

# **PENALTIES & PROSECUTIONS**

## **WHO CAN IMPOSE THE PENALTY**

### **Penalty can be levied by:**

- (i) The Assessing Officer
- (ii) The CIT(A)
- (iii) The Chief CIT / CIT

### **KEY NOTES:**

1. **ITAT cannot impose penalty.**
2. **Penalty proceedings must be initiated before levying any penalty.** Penalty proceedings are initiated by issuing a show cause notice.
3. **Assessing Officer shall levy penalty** for under-reporting or misreporting of income **on the additions made by him** in an assessment or reassessment under section 143(3)/144/147. **CIT(A) shall levy penalty** for under-reporting or misreporting of income **on the additions made by him** in an order passed under section 250. **Chief CIT/ CIT shall levy penalty** for under-reporting or misreporting of income **on the additions made by him** in an order passed under section 263.
4. **If Assessing Officer/ CIT(A)/ Chief CIT/CIT is to levy the penalty for under-reporting or misreporting of income, then the penalty proceedings must be initiated by the Assessing Officer/ CIT(A)/ Chief CIT/CIT, as the case may be, before the completion of assessment/ passing the order under section 250/ passing the order under section 263.**
5. Penalty other than penalty for under-reporting or mis-reporting of income can be levied by initiating the penalty proceedings (by issuing a show cause notice) and such proceedings can be initiated at any time.

## **SECTION 270A: PENALTY FOR UNDER REPORTING AND MISREPORTING OF INCOME**

- (1) **Penalty shall be 50% of the amount of tax payable** on under-reported income.
- (2) Where under-reported income is in consequence of any **misreporting** thereof by any person, such penalty shall be **200% of the amount of tax payable** on under-reported income.

**♦ ANALYSIS OF SECTION 270A ♦**

| <b>A PERSON SHALL BE CONSIDERED TO HAVE UNDER-REPORTED THE INCOME IF:</b>   | <b>AMOUNT OF UNDER-REPORTED INCOME &amp; TAX THEREON:</b>  |
|---|--|
| <b>Return has been filed and assessment made for first time</b><br><br>Income assessed > Income determined under section 143(1)(a)<br><br>See Illustration 1 & Illustration 2   | <b>Under-reported Income:</b><br>Income assessed <b>minus</b> Income determined under section 143(1)(a)<br><br><b>Tax on under-reported Income</b><br>Tax on [Under-reported Income + Income determined under section 143(1)(a)]<br><b>Minus</b><br>Tax on Income determined under section 143(1)(a)   |
| <b>No Return has been filed and assessment made for first time OR WHERE RETURN HAS BEEN FURNISHED FOR THE FIRST TIME UNDER SECTION 148 (Finance Act, 2019)</b><br><br>Income assessed > Maximum amount not chargeable to Tax<br><br>See Illustration 5 & Illustration 11    | <b>Under-reported Income:</b><br>(i) In case of assessee other than individual/HUF<br>= Amount of income assessed<br>(ii) In case of Individual/HUF<br>= Amount of Income assessed<br><b>minus</b> ₹ 2,50,000<br><br><b>Tax on under-reported Income</b><br>(i) Tax on under reported income as if it were the total income<br>(ii) Tax on (under-reported income + ₹2,50,000) as if it were total income of assessee  |
| <b>Case of Re-assessment</b><br><br>Income reassessed > Income assessed or reassessed immediately before such reassessment<br><br>See Illustration 6  | <b>Under-reported Income</b><br>Amount of Income reassessed – Amount of income assessed in preceding order<br><br><b>Tax on Under-reported Income</b><br>Tax on [Under-reported Income + Income assessed in preceding order]<br><b>Minus</b> Tax on Income assessed in preceding order   |
| <b>Where section 115JB or 115JC applies and return has been filed by the assessee and assessment made for first time</b><br><br>Deemed total income assessed as per section 115JB/115JC > Deemed Total income as per section 115JB/115JC determined under section 143(1)(a) | <b>Under-reported Income</b><br><b>(A - B) + (C - D)</b><br><br>A = Total Income assessed as per general provisions<br>B = Total Income assessed as per general provisions reduced by under-reported income<br>C = Total Income assessed as per section 115JB/115JC<br>D = Total Income assessed as per section 115JB/115JC reduced by under-reported income.<br><br><b>Note:</b> If under-reported income in 'B' and 'D' are the same, then under-reported income shall not be considered in 'D'. |

|  |  |
|--|--|
| <b>Where section 115JB/115JC applies and no return has been filed and assessment made for first time OR WHERE RETURN HAS BEEN FURNISHED FOR THE FIRST TIME UNDER SECTION 148 (Finance Act, 2019)</b> | <b>Under-reported Income<br/>(A - B) + (C - D)</b>   |
| Deemed total income assessed as per section 115JB/115JC > Maximum amount not chargeable to tax   | A = Total Income assessed as per general provisions<br>B = Total Income assessed as per general provisions reduced by under-reported income<br>C = Total Income assessed as per section 115JB/115JC<br>D = Total Income assessed as per section 115JB/115JC reduced by under-reported income.<br><br><b>Note:</b> If under-reported income in 'B' and 'D' are the same, then under-reported income shall not be considered in 'D'.         |
| <b>Where section 115JB/115JC applies and it is a case of reassessment</b>  | <b>Under-reported Income<br/>(A - B) + (C - D)</b>   |
| Deemed total income reassessed as per section 115JB/115JC > Deemed Total income as per Section 115JB/115JC assessed immediately before such reassessment   | A = Total Income reassessed as per general provisions<br>B = Total Income reassessed as per general provisions reduced by under-reported income<br>C = Total Income reassessed as per section 115JB/115JC<br>D = Total Income reassessed as per section 115JB/115JC reduced by under-reported income.<br><br><b>Note:</b> If under-reported income in 'B' and 'D' are the same, then under-reported income shall not be considered in 'D'. |
| <b>Returned Income in a Loss and on assessment</b><br><br><b>Loss is reduced or converted into income</b><br><br>See Illustration 3 & 4  | <b>Under-reported Income</b><br><br>Loss assessed/ — Loss as per Income section 143(1)(a) assessed<br><br><b>Tax on Under-reported Income</b><br>Tax on under-reported income as if it were total income of the assessee.  |
| <b>Case of reassessment and on reassessment</b><br><br><b>Loss in assessment immediately before such reassessment is reduced or converted into income.</b>   | <b>Under-reported Income</b><br><br>Loss reassessed/ — Loss assessed in Income reassessed preceding assessment order<br><br><b>Tax on under-reported Income</b><br>Tax on under-reported income as if it were the total income of the assessee.  |

## **ILLUSTRATIONS ON SECTION 270A**

In the following illustrations, it has been assumed that assessees had not opted for special taxation regime.

### **Illustration 1:**

Details of an individual who filed his return of income is as under:

|                                      |             |
|--------------------------------------|-------------|
| Returned Income                      | ₹ 10,00,000 |
| Income under section 143(1)(a)       | ₹ 11,00,000 |
| Income assessed under section 143(3) | ₹ 25,00,000 |

Can penalty under section 270A can be imposed?

### **Solution:**

**Chargeability of section 270A:** The person is considered to have under-reported the

income since

Income assessed  $>$  Income determined under  
section 143(1)(a)

**Amount of under-reported Income**

$$\begin{aligned}
 &= \text{Income assessed under section 143(3)} - \text{Income determined under section 143(1)(a)} \\
 &= ₹ 25,00,000 - ₹ 11,00,000 \\
 &= ₹ 14,00,000
 \end{aligned}$$

**Tax payable on under-reported Income**

$$\begin{aligned}
 &= \text{Tax on ₹} 25,00,000 - \text{Tax on ₹} 11,00,000 \\
 &= ₹ 5,85,000 - ₹ 1,48,200 \\
 &= ₹ 4,36,800
 \end{aligned}$$

**Penalty for under reporting**

$$\begin{aligned}
 &= 50\% \text{ of ₹} 4,36,800 \\
 &= ₹ 2,18,400
 \end{aligned}$$

This penalty shall be 200% if additions made to income are on account of misreporting of income.

### **Illustration 2:**

If in Illustration 1 above, out of the additions of ₹ 14,00,000 made under section 143(3), ₹ 8,00,000 addition is because of following:

Assessee has disallowed in the return 20% car expenses of ₹ 40,00,000 on account of personal usage of car i.e. ₹ 8,00,000. But Assessing Officer disallowed 40% expenses of car i.e. ₹ 16,00,000. Now as per section 270A(6)(c), ₹ 8,00,000 shall not be regarded as under-reported income.

How much penalty can be levied in this case?

### **Solution:**

**Amount of under-reported Income**

$$\begin{aligned}
 &= ₹ 14,00,000 - ₹ 8,00,000 \\
 &= ₹ 6,00,000
 \end{aligned}$$

**Tax payable on under-reported Income**

$$\begin{aligned}
 &= \text{Tax on (₹} 6,00,000 + ₹ 11,00,000) - \text{Tax on ₹} 11,00,000 \\
 &= ₹ 1,87,200
 \end{aligned}$$

|                                    |                     |
|------------------------------------|---------------------|
| <b>Penalty for under reporting</b> | = 50% of ₹ 1,87,200 |
|                                    | = ₹ 93,600          |

### Illustration 3:

Mr. X filed his return of income claiming loss therein:

|                                      |               |
|--------------------------------------|---------------|
| Returned Income                      | - ₹ 12,00,000 |
| Income under section 143(1)(a)       | - ₹ 13,00,000 |
| Income assessed under section 143(3) | - ₹ 2,00,000  |

Can penalty be levied in this case?

### Solution:

**Chargeability of section 270A:** The person is considered to have under-reported the income since LOSS HAS BEEN REDUCED BECAUSE OF ASSESSMENT.

Income assessed > Income determined under section 143(1)(a)

|  |  |
|--|--|
| <b>Amount of under-reported Income</b> | = Loss assessed under - Loss determined under section 143(3) section 143(1)(a) |
|  | = - ₹ 2,00,000 <b>minus</b> (- ₹ 13,00,000)                                    |
|  | = + ₹ 11,00,000  |

|   |  |
|---|--|
| <b>Tax payable on under-reported Income</b> | = Tax on ₹ 11,00,000 i.e. under-reported Income as if it were the total income of the assessee |
|   | = ₹ 1,48,200   |

|                                    |                     |
|------------------------------------|---------------------|
| <b>Penalty for under reporting</b> | = 50% of ₹ 1,48,200 |
|                                    | = ₹ 74,100          |

### Illustration 4:

ABC Ltd., an Indian Company furnished its return of income disclosing a loss of ₹ 50 lakhs. However, the loss determined under section 143(1)(a) is only ₹ 40 lakhs. The case was taken up for scrutiny. The Assessing Officer made various additions and the income assessed under section 143(3) is ₹ 1,10,00,000.

Determine the penalty leviable by Assessing Officer. Assume that the turnover of ABC Ltd. in F.Y. 2020-21 does not exceed ₹ 400 crores.

### Solution:

**Chargeability of section 270A:** The person is considered to have under-reported the income since LOSS HAS BEEN CONVERTED INTO INCOME.

|  |  |
|--|--|
| <b>Amount of under-reported Income</b> | = Income assessed under - Income determined under section 143(3) under section 143(1)(a) |
|  | = ₹ 1,10,00,000 <b>minus</b> (- ₹ 40,00,000)   |
|  | = ₹ 1,10,00,000 + ₹ 40,00,000  |
|  | = ₹ 1,50,00,000  |

|   |                        |
|---|------------------------|
| <b>Tax payable on under-reported Income</b> | = Tax on ₹ 1,50,00,000 |
|   | = ₹ 41,73,000          |

**Penalty for under reporting**

= 50% of ₹ 41,73,000

= ₹ 20,86,500

**Illustration 5:**

An Individual does not file return of Income for Assessment Year 2023-24. The Assessing Officer assesses the income under section 144 at ₹ 10,00,000. Can the penalty be levied in this case? If, yes, then determine the quantum of penalty.

**Solution:****Chargeability of section 270A:**

Individual is said to have under-reported the income since Assessed Income > ₹ 2,50,000

**Under-reported Income**

$$= ₹ 10,00,000 - ₹ 2,50,000 \\ = ₹ 7,50,000$$

**Tax on under-reported Income**

$$= \text{Tax on } ₹ 7,50,000 + ₹ 2,50,000 \\ = ₹ 10,00,000 \\ = ₹ 1,17,000$$

**Penalty for under reporting**

$$= 50\% \text{ of } ₹ 1,17,000 \\ = ₹ 58,500$$

**But this case falls in misreporting of income and therefore penalty shall be 200% of ₹ 1,17,000 i.e., ₹2,34,000.**

**Illustration 6:**

Mr. P filed his return of income. His details are as under:

|                                      |             |
|--------------------------------------|-------------|
| Returned Income under section 139(1) | ₹ 10,00,000 |
| Assessment under section 143(3)      | ₹ 15,00,000 |
| Reassessment under section 147       | ₹ 32,00,000 |

Additions of ₹ 5,00,000 under section 147 are on the basis of disallowance of an expense in some other case by Supreme Court. The assessee had claimed the deduction of ₹ 5,00,000 on basis of High Court judgment where in High Court has allowed the deduction. The Assessing Officer is satisfied under section 270A(6)(a) that assessee's explanation is bona fide and assessee has disclosed all material facts to substantiate the explanation. Addition of ₹ 5,00,000 shall not be treated as under-reported income.

**Solution:****Chargeability of section 270A:** Assessee has under-reported the income as:

Income reassessed > Income assessed in preceding assessment

$$\begin{aligned} \text{Under-reported Income} &= ₹ 32,00,000 - ₹ 15,00,000 \\ &= ₹ 17,00,000 \end{aligned}$$

However as per section 270A(6)(a) under-reported income shall be ₹ 17,00,000 - ₹ 5,00,000 = ₹12,00,000

$$\begin{aligned} \text{Tax on under-reported Income} &= \text{Tax on } (₹12,00,000 + ₹15,00,000) - \text{tax on } ₹15,00,000 \\ &= ₹ 6,47,400 - ₹ 2,73,000 \\ &= ₹ 3,74,400 \end{aligned}$$

**Penalty for under reporting** = 50% of ₹ 3,74,400

**Penalty for misreporting shall be as under:**

If disallowance of ₹ 12,00,000 under section 147 is because of

- Failure to record the receipt in books
- Misrepresentation of facts
- Failure to record investment
- False entry in book
- Expenditure not substantiated by evidence

Then penalty for misreporting shall be 200% of ₹ 3,74,400. Penalty for under-reporting @ 50% shall not be levied in this case.

**Illustration 7:**

Return of income filed by the assessee company is as under:

|                                    |               |
|------------------------------------|---------------|
| Total Income as per Income tax Act | ₹ 80,00,000   |
| Tax as per Normal Provisions       | ₹ 24,96,000   |
| Book profits as per section 115JB  | ₹ 2,00,00,000 |
| Tax as per section 115JB           | ₹ 33,38,400   |

Income determined under section 143(1)(a) as per normal provision is ₹ 80,00,000 and book profit is ₹ 2,00,00,000. (Turnover of assessee company in F.Y. 2019-20 = ₹ 380 crores, F.Y. 2020-21 = ₹ 405 crores)

Assessing Officer has assessed total income under section 143(3) under general provisions at ₹1,10,00,000 and assessed book profits at ₹2,10,00,000. Presume that addition of ₹30,00,000 made to the total income under general provisions and ₹10,00,000 additions made to book profits are on different account.

Under-reported income shall be:

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

A = Total income assessed by A.O. under general provisions of I.T. Act. = ₹1,10,00,000

$$B = \left[ \begin{array}{l} \text{Total income assessed by A.O. under} \\ \text{general provisions of the I.T. Act} \end{array} \right] - \text{Under-reported Income}$$

$$= [1,10,00,000 - 30,00,000] = ₹ 80,00,000$$

C = Book profits assessed by Assessing Officer under section 115JB = ₹2,10,00,000

$$D = \left[ \begin{array}{l} \text{Book profits assessed by Assessing} \\ \text{Officer under section 115JB} \end{array} \right] - \text{Under-reported Income}$$

$$= ₹ 2,10,00,000 - ₹ 10,00,000 = ₹ 2,00,00,000$$

**Under-reported income** = (₹1,10,00,000 – ₹80,00,000) + (₹2,10,00,000 – ₹ 2,00,00,000)  
= ₹ 40,00,000

**Tax on under-reported Income:**

- (i) Tax on (₹80,00,000 + ₹30,00,000) – Tax on ₹80,00,000  
 Tax on ₹1,10,00,000 – Tax on ₹80,00,000  
 @30% + 7% +4%      @ 30% + 4%  
 ₹ 36,72,240 – ₹ 24,96,000 = ₹ 11,76,240

(ii) Tax on  $(₹10,00,000 + ₹2,00,00,000)$  – Tax on  $₹2,00,00,000$   
@15% + 7% + 4% @15% + 7% + 4%  
= ₹ 1,66,920

(iii) Tax on under-reported income = ₹ 13,43,160

**Penalty for under-reporting = 50% of ₹ 13,43,160**

**Illustration 8:**

Suppose in illustration 7, out of ₹ 30,00,000 added by Assessing Officer to total income under normal provisions and ₹ 10,00,000 added by Assessing Officer to book profits under section 115JB, ₹ 4,00,000 is on the same issue e.g., provisions made for unascertained liability.

**Solution:**

**Under-reported income shall be:**

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

|                   |           |
|-------------------|-----------|
| A = ₹ 1,10,00,000 | 000,00,00 |
| B = ₹ 80,00,000   | 000,00,78 |
| C = ₹ 2,10,00,000 | 000,00,93 |
| D = ₹ 2,04,00,000 | 000,00,60 |

**Under-reported Income = (₹1,10,00,000 – ₹ 80,00,000) + (₹2,10,00,000 – ₹2,04,00,000)**

**Tax on under-reported Income:**

(i) Tax on  $(₹ 80,00,000 + ₹ 30,00,000)$  – Tax on ₹ 80,00,000  
@30% + 7% + 4% @ 30% + 4%  
= ₹ 11,76,240

(ii) Tax on  $(₹ 6,00,000 + ₹ 2,00,00,000)$  – Tax on ₹ 2,00,00,000  
@15% + 7% + 4% @15% + 7% + 4%  
= ₹ 1,00,152

(iii) Tax on under-reported Income = ₹ 12,76,392

**Penalty for under-reporting = 50% of ₹ 12,76,392**

**Illustration 9:**

Returned income – ₹ 10,00,000

Returned Book profits + ₹ 2,00,00,000

Return is processed at the same amounts under section 143(1)(a).

Assessing Officer determines the income under section 143(3) as under:

Assessed income under general provision of the Income tax Act + ₹ 70,00,000  
[under-reported income is = ₹ 80,00,000]

Book Profit = ₹ 2,10,00,000 (under-reported income ₹ 10,00,000)

Additions of ₹ 80,00,000 to total income under normal provisions and ₹ 10,00,000 to book profit are on different account.

**Solution:****Under-reported income shall be as under:**

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

$$A = ₹70,00,000$$

$$B = ₹70,00,000 - ₹80,00,000 = -₹10,00,000$$

$$C = ₹2,10,00,000$$

$$D = ₹2,00,00,000$$

|                              |   |   |
|------------------------------|---|---|
| <b>Under-reported Income</b> | = | (A - B) + (C - D)   |
|                              | = | [₹70,00,000 - (- ₹10,00,000)] + ₹2,10,00,000 - ₹2,00,00,000 |
|                              | = | ₹ 80,00,000 + ₹ 10,00,000                                   |
|                              |   | ₹ 90,00,000   |

**Tax on under-reported Income:**

|   |                    |
|---|--------------------|
| Tax on ₹ 80,00,000 @ 30% + 4%                               | ₹ 24,96,000        |
| Tax on ₹ 2,10,00,000 - Tax on 2,00,00,000<br>@15% + 7% + 4% | ₹ 1,66,920         |
|   | <u>₹ 26,62,920</u> |

**Penalty for under-reporting** = 50% of ₹ 27,01,868**Illustration 10:**

No return filed by assessee company and Total Income assessed under section 144 = ₹ 20,00,000

Book profits under section 115JB as per section 144 = ₹ 15,00,000

$$A = ₹ 20,00,000$$

$$B = ₹ 20,00,000 - ₹ 20,00,000 = NIL$$

$$C = ₹ 15,00,000$$

$$D = ₹ 15,00,000 - ₹ 15,00,000 = NIL$$

**Solution:**

|                              |   |   |
|------------------------------|---|---|
| <b>Under-reported Income</b> | = | (A - B) + (C - D)                         |
|                              | = | (₹ 20,00,000 - NIL) + (₹ 15,00,000 - NIL) |
|                              | = | ₹ 35,00,000                               |

**Tax on under-reported Income:**

|                           |                   |
|---------------------------|-------------------|
| On ₹ 20,00,000 @ 31.2%    | ₹ 6,24,000        |
| On ₹ 15,00,000 @ 15% + 4% | ₹ 2,34,000        |
|                           | <u>₹ 8,58,000</u> |

**Illustration 11:**

An individual does not file his return of income for Assessment Year 2018-19. A notice under section 148 is served upon him on 20-03-2022 to file the return on 10-04-2022. The assessee files the return under section 148 on 8-04-2022 declaring an income of ₹ 8,00,000. The Assessing officer assesses the income under section 147 on 31-12-2022 at ₹ 10,00,000. How much penalty can be levied under section 270A?

**Solution:**

**Chargeability of section 270A:** Individual is said to have under-reported the income since Assessed Income > ₹ 2,50,000

**Under-reported Income** = ₹ 10,00,000 - ₹ 2,50,000  
= ₹ 7,50,000

**Tax on under-reported Income** = Tax on ₹ 7,50,000 + ₹ 2,50,000  
= ₹ 10,00,000  
= ₹ 1,17,000

**Penalty for under reporting** = 200% of ₹ 1,17,000  
= ₹ 2,34,000

This case falls in misreporting of income as assessee had failed to file the return and he filed the return under section 148.

#### ♦ CERTAIN ADDITIONS/ DISALLOWANCES NOT REGARDED AS UNDER-REPORTED INCOME OR MISREPORTED INCOME ♦

**Section 270A(6) provides** that the **following shall not be treated as under-reported income/ mis-reported income and therefore no penalty under section 270A shall be levied.**

##### 1. **BONAFIDE EXPLANATION**

- Under-reported income shall not include amount of income for which the assessee offers an explanation;
- The Assessing Officer is satisfied about the explanation that it is bona fide; and
- The assessee has disclosed all the material facts to substantiate the explanation.

This is possible where disallowance/addition is made by Revenue Authorities but assessee proves that he has claimed the deduction/ exemption based on HC Judgment Section 270A shall not apply.

##### 2. **UNDER-REPORTED INCOME ESTIMATED, WHERE ACCOUNTS ARE CORRECT AND COMPLETE**

- where additions are made on estimated basis and,
- the accounts are correct and complete to the satisfaction of the Assessing Officer, and
- the method employed does not enable proper determination of income.

For example, the Assessing Officer estimates the income of a building contractor as certain percentage of gross receipts ignoring the declared returned income. He does not reject the books of account but use estimated method since expenses are of such a nature that they cannot be verified. In such a case section 270A shall not apply.

##### 3. **ENHANCEMENT OF THE ESTIMATE OF THE ASSESSEE RESULTING IN UNDERREPORTING OF INCOME**

- where an assessee estimated an amount in respect of a disallowance;
- such disallowance is increased in the assessment;
- such difference in the estimate shall not be considered as amount of income underreported;

For example, assessee disallowed 15% of car expenses for personal usage in the return of income and the Assessing Officer increased the disallowance to 40% of car expenses, section 270A shall not apply.

**4. UNDER-REPORTED INCOME REPRESENTED BY TRANSFER PRICING ADJUSTMENT**

- Where addition is made to the returned income on account of adjustment in **arm's length price determined by the Transfer Pricing Officer;**
- the assessee has maintained information and documents prescribed under section 92D;
- the assessee has **declared the international transaction** in Transfer Pricing Audit Report;
- the assessee has disclosed all the material facts relating to the transaction, in such a case, the addition will not be regarded as under-reported income and section 270A shall not apply.

**5. UNDISCLOSED INCOME**

In respect of undisclosed income found in case of search & seizure, section 270A shall not apply but section 271AAB will apply.

**♦ MISREPORTING OF INCOME SECTION 270A(9) ♦**

**200% of amount of tax on under-reported income shall be the penalty where under-reported income is in consequence of misreporting of income.**

**The following cases are the cases of misreporting of income:**

**(a) Misrepresentation or suppression of facts**

- i. STCG shown as LTCG to claim lower rate of tax.
- ii. Capital gains claimed exempt although they are not exempt.
- iii. Deduction under section 43B claimed by declaring the amount has been paid by due date although amount paid after due date.

**(b) Failure to record investments in the books of account**

Assessing Officer discovers unexplained investment e.g. immovable property, FDR, Jewellery etc. which are not there in books of account.

**(c) Claim of expenditure not substantiated by any evidence**

- Bogus bills of expenditure.
- Claim of expenditure without Bills.

**(d) Recording of any false entry in the books of account**

- Bogus expenditure
- Income received shown as advances
- Loans given shown as expenses

**(e) Failure to record any receipt in books of account having a bearing on total income**

Sales not accounted.

**(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 Transfer Pricing apply.

**SECTION 270AA: IMMUNITY FROM IMPOSITION OF PENALTY,  
ETC.**

The procedure of getting immunity from penalty under section 270A and prosecution proceedings under section 276C/ 276CC is explained through following illustrations.

### **Example 1:**

For Assessment Year 2022-23, the Assessing Officer passes assessment order under section 143(3) on 01.01.2023. Notice of demand under section 156 and assessment order under section 143(3) is served on the assessee on 01.01.2023. The Assessing Officer also initiates penalty proceeding under section 270A on 01.01.2023. A demand of ₹ 15,00,000 (₹ 12,00,000 Tax and ₹ 3,00,000 interest) has been created on the assessee.

Now assessee can make an application to Assessing Officer to grant immunity from imposition of penalty under section 270A and initiation of prosecution proceeding under section 276C and under section 276CC if:

- Assessee pays the demand of ₹ 15,00,000 (Tax plus interest) by 31.01.2023.
- Assessee does not file an appeal to CIT(A) against the order under section 143(3).
- Assessee makes application as aforesaid on or before 28.02.2023.

Assessing Officer shall by 31.03.2023 make an order of acceptance or rejection of application made under section 270AA.

### **Example 2:**

Suppose in the above case, the assessee makes application under section 270AA for grant of immunity on 15-01-2023. The Assessing Officer passes a rejection order on 20-2-2023 rejecting the application under section 270AA. The said order is served on the assessee on 22-02-2023. Now as per section 249, the time limit for filing the appeal to CIT (Appeals) shall be increased with the period beginning from the date on which the application is made u/s 270AA and ending on the date on which order rejecting the application is served on the assessee. Therefore assessee can file an appeal to CIT (Appeals) by 31-01-2023 + (15/01/2023 – 22/02/2023) i.e. 11<sup>th</sup> March, 2023.

### **KEY NOTES:**

1. The order of rejection passed under section 270AA is final and no appeal/revision is possible against such order.
2. Where application of the assessee has been admitted, i.e., he gets immunity from penalty and prosecution, then assessee cannot file an appeal/revision application under section 264 against the order of assessment/reassessment.

## **SECTION 271AAB: LAW OF PENALTY IN CASE OF SEARCH & SEIZURE**

- (A) No Penalty if cash/ jewellery found in search already recorded in regular books of account of specified previous year or disclosed to CIT under section 273A on or before date of search.
- (B) 30% of undisclosed income is penalty where assessee admits undisclosed income during search operation and specifies the manner in which income was earned and substantiate the manner in which income was earned and discloses such income in the return of income of specified previous year and pays tax and interest on or before specified date.
- (C) 60% of undisclosed income is penalty in cases not falling in (B) Above
- (D) No penalty under section 270A in case of search & seizure.

**Note 1:** “**Specified Previous Year**” means the previous year whose due date for filing of ROI has not expired before the date of search and for which assessee has not filed the return of income.

**Note 2:** “**Specified Date**” means

- (i) Due date of filing of ROI where specified previous year is the previous year which has ended before date of search.
- (ii) Date given in the notice under section 148 to file ROI if specified previous year is the previous year in which search is conducted.

### ♦ ANALYSIS OF SECTION 271AAB ♦

Search is conducted on **2<sup>nd</sup> August, 2022**. Cash of ₹ 3 crores and jewellery of ₹ 4 crores are seized. The due date of filing of return is **31<sup>st</sup> October** of the Assessment year and the Assessing Officer issued notice under section 148 on 4<sup>th</sup> August, 2022 to file the returns of income under section 148 for Assessment Year 2016-17 to Assessment year 2022-23 on or before **5<sup>th</sup> October, 2022**. Assessee has not filed the return of income for Assessment Year 2022-23 upto **1<sup>st</sup> August, 2022**.

1. Now “**Specified Previous year**” means:

- (i) **Previous year 31.03.2022** i.e., the previous year which has ended before the date of search but the due date of furnishing the return of Income under section 139(1) for such year has not expired before the date of search and the assessee has not furnished the return of income for the said previous year before the date of search.
- (ii) **Previous year 31.03.2023** i.e., the previous year in which search is conducted.

2. Now “**Specified Date**” means:

- (i) **For previous year 31.03.2022** i.e., Assessment Year 2022-23 → **5<sup>th</sup> October, 2022**, i.e., the date on which the period specified in the notice issued under section 148 for furnishing the return of income expires.
  - (ii) **For previous year 31.03.2023** i.e., Assessment Year 2023-24 → **31<sup>st</sup> October, 2023** i.e., the due date of furnishing the Return of Income under section 139(1).
3. Let us say that out of cash of ₹ 3 crores & Jewellery of ₹ 4 crores seized, cash of ₹ 75 lakh and jewellery of ₹ 1.20 crores was recorded in regular books of account of previous year 31.03.2022 and/ or previous year 31.03.2023 on or before 02.08.2022. Then, cash of ₹ 75 lakhs and jewellery of ₹ 1.20 crores shall not be treated as undisclosed income of previous year 31.03.2022 and / or 31.03.2023 and no penalty of under-reporting or mis-reporting of income under section 271AAB or under section 270A shall be levied.

Same answer will apply if assessee has disclosed cash of ₹ 75 lakh and jewellery of ₹ 1.20 crores before the CIT before 2.08.2022.

4. Regarding remaining cash of ₹ 2.25 crores and jewellery of ₹ 2.80 crores (which is not recorded before 2.8.2022 in regular books of account of Previous Year 31.3.2022 and/ or 31.3.2023), if the assessee proves that cash of ₹ 2.25 crores

and jewellery of ₹ 2.80 crores is out of the income of previous year 31.3.2022 and/ or previous year 31.03.2023 in the following manner:

- He makes statement under section 132(4) in the course of search and admits the undisclosed income of ₹ 2.25 crores and ₹ 2.80 crores and specifies the manner in which such income has been derived; and
- proves the manner in which undisclosed income has been derived; and
- pays tax and interest in respect of undisclosed income of previous year 31.03.2022 on or before 5.10.2022 and of previous year 31.3.2023 on or before 31.10.2023;

then penalty of 30% on ₹ 5.05 crores i.e., ₹ 1,51,50,000 shall be levied under section 271AAB. This is in addition to income tax and interest on the said income. Penalty under section 270A shall not be levied.

5. If assessee is not able to admit the concealed income and substantiate it in the statement given under section 132(4) but assessee declares such income in the return of previous year 31.03.2022 and/ or previous year 31.03.2023, then there shall be a penalty of 60% of ₹ 5.05 crores i.e. of ₹ 3.30 crores. This is in addition to income tax and interest on the said income. Penalty under section 270A shall not be levied.
6. If assessee does not admit/ disclose the income in manner given in para 4 and 5 above and A.O. assesses the above income in previous year 31.03.2022/ 31.03.2023, then assessee shall pay penalty of 60% of undisclosed income. Penalty under section 270A shall not be levied.

**Note:** Finance Act, 2022 has extended the powers under section 271AAB to now be also exercisable by Commissioner (Appeals) in addition to Assessing Officer. However, this shall be only relevant for the additions made by Commissioner (Appeals) himself and he shall initiate the penalty proceedings before passing his order. [SHADIRAM BALMUKUND]

#### **SECTION 271J: PENALTY FOR FURNISHING INCORRECT INFORMATION OR CERTIFICATES**

Where the Assessing Officer/ CIT(A), in the course of any proceedings under this Act, finds that a chartered accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under this Act, then such chartered accountant/ merchant banker/ registered valuer shall be liable to pay penalty of ₹10,000 for each such report or certificate.

#### **SECTION 273A: POWER TO REDUCE OR WAIVE PENALTY IN CERTAIN CASES**

##### **1. SECTION 273A(1)**

- CIT may, in his discretion, **reduce or waive the amount of penalty imposed or imposable under section 270A.**
- CIT can exercise this power on his own motion or on an application made by the assessee.
- **CIT shall exercise this power if he is satisfied that:**

- (a) assessee has **cooperated** in any enquiry relating to the assessment of his income; and
- (b) assessee has either **paid** or made **satisfactory arrangements** for payment of tax and interest payable in respect of the relevant AY/AYS; and
- (c) the assessee has **prior to detection by the 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**.
2. **SECTION 273A(2):** No order reducing or waiving penalty under section 273A(1) shall be made by the CIT without the **approval of CCIT or DGIT**, as the case may be, in a case where the **amount of income in respect of which penalty is imposed or imposable** under section 270A for the relevant AY, or, where such disclosure relates to more than one AY, the aggregate amount of such income for those years, **exceeds ₹5,00,000**.
3. **SECTION 273A(3):** Where an order has been made under section 273A(1) in favour of any person, whether such order relates to one or more AYs, he shall not be entitled to any relief under this section in relation to any other AY at any time after making of such order. In other words, **the order under section 273A(1) can be made in the favour of the assessee once in his life time.**
4. **SECTION 273A(4):** CIT may, on an application made by the assessee and after recording his reasons for doing so, **reduce or waive the amount of any penalty** payable by the assessee under the Act if he is satisfied that:
- to do otherwise would cause genuine hardship** to the assessee, having regard to the circumstances of the case; and
  - the assessee has **cooperated** in any enquiry relating to assessment or any proceeding for the recovery of any amount due from him.
- Note:** Where the amount of any penalty or where the application relates to more than one penalty, aggregate amount of such **penalties exceed ₹1 lakh**, no order under section 273A(4) shall be passed by the CIT without the **prior approval of CCIT/ DGIT**.
5. **SECTION 273A(4A):** The order under sub-section (4), either accepting or rejecting the application in full or in part, shall be passed within 12 months from the end of the month in which such application is received by the CIT.

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.

6. **Order under section 273A is a final order and no appeal is possible against such order.**

#### **Important Key Notes on Section 273A:**

- Anwar Ali:** The power conferred on the CIT under section 273A is a quasi-judicial power. It should be exercised judiciously and not arbitrarily. The order under section 273A should be a "Speaking Order", i.e., **it should state the reasons as to why the relief has not been granted to the assessee or why it has been restricted to a specified percentage as against the claim of the assessee for 100% waiver**. An order which is not a speaking order is void ab-initio.

2. IF CONDITIONS REFERRED TO IN 273A ARE SATISFIED THEN THE CIT IS DUTY BOUND TO GRANT THE RELIEF UNDER SECTION 273A.
3. CIT under section 273A cannot waive or reduce interest under section 234A, 234B and 234C.
4. SECTION 279(1A) provides that the prosecution proceedings shall be dropped for an AY in respect of which penalty under section 270A has been reduced or waived by CIT under section 273A.

## **SECTIONS RELATING TO UNEXPLAINED CREDITS/ EXPENDITURE**

### **Section 68**

|  |
|--|
| <p><b>Cash Credits</b></p> <p>Sum credited may be charged to tax as the income of the previous year in the books of which such sum is first credited, where:</p> <ul style="list-style-type: none"> <li>- any sum found credited in books maintained for any previous year, and</li> <li>- assessee offers <b>no explanation</b> about the nature and source thereof, or <b>explanation offered by him is not satisfactory</b> in the opinion of the Assessing Officer</li> </ul> <p><b>Second Proviso has been added to section 68 which has placed onus of proof on the closely held company receiving the share application money/ share capital/ share premium/ any such amount to prove that such money which is invested in the company belongs to the person who has given the money to the company. Otherwise, the money so received shall be taxable in hands of company as unexplained cash credit under section 68.</b></p> <p><b>First Proviso added by Finance Act, 2022 provides that:</b></p> <ul style="list-style-type: none"> <li>➤ If any assessee;</li> <li>➤ receives any loan or borrowing from any person;</li> <li>➤ then the loan or borrowing received by the assessee shall be treated as unexplained cash credits in hands of assessee;</li> <li>➤ if other person does not offer satisfactory explanation about the source from which he gave loan or borrowing to the assessee.</li> </ul> <p>For Example, assessee receives a loan of ₹ 1 crore from Mr Delta. Assessee furnishes Balance Sheet, PAN, I.T. Return of Mr. Delta. Mr. Delta is not able to explain the source of ₹ 1 crore.</p> <p>Now, ₹ 1 crore shall be unexplained cash credit in hands of Mr. Delta to be taxed as per section 115BBE and penalty as per section 271AAC shall also be levied.</p> <p>Further, as per First Proviso to section 68 introduced by Finance Act, 2022, ₹ 1 crore shall also be treated as unexplained cash credit in hands of the assessee as Mr. Delta was not able to explain the source of funds.</p> <p>The assessee shall also be subjected to section 115BBE and section 271AAC.</p> <p>One Exception to the above provisos is money received from non-resident / venture capital fund / venture capital company. In simple words, on such sum of monies, the provisions of above provisos shall not be applicable.</p> |
|--|

## Section 69

|                                |  |
|--------------------------------|--|
| <b>Unexplained Investments</b> | <p>Value of investments may be deemed to be the income of the previous year in which investments are made, where:</p> <ul style="list-style-type: none"><li>- assessee has made investments which are not recorded in the books of account, if any, maintained by him, and</li><li>- assessee offers <b>no explanation</b> about the nature and source of the investments, or <b>explanation</b> offered by him is <b>not satisfactory</b> in the opinion of the Assessing Officer</li></ul> |
|--------------------------------|--|

## Section 69A

|                                |   |
|--------------------------------|---|
| <b>Unexplained Money, etc.</b> | <p>Money and value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee of the previous year in which he is found the owner, where:</p> <ul style="list-style-type: none"><li>- assessee is found to be the owner of any money, bullion, jewellery or other valuable article; and</li><li>- such money, bullion, jewellery or other article is not recorded in the books of account, if any, maintained by him; and</li><li>- assessee offers <b>no explanation</b> about the nature and source of acquisition of such assets, or the <b>explanation</b> offered by him is <b>not satisfactory</b>, in the opinion of the Assessing Officer</li></ul> |
|--------------------------------|---|

## Section 69B

|   |   |
|---|---|
| <b>Amount of Investments, etc., not fully disclosed in the books of account</b> | <p>Any excess amount may be deemed to be the income of the assessee for the previous year in which:</p> <ul style="list-style-type: none"><li>- assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article; and</li><li>- Assessing Officer finds that the amount expended on making such investments or acquiring such assets exceeds the amount recorded in the books of account maintained by him; and</li><li>- assessee offers <b>no explanation</b> about such excess amount or the <b>explanation</b> offered by him is <b>not satisfactory</b> in the opinion of the Assessing Officer</li></ul> |
|---|---|

## Section 69C

|                                |  |
|--------------------------------|--|
| <b>Unexplained Expenditure</b> | <p>Any amount of expenditure or part thereof, may be deemed to be income of the assessee of a previous year where:</p> <ul style="list-style-type: none"><li>- assessee has incurred any expenditure (e.g., marriage/party); and</li><li>- he offers <b>no explanation</b> about the source of such expenditure or part thereof, or the <b>explanation</b> offered by him is <b>not satisfactory</b> in the opinion of the Assessing Officer</li></ul> <p><b>Note: No deduction shall be allowed under any head of income of such unexplained expenditure.</b></p> |
|--------------------------------|--|

## Section 69D

|                                     |           |  |
|-------------------------------------|-----------|--|
| <b>Amount borrowed repaid HUNDI</b> | <b>or</b> | Any amount borrowed or repaid shall be deemed to be income of the person borrowing or repaying the amount in the previous year on which the amount was borrowed/ repaid where:<br>- the amount is borrowed on a hundi from a person, or<br>- the amount due thereon is repaid to any person, otherwise than through an account payee cheque.<br><b>Note:</b> Where amount borrowed under this section has been deemed as income of the borrower, then the borrower shall not be liable to be assessed again in respect of such amount under this section on re-payment of such amount. |
|-------------------------------------|-----------|--|

### SECTION 115BBE AND SECTION 271AAC: TAX AND PENALTY ON INCOME REFERRED TO IN SECTIONS 68/69/69A/69B/69C/69D

1. Section 115BBE provides that on income added under section 68/ 69/ 69A/ 69B/ 69C/ 69D by the **Assessing Officer, the assessee shall pay 60% tax on such income (+25%, surcharge + 4% cess in all cases).**
2. **Section 115BBE also provides that even if assessee has included such incomes under sections 68/ 69/ 69A/69B/ 69C/ 69D in the Return of income, still he shall pay 60% tax on such income (+25% surcharge + 4% cess in all cases).**
3. **Section 271AAC provides penalty of 10% of tax calculated as per section 115BBE. However, no such penalty shall be levied if assessee has included such income in Return of Income and paid tax on or before the end of Previous Year.**
4. **No expenditure shall be allowed from the income so deemed under section 68/ 69/ 69A/ 69B/ 69C/ 69D and deductions under Chapter VI-A shall also be not allowed from such deemed income. Also, losses shall not be allowed to be set off against such deemed income.**
5. **As per Finance Act, 2022, penalty under section 271AAC may also be made by Commissioner (Appeals) but limited and related to additions made by himself [SHADIRAM BALMUKUND]**

#### Illustration:

100 slum dwellers deposited cash of ₹2,50,000 each in their bank account and gave cheque of ₹2,50,000 to a closely held company XYZ Pvt. Ltd. as share application money. The slum dwellers are not able to prove the source of ₹2,50,000 in their hands to the Assessing Officer or explanation offered by them is found to be unsatisfactory by the Assessing Officer.

Now, as per the second proviso to section 68:

- If in case of a **closely held company**
- **any sum is found credited** in its books of account as share application money, share capital, share premium or any such amount by whatever name called (₹2.5 crores in case of XYZ Pvt. Ltd.)
- and the **person being a resident in whose name such credit is recorded** in the books of account (100 slum dwellers) **do not offer to the Assessing Officer an explanation** about the nature and source of the sum so credited i.e. ₹2,50,000 or

- the explanation given by these residents (slum dwellers) to the Assessing Officer is found to be unsatisfactory by the Assessing Officer.
- then, it shall be deemed that the explanation offered by the assessee company about the sum so credited (₹2.5 crores) is not satisfactory.
- and consequently ₹2.5 crores shall be deemed as income of the company as unexplained credit under section 68.
- As per section 115BBE the company shall pay tax 60% + 25% surcharge + 4% cess = 78% on the income of ₹2.5 crores so deemed under section 68 i.e. tax of ₹1,95,00,000. As per section 271AAC, the company shall also pay a penalty of 10% of the income tax i.e. 10% of 1,95,00,000 i.e. ₹19,50,000.
- The effect of section 115BBE will be that these 100 slum dwellers who have unexplained cash credit of ₹2,50,000 will not get slab benefit of ₹2,50,000 and ₹2,50,000 shall taxable at a flat rate of 78%. Therefore, each slum dweller will have to pay tax of ₹1,95,000.

The slum dwellers will also pay penalty of 10% of tax payable under section 115BBE, as per section 271AAC i.e. penalty of ₹ 19,500. This penalty will not be there if the slum dwellers pays the tax of ₹1,95,000 on or before the end of the Previous Year and includes ₹2,50,000 in their return of income of Previous Year.

### **SECTION 269SS: MODE OF TAKING OR ACCEPTING CERTAIN LOANS, DEPOSITS AND SPECIFIED SUM**

**A person shall not take or accept loan/ deposit/ any specified sum from any person otherwise than** by account payee cheque or account payee bank draft or by use of electronic clearing system or prescribed modes of payment if the aggregate of such loan/ deposit/ any specified sum in aggregate from such person is ₹ 20,000/- or more.

**EXCEPTIONS:** This section is not applicable to any loan/ deposit/ specified sum taken or accepted from/ accepted by,—

- the Government;
- any banking company, post office savings bank or co-operative bank;
- any corporation established by a Central, State or Provincial Act;
- any Government company.

Further, this section is not applicable to any loan/ deposit/ specified sum, where the lender of such loan/ deposit/ specified sum and the recipient of such loan/ deposit/ specified sum are having agricultural income and neither of them has any taxable income under the Act.

**Note:** "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. Section 269SS applies to cash received in relation to transfer of an immovable property. It does not matter whether immovable property being transferred is held as capital asset or as stock-in-trade.

## **SECTION 271D: PENALTY FOR FAILURE TO COMPLY WITH THE PROVISIONS OF SECTION 269SS**

If a person takes or accepts any loan or deposit 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 loan or deposit or specified sum taken or accepted.

### **CIT V. MUTHOOT FINANCIERS (2015) (DEL):**

In this case, the assessee-firm, engaged in business of banking and money lending, had received huge amounts from the partners way of cash.

The High Court observed that, in this case, there was no dispute as regards the money brought in by the partners of the assessee-firm. The source of money was also not doubted. The transaction was bona fide and not aimed to avoid any tax liability.

**The High Court held that the there is no separate legal entity for the partnership firm and the partner is entitled to use the funds of the firm. Partnership firm not being a juristic person, the inter se transaction between the firm and partners are not governed by the provisions of sections 269SS and 269T.**

## **SECTION 269T: MODE OF REPAYMENT OF CERTAIN LOANS OR DEPOSITS**

**Any loan/ deposit/ specified advance** (together with interest payable thereon) shall not be repaid by any person (including a banking company) (whether held in his own name or jointly with any other person), otherwise than by an **Account payee cheque** or bank draft or by use of electronic clearing system **or prescribed modes of payment**, if the amount of loan or deposit or specified advance is **₹ 20,000 or more**.

**EXCEPTIONS:** Section 269T is not applicable to repayment of any loan or deposit or specified sum **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

**Note:** "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**.

## **SECTION 271E: PENALTY FOR FAILURE TO COMPLY WITH THE PROVISIONS OF SECTION 269T**

If a person repays any loan or deposit 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 loan or deposit or specified advance so repaid.

### **Illustration:**

| <b>Situations</b>  | <b>Violation</b>  |
|--|---|
| (i) Mr. A has received a loan of ₹ 1,00,000 on 1-1-2023 from Mr. B by account payee cheque. Mr. A repays in cash on 20-1-2023 the loan to Mr. B of ₹ 10,000. | Section 269T is attracted and Mr. A has to pay penalty of ₹ 10,000. |
| (ii) Mr. A agrees to sell his house property to  | Section 269SS and section 269T are                                  |

|       |  |   |
|-------|--|---|
|       | Mr. B and receives ₹ 10,00,000 in cash as advance money on 1-6-2022. The sale agreement is cancelled and Mr. A refunds ₹ 10,00,000 in cash to Mr. B on 31-3-2023.  | attracted. A will have to pay penalty of ₹20,00,000. Mr. B shall pay penalty under section 269ST of ₹ 10,00,000.  |
| (iii) | A house property is registered in the name of Mr. A and Mrs. A jointly. Both agree to sell property to Mr. B on 1-1-2023 and receives advance of ₹ 15,000 each in cash. Now agreement to sell is cancelled and Mr. A return ₹ 15,000 by cash and Mrs. A return ₹ 15,000 by cheque. | Section 269SS is not attracted. However, section 269T is attracted since the aggregate advance received by Mr. A jointly with Mrs. A exceeds ₹20,000. Since Mr. A has paid ₹15,000 in cash, he shall have to pay penalty of ₹ 15,000. |

## **SECTION 269ST: MODE OF UNDERTAKING TRANSACTIONS**

**No person shall receive an amount of ₹2 lakh 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 or prescribed modes of payment.**

**EXCEPTION:** This section is not applicable to the following:

- i. any receipt by:
  - a) Government;
  - b) any banking company, post office savings bank or co-operative bank
- ii. transactions of nature referred under section 269SS

**Notes:**

**1. NOTIFICATION:**

Provision of this section are not applicable to **receipt** by any person **from any banking company**, post office savings bank or co-operative bank.

**2. NOTIFICATION:**

**Provision of this section are not applicable to the following as well:**

- a) receipt by a **business correspondent** on behalf of a banking company or co-operative bank, in accordance with RBI guidelines;
- b) receipt by a **white label ATM operator** from retail outlet sources on behalf of a banking company or co-operative bank, in accordance with the authorisation issued by RBI under the Payment and Settlement Systems Act;
- c) receipt from an **agent by an issuer of pre-paid payment instruments**, in accordance with authorisation issued by RBI under the Payment and Settlement Systems Act;
- d) receipt by a **company or institution issuing credit cards** against bills raised in respect of one or more credit cards;
- e) Awards received from Central or State Government.

**3. CIRCULAR:**

It is clarified that in respect of receipt in the nature of repayment of loan by Non-Banking Financial Companies or Housing Finance Companies, **receipt of one**

instalment of loan repayment in respect of a loan shall constitute a 'single transaction' as specified in clause (b) of section 269ST of the Act and all the instalments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions of this section.

### **SECTION 271DA: PENALTY FOR FAILURE TO COMPLY WITH THE PROVISIONS OF SECTION 269ST**

Failure to comply with the provisions of section 269ST (i.e. receipt of any sum in contravention of the provisions of section 269ST) would attract penalty of sum equal to the amount of such receipt.

### **SECTION 271AAD: PENALTY FOR FALSE ENTRY, ETC., IN BOOKS OF ACCOUNT (Inserted by Finance Act, 2020)**

In the recent past after the launch of Goods & Services Tax (GST), several cases of fraudulent input tax credit (ITC) claim have been caught by the GST authorities. In these cases, fake invoices are obtained by suppliers registered under GST to fraudulently claim ITC and reduce their GST liability. These invoices are found to be issued by racketeers who do not actually carry on any business or profession. They only issue invoices without actually supplying any goods or services. The GST shown to have been charged on such invoices is neither paid nor is intended to be paid. Such fraudulent arrangements deserve to be dealt with harsher provisions under the Act and hence following penalty provisions have been introduced.

- (1) If during any proceeding under this Act, it is found that in the books of account maintained by any person there is—
- (i) a false entry; or
  - (ii) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability,

the Assessing Officer or CIT (Appeals) may direct that such person shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

Note: "False entry" includes use or intention to use—

- (a) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or
- (b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or
- (c) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

(Finance Act, 2020)

- (2) Without prejudice to the provisions of sub-section (1), the Assessing Officer or CIT(Appeals) may direct that any other person, who causes the person referred to in sub-section (1) in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section, shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

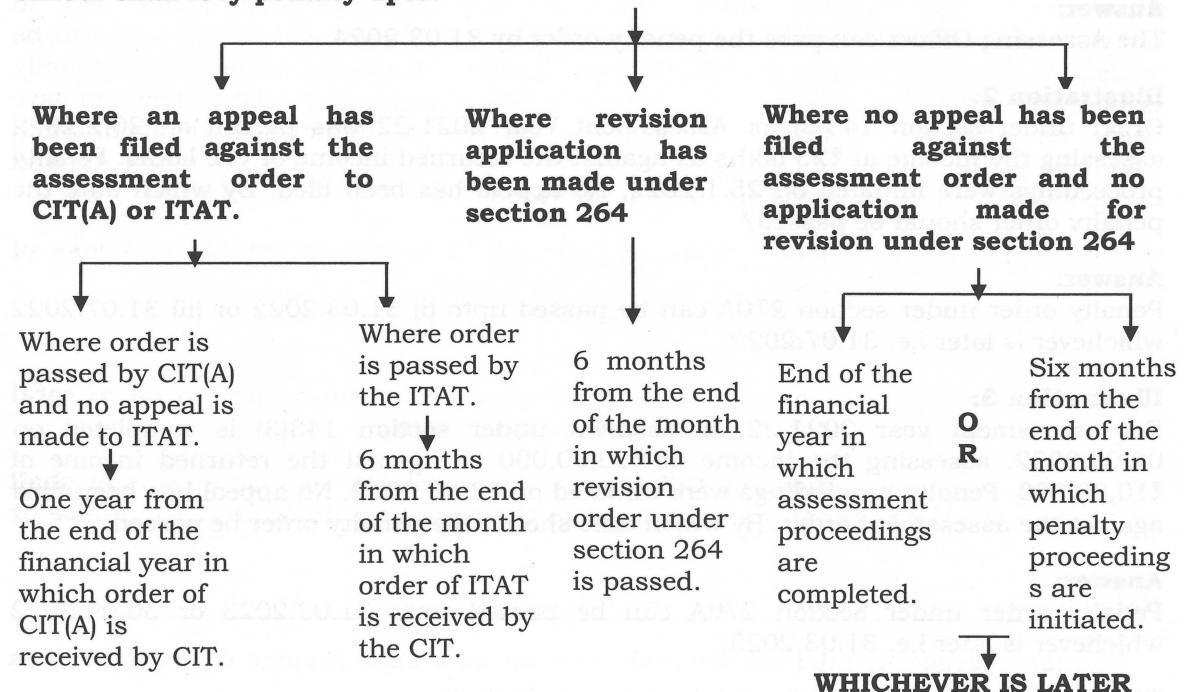
## SECTION 129: CHANGE OF INCUMBENT OF AN OFFICE

Whenever in respect of any proceedings, an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding **from the stage at which the proceeding was left by his predecessor.**

**However,** the assessee may demand that before the proceeding is so continued, **the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard. (Proviso to section 129)**

## SECTION 275: TIME LIMITS FOR PASSING THE PENALTY ORDER FOR PENALTY FOR UNDER-REPORTING OR MIS-REPORTING OF INCOME

**Where income is increased by an Assessing Officer in an assessment: Assessing Officer shall levy penalty upto:**



**Note: In computing the period of limitation for the purpose of this section, the following time periods shall be excluded:**

- the time taken in giving an opportunity to the assessee to be **reheard under the proviso to section 129.**
- any period during which a proceeding under this Chapter for the levy of **penalty is stayed by an order or injunction of any court.**

## **TIME LIMITS FOR PASSING PENALTY ORDER FOR PENALTIES OTHER THAN PENALTY FOR UNDER-REPORTING OR MIS-REPORTING OF INCOME**

Penalty order can be passed within 6 months from the end of the month in which penalty proceedings were initiated.

### **ILLUSTRATIONS**

#### **Illustration 1:**

For Assessment Year 2020-21, the assessment was completed under section 143(3) on 20.2.2021 at ₹ 15 lakhs as against the returned income of ₹5 lakh. The Assessing Officer initiated penalty proceedings under section 270A on 20.2.2021. The assessee files an appeal against the order under section 143(3) to CIT (Appeals). The CIT (Appeals) passes the order under section 250 on 31.3.2022 confirming the additions and the said order is received by the CIT on 4.4.2022. The assessee decides not to file an appeal to Tribunal. By which date should the penalty proceedings be completed.

#### **Answer:**

The Assessing Officer can pass the penalty order by 31.03.2024.

#### **Illustration 2:**

Order under section 143(3) for Assessment Year 2021-22 was passed on 20.2.2022 assessing the income at ₹25 lakhs as against the returned income of ₹12 lakhs. Penalty proceedings were initiated on 25.1.2022. No appeal has been filed. By which date the penalty order should be passed?

#### **Answer:**

Penalty order under section 270A can be passed upto (i) 31.03.2022 or (ii) 31.07.2022 whichever is later i.e. 31.07.2022.

#### **Illustration 3:**

For assessment year 2021-22, assessment under section 143(3) is completed on 02.04.2022, assessing the income at ₹50,00,000 as against the returned income of ₹10,00,000. Penalty proceedings were initiated on 31.03.2022. No appeal has been filed against the assessment order. By which date should the penalty order be passed.

#### **Answer:**

Penalty order under section 270A can be passed upto 31.03.2023 or 30.09.2022 whichever is later i.e. 31.03.2023.

#### **Illustration 4:**

Suppose in Illustration 3, the assessee had filed a WRIT PETITION in the High Court on 4.4.2022 challenging the initiation of penalty proceedings. The High Court granted stay against the penalty proceedings on 4.4.2022. On 30.6.2022, the writ petition is dismissed and the stay is vacated. By which date should the penalty order be passed.

#### **Answer:**

Penalty order under section 270A can be passed upto 31.03.2023 + 88 days (4.4.2022 to 30.6.2022) = 27.06.2023.

#### **Illustration 5:**

For assessment year 2021-22, the assessment was completed under section 143(3) on 29.03.2021 assessing the income at ₹ 50,00,000 as against the returned income of ₹ 10,00,000. The Assessing Officer initiated penalty proceedings under section 270A on 28.03.2022. The assessee filed a revision application under section 264 to the CIT

against the assessment order on 25.09.2022. The CIT passes the order under section 264 on 30.06.2023 and reduces the income by ₹ 25,00,000. The said order is received by Assessing Officer on 31.07.2023. By which date should the Assessing Officer pass the penalty order under section 270A.

**Answer:**

The penalty order under section 270A shall be passed by the Assessing Officer on or before 31.12.2023 i.e. 6 months from the end of the month in which order under section 264 was **passed**. The Assessing Officer shall levy penalty on the additions of ₹15,00,000.

**SUMMARY OF PENALTIES**

| Section        | Nature of default  | Penalty leviable  |
|----------------|--|---|
| 1              | 2  | 3   |
| <b>140A(3)</b> | Failure to pay wholly or partly<br>(a) Self-assessment tax, or<br>(b) interest, or<br>(c) both<br>under section 140A(1).   | Such amount as Assessing Officer may impose but not exceeding tax and interest in arrears. [Penalty under section 221(1) for being an assessee in default]. |
| <b>221(1)</b>  | Default in making payment of tax or interest or any demand.  | Such amount as Assessing Officer may impose but not exceeding amount of demand in arrears [Penalty under section 221(1) for being an assessee in default].  |
| <b>270A</b>    | - Under Reporting of income<br><br>- Misreporting of income  | 50% of tax on under-reported income<br><br>200% of tax on misreported income  |
| <b>271A</b>    | Failure to keep, maintain, or retain books of account, documents, etc., as required by section 44AA or failure to retain such books of accounts or documents for the period specified in section 44AA.   | ₹ 25,000.   |
| <b>271AA</b>   | (1) In respect of international transaction or specified domestic transaction:<br><br>(i) Failure to keep and maintain any such information and document as required by section 92D(1) or section 92D(2).<br>(ii) Failure to report such transaction which he is required to do so.<br>(iii) Maintains or furnishes an incorrect information or document.<br><br>(2) If any person fails to furnish the information and the document as required under section 92D(4). | 2% of the value of each international transaction or specified domestic transaction entered into by such person.<br><br>₹ 5,00,000                          |

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| <b>271AAB</b>                                  | Undisclosed income found during search and such income relates to the previous year in which search has been initiated or previous year whose due date of filing of ROI has not expired before the date of search.   | (a) 30% of undisclosed income of the specified previous year if assessee admits the undisclosed income; substantiates the manner in which it was derived; and on or before the specified date, pays the tax/interest and furnishes the return of income for the specified previous year declaring such undisclosed income.<br>(b) 60% of undisclosed income of the specified previous year in any other case. |
| <b>271AAC</b>                                  | Where 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.<br><br>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. | 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.   |
| <b>271AAD(1)</b>                               | <b>Where the books of account maintained by any person includes a false entry or any entry relevant for computation of total income has been omitted to evade tax liability</b>  | <b>Aggregate amount of such false or omitted entry</b><br><br><b>(Finance Act, 2020)</b>  |
| <b>271AAD(2)</b>                               | <b>A person causes the person referred under section 271AAD(1) to make a false entry or omits or cause to omit any entry</b>   | <b>Aggregate amount of such false or omitted entry</b><br><br><b>(Finance Act, 2020)</b>  |
| <b>271AAE<br/>(Added by Finance Act, 2022)</b> | Any fund/ institution referred in section 10(23C)/11 violates provisions of section 13(1)(c).  | (a) Sum equal to aggregate amount of income applied directly or indirectly by such institution for benefit of any person referred in section 13(3) for first violations;<br>(b) 200% of the sum as referred above for subsequent violations.  |
| <b>271B</b>                                    | Failure to get accounts audited  | ½ % of total sales, turnover, or gross  |

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|               | or furnish a report of audit as required under section 44AB.  | receipts, etc., or ₹ 1,50,000, whichever is less.  |
| <b>271BA</b>  | Failure to furnish a report from an accountant as required by section 92E   | ₹ 1,00,000   |
| <b>271C</b>   | <ul style="list-style-type: none"> <li>- Failure to deduct the whole or part of tax deducted at source tax at source (TDS)</li> <li><del>Failure to pay the whole or part of Corporate Dividend Tax under section 115-O.</del></li> <li>- Failure to pay the whole or part of tax on winnings from lotteries, crossword puzzles etc. where such winnings are wholly or partly in kind under proviso to section 194B.</li> </ul> | Amount equal to tax not deducted or paid.  |
| <b>271CA</b>  | Failure to collect the whole or any part of the tax as required by or under the provisions of Section 206C.   | Amount of tax, which such person failed to collect.  |
| <b>271D</b>   | Taking or accepting certain loans and deposits <b>or specified sum</b> in contravention of the provisions to section 269SS.   | Amount equal to loan or deposit <b>or specified sum</b> taken or accepted.   |
| <b>271DA</b>  | <b>Taking or accepting cash in contravention of the provisions to section 269ST.</b>  | <b>Amount equal to such receipt.</b>   |
| <b>271DB</b>  | <b>Failure to provide facility for accepting payment through prescribed modes as per section 269SU</b>  | ₹ 5000 for everyday during which failure continues.<br><b>(Finance Act, 2019)</b>  |
| <b>271E</b>   | Repaying any loan or deposit <b>or specified advance</b> specified in section 269T in contravention of its provisions.  | Amount equal to loan or deposit <b>or specified advance</b> repaid.  |
| <b>271FA</b>  | Failure to furnish Statement of Financial Transaction or Reportable Account (SFTRA) [Earlier known as Annual Information Return] as required under section 285BA within the time prescribed under section 285BA.  | ₹500 per day for everyday during which the failure continues. ₹1000 per day from the date assessee was asked to file SFTRA by a notice under section 285BA(5). |
| <b>271FAA</b> | <b>Inaccurate information in statement of financial transaction or reportable account under section 285BA.</b>  | ₹ 50,000   |
| <b>271FAB</b> | Failure to furnish statement or information or document by an eligible investment fund within the time prescribed under section 9A  | ₹ 5,00,000   |

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| <b>271G</b>    | Failure to furnish information or documents in pursuance of a notice under section 92D(3).  | 2% of the value of the international transaction or specified domestic transactions for each such failure.  |
| <b>271GA</b>   | Failure by any Indian concern to furnish information or document as required under section 285A   | (a) 2% of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation the Indian concern,<br>(b) ₹ 5,00,000, in any other case.   |
| <b>271GB</b>   | Failure to furnish report under section 286(2)<br><br>Failure to produce information and documents within period allowed under section 286(6)<br>Continual failure after any order directing the person to pay by way of penalty any sum has been served on the entity<br>Providing inaccurate information in the report furnished under section 286(2) | ₹ 5000 for every day for which failure continues (if period of failure does not exceed 1 month) and ₹ 15000 for every day for which failure continues beyond the period of 1 month<br>₹ 5000 for every day for which failure continues<br><br>₹ 50,000 for every day for which failure continues<br><br>₹ 5,00,000 in certain cases |
| <b>271H</b>    | (i) Failure to deliver the quarterly returns of TDS / TCS within the time prescribed<br><br>(ii) Furnishing incorrect information in the quarterly returns of TDS / TCS   | Penalty minimum ₹ 10,000 and maximum upto ₹ 1,00,000.<br><br><b>Note:</b> No penalty for failure to deliver quarterly returns of TDS/TCS in time, if quarterly return submitted before the expiry of one year from time prescribed and Fees under section 234E and interest under section 201(1A) paid.                             |
| <b>271-I</b>   | Failure to furnish information or furnishing inaccurate information under section 195(6)  | ₹ 1,00,000  |
| <b>271J</b>    | Furnishing of incorrect information in reports or certificates issued by accountant or a merchant banker or a registered valuer.  | ₹ 10,000 for each report or certificate.  |
| <b>271K</b>    | <b>Default in furnishing statement or certificate of donations as referred to in section 35 or section 80G</b>  | <b>Penalty shall not be less than ₹ 10,000 but may extend to ₹ 1,00,000</b><br><b>(Finance Act, 2020)</b>   |
| <b>272A(1)</b> | (a) Refusal to answer any question put to by an Income tax Authority.   | ₹ 10,000 for each failure or default.   |

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|                | <ul style="list-style-type: none"> <li>(b) Refusal to sign any statement made in the course of proceedings under the Act.</li> <li>(c) Failure to attend or produce books of account or documents required under a summon issued under section 131.</li> <li>(d) <b>Failure to comply with a notice under section 142(1) or section 143(2) or failure to comply with a direction issued under section 142(2A)</b></li> </ul>  |   |
| <b>272A(2)</b> | <ul style="list-style-type: none"> <li>(a) Failure to give notice of discontinuance of business or profession under section 176.</li> <li>(b) Failure to furnish in due time the information required under section 133.</li> <li>(c) Failure to furnish the return of income under section 139(4A) or under section 139(4C) or to furnish within the time allowed therein.</li> <li>(d) Failure to deliver in due time a copy of declaration in section 197A.</li> <li>(e) Failure to furnish TDS or TCS certificate.</li> <li>(f) Failure to deliver or cause to be delivered a statement within the time as may be prescribed under section 200(2A) or section 206C(3A)</li> </ul> | <p>₹ 100 <b>500</b> for every day during which the failure continues. However, in respect of penalty for failures in relation to declaration mentioned in section 197A, furnishing of TDS/TCS certificate, returns under section 206 and 206C and statement under section 200(2A) and 200(3) and 206C(3A), the penalty shall not exceed amount of TDS/TCS.</p> <p><b>(Amended by Finance Act, 2022)</b></p> |
| <b>272AA</b>   | Failure to comply with section 133B   | Not exceeding ₹ 1,000   |
| <b>272B(1)</b> | Failure to comply with the provisions section 139A. i.e. PAN  | ₹ 10,000  |
| <b>272B(2)</b> | <ul style="list-style-type: none"> <li>(a) Failure to quote permanent account number or Aadhaar number in any document required; or</li> <li>(b) Failure to authenticate PAN or Aadhaar number; or</li> <li>(c) To quote or intimate PAN or Aadhaar number which is false and which he either knows or believes to be false or does not believe to be true.</li> </ul>  | ₹ 10,000 for each such failure  |

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| <b>272BB</b> | Failure to comply with section 203A i.e. Failure to:<br>(i) Failure to obtain Tax Deduction and collection Account Number (TDCAN).<br>(ii) Failure to quote TDCAN in the challans, certificates, returns of TDS and TCS and prescribed documents. | ₹ 10,000 for each failure/default. |
|--------------|---|------------------------------------|

### **OFFENCES AND PROSECUTIONS**

| <b>Section</b> | <b>Nature of offence</b>  | <b>Minimum period of rigorous imprisonment</b>   | <b>Maximum period of rigorous imprisonment</b>                       |
|----------------|---|--|--|
| <b>(1)</b>     | <b>(2)</b>  | <b>(3)</b>   | <b>(4)</b>   |
| <b>275A</b>    | Dealing with seized assets in contravention of the order made under section 132(3) by the officer conducting search                                 | Any period up to 2 years and fine  | 2 years and fine   |
| <b>275B</b>    | Failure to afford necessary facility to the authorized officer to inspect books of account or other documents as required under section 132(1)(iib) | Any period up to 2 years and fine  | 2 years and fine   |
| <b>276</b>     | Removal, concealment, transfer or delivery of property to thwart tax recovery   | Any period up to 2 years and fine  | 2 years and fine   |
| <b>276A</b>    | Failure to comply with the provisions of section 178(1), (3) by liquidator of a company   | Any period up to 2 years. Imprisonment shall not be less than 6 months unless special and adequate reasons are recorded in the judgement of court. | 2 years  |
| <b>276B</b>    | Failure to pay to the Government's treasury deducted tax at source or tax payable under proviso to section 194B                                     | 3 months and fine  | 7 years and fine   |
| <b>276BB</b>   | Failure to pay to the credit of Central Government tax collected under section 206C   | 3 months and fine  | 7 years and fine   |
| <b>276C(1)</b> | Under reporting of Income   | If tax on under reported income exceeds ₹25,00,000: 6 months and fine  | If tax on under reported income exceeds ₹25,00,000: 7 years and fine |

|                |   |   |   |
|----------------|---|---|---|
|                |   | <i>otherwise</i> 3 months and fine.   | <i>otherwise</i> 2 years and fine.  |
| <b>276C(2)</b> | Wilful attempt to evade the <b>payment</b> of any tax, penalty or interest.   | 3 months and fine   | 2 years and fine  |
| <b>276CC</b>   | Wilful failure to file return of income in time under section 139(1), or in response to notice under section 142(1) or section 148.   | If tax sought to be evaded exceeds ₹ 25,00,000: 6 months and fine. In any other case: 3 months and fine<br><br><b>Note:</b> No prosecution for failure to furnish the return in due time under section 139(1) if: (i) the return is filed before the expiry of the assessment year or a return is furnished under section 139(8A) within specified time; or (ii) the tax payable by such person, <b>not being a company</b> , on regular assessment, as reduced by TDS, advance tax <b>and self assessment tax does not exceed ₹ 10,000</b> | If tax sought to be evaded exceeds ₹ 25,00,000: 7 years and fine. In any other case: 2 years and fine<br><br><b>Note:</b> No prosecution for failure to furnish the return in due time under section 139(1) if: (i) the return is filed before the expiry of the assessment year or a return is furnished under section 139(8A) within specified time; or (ii) the tax payable by such person, <b>not being a company</b> , on regular assessment, as reduced by TDS, advance tax <b>and self assessment tax does not exceed ₹ 10,000</b> |
| <b>276D</b>    | Wilful failure to produce books of account and documents under section 142(1) or willful failure to comply with a direction to get the accounts audited under section 142(2A) | Any period upto 1 year and fine   | 1 year and fine   |
| <b>277</b>     | Making a false statement in verification or delivering a false account or statement   | If tax evaded exceeds ₹25,00,000: 6 months and fine: otherwise: 3 months and fine.  | If tax evaded exceeds ₹ 25,00,000: 7 years and fine otherwise: 2 years and fine   |
| <b>277A</b>    | Falsification of books of account or document, etc. to <b>enable any other person</b> to evade any tax, penalty or interest chargeable/leviable                               | Any period upto 3 months and fine   | 2 years and fine  |
| <b>278</b>     | Abetment to make a false statement or declaration relating to any income.   | If tax evaded exceeds ₹25,00,000: 6 months and fine: otherwise 3 months and fine.   | If tax evaded exceeds ₹ 25,00,000: 7 years and fine otherwise: 2 years and fine   |
| <b>278A</b>    | Punishment for second and subsequent offences   | 6 months for every offence  | 7 years for every offence.  |

|               |  |                        |                   |
|---------------|--|------------------------|-------------------|
|               | u/s 276B, <b>276BB</b> ,<br>276C(1), 276CC, 277 or<br>278  |                        |                   |
| <b>280(1)</b> | Disclosure of particulars by public servants in contravention of Section 138(2) (prosecution to be instituted with the approval of Central Government) | Upto 6 months and fine | 6 months and fine |

### **Section 276C**

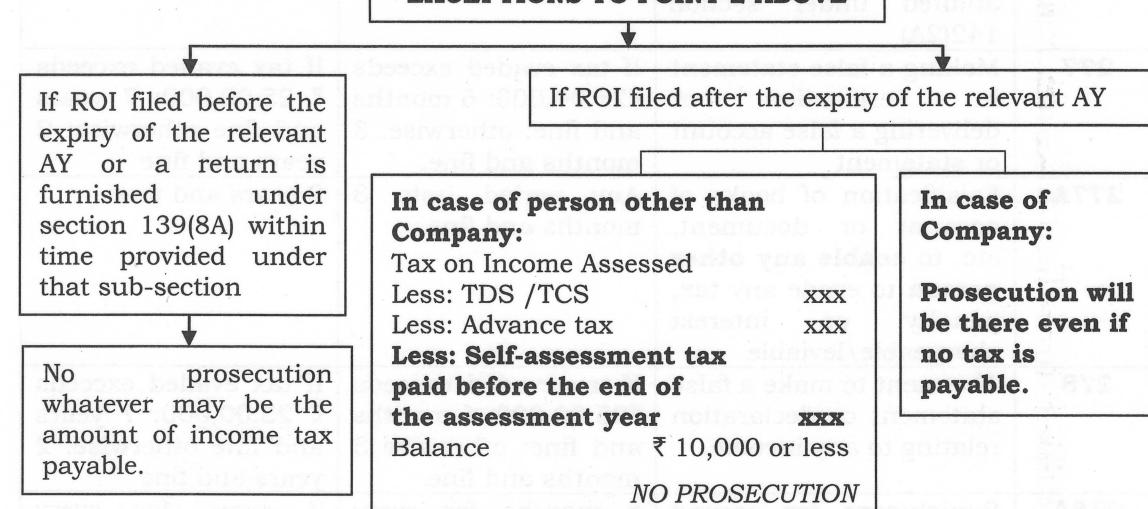
Prosecution for under reporting of Income. It provides as follows:

| <b>Amount of Tax on Under-Reported Income</b>          | <b>Minimum period of rigorous imprisonment</b> | <b>Maximum period of rigorous imprisonment</b> |
|--|--|--|
| If tax on under reported income is ₹ 25 lakh or less   | 3 months and fine                              | 2 years and fine                               |
| If tax on under reported income is more than ₹ 25 lakh | 6 months and fine                              | 7 years and fine                               |

### **SECTION 276CC: PROSECUTION IN CASE OF WILLFUL FAILURE TO FILE RETURN OF INCOME UNDER SECTION 139/148 OR IN RESPONSE TO NOTICE UNDER SECTION 142(1)**

- Failure to file ROI within the time allowed in a notice under section 142(1)/ 148
  - PROSECUTION WILL BE THERE
- Failure to file ROI within the time allowed under section 139(1)
  - PROSECUTION WILL BE THERE

#### **EXCEPTIONS TO POINT 2 ABOVE**



| <b>Amount of Tax Sought to be evaded</b>                    | <b>Minimum period of rigorous imprisonment</b> | <b>Maximum period of rigorous imprisonment</b> |
|---|--|--|
| If amount of tax sought to be evaded is ₹ 25 lakh or less   | 3 months and fine                              | 2 years and fine                               |
| If amount of tax sought to be evaded is more than ₹ 25 lakh | 6 months and fine                              | 7 years and fine                               |

### **OFFENCES BY COMPANIES/ FIRMS/ AOP/ BOI (SECTION 278)**

- Where an offence has been committed by a company/ firm/ AOP/ BOI, then the managing director/ managing partner/ managing member as well as the company/ firm/ AOP/ BOI shall be prosecuted.
- The managing director/ managing partner/ managing member shall be prosecuted with fine and imprisonment. The company/ firm/ AOP/ BOI shall be prosecuted with fine.
- If other officers/ employees of the company/ firm/ AOP/ BOI are also a party to the offence, then they shall also be prosecuted.

### **OFFENCES BY HUF (SECTION 278C)**

- Where offence has been committed by HUF, then Karta shall be prosecuted.
- If any other member of HUF was a party to the offence, then such member shall also be prosecuted.