higher post.

(3) In respect of any function to be performed by an appropriate authority under any provision of this Chapter in relation to any immovable property referred to in section 269UC, the appropriate authority referred to therein shall,—

(a) in a case where such property is situate within the local limits of the jurisdiction of only one appropriate authority, be such appropriate authority;

(b) in a case where such property is situate within the local limits of the jurisdiction of two or more appropriate authorities, be the appropriate authority empowered to perform such functions in relation to such property in accordance with the rules made in this behalf by the Board under section 295.

Explanation.—For the purposes of this sub-section, immovable property being rights of the nature referred to in sub-clause (ii) of clause (d) of section 269UA in, or with respect to, any land or any building or part of a building which has been constructed or which is to be constructed shall be deemed to be situate at the place where the land is situate or, as the case may be, where the building has been constructed or is to be constructed.

269UC.Restrictions on transfer of immovable property.—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), or in any other law for the time being in force, ¹[no transfer of any immovable property in such area and of such value exceeding five lakh rupees, as may be prescribed], shall be effected except after an agreement for transfer is entered into between the person who intends transferring the immovable property (hereinafter referred to as the transferor) and the person to whom it is proposed to be transferred (hereinafter referred to as the transferee) in accordance with the provisions of sub-section (2) at least ²[four months] before the intended date of transfer.

(2) The agreement referred to in sub-section (1) shall be reduced to writing in the form of a statement by each of the parties to such transfer or by any of the parties to such transfer acting on behalf of himself and on behalf of the other parties.

(3) Every statement referred to in sub-section (2) shall,—

(i) be in the prescribed form;

(ii) set forth such particulars as may be prescribed; and

(iii) be verified in the prescribed manner,

and shall be furnished to the appropriate authority in such manner and within such time as may be prescribed, by each of the parties to such transaction or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.

³[(4) Where it is found that the statement referred to in sub-section (2) is defective, the appropriate authority may intimate the defect to the parties concerned and give them an opportunity to rectify the

1. Subs. by Act 22 of 1995, s. 46, for “no transfer of any immovable property of such value exceeding five lakh rupees as may be prescribed” (w.e.f. 1-7-1995).

2. Subs. by Act 38 of 1993, s. 33, for “three months” (w.e.f. 1-6-1993).

3. Ins. by Act 22 of 1995, s. 46 (w.e.f. 1-7-1995).

defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the appropriate authority may, in its discretion, allow and if the defect is not rectified within the said period of fifteen days, or as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Chapter, the statement shall be deemed never to have been furnished.]

269UD. Order by appropriate authority for purchase by Central Government of immovable property.—(1) ¹[Subject to the provisions of sub-sections (1A) and (1B), the appropriate authority], after the receipt of the statement under sub-section (3) of section 269UC in respect of any immovable property, may, notwithstanding anything contained in any other law or any instrument or any agreement for the time being in force, ^{2****} make an order for the purchase by the Central Government of such immovable property at an amount equal to the amount of apparent consideration:

Provided that no such order shall be made in respect of any immovable property after the expiration of a period of two months from the end of the month in which the statement referred to in section 269UC in respect of such property is received by the appropriate authority:

³[Provided further that where the statement referred to in section 269UC in respect of any immovable property is received by the appropriate authority on or after the 1st day of June, 1993, the provisions of the first proviso shall have effect as if for the words “two months”, the words “three months” had been substituted:]

⁴[Provided also that the period of limitation referred to in the second proviso shall be reckoned, where any defect as referred to in sub-section (4) of section 269UC has been intimated, with reference to the date of receipt of the rectified statement by the appropriate authority:]

⁵[Provided also] that in a case where the statement referred to in section 269UC in respect of the immovable property concerned is given to an appropriate authority, other than the appropriate authority having jurisdiction in accordance with the provisions of section 269UB to make the order referred to in this sub-section in relation to the immovable property concerned, the period of limitation referred to in ⁶[the first and second provisos] shall be reckoned with reference to the date of receipt of the statement by the appropriate authority having jurisdiction to make the order under this sub-section:

⁷[Provided also that the period of limitation referred to in the second proviso shall be reckoned, where any stay has been granted by any court against the passing of an order for the purchase of the immovable property under this Chapter, with reference to the date of vacation of the said stay.]

⁸[(1A) Before making an order under sub-section (1), the appropriate authority shall give a reasonable opportunity of being heard to the transferor, the person in occupation of the immovable property if the transferor is not in occupation of the property, the transferee and to every other person whom the appropriate authority knows to be interested in the property.

(1B) Every order made by the appropriate authority under sub-section (1) shall specify the grounds on which it is made.]

(2) The appropriate authority shall cause a copy of its order under sub-section (1) in respect of any immovable property to be served on the transferor, the person in occupation of the immovable property if the transferor is not in occupation thereof, the transferee, and on every other person whom the appropriate authority knows to be interested in the property.

1. Subs. by Act 38 of 1993, s. 34, for “The appropriate authority” (w.e.f. 17-11-1992).

2. The words “and for reasons to be recorded in writing” omitted by s. 34, *ibid.* (w.e.f. 17-11-1992).

3. Ins. by s. 34, *ibid.* (w.e.f. 1-6-1993).

4. Ins. by Act 22 of 1995, s. 47 (w.e.f. 1-7-1995).

5. Subs. by Act 38 of 1993, s. 34, for “Provided further” (w.e.f. 1-6-1993).

6. Subs. by s. 34, *ibid.*, for “the preceding proviso” (w.e.f. 1-6-1993).

7. Ins. by s. 34, *ibid.* (w.e.f. 1-6-1993).

8. Ins. by s. 34, *ibid.* (w.r.e.f. 17-11-1992).

269UE. Vesting of property in Central Government.—(1) Where an order under sub-section (1) of section 269UD is made by the appropriate authority in respect of an immovable property referred to in sub-clause (i) of clause (d) of section 269UA, such property shall, on the date of such order, vest in the Central Government ¹[in terms of the agreement for transfer referred to in sub-section (1) of section 269UC]:

²[Provided that where the appropriate authority, after giving an opportunity of being heard to the transferor, the transferee or other persons interested in the said property, under sub-section (1A) of section 269UD, is of the opinion that any encumbrance on the property or leasehold interest specified in the aforesaid agreement for transfer is so specified with a view to defeat the provisions of this Chapter, it may, by order, declare such encumbrance or leasehold interest to be void and thereupon the aforesaid property shall vest in the Central Government free from such encumbrance or leasehold interest.]

(2) The transferor or any other person who may be in possession of the immovable property in respect of which an order under sub-section (1) of section 269UD is made, shall surrender or deliver possession thereof to the appropriate authority or any other person duly authorised by the appropriate authority in this behalf within fifteen days of the service of such order on him:

²[Provided that the provisions of this sub-section and sub-sections (3) and (4) shall not apply where the person in possession of the immovable property, in respect of which an order under sub-section (1) of section 269UD is made, is a *bona fide* holder of any encumbrance on such property or a *bona fide* lessee of such property, if the said encumbrance or lease has not been declared void under the proviso to sub-section (1) and such person is eligible to continue in possession of such property even after the transfer in terms of the aforesaid agreement for transfer.]

(3) If any person refuses or fails to comply with the provisions of sub-section (2), the appropriate authority or other person duly authorised by it under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary.

(4) Notwithstanding anything contained in sub-section (2), the appropriate authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(5) For the removal of doubts, it is hereby declared that nothing in this section shall operate to discharge the transferor or any other person (not being the Central Government) from liability in respect of any encumbrances on the property and, notwithstanding anything contained in any other law for the time being in force, such liability may be enforced against the transferor or such other person.

(6) Where an order under sub-section (1) of section 269UD is made in respect of an immovable property, being rights of the nature referred to in sub-clause (ii) of clause (d) of section 269UA, such order shall have the effect of—

(a) vesting such right in the Central Government ; and

(b) placing the Central Government in the same position in relation to such rights as the person in whom such a right would have continued to vest if such order had not been made.

(7) Where any rights in respect of any immovable property, being rights in, or with respect to, any land or any building or part of a building which has been constructed or which is to be constructed, have been vested in the Central Government under sub-section (6), the provisions of sub-sections (1), (2), (3) and (4) shall, so far as may be, have effect as if the references to immovable property therein were references to such land or building or part thereof, as the case may be.

1. Subs. by Act 38 of 1993, s. 35, for “free from all encumbrances” (w.e.f. 17-11-1992).

2. Ins. by s. 35, *ibid.* (w.e.f. 17-11-1992).

269UF. Consideration for purchase of immovable property by Central Government.—(1) Where an order for the purchase of any immovable property by the Central Government is made under sub-section (1) of section 269UD, the Central Government shall pay, by way of consideration for such purchase, an amount equal to the amount of the apparent consideration.

(2) Notwithstanding anything contained in sub-section (1), where, after the agreement for the transfer of the immovable property referred to in that sub-section has been made but before the property vests in the Central Government under section 269UE, the property has been damaged (otherwise than as a result of normal wear and tear), the amount of the consideration payable under that sub-section shall be reduced by such sum as the appropriate authority, for reasons to be recorded in writing, may by order determine.

269UG. Payment or deposit of consideration.—(1) The amount of consideration payable in accordance with the provisions of section 269UF shall be tendered to the person or persons entitled thereto, within a period of one month from the end of the month in which the immovable property concerned becomes vested in the Central Government under sub-section (1), or, as the case may be, sub-section (6), of section 269UE:

Provided that if any liability for any tax or any other sum remaining payable under this Act, the Wealth-tax Act, 1957 (27 of 1957), the Gift-tax Act, 1958 (18 of 1958), the Estate Duty Act, 1953 (34 of 1953), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), by any person entitled to the consideration payable under section 269UF, the appropriate authority may, in lieu of the payment of the amount of consideration, set off the amount of consideration or any part thereof against such liability or sum, after giving an intimation in this behalf to the person entitled to the consideration.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the amount of consideration amongst persons claiming to be entitled thereto, the Central Government shall deposit with the appropriate authority the amount of consideration required to be tendered under sub-section (1) within the period specified therein.

(3) Notwithstanding anything contained in sub-section (1), if the person entitled to the amount of consideration does not consent to receive it, or if there is any dispute as to the title to receive the amount of consideration, the Central Government shall deposit with the appropriate authority the amount of consideration required to be tendered under sub-section (1) within the period specified therein:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the amount of consideration for any immovable property vested in the Central Government under this Chapter to pay the same to the person lawfully entitled thereto.

(4) Where any amount of consideration has been deposited with the appropriate authority under this section, the appropriate authority may, either of its own motion or on an application made by or on behalf of any person interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefits therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be.

269UH. Re-vesting of property in the transferor on failure of payment or deposit of consideration.—(1) If the Central Government fails to tender under sub-section (1) of section 269UG or deposit under sub-section (2) or sub-section (3) of the said section, the whole or any part of the amount of consideration required to be tendered or deposited thereunder within the period specified therein in respect of any immovable property which has vested in the Central Government under sub-section (1) or,

as the case may be, sub-section (6) of section 269UE, the order to purchase the immovable property by the Central Government made under sub-section (1) of section 269UD shall stand abrogated and the immovable property shall stand re-vested in the transferor after the expiry of the aforesaid period:

Provided that where any dispute referred to in sub-section (2) or sub-section (3) of section 269UG is pending in any court for decision, the time taken by the court to pass a final order under the said sub-sections shall be excluded in computing the said period.

(2) Where an order made under sub-section (1) of section 269UD is abrogated and the immovable property re-vested in the transferor under sub-section (1), the appropriate authority shall make, as soon as may be, a declaration in writing to this effect and shall—

(a) deliver a copy of the declaration to the persons mentioned in sub-section (2) of section 269UD; and

(b) deliver or cause to be delivered possession of the immovable property back to the transferor, or, as the case may be, to such other person as was in possession of the property at the time of its vesting in the Central Government under section 269UE.

269UI. Powers of the appropriate authority.—The appropriate authority shall have, for the purposes of this Chapter, all the powers that a ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner]] of Income-tax has for the purposes of this Act under section 131.

269UJ. Rectification of mistakes.—With a view to rectifying any mistake apparent from the record, the appropriate authority may amend any order made by it under this Chapter, either on its own motion or on the mistake being brought to its notice by any person affected by the order:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard:

Provided further that no amendment shall be made under this section after the expiry of six months from the end of the month in which the order sought to be amended was made.

269UK. Restrictions on revocation or alteration of certain agreements for the transfer of immovable property or on transfer of certain immovable property.—(1) Notwithstanding anything contained in any other law for the time being in force, no person shall revoke or alter an agreement for the transfer of an immovable property or transfer such property in respect of which a statement has been furnished under section 269UC unless,—

(a) the appropriate authority has not made an order for the purchase of the immovable property by the Central Government under section 269UD and the period specified for the making of such order has expired; or

(b) in a case where an order for the purchase of the immovable property by the Central Government has been made under sub-section (1) of section 269UD, the order stands abrogated under sub-section (1) of section 269UH.

1. Subs. by Act 4 of 1988, s. 2 for “Commissioner” (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

(2) Any transfer of any immovable property made in contravention of the provisions of sub-section (1) shall be void.

269UL. Restrictions on registration, etc., of documents in respect of transfer of immovable property.—(1) Notwithstanding anything contained in any other law for the time being in force, no registering officer appointed under the Registration Act, 1908 (16 of 1908), shall register any document which purports to transfer immovable property exceeding the value prescribed under section 269UC unless a certificate from the appropriate authority that it has no objection to the transfer of such property for an amount equal to the apparent consideration therefor as stated in the agreement for transfer of the immovable property in respect of which it has received a statement under sub-section (3) of section 269UC, is furnished along with such document.

(2) Notwithstanding anything contained in any other law for the time being in force, no person shall do anything or omit to do anything which will have the effect of transfer of any immovable property unless the appropriate authority certifies that it has no objection to the transfer of such property for an amount equal to the apparent consideration therefor as stated in the agreement for transfer of the immovable property in respect of which it has received a statement under sub-section (3) of section 269UC.

(3) In a case where the appropriate authority does not make an order under sub-section (1) of section 269UD for the purchase by the Central Government of an immovable property, or where the order made under sub-section (1) of section 269UD stands abrogated under sub-section (1) of section 269UH, the appropriate authority shall issue a certificate of no objection referred to in sub-section (1) or, as the case may be, sub-section (2) and deliver copies thereof to the transferor and the transferee.

269UM. Immunity to transferor against claims of transferee for transfer.—Notwithstanding anything contained in any other law or in any instrument or any agreement for the time being in force, when an order for the purchase of any immovable property by the Central Government is made under this Chapter, no claim by the transferee shall lie against the transferor by reason of such transfer being not in accordance with the agreement for the transfer of the immovable property entered into between the transferor and transferee:

Provided that nothing contained in this section shall apply if the order for the purchase of the immovable property by the Central Government is abrogated under sub-section (1) of section 269UH.

269UN. Order of appropriate authority to be final and conclusive.—Save as otherwise provided in this Chapter, any order made under sub-section (1) of section 269UD or any order made under sub-section (2) of section 269UF shall be final and conclusive and shall not be called in question in any proceeding under this Act or under any other law for the time being in force.

269UO. Chapter not to apply to certain transfers.—The provisions of this Chapter shall not apply to or in relation to any immovable property where the agreement for transfer of such property is made by a person to his relative on account of natural love and affection, if a recital to that effect is made in the agreement for transfer.

¹[**269UP. Chapter not to apply where transfer of immovable property effected after certain date.**—The provisions of this Chapter shall not apply to, or in relation to, the transfer of any immovable property effected on or after the 1st day of July, 2002.]

1. Ins. by Act 20 of 2002, s. 100 (w.e.f. 1-7-2002).

CHAPTER XXI

PENALTIES IMPOSABLE

270. [Failure to furnish information regarding securities, etc.].—*Omitted by the Direct Tax Laws (Amendment) Act 1987 (4 of 1988), s. 105 (w.e.f. 1-4-1989).*

¹[**270A. Penalty for under-reporting and misreporting of income.**—(1) The Assessing Officer or the Commissioner (Appeals) or the Principal Commissioner or Commissioner may, during the course of any proceedings under this Act, direct that any person who has under-reported his income shall be liable to pay a penalty in addition to tax, if any, on the under-reported income.

(2) A person shall be considered to have under-reported his income, if—

(a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;

(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;

(c) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;

(d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;

(e) the amount of deemed total income assessed as per the provisions of section 115JB or section 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;

(f) the amount of deemed total income reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income assessed or reassessed immediately before such reassessment;

(g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

(3) The amount of under-reported income shall be,—

(i) in a case where income has been assessed for the first time,—

(a) if return has been furnished, the difference between the amount of income assessed and the amount of income determined under clause (a) of sub-section (1) of section 143;

(b) in a case where no return has been furnished,—

(A) the amount of income assessed, in the case of a company, firm or local authority; and

(B) the difference between the amount of income assessed and the maximum amount not chargeable to tax, in a case not covered in item (A);

1. Ins. by Act 28 of 2016, s. 98 (w.e.f. 1-4-2017).

(ii) in any other case, the difference between the amount of income reassessed or recomputed and the amount of income assessed, reassessed or recomputed in a preceding order:

Provided that where under-reported income arises out of determination of deemed total income in accordance with the provisions of section 115JB or section 115JC, the amount of total under-reported income shall be determined in accordance with the following formula—

$$(A - B) + (C - D)$$

where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;

C = the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of under-reported income:

Provided further that where the amount of under-reported income on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

Explanation.—For the purposes of this section,—

(a) “preceding order” means an order immediately preceding the order during the course of which the penalty under sub-section (1) has been initiated;

(b) in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under-reported income shall be the difference between the loss claimed and the income or loss, as the case may be, assessed or reassessed.

(4) Subject to the provisions of sub-section (6), where the source of any receipt, deposit or investment in any assessment year is claimed to be an amount added to income or deducted while computing loss, as the case may be, in the assessment of such person in any year prior to the assessment year in which such receipt, deposit or investment appears (hereinafter referred to as “preceding year”) and no penalty was levied for such preceding year, then, the under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment.

(5) The amount referred to in sub-section (4) shall be deemed to be amount of income under-reported for the preceding year in the following order—

(a) the preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and

(b) where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.

(6) The under-reported income, for the purposes of this section, shall not include the following, namely:—

(a) the amount of income in respect of which the assessee offers an explanation and the Assessing Officer or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, is satisfied that the explanation is bona fide and the assessee has disclosed all the material facts to substantiate the explanation offered;

(b) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Assessing Officer or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, but the method employed is such that the income cannot properly be deduced therefrom;

(c) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance;

(d) the amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction; and

(e) the amount of undisclosed income referred to in section 271AAB.

(7) The penalty referred to in sub-section (1) shall be a sum equal to fifty per cent of the amount of tax payable on under-reported income.

(8) Notwithstanding anything contained in sub-section (6) or sub-section (7), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be equal to two hundred per cent of the amount of tax payable on under-reported income.

(9) The cases of misreporting of income referred to in sub-section (8) shall be the following, namely:—

(a) misrepresentation or suppression of facts;

(b) failure to record investments in the books of account;

(c) claim of expenditure not substantiated by any evidence;

(d) recording of any false entry in the books of account;

(e) failure to record any receipt in books of account having a bearing on total income; and

(f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

(10) The tax payable in respect of the under-reported income shall be—

(a) where no return of income has been furnished and the income has been assessed for the first time, the amount of tax calculated on the under-reported income as increased by the maximum amount not chargeable to tax as if it were the total income;

(b) where the total income determined under clause (a) of sub-section (1) of section 143 or assessed, reassessed or recomputed in a preceding order is a loss, the amount of tax calculated on the under-reported income as if it were the total income;

(c) in any other case, determined in accordance with the formula—

$(X-Y)$

where,

X = the amount of tax calculated on the under-reported income as increased by the total income determined under clause (a) of sub-section (1) of section 143 or total income assessed, reassessed or recomputed in a preceding order as if it were the total income; and

Y = the amount of tax calculated on the total income determined under clause (a) of sub-section (1) of section 143 or total income assessed, reassessed or recomputed in a preceding order.

(11) No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has formed the basis of imposition of penalty in the case of the person for the same or any other assessment year.

(12) The penalty referred to in sub-section (1) shall be imposed, by an order in writing, by the Assessing Officer, the Commissioner (Appeals), the Commissioner or the Principal Commissioner, as the case may be.]

¹[**270AA. Immunity from imposition of penalty, etc.**—(1) An assessee may make an application to the Assessing Officer to grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, if he fulfils the following conditions, namely:—

(a) the tax and interest payable as per the order of assessment or reassessment under sub-section (3) of section 143 or section 147, as the case may be, has been paid within the period specified in such notice of demand; and

(b) no appeal against the order referred to in clause (a) has been filed.

(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in clause (a) of sub-section (1) has been received and shall be made in such form and verified in such manner as may be prescribed.

(3) The Assessing Officer shall, subject to fulfilment of the conditions specified in sub-section (1) and after the expiry of the period of filing the appeal as specified in clause (b) of sub-section (2) of section 249, grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, where the proceedings for penalty under section 270A has not been initiated under the circumstances referred to in sub-section (9) of the said section 270A.

(4) The Assessing Officer shall, within a period of one month from the end of the month in which the application under sub-section (1) is received, pass an order accepting or rejecting such application:

Provided that no order rejecting the application shall be passed unless the assessee has been given an opportunity of being heard.

(5) The order made under sub-section (4) shall be final.

(6) No appeal under section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment, referred to in clause (a) of sub-section (1), in a case where an order under sub-section (4) has been made accepting the application.]

1. Ins. by Act 28 of 2016, s. 99 (w.e.f. 1-4-2017).

$$7_* \quad \quad \quad * \quad \quad \quad * \quad \quad \quad * \quad \quad \quad *$$

(c) has concealed the particulars of his income or ^{11***} furnished inaccurate particulars of ¹²[such income, or]

he may direct that such person shall pay by way of penalty,—

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¹⁸[(iii) in the cases referred to in ¹⁹[clause (c) or clause (d)], ¹⁶[in addition to tax, if any, payable] by him, a sum which shall not be less than, but which shall not exceed ²⁰[three times], the amount of tax sought to be evaded by reason of the concealment of particulars of his ²¹[income or fringe benefits] or the furnishing of inaccurate particulars of such ²¹[income or fringe benefits].

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(A) such person fails to offer an explanation or offers an explanation which is found by the ²[Assessing Officer] or the ^{3***} ⁴[Commissioner (Appeals)] ⁵[or the ⁶[Principal Commissioner or Commissioner]] to be false, or

22. The *proviso* omitted by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989).