

# All India Chartered Accountants Society (AICAS)

## CFO World and Forum of India's Chartered Accountant Firms (FICAF)

# Income Tax Expert Study Group

## Income Tax Search Assessments / Re Assessments



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➤ **Section 132: Search and seizure.**

132. (1) Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner in consequence of information in his possession, has reason to believe that—

- (a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or
- (b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or
- (c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

then,—

- (A) the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, may authorise any Additional Director or Additional Commissioner or Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer, or
- (B) such Additional Director or Additional Commissioner or Joint Director, or Joint Commissioner, as the case may be, may authorise any Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—

- (i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;
- (ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;
- (iia) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;
- (iib) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;
- (iii) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search:

Provided that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;

(iv) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(v) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing:

**Provided** that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c), then, notwithstanding anything contained in section 120, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue :

**Provided further** that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iii):

**Provided also that** nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business:

**Provided also that** no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.

Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

(1A) Where any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the Principal Director General or Director General or Principal Director or Director or any other Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner to take action under clauses (i) to (v) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, notwithstanding anything contained in section, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

Explanation.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

[(2) The authorised officer may requisition the services of,—

(i) any police officer or of any officer of the Central Government, or of both; or

- (ii) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

to assist him for all or any of the purposes specified in sub-section (1) or sub-section (1A) and it shall be the duty of every such officer or person or entity to comply with such requisition.]

(3) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iii) of sub-section (1).

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

Explanation.—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

- (i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;
- (ii) that the contents of such books of account and other documents are true; and
- (iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(5) [\*\*\*]

(6) [\*\*\*]

(7) [\*\*\*]

(8) The books of account or other documents seized under sub-section (1) or sub-section (1A) shall not be retained by the authorised officer for a period exceeding 76[one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made] under sub-section (3) of section 143 or section 144 or section 147 or section 153A or clause (c) of section 158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director for such retention is obtained :

**Provided** that the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after

all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order.

(9) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.

(9B) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purposes, the provisions of the Second Schedule shall, mutatis mutandis, apply.

(9C) Every provisional attachment made under sub-section (9B) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (9B).

[(9D) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to,—

- (i) a Valuation Officer referred to in section 142A; or
- (ii) any other person or entity or any valuer registered by or under any law for the time being in force, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure, as may be prescribed, in this regard,

who shall estimate the fair market value of the property in the manner as may be prescribed, and submit a report of the estimate to the authorised officer or the Assessing Officer, as the case may be, within a period of sixty days from the date of receipt of such reference.]

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (1A) objects for any reason to the approval given by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(11) [\*\*\*]

(11A) [\*\*\*]

(12) [\*\*\*]

(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).

(14) The Board may make rules in relation to any search or seizure under this section; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

- (i) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available ;
- (ii) for ensuring safe custody of any books of account or other documents or assets seized.

[Explanation 1.—For the purposes of sub-sections (9A), (9B) and (9D), the last of [authorisations] for search shall be deemed to have been executed,—

- (a) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued; or
- (b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the authorised officer.]

Explanation 2.—In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

➤ **Section 147: Income escaping assessment.**

If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year

Explanation.—For the purposes of assessment or reassessment or recomputation under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with.

➤ **Section 148 w.e.f. 01-04-2021 (Finance Act, 2021)**

**Issue of notice where income has escaped assessment**

Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

**Provided** that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.

Explanation 1.—For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

- (i) any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;

- (ii) any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

Explanation 2.—For the purposes of this section, where,—

- (i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or
- (ii) a survey is conducted under section 133A, other than under sub-section (2A) or sub-section (5) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or
- (iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or
- (iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151.]

## ➤ **Section 148 w.e.f. 01-09-2024 [Finance (No. 2) Act, 2024]**

### **Issue of notice where income has escaped assessment**

(1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall, subject to the provisions of section 148A, issue a notice to the assessee, along with a copy of the order passed under sub-section (3) of section 148A, requiring him to furnish, within such period as may be specified in the notice, not exceeding three months from the end of the month in which such notice is issued, a return of his income or income of any other person in respect of whom he is assessable under this Act during the previous year corresponding to the relevant assessment year:

**Provided** that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year:

**Provided further** that where the Assessing Officer has received information under the scheme notified under section 135A, no notice under this section shall be issued without prior approval of the specified authority.

(2) The return of income required under sub-section (1) shall be furnished in such form and verified in such manner and setting forth such other particulars, as may be prescribed, and the provisions of this Act shall, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that any return of income required under sub-section (1), furnished after the expiry of the period specified in the notice under the said sub-section, shall not be deemed to be a return under section 139.



(3) For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

- i. any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time; or
- ii. any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or
- iii. any information received under an agreement referred to in section 90 or section 90A of the Act; or
- iv. any information made available to the Assessing Officer under the scheme notified under section 135A; or
- v. any information which requires action in consequence of the order of a Tribunal or a Court; or
- vi. any information in the case of the assessee emanating from survey conducted under section 133A, other than under sub-section (2A) of the said section, on or after the 1st day of September, 2024.

➤ **Section 148A w.e.f. 01-04-2021 (Finance Act, 2021)**

**Conducting inquiry, providing opportunity before issue of notice under section 148.**

The Assessing Officer shall, before issuing any notice under section 148,—

- (a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;
- (b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);
- (c) consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);
- (d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

**Provided** that the provisions of this section shall not apply in a case where,—

- (a) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or
- (b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or
- (c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Explanation.—For the purposes of this section, specified authority means the specified authority referred to in section 151.]

➤ **Section 148A w.e.f. 01-09-2024 [Finance (No. 2) Act, 2024]**

**Procedure before issuance of notice under section 148.**

148A. (1) Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant assessment year, he shall, before issuing any notice under section 148 provide an opportunity of being heard to such assessee by serving upon him a notice to show cause as to why a notice under section 148 should not be issued in his case and such notice to show cause shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year.

(2) On receipt of the notice under sub-section (1), the assessee may furnish his reply within such period, as may be specified in the notice.

(3) The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (2), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 148.

(4) The provisions of this section shall not apply to income chargeable to tax escaping assessment for any assessment year in the case of an assessee where the Assessing Officer has received information under the scheme notified under section 135A.

Explanation.—For the purposes of this section and section 148, "specified authority" means the specified authority referred to in section 151.]

➤ **Section 149 w.e.f. 01-04-2021 (Finance Act, 2021)**

**Time limit for notice**

(1) No notice under section 148 shall be issued for the relevant assessment year,—

- (a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
- (b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:

Provided further that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section

148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

Explanation.—For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.]

➤ **Section 149 w.e.f. 01-09-2024 [Finance (No 2) Act, 2025]**

**Time limit for notices under sections 148 and 148A**

(1) No notice under section 148 shall be issued for the relevant assessment year,—

- (a) if three years and three months have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
- (b) if three years and three months, but not more than five years and three months, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence related to any asset or expenditure or transaction or entries which show that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to fifty lakh rupees or more.

(2) No notice to show cause under section 148A shall be issued for the relevant assessment year,—

- (a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);
- (b) if three years, but not more than five years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment, as per the information with the Assessing Officer, amounts to or is likely to amount to fifty lakh rupees or more.

➤ **Section 153: Time limit for completion of assessment, reassessment and recomputation.**

(1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable:

**Provided** that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:

**Provided further** that in respect of an order of assessment relating to the assessment year commencing on—

- (i) the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;
- (ii) the 1st day of April, 2020, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:

**Provided also** that in respect of an order of assessment relating to the assessment year commencing on <sup>6</sup>["\*\*\*"] the 1st day of April, 2021, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "nine months" had been substituted:

<sup>7</sup>[**Provided also** that in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2022, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted.]

(1A) Notwithstanding anything contained in sub-section (1), where a return under sub-section (8A) of section 139 is furnished, an order of assessment under section 143 or section 144 may be made at any time before the expiry of <sup>8</sup>[twelve] months from the end of the financial year in which such return was furnished.

<sup>9</sup>[(1B) Notwithstanding anything in sub-section (1), where a return is furnished in consequence of an order under clause (b) of sub-section (2) of section 119, an order of assessment under section 143 or section 144 may be made at any time before the expiry of twelve months from the end of the financial year in which such return was furnished.]

(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of nine months from the end of the financial year in which the notice under section 148 was served:

**Provided** that where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.

(3) Notwithstanding anything contained in sub-sections (1) <sup>10</sup>[(1A)] and (2), an order of fresh assessment or fresh order under section 92CA, as the case may be, in pursuance of an order under <sup>11</sup>[section 250 or] section 254 or section 263 or section 264, setting aside or cancelling an assessment, or an order under section 92CA, as the case may be, may be made at any time before the expiry of nine months from the end of the financial year in which the order under <sup>11</sup>[section 250 or] section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the <sup>12</sup>[Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be] :

**Provided** that where the order under <sup>11</sup>[section 250 or] section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the <sup>12</sup>[Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be,] on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.

<sup>13</sup>[(3A) Notwithstanding anything contained in sub-sections (1), (1A), (2) and (3), where an assessment or reassessment is pending on the date of initiation of search under section 132 or making of requisition under section 132A, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections shall,—

- (a) in a case where such search is initiated under section 132 or such requisition is made under section 132A;
- (b) in the case of an assessee, to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to;
- (c) in the case of an assessee, to whom any books of account or documents seized or requisitioned pertain or pertain to, or any information contained therein, relates to,

be extended by twelve months.]

(4) Notwithstanding anything contained in <sup>14</sup>[sub-sections (1), (1A), (2), (3) and (3A)], where a reference under sub-section (1) of section 92CA is made during the course of the proceeding for the assessment or reassessment, the period available for completion of assessment or reassessment, as the case may be, under the said <sup>15</sup>[sub-sections (1), (1A), (2), (3) and (3A)], shall be extended by twelve months.

(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer or the Transfer Pricing Officer, as the case may be,

wholly or partly, otherwise than by making a fresh assessment or reassessment or fresh order under section 92CA, as the case may be, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the <sup>15</sup>[Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be] :

**Provided** that where it is not possible for the Assessing Officer or the Transfer Pricing Officer, as the case may be, to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer or the Transfer Pricing Officer, as the case may be, if satisfied, may allow an additional period of six months to give effect to the order:

**Provided further** that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (3).

(5A) Where the Transfer Pricing Officer gives effect to an order or direction under section 263 by an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.

(6) Nothing contained in sub-sections (1) <sup>16</sup>[(1A)] and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3), (5) and (5A), be completed—

- (i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the <sup>17</sup>[Principal Chief Commissioner or Chief Commissioner or] Principal Commissioner or Commissioner, as the case may be; or
- (ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.

(7) Where effect to any order, finding or direction referred to in sub-section (5) or sub-section (6) is to be given by the Assessing Officer, within the time specified in the said sub-sections, and such order has been received or passed, as the case may be, by the income-tax authority specified therein before the 1st day of June, 2016, the Assessing Officer shall give effect to such order, finding or direction, or assess, reassess or recompute the income of the assessee, on or before the 31st day of March, 2017.

(8) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A or sub-section (1) of section 153B <sup>18</sup>[or section 158BE], the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A <sup>18</sup>[or sub-section (5) of section 158BA], shall be made within a period of one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B <sup>18</sup>[or section 158BE], whichever is later.

(9) The provisions of this section as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016:

**Provided** that where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in Explanation 1, such assessment or reassessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016 (28 of 2016).

Explanation 1.—For the purposes of this section, in computing the period of limitation—

- (i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 129; or
- (ii) the period commencing on the date on which stay on the assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner; or]
- (iii) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B), under clause (i) of the first proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or
- (iv) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited 20[or inventory valued] under sub-section (2A) of section 142 and—
- (v) ending with the last date on which the assessee is required to furnish a report of such audit 20[or inventory valuation] under that sub-section; or
- (vi) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or
- (vii) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or
- (viii) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him; or
- (ix) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under section 245C and ending with the date on which the order under sub-section (1) of section 245D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or
- (x) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or
- (xi) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or
- (xii) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

- (xiii) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer; or
- (xiv) the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee,—
  - (a) in whose case such search is initiated under section 132 or such requisition is made under section 132A; or
  - (b) to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or
  - (c) to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to; or
- (xv) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer,

shall be excluded:

**Provided** that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-sections (1), <sup>21</sup>[(1A),] (2), (3) and sub-section (8) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

**Provided further** that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

**Provided also** that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, 154, 155 and 158BE and for the purposes of payment of interest under section 244A, this proviso shall also apply accordingly:

**Provided also** that where the assessee exercises the option to withdraw the application under sub-section (1) of section 245M, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (5) of the said section, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year:

**Provided also** that for the purposes of determining the period of limitation under sections 149, 154 and 155, and for the purposes of payment of interest under section 244A, the provisions of the fourth proviso shall apply accordingly:

<sup>22</sup>[**Provided also** that where after exclusion of the period referred to in clause (xii) the period of limitation for making an order of assessment, reassessment or recomputation, as the case may be, ends before the end of the month, such period shall be extended to the end of such month.]

Explanation 2.—For the purposes of this section, where, by an order referred to in clause (i) of sub-section (6),—any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order; or

- (a) any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, if such other person was given an opportunity of being heard before the said order was passed.]

➤ **Section 153A: Assessment in case of search or requisition.**

(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003 but on or before the 31st day of March, 2021, the Assessing Officer shall—

- (a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;
- (b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years :

**Provided** that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years :

**Provided further** that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to in this sub-section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate :

**Provided also** that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years:

**Provided also** that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

- (a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;
- (b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and



- (c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.

(2) If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner:

Provided that such revival shall cease to have effect, if such order of annulment is set aside.

Explanation.—For the removal of doubts, it is hereby declared that,—

- (i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;
- (ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

➤ **Section 153B: Time limit for completion of assessment under section 153A.**

(1) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,—

- a) in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b) of sub-section (1) of section 153A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;
- b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed:

**Provided** that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

**Provided further** that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2018,—

- (i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted;
- (ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of eighteen months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve

months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

**Provided also** that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on or after the 1st day of April, 2019,—the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;

- (i) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of twelve months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

**Provided also** that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment shall be extended by twelve months:

**Provided also** that in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in case of such other person shall be extended by twelve months:

**Provided also** that in a case where the last of the authorisations for search under section 132 or requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2020 or in case of other person referred to in section 153C, the books of account or document or assets seized or requisitioned were handed over under section 153C to the Assessing Officer having jurisdiction over such other person during the financial year commencing on the 1st day of April, 2020, the assessment in such cases for the assessment year commencing on the 1st day of April, 2021 shall be made on or before the 30th day of September, 2022.

(2) The authorisation referred to in clause (a) and clause (b) of sub-section (1) shall be deemed to have been executed,—

- a) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued; or
- b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

(3) The provisions of this section, as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment or reassessment made before the 1st day of June, 2016:

**Provided** that where a notice under section 153A or section 153C has been issued prior to the 1st day of June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the Explanation, such assessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016 (28 of 2016).

(4) Nothing contained in this section shall apply to any search initiated under section 132 or requisition made under section 132A on or after the 1st day of April, 2021.

Explanation.—In computing the period of limitation under this section—

- (i) the period commencing on the date on which stay on the assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner; or]
- (ii) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and—
  - (a) ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or
  - (b) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or
- (iii) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or
- (iv) the time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee of being re-heard under the proviso to section 129; or
- (v) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under section 245C and ending with the date on which the order under sub-section (1) of section 245D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or
- (vi) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or
- (vii) the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or
- (viii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A, till the date of the receipt of the order setting aside the order of such annulment, by the Principal Commissioner or Commissioner; or
- (ix) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or
- (x) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer; or
- (xi) the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated under section 132 or such requisition is made under section 132A, as the case may be,

shall be excluded:

**Provided** that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in clause (a) or clause (b) of this sub-section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

**Provided further** that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:]

**Provided also** that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year:

**Provided also** that where the assessee exercises the option to withdraw the application under sub-section (1) of section 245M, the period of limitation available under this section to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (5) of the said section, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.

➤ **Section 153C- Assessment of income of any other person.**

(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—

- (a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or
- (b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years referred to in sub-section (1) of section 153A :

**Provided that** in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to sub-section (1) of section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person :

**Provided further** that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years as referred to in sub-section (1) of section 153A except in cases where any assessment or reassessment has abated.

(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year—

- (a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or
- (b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or
- (c) assessment or reassessment, if any, has been made,

before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.

(3) Nothing contained in this section shall apply in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of April, 2021.

➤ **Section 153D: Prior approval necessary for assessment in cases of search or requisition.**

No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of sub-section (1) of section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner:

**Provided that** nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner under sub-section (12) of section 144BA.

## **CHAPTER XIV-B: SPECIAL PROCEDURE FOR ASSESSMENT OF SEARCH CASES**

### ➤ **Section 158B: Definitions.**

In this Chapter, unless the context otherwise requires,—

- a) "block period" means the period comprising previous years relevant to six assessment years preceding the previous year in which the search was initiated under section 132 or any requisition was made under section 132A and also includes the period starting from the 1st day of April of the previous year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisations for such search or such requisition;
- b) "undisclosed income" includes any money, bullion, jewellery 31[, virtual digital asset] or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery 31[, virtual digital asset], valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, exemption, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period.

Explanation.—For the purposes of this Chapter, the last of the authorisations shall be deemed to have been executed,—

- a) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;
- b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

### ➤ **Section 158BA: Assessment of <sup>32</sup>[total undisclosed income] as a result of search.**

- (1) Notwithstanding anything in any other provisions of this Act, where on or after the 1st day of September, 2024, a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A, in the case of any person, then, the Assessing Officer shall proceed to assess or reassess the <sup>32</sup>[total undisclosed income] of the block period in accordance with the provisions of this Chapter.
- (2) The assessment or reassessment or recomputation under the provisions of this Act (other than this Chapter), if any, pertaining to any assessment year falling in the block period, pending on the date of initiation of the search under section 132, or making of requisition under section 132A, as the case may be, shall abate and shall be deemed to have abated on the date of initiation of search or making of requisition.
- (3) Where during the course of any pending proceeding for the assessment or reassessment or recomputation under the provisions of this Act (other than this Chapter), a reference under sub-section (1) of section 92CA has been made, or an order under sub-section (3) of section 92CA has been passed, such assessment or reassessment or recomputation, along with such reference made or order passed, as the case may be, shall also abate and shall be deemed to have abated on the date of initiation of search or making of requisition.
- (4) Where any assessment under the provisions of this Chapter is <sup>33</sup>[required to be made] in the case of an assessee in whose case a subsequent search is initiated, or a requisition is made, such assessment shall be duly completed, and thereafter, the assessment in respect of such subsequent search or requisition shall be made under the provisions of this Chapter:

**Provided** that in a case where the period of completing the assessment in respect of subsequent search is less than three months such period shall be extended to three months from the end of the month in which the assessment in respect of the earlier search was completed.

(5) If any proceeding initiated under this Chapter or any order of assessment or reassessment made under clause (c) of sub-section (1) of section 158BC has been annulled in appeal or any other legal proceeding, then, notwithstanding anything in this Chapter or section 153, <sup>34</sup>[the assessment or reassessment or recomputation or reference or order relating to any assessment year] which has abated under sub-section (2) or sub-section (3), shall revive with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner:

**Provided** that such revival shall cease to have effect, if such order of annulment is set aside.

(6) The total income (other than undisclosed income) of the assessment year relevant to the previous year in which the last of the authorisations for a search is executed or a requisition is made, shall be assessed separately in accordance with the other provisions of this Act.

(7) The <sup>35</sup>[total undisclosed income] relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates.

➤ **Section 158BB: Computation of [total undisclosed income] of block period.**

(1) The total undisclosed income referred to in sub-section (1) of section 158BA of the block period shall be the aggregate of the following, namely:—

- a) undisclosed income declared in the return furnished under section 158BC;
- b) undisclosed income determined by the Assessing Officer under sub-section (2).

(1A) The following income shall not be included in the total undisclosed income of the block period, namely:—

- a) the total income determined under sub-section (1) of section 143 or assessed under section 143 or section 144 or section 147 or section 153A or section 153C or assessed earlier under clause (c) of sub-section (1) of section 158BC or sub-section (4) of section 245D, prior to the date of initiation of the search or the date of requisition, in respect of any of the previous year comprising the block period;
- b) the total income declared in the return of income filed under section 139 or in response to a notice under sub-section (1) of section 142, prior to the date of initiation of the search or the date of requisition, in respect of any of the previous year comprising the block period, and not covered under clause (a);
- c) the income computed by the assessee, in respect of—
  - (i) a previous year, where such previous year has ended and the due date for furnishing the return for such year has not expired prior to the date of initiation of the search or the date of requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course before the date of initiation of search or the date of requisition;
  - (ii) the period commencing from the 1st day of April of the previous year in which the search is initiated or requisition is made and ending on the day immediately preceding the date of initiation of search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the day immediately preceding the date of initiation of search or the date of requisition;
  - (iii) the period commencing from the date of initiation of the search or the date of requisition and ending on the date of the execution of the last of the authorisations for search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the date of the execution of the last of the authorisations:

**Provided** that where the Assessing Officer is of the opinion that any part of the income as computed by the assessee under this clause is undisclosed, he may recompute such income;

d) the total income referred to in sub-section (5) of section 115A or section 115G or sub-section (1) of section 194P.]

(2) The undisclosed income falling within the block period, <sup>37</sup>\*\*\*] shall be computed in accordance with the provisions of this Act, on the basis of evidence found as a result of search or survey or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter.

<sup>38</sup>[(3) Where any income required to be determined as a result of search or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter, or determined on the basis of entries relating to such income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the execution of the last of the authorisations, relates to any international transaction or specified domestic transaction referred to in section 92CA, pertaining to the period beginning from the 1st day of April of the previous year in which last of the authorisations was executed and ending with the date on which last of the authorisations was executed, such income shall not be considered for the purposes of determining the total undisclosed income of the block period and such income shall be considered in the assessment made under the other provisions of this Act.]

(4) For the purposes of determination of undisclosed income,--

- a) of a firm, such income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called to any partner not being a working partner;
- b) the provisions of sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to "financial year" in those sections shall be construed as references to the relevant previous year falling in the block period;
- c) the provisions of section 92CA shall, so far as may be, apply and references to "previous year" in that section shall be construed as reference to the relevant previous year falling in the block period excluding the period referred to in sub-section (3).

<sup>39</sup>[(5) The tax referred to in sub-section (7) of section 158BA shall be charged on the total undisclosed income determined in the manner specified in sub- section (1).]

(6) <sup>40</sup>\*\*\*]

(7) For the purposes of assessment under this Chapter, losses brought forward from the previous year (prior to the first previous year comprising the block period) under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter but may be carried forward for being set off in the previous year subsequent to the assessment year in which the block period ends, for the remaining period, taking into account the block period and such assessment year, and in accordance with the provisions of this Act.

➤ **Section 158BC: Procedure for block assessment.**

(1) Where any search has been initiated under section 132 or books of account, other documents or assets are requisitioned under section 132A, in the case of any person, then,—

- (a) the Assessing Officer shall, in respect of search initiated, or books of account or other documents or any assets requisitioned, on or after the 1st day of September, 2024, issue a notice to such person, requiring



him to furnish within such period, not exceeding a period of sixty days, as may be specified in the notice, a return in the form and verified in the manner, as may be prescribed, setting forth his 41[\*\*\*] undisclosed income, for the block period:

**Provided** that such return shall be considered as if it was a return furnished under the provisions of section 139 and notice under sub-section (2) of section 143 shall thereafter be issued:

**Provided further** that any return of income, required to be furnished by an assessee under this section and furnished beyond the period allowed in the notice shall not be deemed to be a return under section 139:

**Provided also** that no notice under section 148 is required to be issued for the purpose of proceeding under this Chapter:

**Provided also** that a person who has furnished a return under this clause shall not be entitled to furnish a revised return:

**Provided also** that the time allowed for furnishing a return under this clause may be extended by a further period of thirty days, where—

- (i) in respect of a previous year immediately preceding the previous year in which the search is initiated or requisition is made, the due date for furnishing the return has not expired prior to the date of initiation of such search or requisition;
  - (ii) the assessee was liable for audit under section 44AB for such previous year;
  - (iii) the accounts (maintained in normal course) of such previous year have not been audited on the date of issuance of such notice; and
  - (iv) the assessee requests in writing for extension of time for furnishing such return to get such accounts audited;]
- (b) the Assessing Officer shall proceed to determine the 43[total undisclosed income] of the block period in the manner laid down in section 158BB and the provisions of section 142, sub-sections (2) and (3) of section 143, section 144, section 145, section 145A and section 145B shall, so far as may be, apply;
- (c) the Assessing Officer, on determination of the 44[total undisclosed income] of the block period in accordance with this Chapter, shall pass an order of assessment or reassessment and determine the tax payable by him on the basis of such assessment or reassessment:

**Provided** that nothing in the provisions of section 144C shall apply in respect of such order:

- (d) the assets seized under section 132 or requisitioned under section 132A shall be dealt with in accordance with the provisions of section 132B.

(2) The provisions of sub-section (1) of section 143 shall not apply to the return furnished under this section.

(3) The Assessing Officer, before issuance of notice under clause (a) of sub-section (1), shall take prior approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be.

➤ **Section 158BD: Undisclosed income of any other person.**

Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person (herein referred to as the "other person"), other than the person (herein referred to as the "specified person" for the purposes of this section) with respect to whom search was initiated under section 132 or requisition was made under section 132A, then any money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other documents seized or requisitioned or any other material or information relating to

the aforesaid undisclosed income shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed under section 158BC against such other person and the provisions of this Chapter shall apply accordingly:

**Provided** that,—

- a) where there is one specified person relevant to such other person, the block period for such other person shall be the same as that for the specified person; and
- b) where there is more than one specified persons relevant to such other person, the block period for such other persons shall be the same as that for the specified person in whose case the block period ends on a later date:

**Provided further** that in case of such other person, for the purposes of abatement under sub-sections (2) and (3) of section 158BA, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A shall be construed as reference to the date on which such money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income were received by the Assessing Officer having jurisdiction over such other person.]

➤ **Section 158BE: Time-limit for completion of block assessment.**

(1) Notwithstanding the provisions of section 153, the order under section 158BC shall be passed within twelve months from the end of the <sup>47</sup>[quarter] in which the last of the authorisations for search under section 132, or requisition under section 132A, was executed or made, as the case may be:

**Provided** that in a case where search under section 132 was initiated, or requisition under section 132A was made, and during the course of the proceedings for the assessment or reassessment of the <sup>48</sup>[total undisclosed income] of the relevant block period, any reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in respect of the block period shall be extended by twelve months:

<sup>49</sup>[**Provided further** that in a case where in pursuance to fifth proviso to clause (a) of sub-section (1) of section 158BC, the time allowed under the said clause for furnishing return is extended by a further period of thirty days, the provisions of this sub-section shall have effect, as if for the words "twelve months", the words "thirteen months" had been substituted.]

(2) In computing the period of limitation under sub-section (1), the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated under section 132 or such requisition is made under section 132A, as the case may be, shall be excluded:

**Provided** that where after exclusion of the period referred to in this sub-section, the period of limitation for making an order of assessment or reassessment, as the case may be, expires before the end of a month, such period shall be extended to the end of such month.

(3) The period of limitation for completion of assessment or reassessment for the block period in the case of the other person referred to in section 158BD shall be twelve months from the end of the <sup>50</sup>[quarter] in which the notice under section 158BC in pursuance of section 158BD, was issued to such other person:

**Provided** that in case where during the course of the proceedings for the assessment of undisclosed income of the block period in case of other person referred to in section 158BD, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment in respect of the block period in case of such other person shall be extended by twelve months:

**[Provided further** that in a case where in pursuance to fifth proviso to clause (a) of sub-section (1) of section 158BC, the time allowed under the said clause for furnishing return is extended by a further period of thirty days, the provisions of this sub-section shall have effect, as if for the words "twelve months", the words "thirteen months" had been substituted.]

(4) In computing the period of limitation under this section, the following period shall be excluded,—

the period commencing on the date on which stay on assessment proceedings was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner; or]

- i. the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or
- ii. the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee to be re-heard under the proviso to section 129; or
- iii. the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under sub-section (2A) of section 142 and—
  - a) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that sub-section; or
  - b) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or
- iv. the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or
- v. the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) of section 10, under sub-clause (i) of the first proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or
- vi. the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer; or
- vii. the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer; or
- viii. the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or
- ix. the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R:

**Provided** that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-section (1) or sub-section (3) available to the Assessing Officer for making an order under clause (c) of sub-section (1) of section 158BC is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

**Provided further** that where after extension of the period referred to in the first proviso, the period of limitation for making an order of assessment or reassessment, as the case may be, expires before the end of a month, such period shall be extended to the end of such month.

➤ **Section 158BF: Certain interests and penalties not to be levied or imposed.**

No interest under section 234A, 234B or 234C or penalty under section 270A shall be levied or imposed upon the assessee in respect of the undisclosed income assessed or reassessed for the block period.

➤ **Section 158BFA: Levy of interest and penalty in certain cases.**

(1) Where the return of <sup>53</sup>[undisclosed income] for the block period, in respect of search initiated under section 132, or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of September, 2024, as required by a notice under clause (a) of sub-section (1) of section 158BC, is not furnished within the time specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent of the tax on undisclosed income determined under clause (c) of sub-section (1) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and ending on the date of completion of assessment under clause (c) of sub-section (1) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that the person shall pay by way of penalty a sum which shall be equal to fifty per cent of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (c) of sub-section (1) of section 158BC:

**Provided** that no order imposing penalty under this section or sub-section (1) of section 271AAD or section 271D or section 271DA or section 271E shall be made for the block period in respect of a person if—

- (i) such person has furnished a return under clause (a) of sub-section (1) of section 158BC;
- (ii) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;
- (iii) evidence of tax paid is furnished along with the return; and
- (iv) an appeal is not filed against the assessment of that part of income which is shown in the return:

**Provided further** that the provisions of the first proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made,—

- (a) unless an assessee has been given a reasonable opportunity of being heard;
- (b) by the Deputy Commissioner or Assistant Commissioner or the Deputy Director or Assistant Director, as the case may be, where the amount of penalty exceeds two lakh rupees except with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be;

- (c) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246A or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the financial year in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Commissioner or Commissioner, whichever period expires later;
  - (d) in a case where the assessment is the subject-matter of revision under section 263, after the expiry of six months from the end of the financial year in which such order of revision is passed;
  - (e) in any case other than those mentioned in clause (c) and clause (d), after the expiry of the financial year in which the proceedings, in the course of which notice for the imposition of penalty has been issued, are completed, or six months from the end of the financial year in which notice for imposition of penalty is issued, whichever period expires later.
- (4) In computing the period of limitation under this section, the following period shall be excluded—
- (i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129; or
  - (ii) the period commencing on the date on which stay on the proceeding under sub-section (2) was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner:]

**Provided** that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-section (3) available to the Assessing Officer for making an order under sub-section (2) of this section is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

**Provided further** that where after exclusion of the period referred to in the first proviso, the period of limitation for making of an order for imposition of penalty expires before the end of a month, such period shall be extended to the end of such month.

- (5) An income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.

➤ **Section 158BG: Authority competent to make assessment of block period.**

The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of a Deputy Commissioner or an Assistant Commissioner or a Deputy Director or an Assistant Director, as the case may be:

**Provided** that no such order shall be passed without the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be, in respect of search initiated under section 132, or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of September, 2024.

➤ **Section 158BH: Application of other provisions of this Act**

Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter.

## Union of India v. Ashish Agarwal (Supreme Court of India)

### CIVIL APPEAL NOS. 3005 TO 3017, 3019-3020 OF 2022

#### Background and Legal Framework:

The Finance Act, 2021 introduced a new reassessment regime under Sections 147 to 151 of the Income Tax Act with effect from 1 April 2021.

The earlier provision required the Assessing Officer to have reason to believe that there is escapement of income, the new provision required any information as specified under Explanation 1 to Section 148 to be present for there to be a reopening of the case.

Section 148A, which was inserted by the Finance Act, 2021, lays down the procedure to be followed by the Assessing Officer upon receiving information suggesting that income chargeable to tax has escaped assessment. This provision mandates that before issuing a notice under Section 148, the Assessing Officer must conduct an inquiry, if required, with respect to such information. Crucially, the assessee must be provided an opportunity of being heard. This is done by serving a notice to show cause, specifying a time frame within which the assessee must respond. This period cannot be less than 7 days and not more than 30 days from the date of service of the notice, unless an extension is granted.

After receiving the reply from the assessee, the Assessing Officer is required to consider the material available on record, including the assessee's response, before deciding whether it is a fit case to issue a notice under Section 148. The officer must pass an order to this effect within one month from the end of the month in which the reply is received. This structured approach ensures that the principles of natural justice are adhered to before reassessment proceedings are initiated.

Therefore, during the transition from the old regime to the new regime, the CBDT issued approx. 90,000 reassessment notices between 1 April and 30 June 2021 under the old provisions despite the new law being in force. This action led to widespread litigation under multiple High Courts like Allahabad, Madras, Calcutta, Delhi, Rajasthan, Bombay etc.

The CBDT justified this via the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA), which extended time limits due to COVID-19 disruption **till 30<sup>th</sup> June 2021**.

#### Key Points of Supreme Court Ruling:

The Supreme Court overruled the High Courts and revived the reassessment notices and held that:

- The Revenue acted under a “**bonafide belief**” due to legal confusion and TOLA's extensions.
- Instead of invalidating the notices, the Court exercised Article 142 to ensure “**complete justice**” by allowing these notices to continue as per new procedures under the amended law.
- The notices issued under the old law between 1-4-2021 and 30-6-2021 should be treated as show-cause notices under Section 148A(b) of the new regime
- Directed that:
  - AO must provide all relevant material/information to the assessee.
  - Assessee must be given 14 days to respond.
  - After that, AO shall pass a speaking order under Section 148A(d).
- The sanction of specified authority under Section 151 is mandatory before issuing the final notice under Section 148.

## Following the SC ruling, the CBDT issued an instruction for implementation

### CBDT Instruction No. 01/2022 (11 May 2022)

Based on SC ruling, the extended reassessment notices are to be dealt with as under:

#### ❖ AY 2013–14 to AY 2015–16

- Fresh notice u/s 148 can be issued **only if** the case falls under **Section 149(1)(b)** (income escaping assessment  $\geq$  ₹50 lakh).
- Requires approval of specified authority under **Section 151(ii)** of new law.

#### ❖ AY 2016–17 & AY 2017–18

- Fresh notice u/s 148 can be issued under **Section 149(1)(a)** (within 3 years).
- Requires approval of authority under **Section 151(i)**.

❖ Old notices (Apr–Jun 2021) to be treated as show cause notices u/s 148A(b).

❖ Compliance with earlier procedural steps deemed completed.

❖ **Exclusion:** For AYs 2013–14 to 2015–16, do not issue notice if alleged escaped income is less than ₹50 lakh.

❖ **By 2 June 2022:** AO must provide **information & material** relied upon for each extended notice.

❖ **Assessee's reply:** Due **within 2 weeks** from receipt of material (extendable on application).

❖ **AO's Decision:**

- Pass order u/s **148A(d)** (whether or not to issue notice u/s 148).
- Must be passed **within 1 month** from end of the month of reply/expiry.

❖ **If fit case:** Serve notice u/s 148 **with prior approval u/s 151**, enclosing 148A(d) order.

❖ **If not fit case:** Serve only **148A(d) order**, concluding reassessment is not warranted.

## UNION OF INDIA V. RAJEEV BANSAL (Supreme Court of India)

[2024] 167 taxmann.com 70/301 Taxman 238/469 ITR 69 (SC)

In the relevant case, the Supreme Court held that TOLA extended the time limits for issuing reassessment notices, and this benefit would continue to apply even after the new regime came into force. Thus, any reassessment notice issued between April 1 and June 30, 2021, within the TOLA-extended window, would not be invalid merely because it followed the old procedure.

To preserve legality and avoid procedural disruption, the Court in the case of **Mr. Ashish Agarwal (as discussed above)**, exercised its powers under Article 142 of the Constitution and declared that such reassessment notices shall be deemed to be issued under the new Section 148A(b), which requires a show-cause notice before issuing a formal reassessment notice.

The Court further directed that in all such cases, the tax authorities must provide the assessee with all relevant information and material relied upon for reassessment within 30 days from the date of judgment. The assessee must also be given a reasonable opportunity, at least two weeks to respond to the notice before further proceedings can continue. These safeguards ensured compliance with the principles of natural justice under the new legal framework.

**Further in the Supreme Court decision in Rajeev Bansal's case, as per third proviso to section 149(1), i.e. from the date of original 148 notice which was deemed as show cause notice u/s 148A(b) by the decision of Ashish Agarwal till the supply of the material and time allowed to the assessee to file the reply will be excluded.** However, where the surviving period/time if available with the A.O for passing an order under clause (d) of 148A of the Act is less than 7 days, in those cases, as per the "fourth proviso" to Section 148A of the Act, the period of limitation so available would stand extended to 7 days.

TOLA will extend the time limit for the grant of sanction by the authority specified under section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under section 151(i) has extended time till 30 June 2021 to grant approval.

In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under section 151(2) has extended time till 31 March 2021 to grant approval;

### Key Points of Supreme Court Ruling:

- ❖ The new law does not revive time-barred cases.
- ❖ TOLA applies to extend limitation only where time was still surviving as of 1 April 2021.
- ❖ **The legality of a reassessment notice must be tested on the actual date of issuance, and if barred under the old law as on that date, the new regime cannot validate it.**
- ❖ This approach upholds procedural fairness, avoids retrospective taxation, and maintains clarity and uniformity for both the Revenue and taxpayers.



**PCIT, Central-3 v. Abhisar Buildwell (P.) Ltd. (Supreme Court of India)**

**[2023] 149 taxmann.com 399 (SC)**

**Issue:** Whether in the case of completed/unabated assessments, the Assessing Officer (AO) can make additions **without any incriminating material** found during a search under section 132 or requisition under 132A

**Held:-**

**1. Distinction between Abated and Unabated Assessments:**

- Abated assessments: i.e., proceedings pending on the date of search - AO has full jurisdiction under Section 153A.
- Unabated/completed assessments: i.e., concluded assessments - **Additions can only be made if incriminating material is found** during the search.

**2. Foundation of Section 153A is Search-Based Detection:**

- Section 153A is intended to bring to tax undisclosed income detected through search.
- The scheme was introduced to replace the earlier block assessment under Section 158BA, where “undisclosed income” was taxed at a special rate.

**3. Role of Incriminating Material is Crucial:** For completed assessments, the AO can only make additions if:

- Search is valid,
- Incriminating material relating to that year is found,
- That material reveals **undisclosed income**.

**4. No Parallel Assessments Permitted:** If no incriminating material exists, and additions are made on other material already on record, it would lead to **two assessments** for the same year, which is **impermissible**.

**5. Section 147/148 Remedy Still Available:** If no incriminating material is found, the Revenue may still reopen a completed assessment under **Section 147/148**, subject to fulfilling legal conditions.