

and refund becomes due to a person, and the Assessing Officer, having regard to the fact that proceedings for assessment or reassessment are pending in the case of the person, may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, withhold the refund up to sixty days from the date on which such assessment or reassessment is made.

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## CHAPTER XXI

### PENALTIES

Penalty for under-reporting and misreporting of income.

**439.** (1) The Competent Authority may, during the course of any proceedings under this Act, impose penalty on any person who has under-reported his income and such penalty shall be payable in addition to tax, if any.

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(2) A person shall be deemed to have under-reported his income, if—

(a) the income assessed is greater than the income determined in the return processed under section 270(1)(a);

(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

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(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 section 206, is greater than the deemed total income determined in the return processed under section 270(1)(a);

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(e) the amount of deemed total income assessed as per section 206, is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

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(f) the amount of deemed total income reassessed as per section 206, is greater than the total income assessed or reassessed under the said sections immediately before such reassessment;

(g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

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(3) The amount of under-reported income shall be,—

(a) if income has been assessed for the first time,—

(i) Where return has been furnished, the difference between the amount of income assessed and the amount of income determined under section 270(1)(a);

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(ii) Where no return of income has been furnished or if return has been furnished for the first time under section 280,—

(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);

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(b) 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.

(4) If under-reported income arises out of determination of deemed total income as per section 206, the amount of total under-reported income shall be determined as under—

$$(A-B) + (C-D)$$

where,—

A = the total income assessed as per the provisions other than the provisions contained in section 206 (herein referred to as “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 section 206;

D = the total income that would have been chargeable had the total income assessed as per section 206 been reduced by the amount of under-reported income.

(5) (a) If the amount of under-reported income on any issue is considered both under section 206 and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under D referred to in sub-section (4);

(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, assessed or reassessed.

(6) Subject to sub-section (8), where the source of any receipt, deposit or investment in any tax year is claimed to be an amount added to income or deducted while computing loss, in the assessment of such person in any year prior to the tax year in which such receipt, deposit or investment appears (herein referred to as “the 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.

(7) The amount referred to in sub-section (6) shall be deemed to be 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.

(8) The under-reported income, for the purposes of this section, shall not include the following:—

(a) the amount of income in respect of which the assessee offers an explanation and the Competent Authority, 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 Competent Authority, 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; and 5

(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 171, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction. 10

(9) The penalty referred to in sub-section (1) shall be 50% of the tax payable on under-reported income.

(10) Irrespective of anything contained in sub-section (8) or (9), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be 200% of the tax payable on under-reported income. 15

(11) The cases of misreporting of income referred to in sub-section (10) shall be the following:—

(a) misrepresentation or suppression of facts; 20

(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 25

(f) failure to report any international transaction or any transaction considered to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

(12) The tax payable in respect of the under-reported income shall be—

(a) where no return of income has been furnished or where return has been furnished for the first time under section 280 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; 30

(b) if the total income determined under section 270(1)(a) 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; 35

(c) in any other case, determined as follows—

(X-Y)

where,— 40

X = the amount of tax calculated on the under-reported income as increased by the total income determined under section 270(1)(a) 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 section 270(1)(a) or total income assessed, reassessed or recomputed in a preceding order. 5

(13) No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has already formed the basis for penalty in the case of the person for the same or any other tax year.

(14) The penalty referred to in sub-section (1) shall be imposed, by an order  
5 in writing by the Competent Authority.

(15) In this section,—

(a) “Competent Authority” means the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner; and

10 (b) “preceding order” means an order immediately preceding the order during the course of which the penalty under sub-section (1) has been initiated.

**440.** (1) An assessee may make an application to the Assessing Officer for granting immunity from penalty under section 439 and initiation of proceedings under section 478 or section 479, if—

Immunity from imposition of penalty, etc.

15 (a) the tax and interest payable as per the order of assessment or reassessment under section 270(10) or section 279, has been paid within the period specified in the 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  
20 month from the end of the month in which the order referred to in clause (a) of the said sub-section has been received in such form and such manner as prescribed.

(3) The Assessing Officer, on fulfilment of the conditions as specified in sub-section (1), and after the expiry of the period of filing appeal as specified in section 358(3)(a), shall grant immunity from penalty under section 439 and initiation of  
25 proceedings under section 478 or 479.

(4) No immunity under sub-section (3) shall be granted if penalty has been initiated under circumstances referred to in sub-section 439(11).

(5) The Assessing Officer, shall pass an order accepting or rejecting the application as referred to in sub-section (1) within three months from the end of the  
30 month of its receipt.

(6) No order of rejection under sub-section (5) shall be made without giving the assessee an opportunity of being heard.

(7) The order made under sub-section (5) shall be final.

(8) No appeal under section 356 or 357 or an application for revision under  
35 section 378 shall be admissible against the order referred to in sub-section (1)(a), if an order under sub-section (5) has been made accepting the application.

**441.** A penalty of twenty-five thousand rupees shall be imposed on a person by the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), if he fails to—

Failure to keep, maintain or retain books of account, documents, etc.

40 (a) keep and maintain the books of account and other documents as per section 62 or the relevant rules, in respect of any tax year; or

(b) retain such books of account and other documents for the period specified in the said rules.

Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.

**442.** (1) The Assessing Officer or Commissioner (Appeals) may impose a penalty of 2% of the value of each international transaction or specified domestic transaction entered into by a person, if in respect of such transaction he,—

(a) fails to keep and maintain any such information and document as required by section 171(I); 5

(b) fails to report such transaction as he is required to do so; or

(c) maintains or furnishes an incorrect information or document.

(2) The prescribed income-tax authority referred to in section 171(4) may impose a penalty of five lakh rupees on a person, if he fails to furnish the information and document required under the said section. 10

Penalty in respect of certain income.

**443.** (1) The Assessing Officer or the Joint Commissioner (Appeals) or Commissioner (Appeals) may impose a penalty of 10% of the tax payable under section 195(I)(i), on an assessee if the income determined in his case for any tax year includes any income referred to in section 102, 103, 104, 105 or 106.

(2) The penalty under sub-section (1) shall be payable in addition to the tax payable under section 195. 15

(3) No penalty shall be levied on income referred to in section 102, 103, 104, 105 or 106 to the extent such income has been included by the assessee in the return of income furnished under section 263 and the tax as per section 195(I)(i) has been paid on or before the end of the relevant tax year. 20

(4) No penalty under section 439 shall be imposed upon the assessee in respect of income referred to in sub-section (1).

(5) The provisions of sections 471 and 472 shall as far as may be, apply in relation to the penalty referred to in this section.

Penalty for false entry, etc., in books of account.

**444.** The Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), may impose a penalty equal to the aggregate amount of false or omitted entry, where during any proceeding under this Act, it is found that in the books of account maintained by any person there is— 25

(a) a false entry; or

(b) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability. 30

(2) Without prejudice to sub-section (1), the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may impose a penalty equal to the aggregated amount of false or omitted entry, on any other person, who causes the person referred to in the said sub-section in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section. 35

(3) In this section, “false entry” includes use or intention to use—

(a) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or

(b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or 40

(c) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

	<b>445.</b> (1) If during any proceedings under this Act, it is found that a registered non-profit organisation has any specified income which is chargeable to tax as per section 337 (Table: Sl. No. 2), the Assessing Officer may impose on such person, a penalty of—	Benefits to related persons.
5	(a) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any related person referred to in section 355(i), if the violation is noticed for the first time during any tax year; and	
10	(b) a sum equal to 200% of the aggregate amount of income of such person applied, directly or indirectly, by that person for the benefit of any person referred to in section 355(i), if the violation is noticed again in any subsequent tax year.	
15	<b>446.</b> If any person fails to get his accounts audited for any tax year or years or furnish the audit report as required under section 63, the Assessing Officer may impose a penalty on such person, which shall be the lesser of—	Failure to get accounts audited.
	(a) 0.5% of the total sales, turnover, or gross receipts in business, or the gross receipts in profession for such tax year or years; or	
	(b) one lakh fifty thousand rupees.	
20	<b>447.</b> If any person fails to furnish a report from an accountant as required by section 172, the Assessing Officer may impose a penalty of one lakh rupees on such person.	Penalty for failure to furnish report under section 172.
	<b>448.</b> (1) If any person fails to—	Penalty for failure to deduct tax at source.
	(a) deduct the whole or in part, the tax as required under Chapter XIX-B; or	
25	(b) pay or ensure the payment of, the whole or any part of the tax as required by or under—	
	(i) Note 3 in Table in section 393(3); or	
	(ii) Note 6 to section 393(1) (Table: Sl. No. 8),	
30	then, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to deduct or pay or ensure payment of, as aforesaid.	
	<b>449.</b> (1) If any person fails to collect the whole or in part, the tax as required under Chapter XIX-B, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to collect.	Penalty for failure to collect tax at source.
35	<b>450.</b> If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 185, the Assessing Officer may impose on him, a penalty equal to the amount of the loan or deposit or specified sum so taken or accepted.	Penalty for failure to comply with provisions of section 185.
40	<b>451.</b> The Assessing Officer may impose on a person, a penalty equal to the sum received by him in contravention of the provisions of section 186 except where he proves that there were good and sufficient reasons for the said contravention.	Penalty for failure to comply with provisions of section 186.

Penalty for failure to comply with provisions of section 187.

**452.** The Assessing Officer may impose on a person, a penalty of five thousand rupees for every day of the duration of failure where he fails to provide a facility for accepting payments through the prescribed electronic modes of payment, as referred to in section 187 except when he proves that there were good and sufficient reason for such failure.

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Penalty for failure to comply with provisions of section 188.

**453.** If a person repays any loan or deposit or specified advance referred to in section 188 otherwise than in accordance with the provisions of that section, the Assessing Officer may impose on him, a penalty equal to the loan or deposit or specified advance so repaid.

Penalty for failure to furnish statement of financial transaction or reportable account.

**454.** (1) If a person who is required to furnish a statement of financial transaction or reportable account under section 508(1), fails to furnish such statement within the time prescribed under sub-section (2) thereof, the income-tax authority prescribed under the said sub-section (1) may impose on him, a penalty of five hundred rupees for every day during which such failure continues.

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(2) If the person referred to in sub-section (1), fails to furnish the statement within the period specified in the notice issued under section 508(7), he shall pay penalty of one thousand rupees for every day during which the failure continues, beginning from the day immediately after the time specified in the such notice for furnishing the statement expires.

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Penalty for furnishing inaccurate statement of financial transaction or reportable account.

**455.** (1) The prescribed income-tax authority referred to in section 508 may direct that a person required to furnish a statement under sub-section (1) of the said section shall pay penalty of fifty thousand rupees, if such person—

(a) provides inaccurate information in the statement or fails to furnish correct information within the period specified under section 508(8); or

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(b) fails to comply with the due diligence requirement under section 508(9).

(2) The prescribed income-tax authority referred to in section 508, may direct that a reporting financial institution referred to in sub-section (1)(k) of the said section, shall, in addition to the penalty under sub-section (1) of this section, if any, pay a sum of five thousand rupees for every inaccurate reportable account, if—

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(a) the said institution provides inaccurate information in the statement required to be furnished under section 508(1); and

(b) the inaccuracy in the said statement is due to false or inaccurate information furnished by the holder or holders of the relevant reportable account or accounts.

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(3) The reporting financial institution shall be entitled to—

(a) recover the amount paid under sub-section (2) on behalf of the reportable account holder; or

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(b) retain an amount equal to the sum so paid out of any moneys that may be in its possession, or may come to it from every such account holder.

Penalty for failure to furnish statement or information or document by an eligible investment fund.

**456.** If any eligible investment fund required to furnish a statement or any information or document under section 9(12)(e) [section 9A (5)], fails to do so within the time prescribed under that section, the income-tax authority prescribed under the said section may direct that such fund shall pay, by way of penalty, a sum of five lakh rupees.

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5 **457.** If any person who has entered into an international transaction or specified domestic transaction fails to furnish any such information or document as required by section 171(2), a penalty equal to 2 % of the value of such transaction may be imposed upon him for each such failure by the Assessing Officer or the Transfer Pricing Officer as referred to in section 166 or the Commissioner (Appeals).

Penalty for failure to furnish information or document under section 171.

10 **458.** If any Indian concern which is required to furnish any information or document under section 506, fails to do so, the prescribed income-tax authority under the said section, may direct that such Indian concern shall pay by way of penalty, a sum of—

Penalty for failure to furnish information or document under section 506.

(a) 2% of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

15 (b) five lakh rupees, in any other case.

**459.** (1) If any reporting entity referred to in section 511, required to furnish the report referred to in sub-section (2) of the said section, for a reporting accounting year, fails to do so, the prescribed authority under that section may impose on such entity, a penalty of—

Penalty for failure to furnish report or for furnishing inaccurate report under section 511.

20 (a) five thousand rupees for every day for which the failure continues, if the period of failure does not exceed one month; or

(b) fifteen thousand rupees for every day for which the failure continues beyond the period of one month.

25 (2) If a reporting entity referred to in section 511 fails to produce the information and documents within the period allowed under sub-section (7) of the said section, the prescribed authority under that section may impose on such entity, a penalty of five thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the period for furnishing the information and document expires.

30 (3) If the failure referred to in sub-section (1) or (2) continues after an order imposing a penalty under the said sub-sections, has been served on the entity, then, irrespective of the provisions of the said sub-sections, the prescribed authority may impose penalty of fifty thousand rupees for every day for which such failure continues starting from the date of service of such order.

35 (4) If a reporting entity referred to in section 511 provides inaccurate information in the report furnished under sub-section (2) of the said section, the prescribed authority under that section may impose on such entity, a penalty of five lakh rupees, if—

40 (a) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or

(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within fifteen days of such discovery; or

45 (c) the entity furnishes inaccurate information or document in response to the notice issued under section 511(7).

**460.** If a person required to furnish statement under section 505, fails to do so within the period prescribed under that section, the Assessing Officer may impose on him, a penalty of—

Penalty for failure to submit statement under section 505.



(a) one thousand rupees for every day for which the failure continues, if the period of failure does not exceed three months; or

(b) one lakh rupees in any other case.

Penalty for failure to furnish statements, etc.

**461.** (1) Where a person, who is required to deliver or causes to be delivered a statement prescribed in section 397(3)(b), fails to do so within the time prescribed in the said section, or furnishes incorrect information in the said statement, the Assessing Officer may impose on such person, a penalty of a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees. 5

(2) No penalty shall be levied under sub-section (1) for delay in filing or non-filing of statement referred therein, if the person proves that— 10

(a) tax deducted or collected along with the fee and interest, if any, was paid to the credit of the Central Government; and

(b) the said statement was also delivered before the expiry of one month from the time prescribed in section 397(3)(b).

Penalty for failure to furnish information or furnishing inaccurate information under section 397 (3)(d).

**462.** If a person, who is required to furnish information under section 397 (3)(d), fails to furnish such information, or furnishes inaccurate information, the Assessing Officer may impose a penalty of one lakh rupees. 15

Penalty for furnishing incorrect information in reports or certificates.

**463.** (1) Any accountant or merchant banker or registered valuer, shall be liable to pay a penalty of ten thousand rupees for any incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder. 20

(2) The penalty under sub-section (1) shall be payable in respect of each incorrect report or certificate.

(3) The penalty under sub-section (1) shall be payable on directions of the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) where the inaccuracy mentioned in sub-section (1) is found by such authority in the course of any proceedings under this Act. 25

(4) In this section,—

(a) “merchant banker” means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992; and 30

15 of 1992.

(b) “registered valuer” means a person registered as a valuer under section 514.

Penalty for failure to furnish statements, etc.

**464.** The Assessing Officer may impose a penalty which shall not be less than ten thousand rupees but which may extend up to one lakh rupees on— 35

(a) the research association, University, college or other institution referred to in section 45, if it fails to deliver or furnish the documents as prescribed under section 45(4)(a); or

(b) the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under section 354(1)(e) or (f), or furnish a certificate prescribed under section 354(1)(g). 40

**465.** (1) A person shall be liable to pay a penalty of ten thousand rupees for each default or failure as mentioned below, if that person,—

Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

5 (a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or

10 (c) to whom a summons is issued under section 246(1), either to attend to give evidence or to produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the place or time; or

(d) fails to comply with a notice under section 268(1) or (2) or 270(8) or fails to comply with a direction issued under section 268(5).

15 (2) A person shall be liable to pay a penalty of five hundred rupees for every day during which the following failures continue, if that person fails to—

(a) comply with a notice under section 175(7); or

(b) give the notice of discontinuance of his business or profession as required by section 320(3); or

20 (c) furnish in due time any of the returns, statements or particulars mentioned in section 252 or section 397(3) or 507; or

(d) allow inspection of any register referred to in section 255 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

25 (e) furnish the return of income as required under section 263(1)(a)(iii) or (iv) or to furnish it within the time allowed and in the manner required under sections 263(1) and (2); or

(f) deliver or cause to be delivered in due time a copy of the declaration mentioned in section 393(6); or

30 (g) furnish a certificate under section 395(4); or

(h) deduct and pay tax under section 416(3); or

(i) furnish a statement under section 389(5)(a); or

(j) deliver or cause to be delivered in due time a copy of the declaration referred to in section 394(2); or

35 (k) deliver or cause to be delivered the statement within the time specified in section 397(3)(g); or

(l) deliver or cause to be delivered a statement within the time as prescribed under section 397(3)(e).

40 (3) The amount of penalty shall not exceed the amount of tax deductible or collectible for failures in relation to the following:—

(a) a declaration mentioned in section 393(6);

(b) a certificate as required by section 395(4); and

(c) statements under section 397(3)(b) or (e).

(4) Any penalty imposable under sub-section (1) or (2) shall be imposed—

(a) if the contravention, failure or default for which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not below the rank of Joint Director or a Joint Commissioner, by such income-tax authority;

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(b) in a case falling under sub-section (1)(d), by the income-tax authority who had issued the notice or direction referred to therein;

(c) in a case falling under of sub-section (2)(f), by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

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(d) in any other case, by the Joint Director or the Joint Commissioner.

(5) In this section, “income-tax authority” includes a Principal Director General or Director General, Principal Director or Director, Joint Director and an Assistant Director or Deputy Director while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in section 246(1).

15 5 of 1908.

Penalty for failure to comply with the provisions of section 254.

**466.** If a person fails to comply with the provisions of section 254, the Joint Commissioner, Deputy Director or Assistant Director or the Assessing Officer, may impose a penalty which may extend up to one thousand rupees on him.

Penalty for failure to comply with the provisions of section 262.

**467. (1)** If a person fails to comply with the provisions of section 262, the Assessing Officer may impose a penalty of ten thousand rupees on him.

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(2) If a person, required to quote or intimate his permanent account number or Aadhaar number in any document as referred to in section 262(9)(a), provides or quotes or intimates a number which is false, knowing or believing it to be false, the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.

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(3) If a person fails to quote or authenticate his permanent account number or Aadhaar number in any document referred to in section 262(9)(a), the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.

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(4) If a person referred to in 262(9)(b) responsible for ensuring the correct quoting or authentication of permanent account number or Aadhaar number, in documents relating to transactions prescribed under section 262(9)(a) fails to do so, the Assessing Officer may impose a penalty of ten thousand rupees on him for each such default.

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Penalty for failure to comply with the provisions of section 397(1).

**468. (1)** If a person fails to comply with the provisions of section 397, the Assessing Officer may impose a penalty of ten thousand rupees on him.

(2) If a person, required to quote his Tax Deduction and Collection Account Number in documents (such as challans, certificates, or statements) referred to in section 397(1)(b), quotes a number which is false, knowing or believing it to be false, the Assessing Officer may impose a penalty of ten thousand rupees on him.

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Power to reduce or waive penalty, etc., in certain cases.

**469. (1)** Irrespective of anything contained in this Act, the Principal Commissioner or Commissioner may, whether on his own motion or otherwise, at his discretion reduce or waive the penalty imposed or imposable under section 439 if he is satisfied that such person,—

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(a) before the Assessing Officer detected any concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, has made a full and true disclosure of such particulars voluntarily and in good faith; and

5 (b) has cooperated in any enquiry relating to the assessment of his income and has paid or made satisfactory arrangements to pay any tax or interest payable in consequence of an order passed under this Act in respect of the relevant tax year.

10 (2) For the purposes of sub-section (1), a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto if the difference between the assessed and returned income does not attract penalties under section 439.

15 (3) If the penalty under section 439 relates to income or disclosure in respect of income relates to more than one tax year and aggregate amount of such income or disclosure thereof for such years exceeds five lakh rupees, the Principal Commissioner or Commissioner shall obtain prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, before waiving or reducing the penalty by order referred to in sub-section (1).

20 (4) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more tax years, he shall not be entitled to any relief under this section in relation to any other tax year at any time after the making of such order.

25 (5) The Principal Commissioner or Commissioner may, upon an application from the assessee, and after recording his reasons for doing so, reduce or waive the amount of penalty or penalties (whether they relate to one or more tax years) payable by the assessee or stay or compound any proceeding for the recovery of any such amount, if—

30 (a) doing otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(b) the assessee has cooperated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

35 (6) The Principal Commissioner or Commissioner shall take prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, if the aggregate amount of penalties reduced or waived or compounded, as the case may be, under sub-section (5), exceeds one lakh rupees.

40 (7) An order under sub-section (5), accepting or rejecting the application under the said sub-section, shall be passed within twelve months from the end of the month in which such application was received by the Principal Commissioner or Commissioner.

(8) No rejection of application under sub-section (5) shall be made without giving the assessee an opportunity of being heard.

45 (9) Every order made under this section shall be final and shall not be called into question by any court or any other authority.

50 **470.** Irrespective of anything contained in the provisions of section 441 or 442 or 446 or 447 or 448 or 449 or 450 or 451 or 454 or 455 or 456 or 457 or 458 or 459 or 460 or 461 or 462 or 463 or 465(1)(c) or 465(1)(d) or 465(2)(c) or 465(2)(d) or 466 or 467 or 468(1) or 468(2), no penalty shall be imposed on a person or assessee for any failure referred to in the said provisions, if he proves that there was reasonable cause for the said failure.

Penalty not to be imposed in certain cases.

Procedure.

**471.** (1) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

(2) No order imposing a penalty under this Chapter shall be made without the prior approval of the Joint Commissioner— 5

(a) where the penalty exceeds ten thousand rupees, by the Income-tax Officer;

(b) where the penalty exceeds twenty thousand rupees, by the Assistant Commissioner or Deputy Commissioner.

(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he himself is the Assessing Officer, shall send a copy of the order to the Assessing Officer. 10

Bar of  
limitation for  
imposing  
penalties.

**472.** (1) No order imposing a penalty under this Chapter shall be passed after the expiry of six months from the end of the quarter in which—

(a) the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, if the relevant assessment or other order is not the subject-matter of an appeal under section 356 or 357 or 362; 15

(b) the order of revision is passed, if the relevant assessment or other order is the subject-matter of revision under section 377 or 378;

(c) the order of appeal is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject-matter of an appeal under section 356 or 357 or 362; 20

(d) notice for imposition of penalty is issued, in any other case.

(2) The order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be revised on the basis of assessment as revised by giving effect to the order under section 356 or 357 or 362 or 365 or 367 or revision under section 377 or 378, where the relevant assessment or other order is the subject-matter of an appeal or revision under the said sections. 25

(3) No order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty under sub-section (2) shall be passed— 30

(a) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(b) after the expiry of six months from the end of the quarter in which the order under section 356 or 357 or 362 or 365 or 367 is received by the jurisdictional Principal Commissioner or Commissioner or the order of revision under section 377 or 378 is passed. 35

(4) The provisions of section 471(2) shall apply to the order imposing or enhancing or reducing penalty under this section. 40

(5) In computing the period of limitation for the purposes of this section, following period shall be excluded—

(a) the time taken in giving an opportunity to the assessee to be reheard under the section 244 (2);

(b) the period commencing on the date on which stay on proceeding for levy of penalty was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner. 45

## CHAPTER XXII

## OFFENCES AND PROSECUTION

- 5 **473.** Whoever contravenes any order referred to in section 247(I)(viii) or (4) shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine. Contravention of order made under section 247.
- 474.** If a person, who is required to afford the authorised officer with the necessary facility to inspect the books of account or other documents under section 247(I)(b)(ii) fails to do so, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine. Failure to comply with section 247(I)(b)(ii).
- 10 **475.** Whoever, fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, with the intent to prevent such property or interest from being taken in execution of a certificate as prescribed, shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine. Removal, concealment, transfer or delivery of property to prevent tax recovery.
- 15 **476.** (I) If a person fails to—  
     (a) pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XIX-B; or  
     (b) pay tax or ensure payment of tax to the credit of the Central Government, as required under—  
     (i) Note 3 in Table in section 393(3); or  
     (ii) Note 6 to section 393(I) (Table: Sl. No. 8),  
 he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years, and shall also be liable to fine. Failure to pay tax to credit of Central Government under Chapter XIX-B.
- 20 (2) The provisions of this section shall not apply if the payment referred to in sub-section (I)(a) has been credited to the Central Government on or before the time prescribed for filing the statement for such payment under section 397(3)(b).
- 477.** (I) Where a person fails to pay to the credit of the Central Government the tax collected by him as required under section 394, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine. Failure to pay tax collected at source.
- 30 (2) The provisions of this section shall not apply if the payment of the tax collected at source has been made to the credit of the Central Government at any time on or before the time prescribed for filing the statement under section 397(3)(b) in respect of such payment.
- 35 **478.** (I) If a person wilfully attempts in any manner to evade payment of any tax, penalty or interest chargeable or imposable, or under-reports his income, under this Act, he shall be punishable,—  
     (a) in a case, where the amount sought to be evaded or tax on under-reported income exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;  
     (b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine,  
 45 and shall also be liable for penalty that may be imposable on him under any other provision of this Act. Wilful attempt to evade tax, etc.
- 50 (2) If a person wilfully attempts in any manner to evade the payment of any tax, penalty or interest under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall, in the discretion of the court, also be liable to fine.