

*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 <sup>1</sup>[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.

<sup>2</sup>[(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.

<sup>3</sup>[(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, <sup>4</sup>[one year] from the last day of such assessment year;]

<sup>5</sup>[(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 <sup>1</sup>[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:

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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).

<sup>1</sup>[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).*

<sup>2</sup>**[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.**—<sup>3</sup>[(1) If the <sup>4</sup>[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 <sup>5</sup>[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 <sup>6</sup>[<sup>7</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>8</sup>[Principal Commissioner or Commissioner]] whose decision shall be final.

<sup>9</sup>[(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.]

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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 <sup>1</sup>[Assessing Officer] does not grant the refund <sup>2</sup>[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 <sup>3</sup>[fifteen per cent.] per annum on the amount of refund due from the date immediately following the expiry of <sup>4</sup>[the period of three months aforesaid] to the date on which the refund is granted.

<sup>5</sup>[(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.]

<sup>6</sup>[(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 <sup>7</sup>[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.

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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).

<sup>3</sup>. 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).

<sup>1</sup>[(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.]

<sup>2</sup>**[244A. Interest on refunds.—(I)** <sup>3</sup>[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:—

<sup>4</sup>[(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 (I) 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 <sup>5</sup>[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 (I) of section 143 or on regular assessment;]

(b) in any other case, such interest shall be calculated at the rate of <sup>5</sup>[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.

<sup>6</sup>[(IA) 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 (I), 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.]

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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).

<sup>1</sup>[(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 <sup>1</sup>[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 <sup>2</sup>[under sub-section (1) or (1A)] <sup>1</sup>[or (1B)], and where any question arises as to the period to be excluded, it shall be decided by the <sup>3</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>4</sup>[Principal Commissioner or Commissioner] whose decision thereon shall be final.

(3) Where, as a <sup>5</sup>[result of an order under sub-section (3) of section 115WE or section 115WF or section 115WG or] <sup>6</sup>[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:]

<sup>7</sup>[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 <sup>8</sup>[Assessing Officer], <sup>9</sup>[Deputy Commissioner (Appeals)] <sup>10</sup>[, or the Commissioner (Appeals) or Commissioner or] <sup>11</sup><sup>3</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>4</sup>[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.

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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).

<sup>1</sup>[CHAPTER XIXA

## SETTLEMENT OF CASES

<sup>2</sup>[**245A. Definitions.**—In this Chapter, unless the context otherwise requires,—

(a) “Bench” means a Bench of the Settlement Commission;

<sup>3</sup>[(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.

$$4_* \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad *$$

*Explanation.*—For the purposes of this clause—

<sup>5</sup>[(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;]

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<sup>7</sup>[(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;]

<sup>8</sup>[(*iii*) a proceeding for assessment or reassessment for any of the assessment years, referred to in clause (*b*) of sub-section (*1*) 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 <sup>9</sup>[clause (i) or clause (iii) or clause (iiia)], shall be deemed to have commenced <sup>10</sup>[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 <sup>11</sup>[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.

<sup>1</sup>[(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 <sup>1</sup>[and the Special Bench shall sit at a place to be fixed by the Chairman].]

<sup>2</sup>**[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.]

<sup>2</sup>**[245BC. Power of Chairman to transfer cases from one Bench to another.]**— On the application of the assessee or the <sup>3</sup>[<sup>4</sup>Principal Chief Commissioner or Chief Commissioner] or <sup>5</sup>[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.]

<sup>2</sup>**[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.**—<sup>6</sup>[(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 <sup>7</sup>[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:

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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).



<sup>1</sup>[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,

<sup>2</sup>[(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.]

<sup>2</sup>[*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;

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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,<sup>1</sup>[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,<sup>1</sup>[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 <sup>2\*\*\*\*</sup>, 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).

<sup>3</sup>[(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.]

<sup>4</sup>[(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;

<sup>5</sup>\* \* \* \* \*

(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.

<sup>6</sup>\* \* \* \* \*

(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.

<sup>7</sup>[(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.]

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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.**—<sup>1</sup>[(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 <sup>3</sup>[Principal Commissioner or Commissioner].

<sup>4</sup>[(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 <sup>3</sup>[Principal Commissioner or Commissioner], and the <sup>3</sup>[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 <sup>3</sup>[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 <sup>3</sup>[Principal Commissioner or Commissioner]:

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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 <sup>1</sup>[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 <sup>1</sup>[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.]

<sup>2</sup>[(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 <sup>1</sup>[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 <sup>1</sup>[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 <sup>1</sup>[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 <sup>1</sup>[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 <sup>1</sup>[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 <sup>1</sup>[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

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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 <sup>1</sup>[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 <sup>2</sup>[but before the 1st day of June, 2010], within twelve months from the end of the month in which the application was made;]

<sup>3</sup>[(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.]

<sup>4</sup>[(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 <sup>5</sup>[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.

<sup>6</sup>[(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 <sup>7</sup>[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.]

<sup>8</sup>[(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:

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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.

<sup>1</sup>[(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 <sup>2</sup>[Assessing Officer] in pursuance of any directions contained in such order passed by the Settlement Commission <sup>3</sup>[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.]]

<sup>4</sup>**[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 <sup>5</sup>\*\*\*.]

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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 <sup>1\*\*\*</sup> 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:

<sup>2</sup>[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:]

<sup>3</sup>[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:

<sup>4</sup>[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 <sup>5\*\*\*</sup> 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.

<sup>6</sup>[<sup>7</sup>\* \* \* \* \*

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 <sup>1</sup>[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 <sup>2</sup>[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:

<sup>3</sup>[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:]

<sup>4</sup>[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.]

<sup>3</sup>[(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 <sup>5\*\*\*</sup> 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.

<sup>6</sup>[**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

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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

<sup>1</sup>[(*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;

<sup>1</sup>[(*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.]

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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 <sup>1</sup>[Assessing Officer] having jurisdiction over the person who made the application for settlement under section 245C.

<sup>2</sup>**[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, <sup>3</sup>[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 <sup>4</sup>[or any related person shall not be subsequently entitled] to make an application under section 245C.]

<sup>5</sup>[*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;

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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).]

## <sup>1</sup>[CHAPTER XIX-B

### ADVANCE RULINGS

**245N. Definitions.**—In this Chapter, unless the context otherwise requires,—

<sup>2</sup>[(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 <sup>3</sup>[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 <sup>4</sup>[such non-resident]; <sup>5</sup>[or]

<sup>5</sup>[(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;

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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).

<sup>1</sup>[(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:]

<sup>2</sup>[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;]

<sup>3</sup>[(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;

<sup>4</sup>[(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”:

<sup>5</sup>[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.]

<sup>5</sup>[(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:

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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.]

<sup>1</sup>[(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 <sup>2</sup>[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;

<sup>3</sup>[(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;]

<sup>4</sup>[(d) a law Member from the Indian Legal Service, who is, or is qualified to be, an Additional Secretary to the Government of India <sup>2</sup>[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.

<sup>2</sup>[(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:

<sup>5</sup>[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.]

<sup>6</sup>**[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 <sup>1</sup>[<sup>2</sup>\*\*\* 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 <sup>3</sup>[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 <sup>4</sup>[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 <sup>3</sup>[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:

<sup>5</sup>[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 <sup>6</sup>\*\*\* <sup>7</sup>[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 <sup>3</sup>[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.

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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 <sup>1</sup>[Principal Commissioner or Commissioner], as soon as may be, after such pronouncement.

<sup>2</sup>[**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, <sup>3</sup>[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 <sup>1</sup>[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 <sup>1</sup>[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 <sup>1</sup>[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.]

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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

<sup>1</sup>[A.—*Appeals*<sup>2\*\*\*</sup> 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*)<sup>3</sup>[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 Act<sup>4</sup>[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<sup>5\*\*\*</sup><sup>6</sup>[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<sup>5\*\*\*</sup><sup>6</sup>[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;

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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, <sup>1</sup>[\*\*\* section 272A, section 272AA or section 272BB];

(iii) <sup>2</sup>\*\*\* 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.

<sup>3</sup>[(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) <sup>3</sup>[before the 1st day of June, 2000] against such order—

(a) <sup>4</sup>[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) <sup>5</sup>[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;

<sup>6</sup>[(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;]

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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 <sup>1</sup>[or section 271BB];

<sup>2</sup>[(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;

<sup>3</sup>[(ff) an order made by a Deputy Commissioner imposing a penalty under section 272AA;]

<sup>4</sup>[(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 <sup>5</sup>[Principal Director General or Director General], or the <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>7</sup>[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 <sup>5</sup>[Principal Director General or Director General] or <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>7</sup>[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.]

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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).

<sup>1</sup>[**246A. Appealable orders before Commissioner (Appeals).**—(1) <sup>2</sup>[Any assessee or any deductor <sup>3</sup>[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) <sup>4</sup>[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 <sup>5</sup>[section 143 or <sup>6</sup>[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 <sup>7</sup>[except an order passed in pursuance of directions of the Dispute Resolution Panel <sup>8\*\*\*</sup> <sup>9</sup>[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;

<sup>10</sup>[(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 <sup>7</sup>[except an order passed in pursuance of directions of the Dispute Resolution Panel <sup>8\*\*\*</sup> <sup>9</sup>[or an order referred to in sub-section (12) of section 144BA]] or section 150;

<sup>11</sup>[(ba) an order of assessment or reassessment <sup>12</sup>[under section 153A <sup>7</sup>[except an order passed in pursuance of directions of the <sup>13</sup>[Dispute Resolution Panel]] <sup>8\*\*\*</sup> <sup>9</sup>[or an order referred to in sub-section (12) of section 144BA];]

<sup>14</sup>[(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 <sup>15\*\*\*</sup> <sup>9</sup>[except an order referred to in sub-section (12) of section 144BA];

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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;

<sup>1</sup>[(ha) an order made under section 201;]

<sup>2</sup>[(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, <sup>2</sup>[section 271AAA,] <sup>3</sup>[section 271AAB,] <sup>4</sup>[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;

<sup>5</sup>[(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 <sup>6</sup>[section 271C, section 271CA,] section 271D or section 271E;

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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.

<sup>1</sup>[(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.]

<sup>2</sup>[(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).*

<sup>3</sup>[**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 <sup>4</sup>[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;

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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;]

<sup>1</sup>[(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,—

<sup>2</sup>[(a) where the appeal is under section 248, the date of payment of the tax, or]

<sup>3</sup>[(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 <sup>4</sup>[excluded :]]

<sup>5</sup>[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.

<sup>6</sup>[(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 <sup>7</sup>[\*\*\* 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.

<sup>8</sup>[(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

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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, <sup>1</sup>[in a case falling under clause (b) and] on an application made by the appellant in this behalf, the <sup>2</sup>[\*\*\* Commissioner (Appeals)] may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of <sup>3</sup>[that clause].]

**250. Procedure in appeal.**—(1) The <sup>4</sup>[\*\*\* 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 <sup>5</sup>[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 <sup>5</sup>[Assessing Officer,] either in person or by a representative.

(3) The <sup>4</sup>[\*\*\* Commissioner (Appeals)] shall have the power to adjourn the hearing of the appeal from time to time.

(4) The <sup>4</sup>[\*\*\* Commissioner (Appeals)] may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the <sup>5</sup>[Assessing Officer] to make further inquiry and report the result of the same to the <sup>4</sup>[\*\*\* Commissioner (Appeals)].

(5) The <sup>4</sup>[\*\*\* 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 <sup>4</sup>[\*\*\* 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 <sup>4</sup>[\*\*\* 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.

<sup>6</sup>[(6A) In every appeal, the <sup>4</sup>[\*\*\* 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 <sup>4</sup>[\*\*\* Commissioner (Appeals)] shall communicate the order passed by him to the assessee and to the <sup>7</sup>[<sup>8</sup>Principal Chief Commissioner or Chief Commissioner] or <sup>9</sup>[Principal Commissioner or Commissioner]].

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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. 1-4-198) 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. 1-4-198) 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 <sup>1</sup>[\*\*\* Commissioner (Appeals)].**—(1) In disposing of an appeal, the <sup>1</sup>[\*\*\* Commissioner (Appeals)] shall have the following powers—

(a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment<sup>2\*\*\*</sup>;

<sup>3</sup>[(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 <sup>1</sup>[\*\*\* 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 <sup>1</sup>[\*\*\* 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 <sup>1</sup>[\*\*\* 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.

<sup>4</sup>[(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 <sup>5</sup>[Indian Legal Service] and has held a post in <sup>6</sup>[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;

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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 <sup>1</sup>[Additional Commissioner of Income-tax] or any equivalent or higher post for at least three years.]

(a) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

to be the President thereof.]

$5^*$                       \*                      \*                      \*

<sup>8</sup>[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:

1. Subs. by Act 21 of 1998, s. 51, for "Commissioner of Income-tax" (w.e.f. 1-8-1998).

2. Subs. by Act 17 of 2013, s. 56, for sub-section (3) (w.e.f. 1-6-2013).

3. The words “the Senior Vice-President or” omitted by Act 28 of 2016, s. 94 (w.e.f. 1-6-2016).

4. Ins. by Act 16 of 1972, s. 40 (w.e.f. 1-4-1972).

5. Sub-section (4A) omitted by Act 28 of 2016, s. 94 (w.e.f. 1-6-2016). Which was inserted by Act 21 of 1984, s. 24 (w.e.f. 1-4-1984).

6. Subs. by Act 21 of 1984, s. 24, for "A Vice-President" (w.e.f. 1-4-1984).

7. The words “Senior Vice-President or a” omitted by Act 28 of 2016, s. 94 (w.e.f. 1-6-2016).

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 <sup>1</sup>[an <sup>2</sup>[Deputy Commissioner (Appeals)] <sup>3</sup>[before the 1st day of October, 1998] or, as the case may be, a Commissioner (Appeals)] under <sup>4\*\*\*\*</sup> <sup>5</sup>[section 154], <sup>6\*\*\*\*</sup> section 250, <sup>7</sup>[section 270A] <sup>8</sup>[, section 271, section 271A <sup>9</sup>[, section 271J] or section 272A]; or

<sup>10</sup>[(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]

<sup>11</sup>[(ba) an order passed by an Assessing Officer under sub-section (1) of section 115VZC; or]

(c) <sup>12</sup>[an order passed by a <sup>13</sup>[Principal Commissioner or Commissioner] <sup>14</sup>[under section 12AA or under clause (vi) of sub-section (5) of section 80G] or under section 263] <sup>7</sup>[or under section 270A] <sup>15</sup>[or under section 271] <sup>16</sup>[or under section 272A] <sup>5</sup>[<sup>17\*\*\*\*</sup> or an order passed by him under section 154 amending his order under section 263] <sup>18</sup>[or an order passed by a <sup>19</sup>[Principal Chief Commissioner or Chief Commissioner] or a <sup>20</sup>[Principal Director General or Director General] or a <sup>21</sup>[<sup>22</sup>[Principal Director or Director] under section 272A]; or]

<sup>23</sup>[(d) an order passed by an Assessing Officer under sub-section (3), of section 143 or <sup>24</sup>[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;]

<sup>25</sup>[(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 <sup>13</sup>[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;]

<sup>26</sup>[(f) an order passed by the prescribed authority under <sup>27</sup>[sub-clause (iv) or sub-clause (v) or] sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.]

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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 <sup>1</sup>[Principal Commissioner or Commissioner] may, if he objects to any order passed by <sup>2</sup>[an <sup>3</sup>Deputy Commissioner (Appeals)] <sup>4</sup>[before the 1st day of October, 1998] or, as the case may be, a Commissioner (Appeals)] under <sup>5</sup>[section 154 or] section 250, direct the <sup>6</sup>[Assessing Officer] to appeal to the Appellate Tribunal against the order.

<sup>7</sup>\* \* \* \*

(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 <sup>1</sup>[Principal Commissioner or Commissioner], as the case may be:

<sup>8</sup>[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.]

<sup>9</sup>\* \* \* \*

<sup>10</sup>[(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.

<sup>11</sup>[(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,

<sup>12</sup>[(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:]

<sup>13</sup>[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 within<sup>2</sup>[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 <sup>3</sup>[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:

<sup>4</sup>[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.]

<sup>5</sup>[(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) <sup>6</sup>[or sub-section (2)] <sup>7</sup>\*\*\* of section 253:

<sup>8</sup>[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:

<sup>9</sup>[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.]]

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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 <sup>1</sup>[<sup>2\*\*\*</sup><sup>3</sup>[Principal Commissioner or Commissioner]].

(4) <sup>4</sup>[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 <sup>5</sup>[Assessing Officer] in the case does not exceed <sup>6</sup>[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).

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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).

<sup>1</sup>[*C. Reference to High Court*]

**256. Statement of case to the High Court.**—(1) The assessee or the <sup>2</sup>[Principal Commissioner or Commissioner] may, within sixty days of the date upon which he is served with notice of <sup>3</sup>[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 <sup>4</sup>[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 <sup>2</sup>[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.

<sup>5</sup>[(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 <sup>6</sup>[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.

<sup>7</sup>[**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.]

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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.

<sup>1</sup>[**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.

<sup>2</sup>[(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.]

<sup>3</sup>[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 <sup>4</sup>[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) <sup>5</sup>[The <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or the <sup>7</sup>[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 <sup>8</sup>[received by the assessee or the <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>7</sup>[Principal Commissioner or Commissioner];

<sup>9</sup>\* \* \* \* \*

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

<sup>10</sup>[(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.

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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).

<sup>1</sup>[(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 <sup>2</sup>[delivered <sup>3</sup>[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.

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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.).



**263. Revision of orders prejudicial to revenue.**—(1) The <sup>1</sup>[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 <sup>2</sup>[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.

<sup>3</sup>[<sup>4</sup>*Explanation 1.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—

(a) an order passed <sup>5</sup>[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 <sup>6</sup>[Assistant Commissioner or Deputy Commissioner] or the Income-tax Officer on the basis of the directions issued by the <sup>7</sup>[Joint Commissioner] under section 144A;

(ii) an order made by the <sup>7</sup>[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 <sup>8</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>9</sup>[Principal Director General or Director General] or <sup>1</sup>[Principal Commissioner or Commissioner] authorised by the Board in this behalf under section 120;

(b) “record”<sup>10</sup>[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 <sup>1</sup>[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 <sup>5</sup>[filed on or before or after the 1st day of June, 1988], the powers of the <sup>1</sup>[Principal Commissioner or Commissioner] under this sub-section shall extend <sup>11</sup>[and shall be deemed always to have extended] to such matters as had not been considered and decided in such appeal.]

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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).

<sup>1</sup>[*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.]

<sup>2</sup>[(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, <sup>3</sup>[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 <sup>4</sup>[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 <sup>4</sup>[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.

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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 the<sup>1</sup>[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) The <sup>1</sup>[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 the <sup>2</sup>[Deputy Commissioner (Appeals)]<sup>3</sup>[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 appeal <sup>4</sup>[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 the <sup>2</sup>[Deputy Commissioner(Appeals)]; or

(c) where the order has been made the subject of an appeal <sup>4</sup>[to the Commissioner (Appeals) or] to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by <sup>5</sup>[a fee of five hundred rupees].

<sup>6</sup>[(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, <sup>7</sup>[National Tax Tribunal,] the High Court or the Supreme Court.]

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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 <sup>1</sup>[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 <sup>2</sup>[Deputy Commissioner (Appeals)] shall be deemed to be an authority subordinate to the <sup>1</sup>[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.

<sup>3</sup>[**267. Amendment of assessment on appeal.**—Where as a result of an appeal under section 246 <sup>4</sup>[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 <sup>5\*\*\*</sup> 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 <sup>6</sup>[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.

<sup>7</sup>[**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

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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;

<sup>1</sup>[(ii) in relation to the Union territory of Delhi, the High Court of Delhi;

<sup>2</sup>\* \* \* \* \*

<sup>3</sup>\* \* \* \* \*

(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 <sup>4</sup>[Lakshadweep], the High Court of Kerala;]

<sup>5</sup>[(va) in relation to the Union territory of Chandigarh, the High Court of Punjab and Haryana;

<sup>6</sup>[(vi) in relation to the Union territories of Dadra and Nagar Haveli and <sup>7</sup>\*\*\* Daman and Diu, the High Court at Bombay; and

(vii) in relation to the Union territory of Pondicherry, the High Court at Madras.]

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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).

<sup>1</sup>[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) <sup>2</sup>[“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;

<sup>3</sup>[(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;

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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 (i) 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 <sup>1</sup>[a <sup>2</sup>[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;

<sup>3</sup>[(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) <sup>4</sup>[“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.

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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 <sup>1</sup>[sub-clause], land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein;

<sup>2</sup>[(ii) any rights of the nature referred to in clause (b) of sub-section (I) of section 269AB;]

<sup>3</sup>[(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 ;

<sup>4</sup>[(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.]

<sup>5</sup>[**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;

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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 <sup>1</sup>[ <sup>2</sup>Joint 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.

<sup>3</sup>[*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 <sup>4</sup>[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

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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 <sup>1</sup>[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), <sup>2</sup>[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 <sup>1</sup>[nine months] specified in the foregoing proviso; or

(ii) a period of thirty days from the date of such determination,

whichever period expires later;

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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.

<sup>1</sup>[*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.

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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 exceeding <sup>1</sup>[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 <sup>2</sup>[Principal Commissioner or Commissioner], make an order for the acquisition of the property under this Chapter.

*Explanation.*—In this sub-section, <sup>2</sup>[Principal Commissioner or Commissioner], in relation to a competent authority, means such <sup>2</sup>[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.

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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 <sup>1</sup>[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 <sup>2</sup>[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 <sup>3</sup>[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 <sup>4</sup>[Principal Commissioner or Commissioner].

(7) Save as provided in section 269H, orders passed by the Appellate Tribunal on appeal shall be final.

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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 <sup>1</sup>[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.

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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.

<sup>1</sup>[(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:

<sup>2</sup>[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.]

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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:



<sup>1</sup>[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 <sup>2</sup>[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;

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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 <sup>1</sup>[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).

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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 :

<sup>1</sup>[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 <sup>2</sup>[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.

<sup>3</sup>[**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.

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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).

## <sup>1</sup>[CHAPTER XXB

### REQUIREMENT AS TO <sup>2</sup>[MODE OF ACCEPTANCE, PAYMENT OR REPAYMENT] IN CERTAIN CASES TO COUNTERACT EVASION OF TAX

<sup>3</sup>[**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.]

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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).

<sup>1</sup>[**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.]

<sup>2</sup>[**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 <sup>3</sup>[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 <sup>3</sup>[or paid the specified advance,] <sup>4</sup>[or by use of electronic clearing system through a bank account] if—

(a) the amount of the loan or deposit <sup>3</sup>[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, <sup>3</sup>[or]

<sup>3</sup>[(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,]

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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:

<sup>1</sup>[Provided further that nothing contained in this section shall apply to repayment of any loan or deposit <sup>2</sup>[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;]]

<sup>2</sup>[(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.]

<sup>3</sup>[**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.]

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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;

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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, <sup>1</sup>[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 <sup>2</sup>[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.

<sup>3</sup>[(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

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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) <sup>1</sup>[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, <sup>2\*\*\*\*</sup> 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:

<sup>3</sup>[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:]

<sup>4</sup>[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:]

<sup>5</sup>[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 <sup>6</sup>[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:

<sup>7</sup>[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.]

<sup>8</sup>[(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.

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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 <sup>1</sup>[in terms of the agreement for transfer referred to in sub-section (1) of section 269UC]:

<sup>2</sup>[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:

<sup>2</sup>[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.

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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 <sup>1</sup>[<sup>2</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>3</sup>[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.

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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.

<sup>1</sup>[**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.]

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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).*

<sup>1</sup>[**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);

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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.]

<sup>1</sup>[**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.]

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1. Ins. by Act 28 of 2016, s. 99 (w.e.f. 1-4-2017).

$$7_* \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad *$$

(c) has concealed the particulars of his income or <sup>11\*\*\*</sup> furnished inaccurate particulars of <sup>12</sup>[such income, or]

he may direct that such person shall pay by way of penalty,—

$$14_* \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad *$$

<sup>18</sup>[(iii) in the cases referred to in <sup>19</sup>[clause (c) or clause (d)], <sup>16</sup>[in addition to tax, if any, payable] by him, a sum which shall not be less than, but which shall not exceed <sup>20</sup>[three times], the amount of tax sought to be evaded by reason of the concealment of particulars of his <sup>21</sup>[income or fringe benefits] or the furnishing of inaccurate particulars of such <sup>21</sup>[income or fringe benefits].

22\* \* \* \*

(A) such person fails to offer an explanation or offers an explanation which is found by the <sup>2</sup>[Assessing Officer] or the <sup>3\*\*\*</sup> <sup>4</sup>[Commissioner (Appeals)] <sup>5</sup>[or the <sup>6</sup>[Principal Commissioner or Commissioner]] to be false, or

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(B) such person offers an explanation which he is <sup>1</sup>[not able to substantiate and fails to prove that such explanation is *bona fide* and that all the facts relating to the same and material to the computation of his total income have been disclosed by him,]

then, the amount added or disallowed in computing the total income of such person as a result thereof shall, for the purposes of clause (c) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed.

<sup>2</sup>\*

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*Explanation 2.*—Where the source of any receipt, deposit, outgoing or investment in any assessment year is claimed by any person to be an amount which had been added in computing the income or deducted in computing the loss in the assessment of such person for any earlier assessment year or years but in respect of which no penalty under clause (iii) of this sub-section had been levied, that part of the amount so added or deducted in such earlier assessment year immediately preceding the year in which the receipt, deposit, outgoing or investment appears (such earlier assessment year hereafter in this *Explanation* referred to as the first preceding year) which is sufficient to cover the amount represented by such receipt, deposit or outgoing or value of such investment (such amount or value hereafter in this *Explanation* referred to as the utilised amount) shall be treated as the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the first preceding year; and where the amount so added or deducted in the first preceding year is not sufficient to cover the utilised amount, that part of the amount so added or deducted in the year immediately preceding the first preceding year which is sufficient to cover such part of the utilised amount as is not so covered shall be treated to be the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the year immediately preceding the first preceding year and so on, until the entire utilised amount is covered by the amounts so added or deducted in such earlier assessment years.

<sup>3</sup>[*Explanation 3.*—Where any person <sup>4</sup>\*\*\*\* fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the period aforesaid, no notice has been issued to him under clause (i) of sub-section (1) of section 142 or section 148 and the Assessing Officer or the <sup>5</sup>\*\*\* Commissioner (Appeals) is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.]

<sup>6</sup>[*Explanation 4.*—For the purposes of clause (iii) of this sub-section,—

(a) the amount of tax sought to be evaded shall be determined in accordance with the following formula—

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

where,

A = amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115Jb or section 115JC (herein called general provisions);

1. Subs. by Act 46 of 1986, s. 19, for “not able to substantiate,” (w.e.f. 10-9-1986).

2. The proviso omitted by s. 19, *ibid.* (w.e.f. 10-9-1986).

3. Subs. by Act 3 of 1989, s. 50, for the *Explanation* (w.e.f. 1-4-1989). Earlier *Explanation 3* amended by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

4. The words “who has not previously been assessed under this Act,” omitted by Act 20 of 2002, s. 101 (w.e.f. 1-4-2003).

5. The words “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998).

6. Subs. by Act 20 of 2015, s. 70, for *Explanation 4* (w.e.f. 1-4-2016).

$B$  = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished;

$C$  = amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC;

$D$  = amount of tax 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 income in respect of which particulars have been concealed or inaccurate particulars have been furnished:

Provided that where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished 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  $D$ :

Provided further that in a case where the provisions contained in section 115JB or section 115JC are not applicable, the item  $(C - D)$  in the formula shall be ignored;

(b) where in any case the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the formula specified in clause (a) with the modification that the amount to be determined for item  $(A - B)$  in that formula shall be the amount of tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income;

(c) where in any case to which *Explanation 3* applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.]]

<sup>1</sup>[*Explanation 5*.—Where in the course of a <sup>2</sup>[search initiated under section 132 before the 1st day of June, 2007], the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

(a) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date, such income has not been declared therein ; or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income, <sup>3</sup>[unless,—

(1) such income is, or the transactions resulting in such income are recorded,—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date,

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1. Ins. by Act 67 of 1984, s. 48 (w.e.f. 1-10-1984).

2. Subs. by Act 22 of 2007, s.76, for “search under section 132” (w.e.f. 1-6-2007).

3. Subs. by Act 46 of 1986, s. 19, for certain words (w.e.f. 10-9-1986).

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the <sup>1</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>3</sup>[Principal Commissioner or Commissioner] before the said date ; or]

(2) he, in the course of the search, makes a statement under sub-section (4) of section 132 that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control, has been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of time specified in <sup>4</sup>\*\*\* sub-section (1) of section 139, and also specifies in the statement the manner in which such income has been derived and pays the tax, together with interest, if any, in respect of such income.]

<sup>5</sup>[*Explanation 5A*.—Where, in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of—

(i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income for any previous year; or

(ii) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year,

which has ended before the date of search and,—

(a) where the return of income for such previous year has been furnished before the said date but such income has not been declared therein; or

(b) the due date for filing the return of income for such previous year has expired but the assessee has not filed the return,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.]

<sup>6</sup>[*Explanation 6*.—Where any adjustment is made in the income or loss declared in the return under the proviso to clause (a) of sub-section (1) of section 143 and additional tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustment so made.]

<sup>7</sup>[*Explanation 7*.—Where in the case of an assessee who has entered into an <sup>8</sup>[international transaction or specified domestic transaction] defined in section 92B, any amount is added or disallowed in computing the total income under sub-section (4) of section 92C, then, the amount so added or disallowed shall, for the purposes of clause (c) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed or inaccurate particulars have been furnished, unless the assessee proves to the satisfaction of the Assessing Officer or the Commissioner (Appeals) <sup>9</sup>[or the <sup>3</sup>[Principal Commissioner or Commissioner]] that the price charged or paid in such transaction was computed in accordance with the provisions contained in section 92C and in the manner prescribed under that section, in good faith and with due diligence.]

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.r.e.f. 1-6-2013).

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

4. The words, brackets and letters “clause (a) or clause (b) of” omitted by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989).

5. Subs. by Act 33 of 2009, s. 74, for “*Explanation 5A*” (w.r.e.f. 1-6-2007). Earlier it was inserted by Act 22 of 2007, s. 76 (w.e.f. 1-6-2007 ).

6. Ins. by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989).

7. Ins. by Act 14 of 2001, s. 86 (w.e.f. 1-4-2002).

8. Subs. by Act 23 of 2012, s. 97, for the words “International transaction” (w.e.f. 1-4-2013).

9. Ins. by Act 20 of 2002, s. 101 (w.e.f. 1-6-2002).

<sup>1</sup>[(1A) Where any penalty is imposable by virtue of *Explanation 2* to sub-section (1), proceedings for the imposition of such penalty may be initiated notwithstanding that any proceedings under this Act in the course of which such penalty proceedings could have been initiated under sub-section (1) have been completed.]

<sup>2</sup>[(1B) Where any amount is added or disallowed in computing the total income or loss of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under clause (c) of sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under the said clause (c).]

(2) When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under <sup>3</sup>[clause (b) of section 183,] then notwithstanding anything contained in the other provisions of this Act, the penalty imposable under sub-section (1) shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.

<sup>4</sup>\* \* \* \*

(4) If the <sup>5</sup>[Assessing Officer] or the <sup>6</sup>[\*\*\* Commissioner (Appeals)] in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership on the basis of which the firm has been registered under this Act, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the tax, if any, payable by him, pay by way of penalty a sum not exceeding one and a half times the amount of tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

<sup>7</sup>\* \* \* \*

<sup>8</sup>[(5) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989) shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section 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.]

<sup>9</sup>[(6) Any reference in this section to the income shall be construed as a reference to the income or fringe benefits, as the case may be, and the provisions of this section shall, as far as may be, apply in relation to any assessment in respect of fringe benefits also.]

<sup>10</sup>[(7) The provisions of this section shall not apply to and in relation to any assessment for the assessment year commencing on or after the 1st day of April, 2017.]

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1. Ins. by Act 41 of 1975, s. 61 (w.e.f. 1-4-1976).

2. Ins. by Act 18 of 2008, s. 52 (w.e.f. 1-4-1989).

3. Now Section 183 omitted by Act 18 of 1992, s. 65 (1-4-1993).

4. Sub-section (3) omitted by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989). Earlier it was amended by Act 41 of 1975, s. 61 (w.e.f. 1-4-1976).

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

6. 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).

7. Sub-sections (4A) and (4B) omitted by Act 41 of 1975, s. 61 (w.e.f. 1-10-1975). Earlier the said sub-sections was inserted by Act 1 of 1965, s. 3 (w.e.f. 12-3-1965) and later on sub-section (4A) was substituted by Act 42 of 1970, s. 48 (w.e.f. 1-4-1971).]

8. Ins. by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989).

9. Ins. by Act 18 of 2005, s. 58 (w.e.f. 1-4-2006).

10. Ins. by Act 28 of 2016, s. 100 (w.e.f. 1-4-2017).

<sup>1</sup>[**271A. Failure to keep, maintain or retain books of account, documents, etc.**—Without prejudice to the provisions of <sup>2</sup>[section 270A or] section 271, if any person <sup>3\*\*\*</sup> fails to keep and maintain any such books of account and other documents as required by section 44AA or the rules made thereunder, in respect of any previous year or to retain such books of account and other documents for the period specified in the said rules, the <sup>4</sup>[Assessing Officer] or the <sup>5</sup>[\*\*\* Commissioner (Appeals)] may direct that such person shall pay, by way of penalty, <sup>6</sup>[a sum of twenty-five thousand rupees].]

<sup>7</sup>[**271AA. Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.**—<sup>8</sup>[(I)] Without prejudice to the provisions of <sup>9</sup>[section 270A or] section 271 or section 271BA, if any person in respect of an <sup>10</sup>[international transaction or specified domestic transaction],—

(i) fails to keep and maintain any such information and document as required by sub-section (I) or sub-section (2) of section 92D;

(ii) fails to report such transaction which he is required to do so; or

(iii) maintains or furnishes an incorrect information or document,

the Assessing Officer or Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of each <sup>10</sup>[international transaction or specified domestic transaction] entered into by such person.]

<sup>9</sup>[(2) If any person fails to furnish the information and the document as required under sub-section (4) of section 92D, the prescribed income-tax authority referred to in the said sub-section may direct that such person shall pay, by way of penalty, a sum of five hundred thousand rupees.]

<sup>11</sup>[**271AAA. Penalty where search has been initiated.**—(I) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of June, 2007 <sup>12</sup>[but before the 1st day of July, 2012], the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year.

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1. Ins. by Act 41 of 1975, s. 62 (w.e.f. 1-4-1976).

2. Ins. by Act 28 of 2016, s. 101 (w.e.f. 1-4-2017).

3. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 20 (w.e.f. 10-9-1986).

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

5. The words and brackets “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). which was substituted as “Deputy Commissioner (Appeals)” for “Appellate Assistant Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets “or the Commissioner (Appeals)” were inserted after “Appellate Assistant Commissioner” by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 1-4-1977).

6. Subs. by Act 14 of 2001, s. 87, for “a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees” (w.e.f. 1-6-2001).

7. Subs. by Act 23 of 2012, s. 98, for section 271AA (w.e.f. 1-7-2012).

8. Section 271AA renumbered as sub-section (I) thereof by Act 28 of 2016, s. 102 (w.e.f. 1-4-2017).

9. Ins. by s. 102, *ibid.* (w.e.f. 1-4-2017).

10. Subs. by Act 23 of 2012, s. 99, for “international transaction” (w.e.f. 1-4-2013).

11. Ins. by Act 22 of 2007, s. 77 (w.e.f. 1-4-2007).

12. Ins. by Act 23 of 2012, s. 100 (w.e.f. 1-4-2012).



(2) Nothing contained in sub-section (1) shall apply if the assessee,—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

(iii) pays the tax, together with interest, if any, in respect of the undisclosed income.

(3) No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1).

(4) The provisions of sections 274 and 275 shall, so far as may be, apply in relation to the penalty referred to in this section.

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

(a) “undisclosed income” means—

(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—

(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or

(B) otherwise not been disclosed to the <sup>1</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>2</sup>[Principal Commissioner or Commissioner] before the date of search; or

(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted;

(b) “specified previous year” means the previous year—

(i) which has ended before the date of search, but the date of filing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the said date; or

(ii) in which search was conducted.]

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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).

<sup>1</sup>[**271AAB. Penalty where search has been initiated.**—(1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of July, 2012 <sup>2</sup>[but before the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President], the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

(a) a sum computed at the rate of ten per cent of the undisclosed income of the specified previous year, if such assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

(iii) on or before the specified date—

(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and

(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;

(b) a sum computed at the rate of twenty per cent of the undisclosed income of the specified previous year, if such assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income; and

(ii) on or before the specified date—

(A) declares such income in the return of income furnished for the specified previous year; and

(B) pays the tax, together with interest, if any, in respect of the undisclosed income;

(c) a sum <sup>3</sup>[computed at the rate of sixty per cent.] of the undisclosed income of the specified previous year, if it is not covered by the provisions of clauses (a) and (b).

<sup>2</sup>[(1A) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

(a) a sum computed at the rate of thirty per cent of the undisclosed income of the specified previous year, if the assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

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1. Ins. by Act 23 of 2012, s. 101 (w.e.f. 1-7-2012).

2. Ins. by Act 48 of 2016, s. 3 (w.e.f. 15-12-2016).

3. Subs. by Act 28 of 2016, s. 103, for “which shall not be less than thirty per cent. but which shall not exceed ninety per cent.” (w.e.f. 1-4-2017).

(iii) on or before the specified date—

(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and

(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;

(b) a sum computed at the rate of sixty per cent of the undisclosed income of the specified previous year, if it is not covered under the provisions of clause (a).]

(2) No penalty under the provisions of <sup>1</sup>[section 270A or] clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1) <sup>2</sup>[or sub-section (1A)].

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.

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

(a) “specified date” means the due date of furnishing of return of income under sub-section (1) of section 139 or the date on which the period specified in the notice issued under section 153A for furnishing of return of income expires, as the case may be;

(b) “specified previous year” means the previous year—

(i) which has ended before the date of search, but the date of furnishing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the date of search; or

(ii) in which search was conducted;

(c) “undisclosed income” means—

(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—

(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or

(B) otherwise not been disclosed to the <sup>3</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>4</sup>[Principal Commissioner or Commissioner] before the date of search; or

(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted.]

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1. Ins. by Act 28 of 2016, s. 103 (w.e.f. 1-4-2017).

2. Ins. by Act 48 of 2016, s. 3 (w.e.f. 15-12-2016).

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

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

<sup>1</sup>**[271AAC. Penalty in respect of certain income.]**—(1) The Assessing Officer may, notwithstanding anything contained in this Act other than the provisions of section 271AAB, direct that, in a case where the income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year, the assessee shall pay by way of penalty, in addition to tax payable under section 115BBE, a sum computed at the rate of ten per cent of the tax payable under clause (i) of sub-section (1) of section 115BBE:

Provided that no penalty shall be levied in respect of income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D to the extent such income has been included by the assessee in the return of income furnished under section 139 and the tax in accordance with the provisions of clause (i) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year.

(2) No penalty under the provisions of section 270A shall be imposed upon the assessee in respect of the income referred to in sub-section (1).

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.]

<sup>2</sup>**[271B. Failure to get accounts audited.]**—If any person fails <sup>3\*\*\*</sup> to get his accounts audited in respect of any previous year or years relevant to an assessment year or <sup>4</sup>[furnish a report of such audit as required under section 44AB], the <sup>5</sup>[Assessing Officer] may direct that such person shall pay, by way of penalty, a sum equal to one-half per cent of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such previous year or years or a sum of <sup>6</sup>[one hundred fifty thousand rupees], whichever is less.]

<sup>7</sup>**[271BA. Penalty for failure to furnish report under section 92E.]**—If any person fails to furnish a report from an accountant as required by section 92E, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one hundred thousand rupees.]

<sup>8</sup>**[271BB. Failure to subscribe to the eligible issue of capital.]**—Whoever fails to subscribe any amount of subscription to the units issued under any scheme referred to in sub-section (1) of section 88A\* to the eligible issue of capital under that sub-section within the period of six months specified therein, may be directed by the <sup>9</sup>[Joint Commissioner] to pay, by way of penalty, a sum equal to twenty per cent of such amount.]

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1. Ins. by Act 48 of 2016, s. 4 (w.e.f. 1-4-2017).

2. Ins. by Act 21 of 1984, s. 30 (w.e.f. 1-4-1985).

3. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 21 (w.e.f. 10-9-1986).

4. Subs. by Act 22 of 1995, s. 48, for “obtain a report of such audit as required under section 44AB or furnish the said report along with the return of his income filed under sub-section (1) of section 139, or along with the return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142” (w.e.f. 1-7-1995). Earlier certain words were inserted by Act 26 of 1988, s. 45 (w.e.f. 1-4-1989).

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

6. Subs. by Act 14 of 2010, s. 50, for “one hundred thousand rupees” (w.e.f. 1-4-2011).

7. Ins. by Act 14 of 2001, s. 89 (w.e.f. 1-4-2002).

8. Ins. by Act 12 of 1990, s. 43 (w.e.f. 1-4-1990).

\* Section 88A omitted by Act 33 of 1996, s. 35 (w.e.f. 1-4-1994).

9. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioner” (w.e.f. 1-10-1998).

<sup>1</sup>[**271C. Penalty for failure to deduct tax at source.**—<sup>2</sup>[(I)] If any person fails to—

(a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or

(b) pay the whole or any part of the tax as required by or under—

(i) sub-section (2) of section 115-O; or

(ii) the second proviso to section 194B,

then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid.]

<sup>4</sup>[(2) Any penalty imposable under sub-section (I) shall be imposed by the <sup>5</sup>[Joint Commissioner].]

<sup>6</sup>[**271CA. Penalty for failure to collect tax at source.**— (I) If any person fails to collect the whole or any part of the tax as required by or under the provisions of Chapter XVII-BB, then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to collect as aforesaid.

(2) Any penalty imposable under sub-section (I) shall be imposed by the Joint Commissioner.]

**271D. Penalty for failure to comply with the provisions of section 269SS.**—<sup>7</sup>[(I)] If a person takes or accepts any loan or deposit <sup>8</sup>[or specified sum] in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit <sup>8</sup>[or specified sum] so taken or accepted.

<sup>9</sup>[(2) Any penalty imposable under sub-section (I) shall be imposed by the <sup>5</sup>[Joint Commissioner].]

<sup>10</sup>[**271DA. Penalty for failure to comply with provisions of section 269ST.**—(I) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt:

Provided that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

(2) Any penalty imposable under sub-section (I) shall be imposed by the Joint Commissioner.]

**271E. Penalty for failure to comply with the provisions of section 269T.**—<sup>11</sup>[(I)] If a person repays any <sup>12</sup>[loan or deposit] <sup>13</sup>[or specified advance] referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the <sup>12</sup>[loan or deposit] <sup>13</sup>[or specified advance] so repaid.]

<sup>14</sup>[(2) Any penalty imposable under sub-section (I) shall be imposed by the <sup>5</sup>[Joint Commissioner].]

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1. Ins. by Act 4 of 1988, s. 108, (w.e.f. 1-4-1989).

2. Subs. by Act 26 of 1997, s. 53, for sub-section (I), (w.e.f. 1-6-1997). Earlier it was amended by Act 12 of 1990, s. 44 (w.e.f. 1-4-1990).

3. Section 271C renumbered as sub-section (I) thereof by Act 12 of 1990, s. 44 (w.e.f. 1-4-1990).

4. Ins. by s. 44, *ibid* (w.e.f. 1-4-1990).

5. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioner” (w.e.f. 1-10-1998).

6. Ins. by Act 21 of 2006, s. 52 (w.e.f. 1-4-2007).

7. Section 271D renumbered as sub-section (I) thereof by Act 12 of 1990, s. 45 (w.e.f. 1-4-1990).

8. Ins. by Act 20 of 2015, s. 71 (w.e.f. 1-6-2015).

9. Ins. by Act 12 of 1990, s. 45 (w.e.f. 1-4-1990).

10. Ins. by Act 7 of 2017, s. 85 (w.e.f. 1-4-2017).

11. Section 271E renumbered as sub-section (I) thereof by Act 12 of 1990, s. 46 (w.e.f. 1-4-1990).

12. Subs. by Act 32 of 2003, s. 95, for “Deposit” (w.e.f. 1-6-2003).

13. Ins. by Act 20 of 2015, s. 72 (w.e.f. 1-6-2015).

14. Ins. by 12 of 1990, s. 46 (w.e.f. 1-4-1990).

<sup>1</sup>[**271F. Penalty for failure to furnish return of income.**—If a person who is required to furnish a return of his income, as required under sub-section (1) of section 139 or by the provisos to that sub-section, fails to furnish such return before the end of the relevant assessment year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of five thousand rupees.]

<sup>2</sup>[Provided that nothing contained in this section shall apply to and in relation to the return of income required to be furnished for any assessment year commencing on or after the 1st day of April, 2018.]

<sup>3</sup>[**271FA. Penalty for failure to furnish** <sup>4</sup>[**statement of financial transaction or reportable account**].—If a person who is required to furnish <sup>5</sup>[a statement of financial transaction or reportable account] under sub-section (1) of section 285BA, fails to furnish such <sup>6</sup>[statement] within the time prescribed under sub-section (2) thereof, the income-tax authority prescribed under said sub-section (1) may direct that such person shall pay, by way of penalty, a sum of <sup>7</sup>[five hundred rupees] for every day during which such failure continues:

Provided that where such person fails to furnish the <sup>6</sup>[statement] within the period specified in the notice issued under sub-section (5) of section 285BA, he shall pay, by way of penalty, a sum of <sup>8</sup>[one thousand rupees] for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the <sup>6</sup>[statement] expires.]

<sup>9</sup>[**271FAA. Penalty for furnishing inaccurate statement of financial transaction or reportable account.**—If a person referred to in clause (k) of sub-section (1) of section 285BA, who is required to furnish a statement under that section, provides inaccurate information in the statement, and where—

(a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed under sub-section (7) of section 285BA or is deliberate on the part of that person; or

(b) the person knows of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or

(c) the person discovers the inaccuracy after the statement of financial transaction or reportable account is furnished and fails to inform and furnish correct information within the time specified under sub-section (6) of section 285BA,

then, the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees.]

<sup>10</sup>[**271FAB. Penalty for failure to furnish statement or information or document by an eligible investment fund.**—If any eligible investment fund which is required to furnish a statement or any information or document, as required under sub-section (5) of section 9A fails to furnish such statement or information or document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum of five hundred thousand rupees.]

<sup>11</sup>[**271FB. Penalty for failure to furnish return of fringe benefits.**—If an employer, who is required to furnish a return of fringe benefits, as required under sub-section (1) of section 115WD, fails to furnish such return within the time prescribed under that sub-section, the Assessing Officer may direct that such employer shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.]

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1. Subs. by Act 20 of 2002, s. 102, for section 271F (w.e.f. 1-6-2002).

2. Ins. by Act 7 of 2017, s. 86 (w.e.f. 1-4-2018).

3. Subs. by Act 17 of 2013, s. 58, for section 271FA (w.e.f. 1-4-2014).

4. Subs. by Act 25 of 2014, s. 70, for “annual information return” (w.e.f. 1-4-2015).

5. Subs. by s. 70, *ibid.*, for “an annual information return” (w.e.f. 1-4-2015).

6. Subs. by s. 70, *ibid.*, for “return” (w.e.f. 1-4-2015).

7. Subs. by Act 13 of 2018, s. 53, for “one hundred rupees” (w.e.f. 1-4-2018).

8. Subs. by s. 53, *ibid.*, for “five hundred rupees” (w.e.f. 1-4-2018).

9. Ins. by Act 25 of 2014, s. 71 (w.e.f. 1-4-2015).

10. Ins. by Act 20 of 2015, s. 73 (w.e.f. 1-4-2016).

11. Ins. by Act 18 of 2005, s. 59 (w.e.f. 1-4-2006).

<sup>1</sup>[**271G. Penalty for failure to furnish information or document under section 92D.**—If any person who has entered into an <sup>2</sup>[international transaction or specified domestic transaction] fails to furnish any such information or document as required by sub-section (3) of section 92D, the Assessing Officer <sup>3</sup>[or the Transfer Pricing Officer as referred to in section 92CA] or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of the <sup>2</sup>[international transaction or specified domestic transaction for each such failure.]

<sup>4</sup>[**271GA. Penalty for failure to furnish information or document under section 285A.**—If any Indian concern, which is required to furnish any information or document under section 285A, fails to do so, the income-tax authority, as may be prescribed under the said section, may direct that such Indian concern shall pay, by way of penalty,—

(i) a sum equal to two per cent 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;

(ii) a sum of five hundred thousand rupees in any other case.]

<sup>5</sup>[**271GB. Penalty for failure to furnish report or for furnishing inaccurate report under section 286.**—(1) If any reporting entity referred to in section 286, which is required to furnish the report referred to in sub-section (2) of the said section, in respect of a reporting accounting year, fails to do so, the authority prescribed under that section (herein referred to as prescribed authority) may direct that such entity shall pay, by way of penalty, a sum of,—

(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.

(2) Where any reporting entity referred to in section 286 fails to produce the information and documents within the period allowed under sub-section (6) of the said section, the prescribed authority may direct that such entity shall pay, by way of penalty, a sum 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.

(3) If the failure referred to in sub-section (1) or sub-section (2) continues after an order has been served on the entity, directing it to pay the penalty under sub-section (1) or, as the case may be, under sub-section (2), then, notwithstanding anything contained in sub-section (1) or sub-section (2), the prescribed authority may direct that such entity shall pay, by way of penalty, a sum of fifty thousand rupees for every day for which such failure continues beginning from the date of service of such order.

(4) Where a reporting entity referred to in section 286 provides inaccurate information in the report furnished in accordance with sub-section (2) of the said section and where—

(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 a period of fifteen days of such discovery; or

(c) the entity furnishes inaccurate information or document in response to the notice issued under sub-section (6) of section 286,

then, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of five lakh rupees.]

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1. Ins. by Act 14 of 2001, s. 91 (w.e.f. 1-4-2002).

2. Subs. by Act 23 of 2012, s. 102, for “international transaction” (w.e.f. 1-4-2013).

3. Ins. by Act 25 of 2014, s. 72 (w.e.f. 1-10-2014).

4. Ins. by Act 20 of 2015, s. 74 (w.e.f. 1-4-2016).

5. Ins. by Act 28 of 2016, s. 104 (w.e.f. 1-4-2017).

<sup>1</sup>[**271H. Penalty for failure to furnish statements, etc.**—(1) Without prejudice to the provisions of the Act, the <sup>2</sup>[Assessing Officer may direct that a person shall pay by way of] penalty, if, he—

(a) 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; or

(b) furnishes incorrect information in the statement which is required to be delivered or caused to be delivered under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(2) The penalty referred to in sub-section (1) shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(3) Notwithstanding anything contained in the foregoing provisions of this section, no penalty shall be levied for the failure referred to in clause (a) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C before the expiry of a period of one year from the time prescribed for delivering or causing to be delivered such statement.

(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.

<sup>3</sup>[**271-I. Penalty for failure to furnish information or furnishing inaccurate information under section 195.**—If a person, who is required to furnish information under sub-section (6) of section 195, fails to furnish such information, or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.]

<sup>4</sup>[**271J. Penalty for furnishing incorrect information in reports or certificates.**—Without prejudice to the provisions of this Act, where the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of ten thousand rupees for each such report or certificate.

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

(a) “accountant” means an accountant referred to in the *Explanation* below sub-section (2) of section 288;

(b) “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.

(c) “registered valuer” means a person defined in clause (oaa) of section 2 of the Wealth-tax Act, 1957.]

[**272. Failure to give notice of discontinuance.**]—*Omitted by the Direct Tax Laws (Amendment) Act, 1987, (4 of 1988), s. 109 (w.e.f. 1-4-1989).*

<sup>5</sup>[**272A. Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.**—(1) If any person,—

(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

1. Ins. by Act 23 of 2012, s. 103 (w.e.f. 1-7-2012).

2. Subs. by Act 25 of 2014, s. 73, for certain words (w.e.f. 1-10-2014).

3. Ins. by Act 20 of 2015, s. 75 (w.e.f. 1-6-2015).

4. Ins. by Act 7 of 2017, s. 87 (w.e.f. 1-4-2017).

5. Subs. by Act 4 of 1988, s. 110 (w.e.f. 1-4-1989). Prior to its inserted by Act 41 of 1975, s. 63 (w.e.f. 1-4-1976).



(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

(c) to whom a summons is issued under sub-section (1) of section 131 either to attend to give evidence or 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 <sup>1</sup>[place or time; or]

<sup>2</sup>[(d) fails to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or fails to comply with a direction issued under sub-section (2A) of section 142,]

he shall pay, by way of penalty, <sup>3</sup>[a sum of ten thousand rupees] for each such default or failure.

(2) If any person fails—

(a) to comply with a notice issued under sub-section (6) of section 94; or

(b) to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176; or

(c) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 <sup>4\*\*\*\*</sup> <sup>5</sup>[or section 206C] or section 285B; or

(d) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

<sup>6</sup>[(e) to furnish the return of income which he is required to furnish under sub-section (4A) or sub-section (4C) of section 139 or to furnish it within the time allowed and in the manner required under those sub-sections; or]

(f) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or

(g) to furnish a certificate as required by section 203 <sup>5</sup>[or section 206C]; or

(h) to deduct and pay tax as required by sub-section (2) of section 226;

<sup>7</sup>[(i) to furnish a statement as required by sub-section (2C) of section 192;]

<sup>8</sup>[(j) to deliver or cause to be delivered in due time a copy of the declaration referred to in sub-section (1A) of section 206C;]

<sup>9</sup>[(k) to deliver or cause to be delivered a copy of the statement within the time specified in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C;]

<sup>10</sup>[(l) to deliver or cause to be delivered the <sup>11</sup>[statements] within the time specified in sub-section (1) of section 206A;]

<sup>12</sup>[(m) to deliver or cause to be delivered a statement within the time as may be prescribed under sub-section (2A) of section 200 or sub-section (3A) of section 206C,]

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1. Subs. by Act 28 of 2016, s. 105, for “place or time,” (w.e.f. 1-4-2017).

2. Ins. by s. 105, *ibid.* (w.e.f. 1-4-2017).

3. Subs. by Act 14 of 2001, s. 92, for “a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees” (w.e.f. 1-6-2001).

4. The words, figures and letters “or section 206A or section 206B” omitted by Act 33 of 1996, s. 55 (w.e.f. 1-10-1996).

5. Ins. by Act 49 of 1991, s. 68 (w.e.f. 1-10-1991).

6. Subs. by Act 20 of 2002, s. 103, for clause (e) (w.e.f. 1-4-2003).

7. Ins. by Act 14 of 2001, s. 92 (w.e.f. 1-4-2002).

8. Ins. by Act 54 of 2003, s. 17, for clause (j) (w.e.f. 8-9-2003).

9. Ins. by Act 23 of 2004, s. 56 (w.e.f. 1-4-2005).

10. Ins. by Act 18 of 2005, s. 60 (w.e.f. 1-6-2005).

11. Subs. by Act 33 of 2009, s. 75, for “quarterly return” (w.e.f. 1-10-2009).

12. Ins. by Act 20 of 2015, s. 76 (w.e.f. 1-6-2015).

he shall pay, by way of penalty, a sum <sup>1</sup>[of one hundred rupees] for every day during which the failure continues:

<sup>2</sup>[Provided that the amount of penalty for failures in relation to <sup>3</sup>[a declaration mentioned in section 197A, a certificate as required by section 203 and] returns under sections 206 and 206C <sup>4</sup>[and <sup>5</sup>[statements under sub-section (2A) or sub-section (3) of section 200 or the proviso to sub-section (3) or under sub-section (3A) of section 206C]] shall not exceed the amount of tax deductible or collectible, as the case may be:]

<sup>6</sup>[Provided further that no penalty shall be levied under this section for the failure referred to in clause (k), if such failure relates 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.]

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

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not lower in rank than a <sup>7</sup>[Joint Director] or a <sup>8</sup>[Joint Commissioner], by such income-tax authority;

<sup>9</sup>[(aa)in a case falling under clause (d) of sub-section (1), by the income-tax authority who had issued the notice or direction referred to therein;]

(b) in a case falling under clause (f) of sub-section (2), by the <sup>10</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>11</sup>[Principal Commissioner or Commissioner]; and

(c) in any other case, by the <sup>7</sup>[Joint Director] or the <sup>8</sup>[Joint Commissioner].

(4) No order under this section shall be passed by any income-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

*Explanation.*—In this section, “income-tax authority” includes a <sup>12</sup>[Principal Director General or Director General], <sup>13</sup>[Principal Director or Director], <sup>7</sup>[Joint Director] and an <sup>14</sup>[Assistant Director or Deputy Director] while exercising the powers vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the matters specified in sub-section (1) of section 131.]

<sup>15</sup>**[272AA. Penalty for failure to comply with the provisions of section 133B.—(1) If a person** <sup>16\*\*\*</sup> fails to comply with the provisions of section 133B, he shall, on an order passed by the <sup>8</sup>[Joint Commissioner], <sup>14</sup>[Assistant Director or Deputy Director] or the <sup>17</sup>[Assessing Officer], as the case may be, pay, by way of penalty, a sum which may extend to one thousand rupees.

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1. Subs. by Act 27 of 1999, s. 88, for “which shall not be less than hundred rupees, but which may extend to two hundred rupees,” (w.e.f. 1-6-1999).

2. Ins. by Act 49 of 1991, s. 68 (w.e.f. 1-10-1991).

3. Ins. by Act 21 of 1998, s. 62 (w.e.f. 1-4-1999).

4. Ins. by Act 21 of 2006, s. 53 (w.e.f. 1-6-2006).

5. Subs. by Act 20 of 2015, s. 76, for “statement under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C” (w.e.f. 1-6-2015).

6. Ins. by Act 23 of 2012, s. 104 (w.e.f. 1-7-2012).

7. Subs. by Act 21 of 1998, s. 3, for “Deputy Director” (w.e.f. 1-10-1998).

8. Subs. by s. 3, for *ibid.*, “Deputy Commissioner” (w.e.f. 1-10-1998).

9. Ins. by Act 28 of 2016, s. 105 (w.e.f. 1-4-2017).

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

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

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

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

14. Subs. by Act 21 of 1998, s. 3, for “Assistant Director” (w.e.f. 1-10-1998).

15. Ins. by Act 23 of 1986, s. 35 (w.e.f. 13-5-1986).

16. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 20 (w.e.f. 10-9-1986).

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

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.]

<sup>1</sup>[**272B. Penalty for failure to comply with the provisions of section 139A.**—(1) If a person fails to comply with the provisions of section 139A, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

(2) If a person who is required to quote his permanent account number in any document referred to in clause (c) of sub-section (5) of section 139A, or to intimate such number as required by sub-section (5A) <sup>2</sup>[or sub-section (5C)] of that section, quotes or intimates a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

(3) No order under sub-section (1) or sub-section (2) shall be passed unless the person, on whom the penalty is proposed to be imposed, is given an opportunity of being heard in the matter.]

<sup>3</sup>[**272BB. Penalty for failure to comply with the provisions of section 203A.**—(1) If a person fails to comply with the provisions of section 203A, he shall, on an order passed by the <sup>4</sup>[Assessing Officer], pay, by way of penalty, <sup>5</sup>[a sum of ten thousand rupees].

<sup>6</sup>[(1A) If a person who is required to quote his “tax deduction account number” or, as the case may be, “tax collection account number” or “tax deduction and collection account number” in the challans or certificates or statements or other documents referred to in sub-section (2) of section 203A, quotes a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.]

(2) No order under sub-section (1) <sup>6</sup>[or sub-section (1A)] shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.]

<sup>7</sup>[**272BBB. Penalty for failure to comply with the provisions of section 206CA.**—(1) If a person <sup>8</sup>[fails to comply before the 1st day of October, 2004] with the provisions of section 206CA, he shall, on an order passed by the Assessing Officer, pay, by way of penalty, a sum of ten thousand rupees.

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed, is given an opportunity of being heard in the matter.]

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1. Ins. by Act 20 of 2002, s. 104 (w.e.f. 1-6-2002).

2. Ins. by Act 23 of 2004, s. 57 (w.e.f. 1-4-2005).

3. Ins. by Act 11 of 1987, s. 68 (w.e.f. 1-6-1987).

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

5. Subs. by Act 14 of 2001, s. 93, for “a sum which may extend to five thousand rupees” (w.e.f. 1-6-2001).

6. Ins. by Act 21 of 2006, s. 54 (w.e.f. 1-6-2006).

7. Ins. by Act 20 of 2002, s. 105 (w.e.f. 1-6-2002).

8. Subs. by Act 23 of 2004, s. 58, for “fails to comply” (w.e.f. 1-10-2004).

<sup>1</sup>[273. False estimate of, or failure to pay, advance tax.—<sup>2</sup>[(1) If the <sup>3</sup>[Assessing Officer], in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee—

(a) has furnished under clause (a) of sub-section (1) of section 209A a statement of the advance tax payable by him which he knew or had reason to believe to be untrue, or

(b) has <sup>4\*\*\*</sup> failed to furnish a statement of the advance tax payable by him in accordance with the provisions of clause (a) of sub-section (1) of section 209A,

he may direct that such person shall, in addition to the amount of tax, if any, payable by him, pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not be less than ten per cent but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVIIC falls short of—

(1) seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215, or

(2) the amount which would have been payable by way of advance tax if the assessee had furnished a correct and complete statement in accordance with the provisions of clause (a) of sub-section (1) of section 209A,

whichever is less;

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215]:

<sup>5</sup>[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.”, at both the places where they occur, the words “eighty-three and one-third per cent.” had been substituted.]

<sup>6</sup>[(2)] If the <sup>3</sup>[Assessing Officer], in the course of any proceedings in connection with the regular assessment for the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, is satisfied that any assessee—

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1. Subs. by Act 14 of 1969, s. 22, for section 273 (w.e.f. 1-4-1970).

2. Ins. by Act 19 of 1978, s. 31 (w.e.f. 1-6-1978).

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

4. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 25 (w.e.f. 10-9-1986).

5. Ins. by Act 44 of 1980, s. 33 (w.e.f. 1-9-1980).

6. Section 273 renumbered as sub-section (2) thereof by Act 19 of 1978, s. 31 (w.e.f. 1-6-1978).

<sup>1</sup>[(a) has furnished under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5) of section 209A, or under sub-section (1) or sub-section (2) of section 212, an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or]

<sup>2</sup>[(aa) has furnished <sup>3</sup>[under sub-section (4) of section 209A or] under sub-section (3A) of section 212 an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or]

(b) has <sup>4\*\*\*</sup> failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of <sup>5</sup>[clause (b) of sub-section (1) of section 209A], or

(c) has <sup>4\*\*\*</sup> failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of <sup>6</sup>[sub-section (4) of section 209A or sub-section (3A) of section 212],

he may direct that such person shall, in addition to the amount of tax, if any, payable by him, pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of—

(1) seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215, or

<sup>7</sup>[(2) where a statement under clause (a) of sub-section (1) of section 209A was furnished by the assessee or where a notice under section 210 was issued to the assessee, the amount payable under such statement or, as the case may be, such notice,]

whichever is less;

<sup>2</sup>[(ia) which, in the case referred to in clause (aa), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215;]

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times of seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215; and

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1. Subs. by Act 19 of 1978, s. 31, for clause (a) (w.e.f. 1-6-1978).

2. Ins. by Act 29 of 1977, s. 27 (w.e.f. 1-9-1977).

3. Ins. by Act 19 of 1978, s. 31 (w.e.f. 1-6-1978).

4. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 25 (w.e.f. 10-9-1986).

5. Subs. by Act 19 of 1978, s. 31, for “sub-section (3) of section 212” (w.e.f. 1-6-1978).

6. Subs. by s. 31, *ibid.*, for “sub-section (3A) of section 212” (w.e.f. 1-6-1978).

7. Subs. by s. 31, *ibid.*, for sub-clause (2) (w.e.f. 1-6-1978).

<sup>1</sup>[(iii) which, in the case referred to in clause (c), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which—

(a) where the assessee has sent a statement under clause (a), or an estimate under clause (b) of sub-section (1) of section 209A, or an estimate in lieu of a statement under sub-section (2) of that section, the tax payable in accordance with such statement or estimate; or

(b) where the assessee was required to pay advance tax in accordance with the notice issued to him under section 210, the tax payable under such notice,

falls short of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215:]]

<sup>2</sup>[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.”, wherever they occur, the words “eighty-three and one-third per cent.” had been substituted.]

<sup>3</sup>[*Explanation* <sup>4</sup>[1].—For the purposes of clause (ia), the amount paid by the assessee on or before the date extended by the <sup>5</sup>[<sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>7</sup>[Principal Commissioner or Commissioner]] under the <sup>8</sup>[<sup>9</sup>[first proviso] to sub-section (4) of section 209A or, as the case may be, <sup>9</sup>[first proviso] to sub-section (3A) of section 212] shall, where the date so extended falls beyond the financial year immediately preceding the assessment year, also be regarded as tax actually paid during that financial year.]

<sup>10</sup>[*Explanation* 2.—When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under this section shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.]

<sup>11</sup>[(3) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section 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.]

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1. Subs. by Act 19 of 1978, s. 31, for clause (iii) (w.e.f. 1-6-1978).

2. Ins. by Act 44 of 1980, s. 33 (w.e.f. 1-9-1980).

3. Ins. by Act 29 of 1977, s. 27 (w.e.f. 1-9-1977).

4. The *Explanation* numbered as *Explanation 1* by Act 67 of 1984, s. 49 (w.e.f. 1-4-1985).

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

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

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

8. Subs. by Act 19 of 1978, s. 31, for “proviso to sub-section (3A) of section 212” (w.e.f. 1-6-1978).

9. Subs. by Act 16 of 1981, s. 25, for “proviso” (w.e.f. 1-4-1981).

10. Ins. by Act 67 of 1984, s. 49 (w.e.f. 1-4-1985).

11. Ins. by Act 4 of 1988, s. 112 (w.e.f. 1-4-1989).

<sup>1</sup>[273A. Power to reduce or waive penalty, etc., in certain cases.—(1) Notwithstanding anything contained in this Act, the <sup>2</sup><sup>3\*\*\*\*</sup> <sup>4</sup>[Principal Commissioner or Commissioner]] may, in his discretion, whether on his own motion or otherwise,—

<sup>5</sup>\* \* \* \*

(ii) reduce or waive the amount of penalty imposed or imposable on a person under <sup>6</sup>[section 270A or] clause (iii) of sub-section (1) of section 271; [or]

<sup>7</sup>\* \* \* \*

if he is satisfied that such person—

<sup>8</sup>\* \* \* \*

(b) in the case referred to in clause (ii), has, prior to the detection by the <sup>9</sup>[Assessing Officer], of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars,

<sup>10</sup>\* \* \* \*

and also has, <sup>11</sup>[in the case referred to in clause (b)], co-operated in any enquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

*Explanation.* <sup>12\*\*\*\*</sup>—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a nature as not to attract the provisions of <sup>6</sup>[section 270A or] clause (c) of sub-section (1) of section 271.

<sup>12</sup>\* \* \* \*

(2) Notwithstanding anything contained in sub-section (1),—

<sup>13</sup>\* \* \* \*

(b) if in a case falling under <sup>6</sup>[section 270A or] clause (c) of sub-section (1) of section 271, the amount of income in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

1. Ins. by Act 41 of 1975, s. 64 (w.e.f. 1-10-1975).

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

3. The words “Chief Commissioner or” omitted by Act 38 of 1993, s. 36 (w.e.f. 1-6-1993).

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

5. Clause (i) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

6. Ins. by Act 28 of 2016, s. 106 (w.e.f. 1-4-2017).

7. Clause (iii) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

8. Clause (a) omitted by s. 51, *ibid.* (w.e.f. 1-4-1989).

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

10. Clause (c) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

11. Subs. by s. 51, *ibid.*, for “in all the cases referred to in clauses (a), (b) and (c)” (w.e.f. 1-4-1989).

12. *Explanation 2* omitted by Act 32 of 1985, s. 34 (w.e.f. 24-5-1985). . Earlier “1” and *Explanation 2* was ins. by Act 67 of 1984, s. 50 (w.e.f. 1-10-1984).

13. Clause (a) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989). Earlier clause (a) was amended by Act 67 of 1984, s. 50 (w.e.f. 1-10-1984).

no order reducing or waiving the penalty under sub-section (1) shall be made by <sup>1</sup>[the <sup>2</sup>[Principal Commissioner or Commissioner] except with the previous approval of the <sup>3</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>4</sup>[Principal Director General or Director General], as the case may be].

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

<sup>5</sup>[Provided that where an order has been made in favour of any person under sub-section (1) on or before the 24th day of July, 1991, such person shall be entitled to further relief only once in relation to other assessment year or years if he makes an application to the income-tax authority referred to in sub-section (4) at any time before the 1st day of April, 1992.]

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the <sup>6</sup>[<sup>7\*\*\*</sup> <sup>2</sup>[Principal Commissioner or Commissioner]] may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(i) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

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

<sup>8</sup>[Provided that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by <sup>1</sup>[the <sup>2</sup>[Principal Commissioner or Commissioner] except with the previous approval of the <sup>3</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>4</sup>[Principal Director General or Director General], as the case may be].]

<sup>9</sup>[(4A) The order under sub-section (4), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided 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 further 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.]

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

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1. Subs. by Act 38 of 1993, s. 36, for “the Chief Commissioner or Commissioner except with the previous approval of the Board” (w.e.f. 1-6-1993). Earlier the words “Chief Commissioner or Commissioner” were substituted 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 “Commissioner” (w.r.e.f. 1-6-2013).

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

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

5. Ins. by Act 49 of 1991, s. 69 (w.e.f. 27-9-1991).

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

7. The words “Chief Commissioner or” omitted by Act 38 of 1993, s. 36 (w.e.f. 1-6-1993).

8. The *proviso* added by Act 67 of 1984, s. 50 (w.e.f. 1-10-1984).

9. Ins. by Act 28 of 2016, s. 106 (w.e.f. 1-6-2016).



<sup>1</sup>[(6) The provisions of this section <sup>2</sup>[as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989] shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section 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.]

<sup>3</sup>[(7) Notwithstanding anything contained in sub-section (6), the provisions of sub-section (1), sub-section (2), or, as the case may be, sub-section (4) [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989)], shall apply in the case of reduction or waiver of penalty or interest in relation to any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year, with the modifications that the power under the said sub-section (1) shall be exercisable only by the <sup>4</sup>[Principal Commissioner or Commissioner] and instead of the previous approval of the Board, the <sup>4</sup>[Principal Commissioner or Commissioner] shall obtain the previous approval of the <sup>5</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>6</sup>[Principal Director General or Director General], as the case may be, while dealing with such case.]

<sup>7</sup>[**273AA. Power of <sup>4</sup>[Principal Commissioner or Commissioner] to grant immunity from penalty.**—(1) A person may make an application to the <sup>4</sup>[Principal Commissioner or Commissioner] for granting immunity from penalty, if—

(a) he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA; and

(b) the penalty proceedings have been initiated under this Act.

(2) The application to the <sup>4</sup>[Principal Commissioner or Commissioner] under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The <sup>4</sup>[Principal Commissioner or Commissioner] may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived.

<sup>8</sup>[(3A) The order under sub-section (3), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided 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 further 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.]

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any 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.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the <sup>4</sup>[Principal Commissioner or Commissioner], if he is satisfied that such person had, in the course of any

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1. Ins. by Act 4 of 1988, s. 113 (w.e.f. 1-4-1989).

2. Ins. by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

3. Ins. by Act 32 of 1994, s. 48 (w.e.f. -6-1994).

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

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

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

7. Ins. by Act 18 of 2008, s. 53, (w.e.f. 1-4-2008).

8. Ins. by Act 28 of 2016, s. 107 (w.e.f. 1-6-2016).

proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person shall 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.]

<sup>1</sup>[**273B. Penalty not to be imposed in certain cases.**—Notwithstanding anything contained in the provisions of <sup>2</sup>[clause (b) of sub-section (1) of] <sup>3</sup>[section 271, section 271A <sup>4</sup>[, section 271AA], section 271B, <sup>4</sup>[section 271BA], <sup>5</sup>[section 271BB,] <sup>6</sup>[section 271C, section 271CA], section 271D, section 271E, <sup>7</sup>[section 271F, <sup>8</sup>[section 271FA, <sup>9</sup>[section 271FAB, section 271FB, section 271G, section 271GA], <sup>10</sup>[section 271GB,] <sup>11</sup>[section 271H,] <sup>12</sup>[section 271-I,] <sup>13</sup>[section 271J,] clause (c) or clause (d) of sub-section (1) or sub-section (2) of section 272A, sub-section (1) of section 272AA] or <sup>14</sup><sup>15</sup>[section 272B or] <sup>16</sup>[sub-section (1) or sub-section (1A) of] <sup>17</sup>[section 272BB] or] sub-section (1) of section 272BBB or] clause (b) of sub-section (1) or clause (b) or clause (c) of sub-section (2) of section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.]

**274. Procedure.**—(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.

<sup>18</sup>[(2) No order imposing a penalty under this Chapter shall be made—

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

(b) by the <sup>19</sup>[Assistant Commissioner or Deputy Commissioner], where the penalty exceeds twenty thousand rupees,

except with the prior approval of the <sup>20</sup>[Joint Commissioner].

<sup>21</sup>[(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.]

1. Ins. by Act 46 of 1986, s. 26 (w.e.f. 10-9-1986).

2. Ins. by Act 3 of 1989, s. 57 (w.e.f. 1-4-1989).

3. Subs. by Act 4 of 1988, s. 114 for “section 270, clause (a) and clause (b) of sub-section (1) of section 271, section 271A, section 271B, sub-section (2), of section 272A, sub-section (1) of section 272AA, sub-section (1) of section 272B” (w.e.f. 1-4-1989).

4. Ins. by Act 14 of 2001, s. 94 (w.e.f. 1-4-2002).

5. Ins. by Act 12 of 1990, s. 50 (w.e.f. 1-4-1990).

6. Subs. by Act 21 of 2006, s. 55, for “section 271C” (w.e.f. 1-4-2007).

7. Subs. by Act 23 of 2004, s. 59, for “section 271F” (w.e.f. 1-4-2005). Earlier the quoted words were inserted by 26 of 1997, s. 55 (w.e.f. 1-4-1997).

8. Subs by Act 18 of 2005, s. 61, for “section 271FA” (w.e.f. 1-4-2006).

9. Subs. by Act 20 of 2015, s. 77, for “section 271FB, section 271G” (w.e.f. 1-4-2016). Earlier “section 271G” inserted by Act 14 of 2001, s. 94 (w.e.f. 1-4-2002).

10. Ins. by Act 28 of 2016, s. 108 (w.e.f. 1-4-2017).

11. Ins. by Act 23 of 2012, s. 105 (w.e.f. 1-7-2012).

12. Ins. by Act 20 of 2015, s. 77 (w.e.f. 1-6-2015).

13. Ins. by Act 7 of 2017, s. 88 (w.e.f. 1-4-2017).

14. Subs. by Act 11 of 1987, s. 69, for “section 272B or” (w.e.f. 1-4-1987).

15. Ins. by Act 20 of 2002, s. 106 (w.e.f. 1-6-2002).

16. Subs. by Act 21 of 2006, s. 55 for “sub-section (1) of section 272BB” (w.e.f. 1-6-2006).

17. Subs. by Act 20 of 2002, s. 106 for “section 272BB or” (w.e.f. 1-6-2002).

18. Ins. by Act 4 of 1988, s. 115 (w.e.f. 1-4-1989). Earlier it was amended by Act of 42 of 1970, s. 49 (w.e.f. 1-4-1971) and later omitted by act 41 of 1975, s. 65 (w.e.f. 1-4-1975).

19. Subs. by Act 21 of 1998, s. 3, for “Assistant Commissioner” (w.e.f. 1-10-1998).

20. Subs by s. 3, *ibid*, for “Deputy Commissioner” (w.e.f. 1-10-1998).

21. Subs. by Act 4 of 1988, s. 115, for sub-section (3) (w.e.f. 1-4-1987). Earlier it was amended by Act 29 of 1977, s. 19 (w.e.f. 10-7-1978).

<sup>1</sup>[**275. Bar of limitation for imposing penalties.**—<sup>2</sup>[(I)] No order imposing a penalty under this Chapter shall be passed—

<sup>3</sup>[(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the <sup>4\*\*\*</sup> Commissioner (Appeals) under section 246 <sup>5</sup>[or section 246A] or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the <sup>4\*\*\*</sup> Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>7</sup>[Principal Commissioner or Commissioner], whichever period expires later:

<sup>8</sup>[Provided that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>7</sup>[Principal Commissioner or Commissioner], whichever is later;]

(b) in a case where the relevant assessment or other order is the subject-matter of revision under section 263 <sup>8</sup>[or section 264], after the expiry of six months from the end of the month in which such order of revision is passed;

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.]

<sup>9</sup>[(IA) In a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253 or an appeal to the High Court under section 260A or an appeal to the Supreme Court under section 261 or revision under section 263 or section 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty is passed before the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or the <sup>7</sup>[Principal Commissioner or Commissioner] or the order of revision under section 263 or section 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order

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1. Subs. by Act 42 of 1970, s. 50, for section 275 (w.e.f. 1-4-1971).

2. Section 275 renumbered as sub-section (I) thereof by Act 36 of 1989, s. 26 (w.e.f. 1-4-1989).

3. Subs. by Act 4 of 1988, s. 116, for clauses (a) and (b) excluding the *Explanation* (w.e.f. 1-4-1989).

4. The words and brackets “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998).

5. Ins. by Act 10 of 2000, s. 70 (w.e.f. 1-6-2000).

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

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

8. Ins. by Act 32 of 2003, s. 96 (w.e.f. 1-6-2003).

9. Ins. by Act 29 of 2006, s. 18 (w.e.f. 13-7-2006).

of the Commissioner (Appeals) or, the Appellate Tribunal or the High Court, or the Supreme Court or order of revision under section 263 or section 264:

Provided that no order of imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty shall be passed—

(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 month in which the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the <sup>1</sup>[Principal Chief Commissioner or Chief Commissioner] or the <sup>2</sup>[Principal Commissioner or Commissioner] or the order of revision under section 263 or section 264 is passed:

Provided further that the provisions of sub-section (2) of section 274 shall apply in respect of the order imposing or enhancing or reducing penalty under this sub-section.]

<sup>3</sup>[(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.]

<sup>4</sup>[*Explanation.*—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;

(ii) any period during which the immunity granted under section 245H remained in force; and

(iii) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.]]

## CHAPTER XXII

### OFFENCES AND PROSECUTIONS

<sup>5</sup>[**275A. Contravention of order made under sub-section (3) of section 132.**—Whoever contravenes any order referred to in <sup>6</sup>[the second proviso to sub-section (1) or] sub-section (3) of section 132 shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine.]

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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 36 of 1989, s. 26 (w.e.f. 1-4-1989).

4. Subs. by Act 41 of 1975, s. 66, for the *Explanation* (w.e.f. 1-1-1976).

5. Ins. by Act 1 of 1965, s. 4 (w.e.f. 12-3-1965).

6. Ins. by Act 12 of 1990, s. 47 (w.e.f. 1-4-1990).