ALL INDIA CHARTERED ACCOUNTANTS SOCIETY (AICAS)

9TH WORKSHOP ON DIRECT TAXES

FRAMEWORK OF INQUIRY NOTICES, ASSESSMENTS AND RE-ASSESSMENTS, RECTIFICATION AND REVISION OF ORDERS

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TOPICS

1. **Inquiry Notices**
   a. Notices / Summons u/s 131 / 246 of the Act (1961 / 2025)
   b. Notices u/s 133 / 252 of the Act (1961 / 2025)

2. **Assessment (Types and Procedure)**
   a. Types of Assessment (Summary, Scrutiny, Best-Judgement, Faceless)
   b. Role of Jurisdictional officer and Faceless Officer (JAO Vs. FAO)
   c. Time frame of Assessment

3. **Re-Assessments (Conditions and Limitations)**
   a. Conditions for Re-Assessment
   b. Procedural Aspects - Notices, Approvals, Time limits

4. **Rectification and Revision**
   a. Rectification of Mistakes
   b. Revision of Orders

TOPICS

Inquiry Notices

a. Notices / Summons u/s 131 / 246 of the Act (1961 / 2025)
b. Notices u/s 133 / 252 of the Act (1961 / 2025)

POWERS OF ASSESSING AUTHORITY

Chapter XIII of the Income Tax Act, 1961

Chapter XIII Part	Income Tax Authorities	Section
A	Appointment and Control	116 – 119A
B	Jurisdiction	120 – 130A
C	Powers	131 – 136
D	Disclosure of Information	137 – 138

POWERS OF ASSESSING AUTHORITY

Chapter XIII – Part 'C' of the Income Tax Act, 1961

Section	Powers
131	**Power regarding discovery, production of evidence, etc.**
132	Search and Seizure
132A	Powers to requisition books of accounts, etc.
132B	Application of seized or requisitioned assests
133	**Power to call for information**
133A	Power of survey
133B	**Power to collect certain information**
133C	**Power to call for information by prescribed income-tax authority**
134	Power to inspect registers of companies

POWERS OF ASSESSING AUTHORITY

Chapter XIV of the Income Tax Act, 2025

Chapter XIV	Tax Administration	Section
A	Authorities, jurisdiction and functions	236 - 245
B	Powers	246 - 261

POWERS OF ASSESSING AUTHORITY

Chapter XIV - Part 'B' of the Income Tax Act, 2025

Section	Powers
246	**Power regarding discovery, production of evidence, etc.**
247	Search and Seizure
248	Power to requisition
249	Reason not to be disclosed
250	Application of seized or requisitioned assets
251	Copying, extraction, retention and release of books of account and documents seized or requisitioned
252	**Power to call for information**
253	Powers of survey
254	Power to collect certain information
255	Power to inspect registers of companies

INQUIRY NOTICIES

Section 131 of the Income Tax Act

- If the officer has **reason to suspect** that any **income has been concealed** by any person **within his jurisdiction**, or **for the purpose of making an inquiry or investigation in respect** of any person in relation to an agreement referred to in section 90 or section 90A, then, for the purposes of making any enquiry or investigation relating thereto, the assessing authority shall have the **same powers as are vested in a court under the Code of Civil Procedure, 1908**, when trying a suit in respect of the following matters, namely:
  a. Discovery and inspection
  b. enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
  c. compelling the production of books of account and other documents; and
  d. issuing commissions

- Notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other income-tax authority

- The authority may impound or retain any books of accounts or other documents produced in the proceedings, provided that
  a. The officer shall not impound any books without recording any reason for doing so
  b. Retain books in its custody for more than 15 days without obtaining prior approval

INQUIRY NOTICIES

Section 131(1), Income-tax Act	Corresponding Provision under CPC	What the CPC Provision Provides
(a) Discovery and inspection	Order XI CPC (Rules 1–23)	Court may direct parties to disclose documents, answer interrogatories, permit inspection of documents and discovery of relevant facts.
(b) Enforcing attendance of any person and examining him on oath	Sections 27–32 CPC read with Order XVI CPC and Order XVIII Rule 4 CPC	Court can issue summons, compel attendance of witnesses, examine them on oath, and enforce attendance through coercive measures if necessary.
(c) Compelling production of books of account and other documents	Order XI Rules 12–21 CPC, Order XIII CPC, and Order XVI Rules 6–10 CPC	Court can require parties or witnesses to produce books of account, records, and other relevant documents.
(d) Issuing commissions	Sections 75–78 CPC read with Order XXVI CPC	Court may issue commissions for examination of witnesses, local investigation, scientific investigation, examination of accounts, partition, etc.

INQUIRY NOTICIES

Corresponding Section 246 of the Income Tx Act 2025

- Section 246 substantially retains the powers contained in Section 131, while introducing structural clarity. The key features include:
  - Consolidation of inquiry powers
  - Clear recognition of pre-proceeding inquiries
  - Better classification of authorities
  - Alignment with modern administrative framework
- **Structural Reorganization -** Section 131 was scattered across sub-sections (1), (1A), (2), and (3). Section 246 consolidates these into a more logical structure:
  - Sub-section (1): Core powers
  - Sub-section (2): Powers without pending proceedings
  - Sub-section (3): Impounding
  - Sub-section (4): Retention and approval

INQUIRY NOTICES

Scope, Validity and Purpose of Section 131 / 246

1. **Scope -** A notice under Section 131 operates as a statutory summons:
   i. Formation of opinion regarding necessity of inquiry
   ii. Issuance of notice requiring attendance or production of documents
   iii. Recording of statement on oath or collection of evidence
   iv. Use of such material in assessment or investigation

2. **Validity -** The validity of such notice depends on:
   i. Relevance
   2. Jurisdiction
   3. Application of mind
   4. Compliance with natural justice

INQUIRY NOTICIES

Scope and Purpose of Section 131 / 246

3. **Purpose -** A notice under Section 131 may be issued for:
   i. Discovery and inspection
   ii. Enforcing attendance
   iii. Examination on Oath
   iv. Compelling production of books of accounts

POWERS OF ASSESSING AUTHORITY

Issues arising out of Notices

Issues	Analysis
• **Whether existence of proceedings is a pre-condition for invoking Section 131 / 246**	The power under Section 131 is ordinarily exercised in connection with proceedings under the Act. However, the provision also recognises pre-enquiry powers under Section 131(1A), which permit inquiry even in the absence of pending proceedings. Such exercise of power is conditional upon the existence of **reason to suspect concealment of income**, and cannot be invoked arbitrarily.
• **Whether powers under Section 131 / 246 are absolute in nature**	Although Section 131 confers powers similar to those of a civil court, such powers are not absolute. Their exercise is confined to the scope of tax proceedings and must remain within statutory limits. The authority is not a civil court in the strict sense, and the procedural powers must be exercised only to the extent necessary for the purposes of the Act

POWERS OF ASSESSING AUTHORITY

Issues arising out of Notices

Issues	Analysis
• **Whether notice under Section 131 can be issued for fishing or roving enquiries**	The power cannot be exercised for general or exploratory purposes. The inquiry must have: • A defined objective • Relevance to proceedings • A clear nexus with the issue under examination Notices issued without specificity or for vague purposes are liable to be challenged.
• **Whether application of mind is required before issuing notice**	The issuance of notice under Section 131 must be preceded by application of mind. The authority must be satisfied that: • The information sought is relevant • The inquiry is necessary Mechanical or routine issuance of summons, without establishing relevance, renders the action unsustainable.

POWERS OF ASSESSING AUTHORITY

Issues arising out of Notices

Issues	Analysis
• **Evidentiary value of statements recorded under Section 131**	Statements recorded under Section 131 are relevant evidence and may be used in assessment proceedings. However, such statements must satisfy the following conditions: • They must be voluntary • They must not be obtained under coercion • Their evidentiary value depends on surrounding circumstances Retraction of statements is permissible but must be supported by credible material.
• **Whether cross-examination is required**	Where reliance is placed on statements of third parties, the affected person must be given an opportunity to contest such evidence. Denial of such opportunity may result in violation of principles of natural justice, depending upon the extent to which such statements are relied upon.

POWERS OF ASSESSING AUTHORITY

Issues arising out of Notices

Issues	Analysis
• **Whether non-compliance with summons attracts penalty**	Failure to comply with a notice under Section 131 may attract consequences; however, such consequences arise only in cases of deliberate or wilful default. Mere inability to comply does not automatically justify penal action.
• **Power to impound and retain documents**	The authority may impound documents produced before it; however: • Reasons must be recorded • Retention beyond prescribed period requires approval • Indefinite retention is impermissible

POWERS OF ASSESSING AUTHORITY

Ways and Means to Respond to Notices u/s 131 / 246 of the Act

Steps	Issue	To Do / Not to do / Check
1.	Identify the Nature of Notice	Check whether it is: • **Summons for appearance** • **Direction to produce documents** • **Examination on oath** Verify: • **Authority issuing notice (jurisdiction)** • Whether **proceedings are pending OR it is pre-enquiry (131(1A) / 246 equivalent)**
2.	Check Validity of Notice	Before responding, examine: • Is there **proper authorization** (especially in no pending proceedings cases)? • Is the notice **specific or vague**? • Is it asking for **relevant material** or general/fishing information?

POWERS OF ASSESSING AUTHORITY

Ways and Means to Respond to Notices u/s 131 / 246 of the Act

Steps	Issue	To Do / Not to do / Check		
3.	Classify Your Response Strategy	**Type of Compliance**	**When**	**Action**
		Full Compliance	• Notice is valid • Information is available	• Submit documents • Appear (if required) • Give statement carefully
		Partial Compliance	• Notice is valid • Some info is available, some not	• Provide available data • Clearly state: "Remaining information is not available / not maintained" • Avoid silence
		Objection-Based Response	Notice is: • Beyond jurisdiction • Vague • Irrelevant	File written objection stating: • Lack of relevance • Absence of proceedings (if applicable) • Overbroad nature
		Seek Time / Adjournment	• Data is voluminous or not readily available	File adjournment request with: • Reasonable cause • Specific timeline

POWERS OF ASSESSING AUTHORITY

Ways and Means to Respond to Notices u/s 131 / 246 of the Act

Steps	Issue	To Do / Not to do / Check
4.	Handling Personal Appearance / Statement	• If summoned: Attend personally or through authorized representative (where allowed) • During statement: Answer **precisely** Avoid assumptions and stick to records • Ensure: Statement is **read before signing** Corrections are made if needed
5.	Maintain Legal Position	• Index documents and explain through Covering letter • Put on Record "Submitted without prejudice" "Subject to legal rights" • Take acknowledgement of submissions • **NEVER IGNORE A NOTICE U/S 131**

INQUIRY NOTICIES

Important Judicial Pronouncements on S. 131 of the Act

1. **Registrar, Restrictive Trade Practices Commission v Escorts Ltd (1977) Tax LR 1097 (MRTPC) -** Power co-extensive with those of a civil court in certain matters. It has been held that the powers of these officers are co-extensive with those of a civil court in trying a suit under section 30 of the Code of Civil Procedure read with rules 12 14 and 15 of Order 11 of the Code, and that they are not larger than those of a civil court.

2. **St. Mary's Finance Limited Vs. Devdasan (PN), ACIT (1993) 204 ITR 470 KER -** Exercise of powers must be "for the purposes of the Act". Section 131 clearly empowers the officers mentioned in this section to exercise their powers for the purposes of the Act. So, the first requirement is that the officers must be acting for the purposes of the Act. While so acting, the officers concerned have been given under this section the same powers as a court trying suits under the Code of Civil Procedure would have in respect of, inter alia, discovery, production and inspection of documents. It necessarily follows that unless the documents asked to be produced before the officers are relevant,' they cannot be directed to be produced.

INQUIRY NOTICIES

Right to be represented by a lawyer or authorised representative ?

- The power of the Assessing Officer to direct appearance of witnesses under section 131 of the Income-tax Act, 1961, is co-terminous with the powers of a civil court under the Code of Civil Procedure, 1908.
- There is no provision under the law which entitles a witness to be represented by a counsel when his statement is recorded and, therefore, a witness does not have any right under the law to have his counsel with him at the time when his statement is recorded.
- However, the said right to have himself represented by a lawyer or other authorised representative which is not available to a witness, is available to the assessee and, therefore, the assessee has the right to be represented by a lawyer or other authorised representative.
- Hence, it is extremely important for the person receiving summon to examine the terms of the summon issued under section 131 to ascertain whether the same is issued to a witness or to the assessee.

INQUIRY NOTICIES

Right to be represented by a lawyer or authorised representative ?

- Section 288 of the Income-tax Act specifically prohibits the appearance by an authorised representative in the case of the proceedings under section 131.

- ***Section 288 – Any assessee who is entitled or required to attend before any income tax authority or the Appellate Tribunal in connection with any proceedings under this Act otherwise than when required under 131 to attend personally for examination on oath or affirmation, may subject to the other provisions of tis section, attend by an authorised representative***

- The Raja Chelliah Committee recommended the presence of an advocate during the hearing from the panel approved by the Government [p. 134 (1992) 197 ITR (St.) 99].

- This, however, does not mean that he need not be present along with person summoned with the permission of the summoning authority. There is no law barring the presence with the permission of the presiding officer, so that some investigating officers do admit presence of assessee's auditor or lawyer, subject to their silence.

INQUIRY NOTICES

Section 133 of the Income Tax Act

The assessing officer, for the purpose of this act, may require :

(1) any firm to furnish details of the partners of the firm and their respective shares
(2) any Hindu undivided family to furnish details of the manager and the members of the family;
(3) any person believed to be a trustee, guardian or agent, to furnish details of the persons who may be the trustee, guardian or agent
(4) any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity amounting to more than Rs. 1,000/- or as prescribed, together with particulars of all such payments made;
(5) any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts
(6) **any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified giving information in relation to such points or matters as, in the opinion of the Assessing Officer, will be useful for, or relevant to, any enquiry or proceeding under this Act**

INQUIRY NOTICIES

Scope, Purpose and Nature of Notice Section 133

1. **Scope -** Section 133 of the Income-tax Act, 1961 and its corresponding provision, Section 252 of the Income-tax Act, 2025, deal with the power of income-tax authorities to call for information. These provisions form a critical component of the tax administration framework, enabling authorities to collect, verify, and analyse financial and transactional data relevant to assessment and investigation.

   Unlike provisions relating to discovery and evidence (such as Section 131 / Section 246), these sections operate in the domain of information requisition, primarily administrative in nature.

   The expression "for the purposes of this Act" acts as a controlling condition, ensuring that the power is exercised strictly within the framework of the Income-tax Act.

2. **Purpose** – A notice u/s 133 may be issued:
   - To enable collection of information from assessee and third parties
   - To verify disclosures made in returns
   - To facilitate enquiries and proceedings under the Act
   - To detect tax evasion through cross-verification mechanisms

INQUIRY NOTICIES

Scope, Purpose and Nature of Notice Section 133

3. **Nature** – The power under Section 133 / Section 252 is:
   - Administrative and not judicial
   - Not equivalent to civil court powers
   - Limited to requisition of information
   - There is:
     - No power to administer oath
     - No power to compel attendance
     - No examination of witnesses
   - However, the scope is wide due to:
     - Coverage of "any person"
     - Inclusion of banking companies
     - Applicability to third parties

INQUIRY NOTICIES

Corresponding S. 252 of the Income Tax 2025

STRUCTURAL ANALYSIS OF SECTION 252 (NEW ACT) **-**Section 252 reorganises Section 133 into a structured format:

Section 252(1)(a)

- Covers:
  - Any person
  - Banking company
  - Information / statements
- This corresponds to **Section 133(6)** and is placed at the beginning, indicating its primary importance.

INQUIRY NOTICIES

Corresponding S. 252 of the Income Tax 2025

- **COMPARATIVE ANALYSIS**
  - Both provisions empower authorities to call for information
  - Coverage includes:
    - Assessees
    - Third parties
    - Banks
  - Same categories:
    - Firms, HUF, trustees, payments, brokers
  - Same limitation:
    - Information must be **"useful or relevant"**
  - Same safeguard:
    - Approval required where no proceedings are pending

TOPICS

Assessment (Types and Procedure)

a. Types of Assessment (Summary, Scrutiny, Best-Judgement, Faceless)
b. Role of Jurisdictional officer and Faceless Officer (JAO Vs. FAO)
c. Time frame of Assessment

PROCEDURE OF ASSESSMENT

Chapter XIV of the income Tax Act, 1961

Section	What the Section Says (Legal Power)	What Happens Practically	Leads To / Type of Assessment
139	Return of income to be furnished within due date	Assessee files return declaring income	Return Filing
140A	Self-assessment tax to be paid before filing return	Assessee computes & pays tax	Self Assessment
142(1)	AO may call for accounts, documents, information	Notice issued for details	Inquiry Stage
142(2A)	AO may direct special audit	Audit conducted in complex cases	Investigation Support
143(1)	Processing of return with adjustments	Intimation issued (no hearing)	Summary Assessment
143(2)	Notice for scrutiny	Case selected for detailed verification	Scrutiny Trigger
143(3)	Assessment after hearing evidence	AO determines taxable income	Scrutiny Assessment

PROCEDURE OF ASSESSMENT

Chapter XIV of the income Tax Act, 1961

Section	What the Section Says (Legal Power)	What Happens Practically	Leads To / Type of Assessment
144	Best judgment in case of default	Ex-parte assessment	Best Judgment
144B	Faceless assessment procedure	Assessment conducted electronically	Mode (Faceless)
147	Income escaping assessment	Completed assessment reopened	Reassessment
148	Notice for reassessment	Assessee required to file return again	Trigger
148A	Pre-reopening inquiry & opportunity	Show cause before reopening	Safeguard
149	Time limit for reopening	Restricts reopening period	Limitation
150	Exception to limitation	Reopening beyond limit allowed in specific cases	Exception
151	Prior sanction required	Approval from higher authority	Validation

PROCEDURE OF ASSESSMENT

Chapter XIV of the income Tax Act, 1961			
Section	**What the Section Says (Legal Power)**	**What Happens Practically**	**Leads To / Type of Assessment**
151A	Faceless reassessment	Reassessment done digitally	Mode
152	Computation of escaped income	Tax computed in reassessment	Supporting
153	Time limit for completion of assessment	AO must complete within time	Governs All
153A	Assessment in case of search/requisition	Fresh assessment of 6 years (or more)	Search Assessment
153B	Time limit for search assessments	Deadline for completing search cases	Time Control (Search)
153C	Assessment of other person	Proceedings against third party based on seized material	Search (Other Person)
153D	Prior approval for search assessment	Approval of Joint Commissioner required	Safeguard / Validation

PROCEDURE OF ASSESSMENT

Chapter XVI of the income Tax Act, 2025

Section (New Act)	What the Section Says (Legal Power)	What Happens Practically	Leads To / Type of Assessment
263	Filing of return (types, due dates, updated return)	Return filed / corrected	Basis of assessment
264	Return via TRP scheme	Rare usage	Filing mechanism
265	Who verifies return	Defect if wrong person signs	Valid/invalid return
266	Self-assessment tax payment	Tax paid before filing	Pre-assessment compliance
267	Extra tax on updated return	Costly correction	Updated return
268	AO can call info/inquiry	Notices issued	Scrutiny trigger

PROCEDURE OF ASSESSMENT

Chapter XVI of the income Tax Act, 2025

Section (New Act)	What the Section Says (Legal Power)	What Happens Practically	Leads To / Type of Assessment
269	Valuation reference	Property value disputes	Evidence-based addition
270	Processing + scrutiny assessment	Adjustments/additions	Regular assessment
271	Best judgment if default	Ex-parte additions	Best judgment assessment
272	JCIT directions	Supervised cases	Controlled assessment
273	Faceless system	Online proceedings	Faceless assessment
274	GAAR reference	Anti-avoidance invoked	GAAR assessment
275	Draft order + DRP	Objection before DRP	DRP assessment
276	Method of accounting	Books accepted/rejected	Income computation

PROCEDURE OF ASSESSMENT

Chapter XVI of the income Tax Act, 2025

Section (New Act)	What the Section Says (Legal Power)	What Happens Practically	Leads To / Type of Assessment
277	Method of accounting in certain cases	Books accepted/rejected	Income computation
278	Taxability in certain cases	Deemed Income in certain cases	Income computation
279	Escaped income concept	Proceedings of Reassessment	Reassessment
280	Notice where income escaping assessment	Reopening trigger	Reassessment
281	Pre-notice show cause	Reply before notice	Reassessment start
282	Time limit for notice	Notices challenged	Valid/invalid reopening
283	Effect of appellate order	Old cases reopened	Special reassessment

PROCEDURE OF ASSESSMENT

Chapter XVI of the income Tax Act, 2025

Section (New Act)	What the Section Says (Legal Power)	What Happens Practically	Leads To / Type of Assessment
284	Approval for notice	Sanction challenged	Jurisdiction validity
285	Drop reassessment	Proceedings closed	No reassessment
286	Time limit to complete	Time-bar disputes	Valid/invalid order
289	Notice of demand	Tax payable fixed	Demand raised
290	Modify demand	Changes post appeal	Revised demand
294	Block assessment (search)	One combined assessment	Search assessment
295	Other person (search)	Third-party additions	3rd party assessment
301	Defines block period	Scope fixed	Search coverage

TYPE OF ASSESSMENT

1. Types of Assessment
   a. Self Assessment
   b. Summary Assessment
   c. Scrutiny Assessment
   d. Best-Judgement Assessment
   e. Faceless Assessment

TYPES OF ASSESSMENT

SELF ASSESSMENT (S. 140A) (S. 266)

- Assessee computes total income as per the provisions of the respective heads of income, deductions, rebates, rates of taxes and arrives at the tax liability **before filing return** Tax
- Under the New Act also the provisions u/s 266, the concept of self assessment is provided
- ***Self-assessment ensures voluntary tax compliance before departmental intervention***

TYPES OF ASSESSMENT

Summary Assessment [S. 143(1)] – [S. 270]

- After the assessee files its return of income, the department through CPC (centralised processing centre) processes the return u/s 143(1) of the Income Tax Act and passes an Intimation order whereby the details filed by the assessee are checked by a computerised process.
- S. 143(1) and S. 143(1A) defines the extent of the issues that are to be checked within the framework of Summary assessment
- S. 143(1A) specifies that the return filed by the assessee undergoes the basis test of finding if there are any thematic errors, incorrect claims and inconsistencies with the information available with the department through its insight information, information available through filing of the audit report etc.
- Any inconsistency is intimated to the assessee through notice u/s 143(1A) thereby giving an opportunity to the assessee to rectify its mistake or accept the processing suggested by the CPC.
- Quick, system-driven assessment without human intervention

TYPES OF ASSESSMENT

Scrutiny Assessment [S.143(2)] – [S.270]

- The provisions of s. 143(2), 143(3) deal with the concept of Scrutiny assessment.
- The word "Scrutiny" itself defines that the return filed by the assessee is examined by the human intervention of the departmental officer. The powers are vested with the Jurisdictional assessing officer (JAO)
- However, after the introduction of the Faceless Regime u/s 144B, the powers are now vested with a Faceless Assessing Officer (FAO) which is governed by a computerised mechanism and the assessment is made in the manner as defined in S.144B rws 143(3) of the act
- The return filed by the assess is examined in detail by calling in documents and details as may be deemed fit by the assessing officer.
- The reasons for selection of Scrutiny assessment are variable and are governed by the CBDT from year to year basis.
- The time line for selection of a return for Scrutiny assessment is also governed by the proviso to of S. 143(2). Under the current provisions, a return can be taken up for scrutiny assessment upto **three months from the end of the financial year in which the return is filed**.

TYPES OF ASSESSMENT

Best Judgement Assessment S. 144 / 271

- The provisions of S. 144 deal with the concept of Best Judgement Assessment and deals with specific circumstances in a Scrutiny Assessment.
- The phrase 'Best Judgement Assessment' states that in case there is no cooperation by the assessee in relation to the queries raised by the assessing officer, the officer is empowered to make a best judgement on the basis of available data, information and the provisions of law to make an assessment vis-à-vis the total income of the assessee
- The best Judgement assessment is also made in circumstances when the assessing officer has reason to suggest that the books of accounts as maintained by the assessee are not reliable and the assessing officer has no option but to rely upon it judgement under the provisions of law to make a correct estimation of the income of the assessee.

TYPES OF ASSESSMENT

Re-Assessment

- Re-assessment or income escaping assessment are dealt under the provisions of S. 147 to 151 of the act.
- Under the new act the provisions of S. 279 to 286 deal with the same
- The subject is discussed in detail later in this presentation

TYPES OF ASSESSMENT

FACELESS ASSESSMENT – 144B / 273

- The concept of faceless assessment was introduced by the legislature through E-Assessment Scheme, 2019 and is governed by the provisions of S. 144B of the Income Tax Act.
- The introduction of faceless assessment fundamentally altered the concept of **jurisdiction** under the Income-tax Act. Prior to the scheme, jurisdiction was almost entirely **territorial and person-based**. After the introduction of the faceless regime, Parliament and the CBDT created a **functional jurisdiction**, where the authority to conduct assessment was separated from the authority having territorial control over the assessee.

ROLE OF JAO VS FAO

Role of Jurisdictional Assessing Officer Vs Faceless Assessing Officer
JAO Vs FAO

ROLE OF JAO VS FAO

- **Jurisdiction under the pre-faceless regime**

  Before faceless assessment:

  - Jurisdiction was governed principally by **Sections 120, 124 and 127**.
  - Every assessee was assigned to a **Jurisdictional Assessing Officer (JAO)**.
  - The JAO alone exercised powers under sections 142, 143, 144, 147 etc.
  - Transfer of a case from one officer to another required compliance with **Section 127**, including recording reasons and, in appropriate cases, giving the assessee an opportunity of hearing.
  - Thus, jurisdiction was territorial and officer-specific.

ROLE OF JAO VS FAO

Creation of statutory faceless jurisdiction

The Finance Act, 2021 inserted Section 144B, which replaced the earlier scheme framed under sections 143(3A), 143(3B) and 143(3C).

- Section 144B introduced an entirely new concept:
  - assessment units;
  - verification units;
  - technical units;
  - review units;

which exercise the powers of an Assessing Officer through an **automated allocation system**, irrespective of the territorial jurisdiction of the assessee.

Accordingly,

- territorial jurisdiction became largely irrelevant for conducting the assessment;
- cases are allocated electronically to any assessment unit across India.

ROLE OF JAO VS FAO

Amendment of Section 120

- Section 120 empowers CBDT to assign jurisdiction.
- To facilitate faceless assessment, CBDT exercised this power to create:
  - National Faceless Assessment Centre,
  - Regional Faceless Assessment Centres,
  - Assessment Units,
  - Verification Units,
  - Technical Units,
  - Review Units.
- Instead of assigning jurisdiction geographically, CBDT assigned **functional jurisdiction** through notifications and directions.

ROLE OF JAO VS FAO

Limited role of the Jurisdictional Assessing Officer

- The JAO was not abolished.
- Role of JAO continue in matters such as:
  - giving effect to appellate orders;
  - recovery proceedings;
  - rectification;
  - penalty proceedings in specified cases;
  - collection and post-assessment functions;
  - proceedings specifically transferred back under Section 144B(8).
- After completion of faceless assessment, the electronic records are transferred to the jurisdictional Assessing Officer for further statutory action.

ROLE OF JAO VS FAO

Transfer back to jurisdiction under Section 144B(8)

- Section 144B(8) provides an important exception.
- CBDT may direct that certain cases shall not be completed under the faceless procedure and may instead be transferred to the jurisdictional Assessing Officer.
- CBDT has issued detailed administrative instructions prescribing how such transferred cases are to be handled electronically as far as practicable.

Section 127 versus automated allocation

- One of the major legal questions was whether allocation of a case to another Assessment Unit amounts to a "transfer" under Section 127.
- The prevailing view is:
  - automated allocation under Section 144B is **not** a transfer under Section 127;
  - therefore, no opportunity of hearing under Section 127 is required;
  - the source of jurisdiction is Section 144B itself.
- Thus, Section 144B operates as a special procedure overriding the ordinary territorial framework for eligible assessments.

ROLE OF JAO VS FAO

Concurrent jurisdiction

- An interesting consequence of the faceless regime is the existence of concurrent powers:
  - the Jurisdictional Assessing Officer continues to exist under Sections 120 and 124;
  - the Assessment Unit exercises the powers of an Assessing Officer solely for purposes of faceless assessment.
- This has generated litigation, particularly in reassessment matters, on whether notices issued by the JAO or the faceless authority are valid. Courts have generally examined the specific statutory framework and the relevant CBDT notifications to determine which authority had jurisdiction in a given situation

ROLE OF JAO VS FAO

Concurrent Jurisdiction

- Comparison of the Roles of JAO and FAO

Role of Faceless AO (FAO)	Role of Jurisdictional AO (JAO)
Examination of return.	PAN jurisdiction administration.
Issuance of notices	Giving effect to appellate orders.
Calling for information.	Recovery proceedings.
Conducting scrutiny proceedings.	Collection and implementation functions.
Drafting assessment order	Proceedings specifically assigned by statute or CBDT.
Passing assessment order through faceless mechanism.	

ROLE OF JAO VS FAO

Judicial Position

- The provisions and Role of JAO and FAO have been examined by the Courts In various matters and there has been difference in Judicial Interpretations by different High Courts
- The two major Judgements surrounding the issue of JAO / FAO are
  - **Hexaware Technologies Limited v. Assistant Commissioner of Income Tax & Ors., Writ Petition No. 1778 of 2023 (2024) Bombay High Court**
  - **T.K.S. Builders Pvt. Ltd. v. ITO Writ Petition No. 1968 of 2023, Delhi High Court**

ROLE OF JAO VS FAO

Judicial Position (Bombay High Court) - Hexaware Technologies Limited

- **"There is no question of concurrent jurisdiction of both FAO and JAO with respect to issuance of notice under Section 148."** *"Our observations with respect to the guidelines dated 1 st August 2022 relied upon by the Revenue will equally be applicable here.*
- *35 Further, in our view, there is no question of concurrent jurisdiction of the JAO and the FAO for issuance of notice under Section 148 of the Act or even for passing assessment or reassessment order.*
- *When specific jurisdiction has been assigned to either the JAO or the FAO in the Scheme dated 29th March, 2022, then it is to the exclusion of the other. To Gauri Gaekwad 66/87 904.WP-1778-2023.doc take any other view in the matter, would not only result in chaos but also render the whole faceless proceedings redundant.*
- *If the argument of Revenue is to be accepted, then even when notices are issued by the FAO, it would be open to an assessee to make submission before the JAO and vice versa, which is clearly not contemplated in the Act. Therefore, there is no question of concurrent jurisdiction of both FAO or the JAO with respect to the issuance of notice under Section 148 of the Act.*

ROLE OF JAO VS FAO

Judicial Position (Bombay High Court) - Hexaware Technologies Limited

- *The Scheme dated 29th March 2022 in paragraph 3 clearly provides that the issuance of notice "shall be through automated allocation " which means that the same is mandatory and is required to be followed by the Department and does not give any discretion to the Department to choose whether to follow it or not. That automated allocation is defined in paragraph 2(b) of the Scheme to mean an algorithm for randomised allocation of cases by using suitable technological tools including artificial intelligence and machine learning with a view to optimise the use of resources. Therefore, it means that the case can be allocated randomly to any officer who would then have jurisdiction to issue the notice under Section 148 of the Act. It is not the case of respondent no.1 that respondent no.1 was the random officer who had been allocated jurisdiction."*
- **Most Important Observation from Hexaware - "When specific jurisdiction has been assigned to either the JAO or the FAO in the Scheme, then it is to the exclusion of the other."**
- **Principle Emerging**
  - Where the Scheme assigns a function to FAO, JAO cannot simultaneously exercise that power.
  - Automated allocation is mandatory.
  - Department cannot choose between JAO and FAO at its discretion.

ROLE OF JAO VS FAO

Judicial Position (Delhi High Court) - T.K.S. Builders Pvt. Ltd

- "Introduction of NFAC does not automatically extinguish powers of JAO"
- "Depending upon the statutory framework and scheme provisions, JAO may continue to possess jurisdiction in certain reassessment matters"
- *"81. Additionally, provisions within sub-sections (7) and (8) of Section 144B authorize the Principal Chief Commissioner or the Principal Director General to transfer cases back to the Jurisdictional Assessing Officer (JAO) when appropriate. This flexibility further emphasises that Section 144B cannot be viewed as the exclusive basis for all assessment and reassessment procedures. The randomised allocation, reinforced by tools such as artificial intelligence and machine learning, is intended to reduce direct human interface for reasons of integrity and to prevent individual arbitrariness. Nevertheless, it would be incorrect to interpret Section 144B as the sole pathway envisioned by the Act for conducting assessments or initiating reassessments. Instead, it should be recognized as one component within a broader statutory framework that provides multiple avenues for the lawful assessment and reassessment of returns.*

ROLE OF JAO VS FAO

Judicial Position (Delhi High Court) - T.K.S. Builders Pvt. Ltd

- *82. As was noticed by us hereinbefore, the conferred jurisdiction upon authorities for the purposes of faceless assessment itself uses the expression —concurrently‖. That word would mean contemporaneous or in conjunction with as opposed to a complete ouster of the authority otherwise conferred upon an authority under the Act. This too is clearly demonstrative of the Act not intending to deprive the JAO completely of the power to reassess. In understanding the concept of concurrent jurisdiction, it is essential to recognise that the retention of a human element within the broader framework of the National Faceless Assessment Centre (NeAC) does not conflict with the powers held by the JAO. Rather, this setup must be viewed as complementary, reinforcing both accountability and adaptability within the assessment process.*
- *83. In Sanjay Gandhi Memorial Trust v. Commissioner of Income Tax (Exemption)22, the Court directly addressed whether the JAO could exercise assessment authority alongside the faceless assessment system. The Court concluded that, while the faceless system centralizes case handling through the NFAC, this framework does not completely replace or nullify the JAO's role. The CBDT notifications further affirm this shared responsibility, specifying that the NFAC and the JAO hold concurrent jurisdiction, thereby allowing the faceless system to conduct assessments without stripping the JAO of its foundational authority.*

ROLE OF JAO VS FAO

Judicial Position (Delhi High Court) - T.K.S. Builders Pvt. Ltd

- *84. In this way, the JAO's retention of original jurisdiction provides a critical balance, ensuring that human oversight remains available within the faceless assessment structure when needed. Importantly, the Court highlighted that the JAO's authority is not merely residual but an active, complementary role that reinforces the flexibility of the assessment system. For instance, the NFAC retains the capacity to transfer cases back to the JAO during assessment proceedings if circumstances require a return to jurisdictional assessment. This adaptability affirms that faceless and jurisdictional assessments are not mutually exclusive; instead, they are interwoven aspects of the Act's broader design, intended to operate in tandem to achieve fairness and procedural integrity.*

- *85. The issue of the JAO having concurrent jurisdiction arose directly for the consideration of this Court in Sanjay Gandhi Memorial Trust. One of the arguments which appears to have been addressed 22 2023 SCC OnLine Del 3161 before the Court in that case was of the JAO having no authority or jurisdiction to assess. ………*

- *(25) From the language employed in the Explanation 1 and Explanation 2 to Section 148 of the Act' 1961, we reach at an opinion that the method of automated allocation, i.e. for random allocation of cases through algorithm, or by using suitable technological tools, including artificial intelligence and machine learning, in accordance with risk management strategy formulated by the Board, as referred to in Explanation 1 clause (i) to Section 148 of the Act, for issuance of notice under Section 148 in a faceless manner, as per the scheme framed vide notification dated 29.03.2022, cannot be applied to the case of Search and Seizure under Section 132, where the Jurisdictional Assessing Officer (JAO) is required to record his satisfaction on the basis of the material for affirmation of opinion in an honest and bona fide manner. (26) We find substance in the submission of the learned counsel for the Revenue that recording of satisfaction by the Assessing Officer on a perusal of the information received by him as a result of search and seizure operation under Section 132 of the Income Tax Act' 1961, requires application of human mind, inasmuch as, reasons affirmed on the part of the Satisfaction Note may also become subject matter of scrutiny by the Court in a case of challenge, where the Court in exercise of power of judicial review may examine as to whether they are actuated by mala fides or passed on extraneous or irrelevant considerations.*

ROLE OF JAO VS FAO

Judicial Position (Delhi High Court) - T.K.S. Builders Pvt. Ltd

- *103*. ***We are fully cognizant of the contrarian view which was expressed in this respect in Hexaware Technologies and which stands reflected in para 36 of the report which has been extracted hereinabove. However, for reasons assigned in the preceding parts of this decision, we find ourselves unable to concur with the interpretation accorded by the Bombay High Court upon Clause 3 of the Faceless Reassessment Scheme 2022.*** *As was noted by us earlier, Clause 3 clearly contemplates the initial enquiry and formation of opinion to reassess being part of one defined process followed by actual assessment in a faceless manner. It thus divides the process of reassessment into two stages and when viewed in that light it is manifest that it strikes a just balance between the obligation of the JAO to scrutinise information and the conduct of assessment itself through a faceless allocation. The distribution of functions between the JAO and NFAC is complimentary and concurrent as contemplated under the various schemes and the statutory provisions. This balanced distribution underscores the legislative intent to create a seamless integration of traditional and faceless assessment mechanisms within a unified statutory framework. This we so hold and observe since we have, principally, been unable to countenance a situation where the JAO stands completely deprived of the jurisdiction to evaluate data and material that may be placed in its hands.*

ROLE OF JAO VS FAO

Amendment introduced by Finance Act, 2026

- S. 147A has been introduced with retrospective effect from 01.04.2021 **(OLD ACT)**

Notwithstanding anything contained in any judgement, order or decree of any court or in S.151A or in any scheme framed thereunder, for the removal of doubts, it is hereby clarified that the Assessing Officer for the purpose of sections 148 and 148A shall mean and shall always be deemed to have meant to be an Assessing Officer other than the National Faceless Assessing Centre or any assessment unit referred to in sub-section(3) of S. 144B

- S. 270(3) has been inserted with effect from 01.04.2026 **(NEW ACT)**

The Assessing officer for the purpose of Section 280 and 283 shall mean to be the assessing officer other than the National Faceless Assessment Centre or any assessment unit reffered to in section 273(3).

ROLE OF JAO VS FAO

Judicial Position (Supreme Court after Amendment via Finance Act 2026)

- ***Income Tax Officer, Ward 2 (1), ... vs Tej Partap Singh on 10 April, 2026**Diary No(s).2196/2026]- **https://indiankanoon.org/doc/18234458/***
- *9. After section 147 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2021, namely:— "147A. Notwithstanding anything contained in any judgement, order or decree of any court or in section 151A or in any scheme framed thereunder, for the removal of doubts, it is hereby clarified that the Assessing Officer for the purposes of sections 148 and 148A shall mean and shall always be deemed to have meant to be an Assessing Officer other than the National Faceless Assessment Centre or any assessment unit referred to in sub-section (3) of section 144B.".*
- *16. It is also asserted that the amendment to Section 279 of the Income Tax Act, 2025 is to bring it in consonance with the newly inserted Section 147A of the IT Act, thereby implying that the "Assessing Officer" for the purposes of Sections 280 and 281 of the Income Tax Act, 2025 shall mean to be an Assessing Officer other than the NFAC or any assessment unit referred to in Section 273(3). The amended Section 279 reads as follows:*
- *71. In section 279 of the Income-tax Act, after*

ROLE OF JAO VS FAO

Judicial Position (Supreme Court after Amendment via Finance Act 2026)

- *71. In section 279 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely: –– '(3) The "Assessing Officer" for the purposes of sections 280 and 281 shall mean to be an Assessing Officer other than the National Faceless Assessment Centre or any assessment unit referred to in section 273(3).'*
- *17. In this backdrop, where an interpretative issue concerning the older provisions is already under consideration, it is contended on behalf of the Appellant-*
- *Revenue that the Parliament, from the outset, intended that while notices could be issued by either the JAO or the Faceless Assessing Officer (FAO), the subsequent quasi-*
- *judicial adjudication of such notices was to be undertaken by the FAOs.*

ROLE OF JAO VS FAO

Judicial Position (Supreme Court after Amendment via Finance Act 2026)

- *18. It is urged that, in light of the divergent views taken by the High Courts owing to perceived ambiguity in the existing law, Parliament has now made the clarificatory amendment with retrospective effect from 01.04.2021, the date on which the original provisions came into force, and that the alleged anomalous situation, if any, has been removed. It was additionally submitted that the power to enact retrospective amendments is well settled in law, and that fresh notices will now be issued to assessees in accordance with the clarified position, so that pending reassessment proceedings may be concluded in accordance with law.*
- *2. Since the High Courts have primarily quashed the reassessment notices on the ground that the JAOs lacked competence to initiate such proceedings, and the very foundation of that view now stands altered by the amending legislation, the impugned judgments in favor of the assessees are set aside on this limited ground. The matters are accordingly remitted to the respective High Courts for fresh consideration. Ordered accordingly.*
- *23. The assessees are granted liberty to amend their writ petitions, if so advised, within a period of four (4) weeks from the date of uploading of this order, so as to enable them to lay challenge to Section 147A of the IT Act, as introduced by Act No. 4 of 2026, or to any other connected or consequential provision.*
- *24. Similarly, the Appellant-Revenue shall be at liberty to file their written submissions and affidavits before the jurisdictional High Courts within a period of three (3)*

ROLE OF JAO VS FAO

Practical Impact of the Amendments by Finance Act, 2026

Issue	Position before Finance Act, 2026	Position after Finance Act,
Authority to issue notice under section 148	Considerable judicial support for FAO	JAO expressly empowered
Authority to conduct section 148A proceedings	Disputed	JAO expressly empowered
Validity of notices issued by JAO	Frequently quashed by High Courts	Retrospectively validated by statute
Faceless assessment system	Applicable	Continues; FAO still conducts faceless assessment functions where the scheme applies
Litigation	Based on lack of jurisdiction of JAO	Shifted to challenge the constitutional validity of the retrospective amendments

TIME FRAME OF ASSESSMENT

Time frame of Assessment

- Time limitation u/s 153 of the Income Tax Act, 1961
  - For completion of Scrutiny Assessment
  - For completion of Best Judgement Assessment
  - For completion of Re-Assessment
  - For completion of Fresh assessment pursuant to appellate or revisionary orders could be completed;
  - For completion of orders giving effect to appellate orders could be passed.

- Time limitation u/s 286 of the Income Tax Act, 2025

TIME FRAME OF ASSESSMENT

- Regular Assessment - S. 153(1)

  Section 153(1) governess assessments under Sections 143(3) and 144.

Assessment Year	Limitation	
Earlier regime	21 months	From the end of the assessment year in which the income was first assessable
AY 2018-19	18 months	
AY 2019-20	12 months	
AY 2020-21	18 months	
AY 2021-22	9 months	
AY 2022-23 onwards	12 months	

TIME FRAME OF ASSESSMENT

- Re-assessment – 153(2)
  - Section 153(2) governs reassessment proceedings under Section 147.
  - The AO is required to complete reassessment within:
    - 9 months from the end of the financial year in which notice under Section 148 was served;
    - subsequently increased to 12 months for notices served on or after 01.04.2019.

TIME FRAME OF ASSESSMENT

- Fresh Assessment After Appellate Orders
  - Section 153(3) applied where an assessment was set aside or cancelled by:
    - CIT(A);
    - ITAT;
    - Principal Commissioner under Section 263;
    - Commissioner under Section 264.
  - Fresh assessment had to be completed within the prescribed period from receipt or passing of the appellate/revision order.

TIME FRAME OF ASSESSMENT

- Exclusion of Time - Explanation 1 provided exclusions for:
  - Court stays;
  - Special audit;
  - Valuation references;
  - Advance rulings;
  - Exchange of information requests;
  - Settlement Commission proceedings;
  - GAAR proceedings.

- The limitation clock remains suspended during such periods

TIME FRAME OF ASSESSMENT

- **Income Tax Act 2025**

  Section 286 replaces Section 153 and continues to govern limitation for:

  - Assessments;
  - Reassessments;
  - Re-computation proceedings;
  - Fresh assessments;
  - Consequential assessments;
  - Orders giving effect to appellate orders.

- The provision is structured in a tabular format and substantially simplifies the earlier scheme.

TIME FRAME OF ASSESSMENT

- **Income Tax Act 2025 provides for Uniform One-Year Limitation**
- Unlike Section 153, which contained varying periods, Section 286 adopts a largely uniform limitation period of one year for:
  - Regular assessments; (end of FY in which Such return is filed)
  - Updated return assessments; (end of FY in which Such return is filed)
  - Reassessments; (end of FY in which Notice U/s 280 was received)
  - Fresh assessments; (end of FY in which order u/s 359 or 363 is received)
  - Consequential assessments. (End of month in which such assessment is revived)

TIME FRAME OF ASSESSMENT

- Time Limitation for Fresh Assessment After Appellate Orders where assessments are set aside by: (One year)
  - Commissioner (Appeals);
  - Appellate Tribunal;
  - Revision authorities;
- the fresh assessment must ordinarily be completed within one year (end of month in which such order is revived)

TIME FRAME OF ASSESSMENT

- Time Limitation for Orders Giving Effect
- Section 286 introduces a clearer distinction between:
  - Cases requiring verification/hearing
  - **Time limit:** One year. (end of month in which order u/s 359 / 363 / 365 / 368 / 377 is is passed by the Jurisdictional Pr. Commissioner)
  - Pure consequential orders
  - **Time limit :** Six months, extendable to nine months. (end of month in which order u/s 359 / 363 / 365 / 368 / 377 is is passed by the Jurisdictional Pr. Commissioner)

TIME FRAME OF ASSESSMENT

- **Important Judgements on Time Limitation**

- **Limitation Goes To Jurisdiction**

  Commissioner of Income Tax v. Bhan Textile (P.) Ltd. (2008) 300 ITR 176 (Delhi)

- **Limitation Provisions Must Be Strictly Construed**

  K.M. Sharma v. Income Tax Officer, Ward 13(7), New Delhi (2002) 254 ITR 772 (SC)

RE-ASSESSMENT

Re-Assessments (Conditions and Limitations)

a. Conditions for Re-Assessment
b. Procedural Aspects - Notices, Approvals, Time limits

IMPORTANT ISSUES ARISING IN REASSESSMENT AFTER 01.04.2021

A. **<u>Direct issues</u>**

1. **Procedure of Assessment** - Proceeding u/s 147 / 279 of the respective act
2. **Conditions Precedent for ReAssessment** – Section 148 & 148A / 280 & 281
3. **Time Limitation for initiation** – Section 149 / 282
4. **Approval / Sanction** u/s 151 / 284

B. **<u>Additional Issues</u>**

1. Document Identification Number (DIN)
2. Proceedings u/s 151A
3. Completion of Assessment u/s 153

PROCEDURE OF ASSESSMENT

Comparitive Sections of Re-assessment with Act of 1961 and 2025

Section 1961 Act	Particulars	Section 2025 Act	Particulars
147	Income escaping assessment	279	Escaped income concept
148	Notice for reassessment	280	Issue of Notice when income has escaped assessment
148A	Pre-reopening inquiry & opportunity	281	Pre-notice show cause
149	Time limit for reopening	282	Time limit for notice
150	Exception to limitation	282	Effect of appellate order
151	Prior sanction required	284	Approval for notice

SECTION WISE COMPARISON SINCE 01.04.2021

Section	Before 01.04.2021	After 01.04.2021	After 01.09.2024
147	Reassessment u/s 147 could be completed subject to certain conditions as defined: • Assessing officer has to record "Reasons to believe" that the **income is escaping assessment** • Necessary approval has to be taken • AO has to apply his mind into the information before concluding that the information as received is authentic and has substance. • If assessment u/s 143(3) is completed once, reassessment cannot be done beyond 4 years.	In case income chargeable to tax has escaped assessment, the AO subject to the provisions of S. 148 to 153 can: • Assess or reassess such **income** • Recompute **a loss** or **depreciation** or **depreciation allowance** or **any other allowance** or **deduction** for such assessment year	No change.

SECTION WISE COMPARISON SINCE 01.04.2021

Section 148

Section	After 01.04.2021
148	AO to issue notice u/s 148 subject to the provisions of S. 148A and after passing an order u/s 148A(d). **Conditions:** • Assessee to file return of income u/s 148 in the manner and within the time prescribed • No Notice without approval • No notice without information • Information could be any information flagged by the risk management strategy made by the board or any final objection raised by CAG • In cases of search or survey u/s 132, 132A, 133A (except 2A) **on or after 01.04.2021,** the AO shall be deemed to have the information which may suggest that income is escaping assessment.

SECTION WISE COMPARISON SINCE 01.04.2021

Section 148

Section	After 01.09.2024
148	AO to issue notice u/s 148 subject to the provisions of S. 148A along with copy of order passed u/s 148A(3). **Conditions:** • Assessee to file return of income within the time prescribed not exceeding 3 months from the end of the month in which notice is issued. • **If filed beyond the time, return will be treated as not filed** • No notice without information • If information received under scheme 135A, no notice to be issued without approval • **Information could be any information flagged by the risk management strategy made by the board, audit objection in an assessment, any information u/s 90 or 90A, any info u/s 135A, any information which requires an action in consequence of the order of the tribunal.** • **Any information in case of a survey u/s 133A on or after 01.09.24**

SECTION WISE COMPARISON SINCE 01.04.2021

Section 148A

Section	Before 01.04.2021
148A	N/A

SECTION WISE COMPARISON SINCE 01.04.2021

Section 148A

Section	After 01.04.2021
148A	The procedure as laid out by the apex court in **GKN Drive Shafts** was codified in terms of S. 148A • AO to have information which may suggest income is escaping assessment • AO to issue notice u/s 148A(b) by providing information in his possession • Assessee to file reply (minimum 7 days) in the time allowed or extended • AO to form opinion on the basis of information and the reply filed and pass an order u/s 148A(d)

SECTION WISE COMPARISON SINCE 01.04.2021

Section 148A

Section	After 01.09.2024
148A	The procedure of 148(A) has been amended from the 4 sub clause(s) (a), (b), (c), (d) to sub section (1), (2), (3) and (4). • AO to have information which may suggest income is escaping assessment • Assessee to file reply **within the time specified in the notice** (no minimum 7 days) • AO to form opinion on the basis of information and the reply filed and pass an order u/s 148A(3) • **148A not to apply** where information received u/s 135(A) and notice can be issued just by seeking approval. Meaning thereby, Notice u/s 148 can be issues without 148A.

SECTION WISE COMPARISON SINCE 01.04.2021

Section	Before 01.04.2021	After 01.04.2021	After 01.09.2024
149	Limitation of time for issue of notice under different conditions: - 4 years - 6 years - 16 years	Limitation of time and quantum of income escaping assessment for issue of notice under different conditions: - 3 years < 50 Lacks - 10 years > 50 Lacks - (The limitations have been subjected to 4 provisos in 2021/22 and 6 provisos in 2023)	Limitation of time and quantum of income escaping assessment for issue of notice under different conditions: (Only time is changed and quantum is not disturbed) - 3.3 years < 50 Lacks - 5.3 years > 50 Lacks

AMENDMENTS IN REASSESSMENT SCHEME OVER THE YEARS

Amending Act	Effective Date of coming into force	Permissible Time Limit for issue of notice u/s 148 (from end of assessment year)
Income Tax Act, 1961	01.04.1962	• 8 years • 6 years • 4 years
Direct Tax Amendment Act, 1987	01.04.1962	• 4 years • 7 years • 10 years (All the provisions were substituted)
Finance Act, 2001	01.06.2001	• 4 years • 6 years (All the provisions were substituted)

AMENDMENTS IN REASSESSMENT SCHEME OVER THE YEARS

Amending Act	Effective Date of coming into force	Permissible Time Limit for issue of notice u/s 148 (from end of assessment year)
Finance Act, 2012	01.07.2012	• 4 years • 6 years • 16 years (16 years condition has been newly inserted, rest were undisturbed)
Finance Act, 2021	01.04.2021	• 3 years • 10 years (All the provisions are substituted)
Finance Act, 2024	01.09.2024	• 3.3 years • 5.3 years (S. 148, 148A, 149, 151 substituted)

SECTION WISE COMPARISON SINCE 01.04.2021

Section	Before 01.04.2021	After 01.04.2021	After 01.09.2024
151	Appropriate Authority for sanction of notice - Within 4 years – Not below JCIT unless satisfied by AO - Beyond 4 years (upto 6 yrs) – Pr.CCIT, CCIT, Pr.CIT, CIT	Appropriate Authority for sanction of notice - Within 3 years– Pr. CIT, Pr. DIT, CIT, DIT - Beyond 3 years (upto 10 yrs or as the case may be) – Pr. CCIT, Pr. DG, GCC, DG	Appropriate Authority for sanction of notice - Adl. CIT, Adl DIT, JCIT, JDIT - All other conditions are removed w.e.f 01.09.24

SECTION WISE COMPARISON SINCE 01.04.2021

Section	Before 01.04.2021	After 01.04.2021	After 01.09.2024
151A	N/A	- Introduced by TOLA w.e.f 01.11.2020 - Amended by FA 2021 - All proceedings including proceeding u/s 148A to be under faceless scheme - Scheme introduced w.e.f 29.03.2022	- No Change

PROCEDURE OF INITIATION OF PROCEEDINGS – SECTION 148 / 148A

Procedure of initiation of proceedings – Section 148 / 148A

- Mon Mohan Kohli Vs. ACIT & Anr. W.P.(C) 6176/2021, DEL
- Suman Jeet Agarwal Vs. Income Tax Officer. WP(C) 10/2022, DEL
- Union of India & Ors. Vs. Ashish Agarwal. Civil Appeal NO. 3005/2022, Hon'ble Supreme Court
- Board circular dated 11th May 2022
- M/s Divya Capital One Pvt. Ltd. Vs. ACIT, Circle 7(1), Delhi & Anr. W.P.(C) 7406/2022, Hon'ble Delhi High Court.
- M/s Angelantoni Test Technologies SRL Vs. ACIT, Circle Int Tax 1(1)(1), Delhi & Ors. - W.P.(C) 15928/2023 & CM APPL. 64160-64161/2023, Hon'ble Delhi High Court

LIMITATION U/S 149 – TIME AND QUANTUM OF INCOME ESCAPING ASSESSMENT

Limitation u/s 149 – Time and Quantum of income escaping assessment

- Ganesh Das Khanna Vs. ITO & Anr. W.P. (C) 11527/2022, DEL (S. 149)
- Twylight Infrastructure Pvt. Ltd. Vs. ITO Ward 25(3), Delhi & Ors. W.P. (C) 16524/2022, Hon'ble Delhi High Court (S. 149 and S. 151)
- Manju Somani Vs. Income Tax Officer, Ward **(Re-Reassessment)** WP(C) 7364/2024, 23/07/2024

APPROVAL FROM APPROPRIATE AUTHORITY U/S 151

Approval from appropriate authority u/s 151

- Twylight Infrastructure Pvt. Ltd. Vs. ITO Ward 25(3), Delhi & Ors.

  W.P. (C) 16524/2022, Hon'ble Delhi High Court

DOCUMENT IDENTIFICATION NUMBER (DIN)

Document Identification Number (DIN)

- Circular No. 19/2019, 14.08.2019 – Generation of DIN
- Four Exceptional Circumstances for not issuing document using DIN (and on approval)
  - Technical Difficulties
  - When Officer is outside the office for discharging his office
  - PAN Migration
  - Any other proceeding under the act are initiated which does not allow DIN to be generated
- CIT (International Taxation)-1, New Delhi Vs. Brandix Mauritius Holdings Ltd. ITA 163/2023, Hon'ble Delhi High Court
- M/s Brandix Mauritius Holdings Ltd. Vs. DCIT, Circle 1(1)(2), Int. Tax. ITA No. 1542/DEL/2020 (A.Y. 11-12), ITAT Delhi

DOCUMENT IDENTIFICATION NUMBER (DIN)

Document Identification Number (DIN)

Amendment brought by Finance Act 2026

S. 292BA has been introduced

292BA. Notwithstanding anything contained in any judgment, order or decree of any court, for the removal of doubts it is hereby clarified for the purposes of section 292B that no assessment under any of the provisions of this Act shall be invalid or shall be deemed to have been invalid on the ground of any mistake detect or omission in respect of quoting of a computer generated Document Identification Number, if the assessment order is referenced by such number in any manner.

DOCUMENT IDENTIFICATION NUMBER (DIN)

Amendment brought by Finance Act 2026

S. 522 has been substituted in Income Tax Act 2025

(1) No return of income, assessment, notice, summons or other proceedings relating thereto, furnished or made or issued or taken, or purported to have been furnished or made or issued or taken, in pursuance of any of the provisions of this Act, shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding, if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purposes of this Act.

(2) No assessment under any of the provisions of this Act shall be invalid on the ground of any mistake, defect or omission in respect of quoting of a computer generated Document Identification Number, if the assessment order is referenced by such number in any manner.

(3) Irrespective of anything contained in this Act, any approval given by an income-tax authority in relation to any assessment, reassessment or recomputation proceedings shall be deemed to be administrative and supervisory in nature and, shall not be invalid by reason of any insufficiency of the reasons recorded or by reason of any defect in the form or manner of its authentication or communication including whether digital signature have been appended to such approval or not, where such approval has been granted electronically.]

DOCUMENT IDENTIFICATION NUMBER (DIN)

The Finance Act, 2026 **does not completely dispense with the requirement of DIN**

The various situations dealing with the Din may be as under :

Situation	Legal position after Finance Act, 2026
DIN correctly generated and quoted	Fully valid.
DIN generated but there is a technical mistake/defect/omission in quoting it	Protected by section 292BA / 522 ; proceedings ordinarily remain valid.
No DIN generated at all and the communication is issued without complying with the CBDT Circular	Section 292BA may not cure this defect because the section itself proceeds on the existence of a lawfully generated DIN.

PROCEEDINGS U/S 151A

Proceedings u/s 151A (JAO / FAO)

- Scheme notified by CBDT vide notification dated 29/03/2022 under section 151A
- Hexaware Technologies Limited Vs. ACIT WP-1778-2023, Bombay Hight Court
- T.K.S. Builders Pvt. Ltd. v. ITO

  Writ Petition No. 1968 of 2023, Delhi High Court
- Abhin Anilkumar Shah Vs. Income Tax Officer (Intl Tax) WPL-16750/2024, Bombay High Court
- Sri Venkataramana Reddy Patloola Vs. DCIT, WP 13353/2024, High Court of Telangana

JUDGEMENT OF RAJIV BANSAL

Important takeaways from the judgement

1. Judgement in the case of Ashish Agarwal shall be applicable to all reassessment notices issued between 01.04.2021 to 30.06.2021
2. All limitation dates falling between 20.03.2020 till 31.03.2021 shall be extended till 30.06.2021 (Read with TOLA)
3. The procedure as amended by the Finance Act 2021 for issue of notice u/s 148 shall be applicable to the notices issued on or after 01.04.2021 since TOLA can only extend the timeline but not the application of the substituted sections of procedure
4. All defences available including the timeline as amended u/s 149 w.e.f 01.04.2021 shall have to be followed for all notices on or after 01.04.2021

JUDGEMENT OF RAJIV BANSAL

Important takeaways from the judgement

6. Provisions of S. 151 (grant of approval) shall be read with the time line u/s 149 of the act for the purpose of applicability till the extended date under TOLA till 30.06.2021
7. Since the cause of limitation of issue of notice u/s 148 (Between 01.04.21 till 30.06.21) was challenged before courts and since Judgement of Ashish Agarwal case is applicable to all cases, the 4^{th} proviso of S.149 will be applicable. Thereby causing the **‘stop of clock’** since the date of notice and the judgement of Ashish Agarwal on 04.05.2022
8. Also since Ashish Agarwal allowed a certain time for the AO’s to issue notices including information within a specific time and a certain time for the replies to be filed u/s 148A(c), the stop of clock shall continue till the time allowed u/s 148A(c)

JUDGEMENT OF RAJIV BANSAL

9. The logical effect of the creation of the legal fiction by Ashish Agarwal (supra) is that the time surviving under the Income Tax Act read with TOLA will be available to the Revenue to complete the remaining proceedings in furtherance of the deemed notices, including issuance of reassessment notices under Section 148 of the new regime.

10. The surviving or balance time limit can be calculated by computing the number of days between the date of issuance of the deemed notice and 30 June 2021.

11. Accordingly, the reassessment notices to be issued in pursuance of the deemed notices must also be within the time limit surviving under the Income Tax Act read with TOLA. This construction gives full effect to the legal fiction created in Ashish Agarwal and enables both the assesses and the Revenue to obtain the benefit of all consequences.

TOPICS

Rectification and Revision

a. Rectification of Mistakes
b. Revision of Orders

RECTIFICATION OF MISTAKES

Rectification of Mistakes

- The Income-tax Act provides a comprehensive mechanism for assessment, reassessment, appeal and revision. However, despite these elaborate procedures, administrative and clerical errors may occur while passing assessment orders or issuing intimations. To ensure that such apparent mistakes do not result in injustice to either the Revenue or the taxpayer, the Legislature has incorporated a specific statutory mechanism known as **Rectification of Mistake**.

- Under the Income-tax Act, 1961, this power is contained in **Section 154**, whereas under the Income-tax Act, 2025, the corresponding provision is **Section 287**.

RECTIFICATION OF MISTAKES

Comparison of Respective Sections under the Two Acts

S.154	Particulars	S. 287	Particulars
(1)	With a view to rectifying any mistake apparent from the record an income tax authority referred to in section 116, may (a) Amend any order under the provisions of the act (b) Amend any intimation under section 143(1) (c) Amend any intimation under S.200A(1) (d) Amend any intimation under S.206CB(1)	(1)	Any income tax authority referred to in S. 236, for rectifying any mistake apparent from record, may amend any (a) Order passed under the provisions of the act (b) Intimation under section 270(1) (c) Intimation under section 399

The Income-tax Act, 2025 substantially re-enacts the provisions of Section 154 through Section 287 with simplified drafting and renumbered statutory references. The legislative intent is to preserve the existing legal position rather than alter the scope of rectification.

RECTIFICATION OF MISTAKES

- ## Legislative Objective

- The purpose of Sections 154 and 287 is to enable Income-tax Authorities to rectify obvious and self-evident mistakes occurring in orders or intimations passed under the Act.

- Inadvertent clerical mistakes, computational errors, incorrect application of statutory provisions or failure to give effect to undisputed material already available on record should not compel either the Revenue or the assessee to undergo lengthy appellate proceedings.

- Accordingly, the provisions seek to balance two competing principles:

  - **Finality of proceedings, and**

  - **Correction of patent errors.**

- Thus, rectification serves as a corrective jurisdiction rather than a reconsideration of the merits of the case.

RECTIFICATION OF MISTAKES

- **Meaning of "Mistake Apparent from the Record"**
- Neither Section 154 nor Section 287 defines the expression "mistake apparent from the record. "Its meaning has therefore been developed entirely through judicial interpretation.
- The Courts has consistently held that a mistake apparent from the record is one that is:
  - obvious;
  - patent;
  - self-evident;
  - capable of being detected without elaborate arguments;
  - and ascertainable from the existing record itself.
- If determination of the alleged mistake requires prolonged reasoning, interpretation of law, appreciation of evidence or two possible opinions, the issue falls outside the ambit of rectification.

RECTIFICATION OF MISTAKES

- **Scope of Rectification**
- The jurisdiction under both provisions extends to rectification of:
  - Assessment orders;
  - Appellate orders passed by concerned authorities;
  - Intimation issued under the act;
  - Computational errors;
  - Clerical mistakes;
  - Arithmetical mistakes
  - Mistakes arising from non-consideration of mandatory statutory provisions; and
  - Failure to grant relief already evident from the existing record.

RECTIFICATION OF MISTAKES

- **Scope of Rectification**
- However, the jurisdiction does not extend to
  - review of an earlier decision;
  - reconsideration of evidence;
  - fresh investigation;
  - reopening completed assessments;
  - substitution of one legal interpretation by another;
  - change of opinion;
  - issues involving debatable questions of fact or law

RECTIFICATION OF MISTAKES

Landmark Judicial Precedents on Rectification

1. **T.S. Balaram, ITO v. Volkart Brothers (1971) 82 ITR 50 (SC) -** The Supreme Court held that a mistake apparent from the record must be obvious and patent. A decision requiring prolonged reasoning or involving two possible opinions cannot be rectified under Section 154.

2. **ACIT v. Saurashtra Kutch Stock Exchange Ltd. (2008) 305 ITR 227 (SC) -** The Supreme Court held that failure to apply a binding judgment of the Supreme Court or jurisdictional High Court constitutes a mistake apparent from the record capable of rectification.

3. **Mepco Industries Ltd. v. CIT (2009) 319 ITR 208 (SC) -** The Court reiterated that rectification cannot be exercised merely because the authority changes its opinion on the same material.

4. **Honda Siel Power Products Ltd. v. CIT (2007) 295 ITR 466 (SC) -** The Supreme Court observed that rectification exists to remove manifest errors and prevent miscarriage of justice but cannot be converted into a review jurisdiction.

REVISION OF ORDERS

Revision of Orders

- The Income-tax Act provides multiple statutory remedies to correct errors committed during assessment proceedings. While an assessee may challenge an assessment through the appellate mechanism and apparent mistakes may be corrected through rectification, the Legislature has also conferred a supervisory jurisdiction upon the Principal Commissioner or Commissioner to **revise certain orders passed by subordinate authorities.**
- Under the Income-tax Act, 1961, this power is contained in **Section 263**, whereas under the Income-tax Act, 2025, the corresponding provision is **Section 377**

REVISION OF ORDERS

Legislative Object

- The primary object of Section 263 (corresponding to Section 377) is to safeguard the legitimate interests of the Revenue by empowering the Commissioner to revise an order passed by the Assessing Officer which is both **erroneous** and **prejudicial to the interests of the Revenue**.

- The provision acts as a supervisory mechanism to ensure that assessments are completed in accordance with law and that tax legally payable is neither omitted nor under-assessed due to errors committed by the Assessing Officer.

- However, the revisional power is not intended to operate as a power of review or appeal. The Commissioner cannot invoke Section 263 merely because he disagrees with the conclusion reached by the Assessing Officer or because another view is possible. The provision is designed to correct jurisdictional, legal and factual errors causing prejudice to the Revenue, and not to substitute one possible opinion for another.

- The legislative object remains unchanged under Section 377 of the Income-tax Act, 2025.

REVISION OF ORDERS

Conditions for Invoking Section 263 / Section 377

- Before the revisional jurisdiction can be exercised, **both** of the following statutory conditions must exist:
  1. The order passed by the Assessing Officer must be **erroneous**; and
  2. The error must be **prejudicial to the interests of the Revenue**.
- These conditions are cumulative. The existence of only one condition is insufficient. Therefore:
  - an erroneous order which causes no prejudice to the Revenue cannot be revised; and
  - an order prejudicial to the Revenue but not erroneous also cannot be revised.
- This principle has consistently been affirmed by the Supreme Court, particularly in ***Malabar Industrial Co. Ltd. v. CIT*.**

REVISION OF ORDERS

Meaning of "Erroneous"

- Neither Section 263 nor Section 377 defines the expression "erroneous". Its meaning has therefore been developed through judicial interpretation.
- An order is regarded as erroneous where it suffers from a legal or factual defect, including:
  - incorrect assumption of facts;
  - incorrect application of law;
  - failure to apply the provisions of the Act;
  - violation of the principles of natural justice;
  - passing an order without making the enquiries or verification required by law; or
  - allowing a claim without examining its correctness.
- However, an order does not become erroneous merely because the Commissioner holds a different opinion. Where the Assessing Officer has adopted one of the legally permissible views after due enquiry, the order cannot be revised simply because another view appears more appropriate.
- The meaning of "erroneous" remains unchanged under Section 377.

REVISION OF ORDERS

Meaning of "Prejudicial to the Interests of the Revenue"

- The expression "prejudicial to the interests of the Revenue" is not defined in either Act. Judicial decisions have consistently held that prejudice must relate to a lawful loss of revenue resulting from an erroneous order.
- An order may be prejudicial where:
  - taxable income has escaped assessment;
  - excessive relief has been granted contrary to law;
  - deductions have been allowed without verification;
  - statutory provisions have not been correctly applied; or
  - tax legally payable has not been assessed.
- However, every loss of revenue does not automatically justify revision. Where the Assessing Officer adopts one of two legally sustainable views, the resulting order cannot be regarded as prejudicial merely because the Commissioner prefers another interpretation.
- The scope of this expression continues unchanged under Section 377.

REVISION OF ORDERS

Scope of Revisional Jurisdiction

- The revisional jurisdiction under Section 263/377 extends to orders passed by the Assessing Officer or the Transfer Pricing Officer which satisfy the statutory conditions prescribed by the Act.
- The Commissioner may:
  - call for and examine the record of any proceeding;
  - conduct or direct further enquiry;
  - enhance the assessment;
  - modify the assessment;
  - cancel the assessment; or
  - direct a fresh assessment.
- However, the jurisdiction is confined to correcting errors that are prejudicial to the Revenue. It cannot be exercised to conduct a fishing enquiry or to replace the opinion of the Assessing Officer with that of the Commissioner where both views are legally sustainable.
- The scope of Section 377 is substantially identical to Section 263, subject only to structural and drafting changes.

REVISION OF ORDERS

Explanation 2 – Deemed Erroneous Orders

- Explanation 2 to Section 263 was inserted to clarify circumstances in which an order shall be deemed to be erroneous and prejudicial to the interests of the Revenue. The same principle has been incorporated under **Section 377(3)** of the Income-tax Act, 2025.
- An order shall be deemed to be erroneous where it is:
  - passed without making enquiries or verification which ought to have been made;
  - passed allowing relief without examining the claim;
  - contrary to orders, directions or instructions issued by the Board; or
  - contrary to a binding decision of the jurisdictional High Court or the Supreme Court.
- The incorporation of these circumstances does not enlarge the revisional jurisdiction but codifies principles that had already emerged through judicial interpretation.

REVISION OF ORDERS

Orders Which Can Be Revised

- The Commissioner may exercise revisional jurisdiction in respect of:
  - assessment orders passed by the Assessing Officer;
  - orders passed by the Transfer Pricing Officer;
  - orders passed pursuant to directions issued under the Act;
  - orders involving incorrect allowance of deductions or exemptions;
  - orders passed without proper enquiry;
  - orders contrary to statutory provisions;
  - orders resulting in under-assessment of income; and
  - other orders specifically covered by Section 263 or Section 377.
- The power extends only to matters falling within the statutory jurisdiction of the Commissioner and subject to the prescribed limitation period.

REVISION OF ORDERS

Orders Which Cannot Be Revised

- The revisional jurisdiction is subject to important statutory and judicial limitations. Accordingly, the Commissioner cannot revise:
  - an order that is not erroneous;
  - an order that is not prejudicial to the interests of the Revenue;
  - an order where the Assessing Officer has adopted one of two legally permissible views;
  - matters that have been considered and decided in appeal, to the extent of such decision (Doctrine of Merger);
  - orders passed after making proper enquiries merely because the officer considers further enquiry desirable;
  - orders barred by limitation; and
  - orders beyond the statutory jurisdiction prescribed under Section 263/377.
- Similarly, revision cannot be invoked merely because the Commissioner believes that a more detailed assessment ought to have been made. The revisional power is intended to correct legal errors and not to substitute administrative discretion.

REVISION OF ORDERS

Lack of Inquiry vs. Inadequate Inquiry

- One of the most litigated aspects of Section 263 is the distinction between **lack of inquiry** and **inadequate inquiry**. Although Explanation 2 to Section 263 (now Section 377(3)) deems an order erroneous where it is passed without making inquiries or verification which ought to have been made, judicial decisions have consistently held that not every inadequate inquiry justifies revision.

- Where the Assessing Officer has **failed to conduct any inquiry** on an issue which required examination, the order becomes erroneous and prejudicial to the interests of the Revenue. In such cases, the Commissioner is justified in invoking Section 263.

- However, where the Assessing Officer has conducted an inquiry, examined the relevant material and adopted a plausible view, the Commissioner cannot invoke Section 263 merely because he considers the inquiry inadequate or believes that a more detailed inquiry ought to have been conducted. The revisional jurisdiction cannot be exercised to substitute the Commissioner's opinion for that of the Assessing Officer.

- The principles governing this distinction continue to apply under Section 377 of the Income-tax Act, 2025.

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REVISION OF ORDERS

Judicial Position

- **Malabar Industrial Co. Ltd. v. CIT** (2000) 243 ITR 83 (SC) - Principle: For revision under Section 263, there must be **both error and prejudice** to the interests of the Revenue. If one is absent, revision cannot be invoked.

- **CIT v. Gabriel India Ltd.** (1993) 203 ITR 108 (Bom HC) – Principle: **Inadequate inquiry** is not sufficient for revision if the AO has conducted some inquiry. The Commissioner cannot substitute his judgment merely because he feels more inquiry was needed.

- **CIT v. Sunbeam Auto Ltd.** (2011) 332 ITR 167 (Del HC) - Principle: **Lack of inquiry** permits revision; however, **inadequate inquiry** ordinarily does not. The distinction between "lack" and "inadequate" inquiry is crucial.

- **CIT v. Amitabh Bachchan** (2016) 384 ITR 200 (SC) - Principle: The Commissioner may revise an order where **statutory inquiries have not been properly undertaken**. The SC upheld revision when AO failed to make necessary inquiries.

REVISION OF ORDERS

Doctrine of Merger

- The doctrine of merger is an important limitation upon the revisional powers of the Commissioner.
- Where an assessment order has been carried in appeal and the appellate authority has considered and decided a particular issue, the assessment order merges with the appellate order to that extent. Consequently, the Commissioner cannot exercise revisional jurisdiction over matters which have already been considered and decided in appeal.
- However, issues which were **not** the subject matter of appeal continue to remain open to revision. The doctrine therefore results in **partial merger** and not necessarily complete merger of the assessment order.
- This principle was incorporated in Explanation 1(c) to Section 263 and is retained under Section 377(2)(c) of the Income-tax Act, 2025.

REVISION OF ORDERS

Doctrine of Merger with Reassessment

The doctrine of merger assumes particular significance where reassessment proceedings have been completed.

- Where a reassessment order is passed, the Commissioner may revise only those matters forming part of the reassessment order and within the statutory period of limitation. The original assessment and the reassessment do not merge for every purpose. Consequently, if the reassessment is confined to specific issues, the limitation for revising matters unrelated to the reassessment continues to be governed by the date of the original assessment order.

- The Supreme Court in *CIT v. Alagendran Finance Ltd.* held that where reassessment is confined to particular issues, the limitation for invoking Section 263 in respect of issues not forming part of the reassessment is to be computed from the original assessment order and not from the reassessment order.

- The same principle continues to govern Section 377.

REVISION OF ORDERS

Time Limit under Section 263 / Section 377

- The revisional jurisdiction is subject to a statutory limitation period.
- Under Section 263(2) and Section 377(4), no order in revision shall ordinarily be passed after the expiry of **two years** from the end of the financial year in which the order sought to be revised was passed.
- Both provisions, however, recognise certain exceptions. No limitation applies where the revisional order is passed to give effect to a finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.
- Further, while computing the limitation period, the following periods are excluded:
  - the time taken for rehearing under the relevant statutory provision; and
  - the period during which proceedings remained stayed by a court.
- **A significant procedural change introduced by the Income-tax Act, 2025 is the insertion of Section 377(7). It provides that where, after excluding the above periods, the remaining limitation available to the Competent Authority is less than sixty days, such period shall automatically stand extended to sixty days. The 1961 Act did not contain an express provision of this nature.**

REVISION OF ORDERS

What Has Changed in Section 377?

- Although Section 377 substantially re- enacts Section 263, the following changes have been introduced:

Particulars	Section 263 (1961 Act)	Section 377 (2025 Act)	Nature of Change
Authority	Principal Commissioner/Commissioner expressly mentioned throughout	Defined collectively as "Competent Authority"	Drafting simplification
Explanation 1	Separate Explanation	Incorporated into sub-section (2)	Structural change
Explanation 2	Separate Explanation	Incorporated into sub-section (3)	Structural change
Explanation 3	Separate Explanation	Incorporated into sub-section (8)	Structural change
Cross References	Old Act references	Renumbered references	Consequential
Minimum 60-day extension	Not expressly provided	Section 377(7)	New procedural safeguard
Drafting style	Lengthy	Simpler and reorganised	Legislative modernisation

REVISION OF ORDERS

What Has Not Changed

- The following aspects remain substantially unchanged:
  - Legislative object.
  - Conditions for invoking revision.
  - Meaning of "erroneous".
  - Meaning of "prejudicial to the interests of the Revenue".
  - Scope of revisional jurisdiction.
  - Requirement of opportunity of hearing.
  - Two-year limitation period.
  - Power to enhance, modify or cancel the assessment.
  - Effect of appellate orders.
  - Judicial principles governing revision.
- Accordingly, the extensive jurisprudence developed under Section 263 continues to guide the interpretation of Section 377.

REVISION OF ORDERS

What Has Changed Under Section 377

- The Income-tax Act, 2025 has largely retained the substance of Section 263 while introducing structural refinements. The principal changes include:
  - Introduction of the expression **"Competent Authority"**, replacing repeated references to the various classes of Commissioners.
  - Incorporation of the earlier Explanations into the substantive provisions, making the section more concise and easier to follow.
  - Renumbering of statutory cross-references to align with the structure of the 2025 Act.
  - Introduction of a **minimum residual limitation period of sixty days** after exclusion of time due to rehearing or court-ordered stay. This is a procedural safeguard that was not expressly available under the 1961 Act.
- These changes are drafting and procedural in nature and do not alter the substantive scope of the revisional jurisdiction.

REVISION OF ORDERS

Section 264 Of The Income-Tax Act, 1961 Vis-À-Vis Section 378 Of The Income-Tax Act, 2025

- Section 264 of the Income-tax Act, 1961 (corresponding to Section 378 of the Income-tax Act, 2025) confers revisional jurisdiction upon the Principal Commissioner or Commissioner to revise orders passed by authorities subordinate to him **for the benefit of the assessee**. Unlike Section 263, which protects the interests of the Revenue, Section 264 is a beneficial provision intended to provide relief to the assessee where no effective appellate remedy is available or where intervention is warranted to secure the ends of justice.

- The revisional jurisdiction under Section 264 is discretionary but must be exercised judicially, reasonably and in accordance with the principles of natural justice. Since Section 378 substantially reenacts Section 264, the judicial principles developed under the 1961 Act continue to guide the interpretation of the corresponding provision under the Income-tax Act, 2025.

REVISION OF ORDERS

Scope of Revisional Jurisdiction

- The Commissioner may revise any order passed by an authority subordinate to him, other than an order to which Section 263 (Section 377 under the 2025 Act) applies.
- Revision may be exercised:
  - **Suo motu**, within one year from the date of the order; or
  - **On an application made by the assessee**, within one year from the date of communication or knowledge of the order.
- The Commissioner may call for the record, conduct or direct further inquiry, and pass such order as he thinks fit, provided that it is **not prejudicial to the assessee**.

REVISION OF ORDERS

Orders Which Can Be Revised

- The revisional jurisdiction extends to orders passed by authorities subordinate to the Commissioner, including assessment orders and other proceedings, except those specifically excluded by the Act.
- Revision may be exercised where:
  - no appeal has been preferred;
  - the order is otherwise revisable;
  - the assessee seeks equitable relief;
  - the Commissioner considers intervention necessary in the interests of justice.

REVISION OF ORDERS

Orders Which Cannot Be Revised

- Section 264 expressly restricts the revisional jurisdiction in the following situations:
  - where an appeal against the order is pending;
  - where the time for filing an appeal has not expired and the assessee has not waived the right of appeal;
  - where the order has already been made the subject of an appeal;
  - where the order falls within the scope of Section 263/377.
- These restrictions prevent parallel remedies and ensure finality of appellate proceedings.

REVISION OF ORDERS

Limitation and Delay Condonation

- An assessee must ordinarily file an application for revision within **one year** from the date on which the order is communicated or otherwise comes to his knowledge.
- However, both Section 264 and Section 378 empower the Commissioner to admit a belated application where sufficient cause for the delay is established.
- The Commissioner must dispose of the revision application within **one year** from the end of the financial year in which the application is made.
- Section 378 introduces an additional procedural safeguard by providing that where, after excluding the statutory period, the remaining limitation is less than **sixty days**, it shall stand extended to sixty days.

REVISION OF ORDERS

- **Judicial Principles -** The scope of revisional jurisdiction under Section 264 has been shaped by judicial interpretation. Since Section 378 substantially reenacts Section 264, these principles continue to govern the corresponding provision under the Income-tax Act, 2025.

- **Section 264 is a Beneficial Provision -** Section 264 is intended to provide relief to the assessee and should therefore receive a liberal and purposive interpretation. The Commissioner is expected to exercise revisional jurisdiction to advance substantial justice rather than deny relief on technical grounds.

  - **Case Law: Dwarka Nath v. ITO**(1965) 57 ITR 349 (SC)

  Principle:
  The Supreme Court recognised that the revisional jurisdiction is wide in scope and intended to ensure that justice is done. The Commissioner possesses broad powers to revise orders in favour of the assessee, subject to the statutory limitations.

REVISION OF ORDERS

- **Revisional Power is Wider than Appellate Power in Certain Situations -** The Commissioner may grant relief even on grounds that were not raised before the Assessing Officer, provided the order is otherwise revisable and no statutory bar applies.

- **Case Law: C. Parikh & Co. v. CIT**1980) 122 ITR 610 (Guj HC)

  Principle:
  The revisional jurisdiction under Section 264 is intended to remedy injustice and is not confined only to issues argued before the Assessing Officer.

- **Commissioner Cannot Pass an Order Prejudicial to the Assessee -** Unlike Section 263, the power under Section 264 is purely beneficial. The Commissioner cannot enhance an assessment or pass an order adverse to the assessee.

- **Case Law: CIT v. R. Seshammal** (2004) 270 ITR 233 (Mad HC)

  Principle:
  The Commissioner has no jurisdiction under Section 264 to pass an order prejudicial to the assessee.

THANK YOU

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