

21 Advance Tax, TDS & TCS

ADVANCE TAX

1. Advance tax means tax paid in the financial year immediately preceding the A.Y. (i.e. P.Y.)
2. Advance tax shall be calculated by estimating the current year income then applying tax rates. TDS, TCS, MAT/AMT Credit, Foreign Tax Credit, Relief u/s 89 credit shall be deducted to arrive at Advance tax liability.
3. Assessee is required to pay Advance tax if his liability for advance tax is ₹ 10,000 or more.
Exceptions: Resident Senior citizen not having income under "PGBP", shall not be required to pay advance tax.

4. Due dates of Advance Tax for All Assessee's

Due Date	Amount of Advance Tax	Important
upto 15th June of P.Y.	upto 15% of advance tax liability	If Assessee opts for Sec 44AD/ADA (Presumptive PGBP) then due date is 15th March of P.Y. (100% of Advance tax in 1 instalment)
upto 15th Sept of P.Y.	upto 45% of advance tax liability	
upto 15th Dec of P.Y.	upto 75% of advance tax liability	
upto 15th Mar of P.Y.	upto 100% of advance tax liability	

Note: Tax paid upto 31st March of P.Y. is treated as advance tax.

5. Payment of Advance Tax in pursuance of order of A.O (Section 210)

If Assessee has not paid or short paid the advance tax then A.O. may make order u/s 210 and ask assessee to pay advance tax in the instalment/instalments due after the date of the order, A.O. can pass order upto last day of Feb. of P.Y. A.O shall compute advance tax by taking higher income of:

- (i) Total assessed income of the latest P.Y for which assessment has been made, or
- (ii) Total income declared in ROI of any subsequent P.Y. (i.e. subsequent to the P.Y for which assessment has been made)

INTEREST u/s 234A, 234B & 234C

Sec 234A: Interest for delay in Return filing

Tax as per ROI	x	Rate	x	Period
[After Adjustment of TDS/TCS/ Advance tax/ MAT/AMT credit/ Relief u/s 89/90/91] i.e. Tax remaining unpaid on 1st April of A.Y.		[1% per month or part of a month]		[From the date after due date of ROI till the date of actual filing of Return]

Notes: 1

1. However as per Supreme Court decision in Dr. Prannoy Roy, credit will be given of self-Assessment tax, if it is paid upto due date of return filing.
2. If assessee has not filed the return, then this interest applicable till the date of completion of assessment u/s 144.

Sec 234 B : Interest for non / short payment of advance tax

This interest **is not applicable** if assessee paid 90% or more of Advance tax payable.

	x	Rate	x	Period
Advance Tax Short Paid as per ROI		[1% per month or part of a month]		[From 1 st April of A.Y. till the date of actual payment of Tax]

Note: If there is change in income due to processing of return u/s 143(1) or Assessment u/s 143(3), then tax as per 143(1)/Assessed u/s 143(3) tax shall be taken instead of tax as per ROI.
[This is applicable **only for interest u/s 234A & 234B**]

Sec 234C : Interest for deferment of Advance tax instalments

Deferred Amount	x	1% per month or Part of the month	x	3 months for all installments except last installment [For last installment, Int is Applicable always for 1 months] [16/3 to 31/3]
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Notes:

1. Interest u/s 234C **always** calculated **on tax as per ROI**.
2. Interest u/s 234C shall **not be levied** for 1st or 2nd instalment deferment, if Assessee has paid Advance tax upto 12% in 1st instalment, upto 36% in 2nd instalment.
3. Advance tax in case of Capital gain, Winnings, Dividend, PGBP first time Assessee is not able to estimate **capital gains or winnings or income under PGBP accrues first time or Dividend** so advance tax on such income shall be paid in remaining instalment by assessee after receipt of such income.
If no instalment is due [income recd. during 16/3 to 31/3] then Advance tax shall be paid upto 31/3 of P.Y.
In case of above income interest **u/s 234C applicable only from the quarter in which income is received.**

Interest u/s 234 A (3) & 234B(3): Assessment/Reassessment u/s 147 after Intimation u/s 143(1) or Assessment u/s 143(3)/144

Interest u/s 234A(3): If assessee filed late return or not filed the return in response to Notice u/s 148 then this interest is applicable on following amount @ 1% per month or part of the month

Amount	Rs.
Tax on assessed/reassessed Income as per sec 147	XX
Less: Tax as per Intimation u/s 143(1)/earlier assessment	XX
Period	XX

Return filed u/s 148: After the expiry of time allowed u/s 148 to file return till the date of filing of return

Return Not filed u/s 148: After the expiry of time allowed u/s 148 to file return till the date of completion of assessment u/s 147

Advance Tax, TDS & TCS

Interest u/s 234B (3): Interest @1% per month or part of the month applicable on amount calculated in 234A (3) from 1st April of AY till the date of completion of assessment u/s 147.

Sec 234D: Interest on excess refund granted

If refund is granted u/s 143(1) & later on completion of assessment, if either **no refund is found due**

or the amount refunded is excess, then the excess refund will have to be paid back by assessee along with interest u/s 234D @ 0.5% per month or part of a month on such excess refund.

Period: From date of granting the refund till date of completion of assessment.

Sec 234E: Fee for default in furnishing TDS/TCS Statements (Return)

For delayed filing quarterly statement, assessee shall be liable to a mandatory fees of ₹200 per day during which default continues. The fees cannot exceed the amount of TDS deductible. The fees shall be paid before filing of quarterly statement.

Sec 234F: Fee for default in furnishing return of income

Where a person, who is required to furnish a ROI u/s 139, fails to do so within the prescribed time limit u/s 139(1), he shall pay, by way of fee, a sum of ₹5000.

However, if total income of the person does not exceeds ₹5 lakhs, the fees payable shall not exceed ₹1000.

Sec 234G: Fees for default in Filing Statement

Donee Trust/institution referred u/s 35(1)(ii)/(ia)/(iii) or 80G(5) fails to submit statement to PDGIT(System) or certificate of donation to donor upto 31st May of next FY then such institution/Trust required to pay fees of ₹200 per day during which failure continue.

Provided this fees shall not exceeds amount in respect of which failure occurred.

Sec 234H: Fees for default in Linking Aadhar with PAN

If assessee link Aadhar with PAN on or after 01/04/2022 then he is required to pay following fees:

- Link between 01/04/22 till 30/06/22 – ₹500
- Link on or after 01/07/22 – ₹1,000

Sec 245: Set off and withholding of refunds in certain cases

If assessee has a refund arising in respect of any AY and demand is payable for another AY, then rather than paying him refund amount, CCIT/PCCIT/CIT/PCIT/AO, may, after intimating assessee about the same, set-off the refund amount of one year against the demands payable for another year.

Where no such amount is set off, and refund becomes due, and AO, having regard to the fact that assessment or reassessment are pending, he may, for reasons to be recorded in writing and with the previous approval of PCIT or CIT, as the case may be, withhold the refund upto 60 days from the date on which such assessment or reassessment is made.

Tax Deducted at Source (TDS)

1. TDS requirement arise:

(i) at the time of payment, **OR**

(ii) at the time crediting the A/c of payee, **whichever is earlier**

But in following cases TDS deducted only at the **time of payments**:

(i) Salary - Sec 192

(ii) EPF Payment - Sec 192A

(iii) Dividend - Sec 194

(iv) Winnings - Sec 194B, 194BB, 194BA (withdrawal from Online game user A/c)

(v) Maturity of life insurance policy - Sec 194DA

(vi) Compensation on compulsory acquisition of property - Sec 194LA

(vii) Cash withdraw from bank - Sec 194N

2. All TDS rates are Fixed rates i.e. 1%, 2%, 5%, 10% etc. but if payment made to **NR / Foreign Co.** or payment of **salary** then surcharge & HEC shall be considered.

3. Sec 206AA: If payee does not furnish his PAN to the payer, the TDS rate shall be:-

(i) Rate as per respective section, **OR**

(ii) Rate @ 20%*

Whichever is higher

*For sec 194-O / 194-Q rate is 5% instead of 20%

Note: This section **does not apply to NR or Foreign Company payee** not having PAN in respect of payment in the nature of **interest, dividend, royalty, fees for technical services and payment on transfer of capital asset**, if payee furnishes the following details and documents to the deductor:-

- Name, E-mail id & Contact Number
 - Address in the country outside India of which payee is a resident
 - Certificate of his being resident of foreign country from Govt. of that country
 - Tax identification no of payee in the foreign country, in case no such number is available then a unique number on the basis of which the payee is identified in foreign.
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4. If the payment is made by payer without TDS, then payee shall be responsible to make payment of tax directly. However, if the tax has been deducted by payer, but not deposited with Government, then payee cannot be called upon to pay that much tax.

Additional Points

1. Employer required to deduct **TDS only at the time of Payment**.
2. If employee intend to **opt out from default taxation u/s 115BAC** & submitted declaration to employer then employer shall deduct TDS as per normal rates, otherwise as per Sec 115BAC.

Section	Nature of Payment	Payer	Payee	Rate
192	Salary	Person	Employee(R/NR)	Slab rate

3. Employer shall **consider details of other income, deduction & TDS/TCS** of employee if furnished by Employee. Employee has to submit evidences of such deductions, exemptions & losses.
4. Employer shall **not consider losses** of employee except loss under the head house property.
5. If employer bear the **tax on non-monetary perquisites**, then this need not be deducted from the salary of the employee. Amount borne shall not be allowed to employer u/s 40(a)(v) and the same will be exempted in the hands of employee u/s 10(10CC). Also, the tax so borne will be treated as TDS in the hands of employee and credit of the same can be availed by employee.
6. Where the employee has worked with **more than 1 employer** during the year or employee changed the job during the year, he may furnish the details of his salary & TDS deducted by one employer to other/current employer.
7. Where firm pays salary to partner, section 192 is **not attracted** as it is taxable in hands of partner under PGBP but from 1st April 25 TDS applicable u/s 194T if remuneration or interest more than 20,000 in a F.Y.

ITC Ltd (2016)(SC): If tips are paid directly to the waiters, same is **NOT salary**; and there would be no obligation on employer to deduct TDS. Even if tip is paid through employer (like

in present case, by credit card in the bill), same would not be a part of salary and the employer shall **NOT** be required to deduct TDS.

Section	Nature of Payment	Payer	Payee	Rate
192A	Accumulated balance of PF	Any Person	Employee (R/NR)	10%

Additional Points

1. TDS required to be deducted only at the **time of Payment**.
2. No need to deduct TDS if aggregate amount of payment is **less than ₹ 50,000**.

Section	Nature of Payment	Payer	Payee	Rate
193	Interest on Securities	Any Person	Resident Person	10%

Additional Points

- No TDS if interest is paid:
- No TDS if amount or aggregate amount is **upto ₹ 10,000** during the F.Y.
- To LIC, GIC or other insurers.
- National Development Bonds.
- 7 Year National Savings Certificate (IV-Issue).
- Sec 54EC CG Bonds issued by Power Finance Corp. Ltd. or Indian Railway Finance Corp. Ltd.
- On Govt. Security [**Exception** - Interest on 8% Savings (Taxable) Bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018 or Floating Rate Savings Bonds, 2020 or any other notified security, if interest is more than **₹ 10,000** during the PY then TDS applicable]
- To a business trust by a special purpose vehicle on any security.

Section 194: Dividend

Section	Nature of Payment	Payer	Payee	Rate
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194	Dividend	Domestic Company	Resident Person	10%
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Additional Points

1. TDS required to be deducted only at the **time of Payment**.
2. No TDS if payment made to **Individual** by any mode other than cash and payment is **upto ₹ 5,000** in a PY.
3. TDS also required to be deducted on **deemed dividend** u/s 2(22)(a) to 2(22)(e). [2(22)(e) w.e.f. 1/10/24]
4. No TDS if dividend to **LIC, GIC or any other insurer** provided the shares are owned by them, or they have full beneficial interest in such shares.
5. No TDS if Dividend Paid/credited by **SPV to Business Trust**.
6. No TDS if dividend paid by any unit of IFSC, primarily engaged in the business of leasing of an aircraft to a company, being a Unit of an IFSC primarily engaged in same business. [As this dividend is exempt in hands of recipient u/s 10(34B)]

Section 194A: Interest other than Security interest

Section	Nature of Payment	Payer	Payee	Rate
194A	Interest other than Security interest	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > ₹ 1 Cr in case of business or G/R > ₹ 50 Lakhs in case of profession]	Resident Person	10%

Additional Points

No TDS in following cases:

- a. Interest by Bank/Co. Op. Bank/Post office on **time deposit upto ₹ 40,000** (₹ 50,000 for Resident senior citizen).
- b. Interest by any other person **upto ₹ 5,000**.
- c. Interest on **Saving Bank Account**.
- d. Interest by **Firm to Partners**.
- e. Interest on **Income Tax Refund**.

- **f. Interest on Zero Coupon Bonds.**

g. Interest to Banks, Co-op. banks, Financial Corporations, LIC, Insurance Co., UTI, National Skill Development Fund, Housing and Urban Development Corporation.

[**Remember** - NBFC not covered]

h. Interest by a Co-operative Society (other than Co-op. Bank) to another Co-operative Society or to any of its Members.

i. Interest by a Co-operative Society being bank to another co-op. society.

j. Interest on deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank.

Note: In case of point **h to j**, TDS required to be deducted if T/O or G/R of Co-op. Society in last year is more than **₹ 50 Crores** and interest paid/credited is more than **₹ 50,000** or in case of senior citizen **₹ 1,00,000**.

k. Interest Credited on the compensation amount awarded by the Motor Accidents Claims Tribunal (MACT).

l. Interest on the compensation amount awarded by the MACT paid during the FY does not exceed **₹ 50,000**.

m. Interest on "Mahila Samman Savings Certificate, 2023" of Govt.

> Some issues related to Section 194A

1. **1. In case of banks following CBS Software:** NO TDS should be made on Interest which is credited to a provision account on a daily or monthly basis only for the purpose of macro monitoring by CBS software since no amount is actually credited to depositor's a/c. Thus, TDS is to be made at the time of **actual credit given to depositor's a/c**. Further, the limit of **₹ 40,000/50,000** shall be check **bank-wise not branch-wise**.
2. **2. Interest income accrued to minor child, where both the parents have deceased [N/N. 05/2017]:**
TDS is required to be deducted and reported against **PAN of the minor child** unless a declaration is filed that credit for tax deducted has to be given to another person.
3. **3. Interest on Capital Gains Accounts Scheme A/c, where depositor has deceased:-**
 - a. TDS on interest accrued upto the death of the depositor is required to be deducted & reported against **PAN of the depositor**, and
 - b. TDS on Int accrued for the period after death of the depositor is required to be deducted and reported against **PAN of the legal heir**, unless a declaration is filed that credit for tax deducted has to be given to another person.

4. **4. UCO Bank (2014)(Del):** The HC directed that the disputed amount be deposited in a bank FDR. Bank issued the FDR in the name of Registrar General of HC. It was held that in this case, since the amount is disputed, the actual payee is **NOT ascertainable**, and the person in whose name interest is credited (Registrar General) is **NOT** the person who is liable to pay tax. **No TDS** is required to be deducted. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of Sec. 194A will apply to the recipient of the income.

Section	Nature of Payment	Payer	Payee	Rate
194B	Winnings from lotteries, crossword puzzles etc.	Any Person	Any Person	30%
194BB	Winnings from Horse Races	Any Person	Any Person	30%

Additional Points

1. TDS required to be deducted only at the **time of Payment**.
2. No TDS if winning is upto **₹ 10,000** in respect of single transaction.
3. If the winning is wholly in kind or it is partly in kind & partly in cash and the cash balance is not sufficient enough to meet the TDS liabilities, then Payer shall **release the prize only after ensuring** that tax on such winning is paid to Govt.
4. In cases where the book-maker paying the winnings, credits such winnings and debits the losses to the punter, tax has to be **deducted @30% on winnings before set-off of losses**. Thereafter, the net amount, after deduction of tax and losses, has to be paid to the winner.

Section	Nature of Payment	Payer	Payee	Rate
194BA	Winnings from Online Games	Any Person	Any Person	30%

Additional Points

1. TDS required to be deducted at the **time of withdrawal** during the PY from user account as well as at the **end of Financial Year**.
2. Computation of Net Winning for the purpose of Sec 115BBJ: **(A+D) - (B+C)**

A	Aggregate amount withdrawn from user account during the FY
D	Closing balance of user account at the end of the FY
B	Aggregate amount of non-taxable deposit made in user account by the assessee during the FY
C	Opening balance of user account at the beginning of the FY

Example

Mr. Tararam Dewasi is online fantasy game addict. He's having user account with My11circle App.

- Opening Balance as on 01/04/25: ₹ **60,000**
- Amount deposited during PY 25-26 in user account: ₹ **1,50,000**
- Amount withdraw during PY 25-26 from user account: ₹ **3,37,000**
- Closing Balance as on 31/03/26: ₹ **72,000**

In this case for the purpose of sec. 115BBJ taxable new winning is:
(3,37,000 + 72,000) - (1,50,000 + 60,000) = 1,99,000 taxable @30%

3. Computation of Net winning for the purpose of TDS u/s 194BA - First withdrawal: **A - (B + C)**

A	Amount withdrawn from user account
B	Aggregate amount of non-taxable deposit made till the time of withdrawal
C	Opening balance of user account

Subsequent withdrawal: **A-(B+C+E)**

A	Aggregate amount withdrawn from user account till the date of subsequent withdrawal
B	Aggregate amount of non-taxable deposit made till the time of subsequent withdrawal

C	Opening balance of user account
E	Net winning on which TDS already deducted at the time of earlier withdrawal

Net winning at the end of FY: (A+D)-(B+C+E)

A	Aggregate amount withdrawn from user account during the FY
D	Closing balance of user account at the end of the FY
B	Aggregate amount of non-taxable deposit made in user account by the assessee during the FY
C	Opening balance of user account at the beginning of the FY
E	Net winning on which TDS already deducted at the time of withdrawal

Example:

From following information calculate TDS required to be deducted by My11circle from the winnings of Mr Tararam Dewasi. Opening balance of his My11circle account is ₹ 60,000 & closing balance of account is ₹ 72,000.

Deposits in User Account			Withdrawal from User Account		
Date	Particular	Amount	Date	Particular	Amount
14/4/25	Transfer from Bank A/c	50,000	30/4/25	Transfer to Bank A/c	80,000
19/5/25	Transfer from Bank A/c	70,000	19/7/25	Transfer to Bank A/c	92,000
13/6/25	Bonus from My11circle	11,000	10/2/26	Transfer to Bank A/c	75,000

18/8/25	Transfer from Bank A/c	30,000	15/3/26	Transfer to Bank A/c	90,000
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TDS requirement as per Sec 194BA as follows

30/4/25	First withdrawal	$80000 - (50000 + 60000) = \text{Nil}$ (no need to deduct TDS)
19/7/25	Subsq. Withdrawal	$(80000 + 92000) - (50000 + 70000 + 60000) = \text{Nil}$ (No need to deduct TDS)
10/2/26	Subsq. Withdrawal	$(80000 + 92000 + 75000) - (50000 + 70000 + 30000 + 60000) = 37000$ (TDS @30% applicable on 37000 on 10/2/26)
15/3/26	subsq. Withdrawal	$(80000 + 92000 + 75000 + 90000) - (50000 + 70000 + 30000 + 60000 + 37000) = 90000$ (TDS @30% applicable on 90000 on 15/3/26)
31/3/26	End of the Year	$(80000 + 92000 + 75000 + 90000 + 72000) - (50000 + 70000 + 30000 + 60000 + 37000 + 90000) = 72000$ (TDS @30% applicable on 72000 on 31/3/26)

4. Multiple user accounts: In case of multiple user accounts of same user, each user account shall be considered for the purposes of calculating net winnings and the deposit, withdrawal or balance in the user account shall mean aggregate of deposit, withdrawal or balance in all user accounts. Transfer from one account to another will not be treated as deposit or withdrawal.

5. Payment in cash or kind:

Whenever there is payment to the user in kind or in cash, or partly in kind and partly in cash, which is **not from the user account**, the provisions shall apply to calculate net winnings by **deeming** that the money equivalent to such payment has been deposited as taxable deposit in the user account and the equivalent amount has been withdrawn from the user account at the same time and shall accordingly be included in amount **A**.

Example:

Mr. Chetan won Mahindra Thar on My11circle. FMV of car is ₹ 12, 00,000. In this case ₹

12 lakhs treated as taxable deposit in user account and same time it is treated as withdrawal. **TDS @30% applicable on ₹ 12, 00,000 u/s 194BA.**

In this case My11circle will release the car only after ensuring that tax on such winning is paid to Govt. [How to ensure? - will discuss with Sec 194R]

6. Taxable Deposit in form of Bonus:

If taxable deposit in the form of bonus, referral bonus, incentives, promotional money, discount etc. and such deposit can **only be used for playing the online games and not for withdrawal**, such deposit shall be **ignored** for the purposes of calculation of net winnings and shall not be included in amount **B** or **C** or **D**.

But if in future they are Re-characterized and allowed to be withdrawn, they shall be **deemed as taxable deposit** at the time of such Re-characterization and it shall be deemed that the equivalent amount has been deposited in the user account at that time.

7. If user borrows some money and deposits in his user account, will it be considered taxable deposit or non-taxable deposit?

Answer: For non-taxable deposit it is necessary that the amount deposited by the user is not taxable i.e., it is from already taxed income. In a case where user borrows the money and deposit in his user account, it shall be **considered as non-taxable deposit**.

8. In order to remove difficulty in deducting TDS for insignificant withdrawal, it is clarified that tax may not be deducted on withdrawal on satisfaction of all of the following conditions:-

- (i) Net winnings comprised in the amount withdrawn **does not exceed ₹ 100 in a month**;
- (ii) tax not deducted on account of this concession is **deducted at a time when the net winnings** comprised in withdrawal **exceeds ₹ 100** in the same month or subsequent month or if there is no such withdrawal, at the end of the FY; and
- (iii) the deductor undertakes responsibility of **paying the difference** if the balance in the user account at the time of tax deduction u/s 194BA is not sufficient to discharge the tax deduction liability calculated.

Section	Nature of Payment	Payer	Payee	Rate
194C	Contracts & sub-contracts [carrying out any work (including	Any Person other than Individual, HUF, AOP, BOI [Ind/HUF/AOP/BOI	Resident Person	Payee: Ind/HUF 1% Others 2%

	supply of labour for carrying out any work) in pursuance of a contract]	required to deduct TDS, if last year T/O > ₹ 1 Cr in case of business or G/R > ₹ 50 Lakhs in case of profession]		
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Additional Points

1. **1. No TDS if:-**

- Single contract is upto **₹ 30,000** or
- Aggregate of contract in PY is upto **₹ 1, 00,000**.

2. **2. No TDS** if contract is for **personal purpose of Individual/HUF**.

3. **3. Work includes:**

- Advertising, Broadcasting, Telecasting (including production of programmes),
- Carriage of goods or passengers by any mode other than by railways,
- Catering,
- Manufacturing or supplying a product as per **specification of customer** using material supply/sale by such customer or its associate of customer covered u/s 40A (2) (**Job Work**).

4. **4. Work excludes:**

- Manufacturing or supplying a product as per specification of customer using material purchased from any person, other than customer or its associate, or
- Any sum already covered u/s 194J.

5. **5. No TDS** if payment made to **transporter owning not more than 10 vehicles** at any time in the PY and who furnishes a declaration to this effect along with his PAN.

6. **6.** In case of **Job Work**, TDS shall be applied on the **invoice value excluding the value of material** purchased from the customer/associate, provided bifurcation is given in the invoice. If no bifurcation is given, then TDS shall be applied on the entire amount.

7. Payments by client to Advt. agency - It is treated as work and TDS applicable u/s 194C

Client (BB Virtuals) Payment to Ad. agency TDS u/s194C apply	Ad agency (Global Advertiser) Payment of collection from Ad No TDS u/s 194C No TDS u/s 194H	TV Channel AAJ TAK
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8. Cold Storage charges, which involves providing of refrigeration facility as well as storage facility, shall also be subject to **TDS u/s 194C** as a contract charge only and not u/s 194-I (Rent).

9. Payments by broadcasters or Telecasters (TV channels) to production houses for production of content for broadcasting / telecasting

Case A: Produced as per specifications	Case B: Rights of already produced content
Where the content is produced as per the specifications of broadcaster/ telecaster and the copyright of the content is also transferred to them (e.g. Production of New Ramayan)	Where telecaster/broadcaster acquires only the telecasting/broadcasting rights of the content already produced by the production house (getting right of original Ramayan)
↓	↓
Such contract is covered by the definition of the term 'work' u/s 194C and Subject to TDS u/s 194C	There is no contract for carrying out any work, as required u/s 194C NO TDS u/s 194C

10. Payment for transportation of gas [Circular 9/2012]

If Seller sells as well as transports the gas to the buyer till the point of delivery, nature of

such contract which remains 'contract for sale' and not a 'works contract' irrespective of fact whether the transportation charges are included in the cost of gas or shown separately. However, if transportation charges paid to a third-party transporter, then TDS shall be made u/s **194C**.

11. Japan Airlines Co. Ltd. / Singapore Airlines Ltd. (2015) (SC)

Landing and parking charges paid by airline co. to airport authority are not merely for the use of land but it is also for various other facilities provided like air traffic services, ground safety services, aeronautical communication facilities. Hence, these charges are **not liable for TDS u/s 194-I**. In this case **TDS applicable u/s 194C**.

Section	Nature of Payment	Payer	Payee	Rate
194D	Insurance Commission	Any Person	Resident Person	2% (10% if payee Dom. Co)
194G	Commission on sale of lottery tickets	Any Person	Any Person	2%
194H	Commission and Brokerage	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > ₹ 1 Cr in case of business or G/R >Rs. 50 Lakhs in case of profession]	Resident Person	2%

Additional Points

1. No TDS in above sections if Commission or Brokerage is upto **₹ 20,000**.
1. **2.** No TDS u/s 194H on Payments by BSNL or MTNL to their public call office franchises.
2. **3.** No TDS u/s 194H if commission or brokerage related to **security** like commission to underwriter, brokerage on public issue etc.

4. Case Laws

- Ahmedabad Stamp Vendors Association (2012) (SC):** Stamp vendors take the stamps from Court at a lower value and give it to the people at the value engraved in the stamp. It was held that the margin of the Stamp Vendors was **NOT their commission**, but was **discount** given to them by the court as the Stamp Vendors deal on principal to principal basis.
- Prasar Bharati (2018)(SC):** Doordarshan appointed various agent in India to procure advertisement. As per agreement between assessee and agents, states that agency would retain 15% of commission out amount collected from customers and remaining paid to assessee. In agreement its clearly mentioned that amount retain by agency is commission in nature and TDS is applicable on such commission. SC held then here is this case there is a principal-agent relationship so TDS u/s 194H applicable.
 If you see point no 7 in section 194C, in that case there was no such agreement and advertisement agency and TV Channels working on principal-principal relationship basis so TDS not applicable as clarified by CBDT.
- Singapore Airlines Ltd/ KLM Royal Dutch Airlines/ British Airways Plc (SC) 2022:** TDS u/s 194H applicable on primary as well as supplementary commission given by Airlines company to Travel agents.

Base Fare (Max. Fare) for Indigo	Net fare (Set by the airline)	Actual fare (Set by the travel agent) Makemytrip.com	Standard commission (7% of the base fare)	Supplementary commission (Actual fare - Net fare)
₹ 1,00,000	₹ 60,000	₹ 80,000	₹ 1,00,000 x 7% = ₹ 7,000	80,000 - 60,000 = ₹ 20,000
Selling price	Income of the Indigo	₹ 20,000 left after payment of net fare to the Indigo	Income of MMT	Additional Income of the MMT

In the above case, TDS u/s 194H is required to be deducted both on the standard commission of ₹ 7,000 and on the supplementary commission of ₹ 20,000. TDS will be deduct by Indigo @2% on total commission of ₹ 27,000 of MMT.

Bharti Cellular Ltd. 2024

Is Airtel required to deduct TDS u/s 194H on the difference between the discounted price at which it sold start-up kits and recharge vouchers to distributors and the sale price at which these products were subsequently sold by the distributors?

TDS arises when the legal relationship of principal and agent is established. Agency is a triangular relationship between the principal, agent and the third party.

To decide whether a contracting party acts for himself as an independent contractor (and not as an agent), it needs to be examined whether in the course of work, he intends to make profits for himself, or is entitled to receive pre-arranged remuneration. If party acting for himself and making the max. Profits possible, he is usually regarded as an independent contractor and not as an agent of the principal. Legal position of a distributor is generally regarded as different from that of an agent. The distributor buys goods on his account and sells them in his territory. The profit made is the margin of difference between the purchase price and the sale price. Unlike an agent, he does not act as a communicator or creator of a relationship between the principal and a third party.

As per SC TDS not applicable u/s 194H in this case.

Section	Nature of Payment	Payer	Payee	Rate
194DA	Maturity of Life Insurance Policy	Any Person	Resident Person	2%

Additional Points

- TDS required to be deducted only at the **time of Payment**.
- **No TDS** if maturity amount is **less than ₹ 1, 00,000**.
- **No TDS** if maturity amount exempted **u/s 10(10D)**. [In case of LIP maturity amount taxable in case of Keyman Ins. Policy or ULIP taken on or after 1.2.21 & premium paid > ₹ 2,50,000 in a year or LIP taken on or after 1.4.23 & premium paid > ₹ 5,00,000 in a year or Premium more than limit of 10%, 15%, 20% of policy value prescribed u/s 80C]

- In this section **TDS applicable on income component** i.e. maturity amount minus premium paid.

Section	Nature of Payment	Payer	Payee	Rate
194E	Payment to NR sports person/ Sports Association/ Entertainer	Any Person	NR Sport person or NR entertainer (who is not a citizen of India) or NR sport association	20.8% (20% + 4%)

Additional Points

1. Income received by NR Sportsmen (who is not a citizen of India) by way of:

- >Participation in any game or sport in India.
- >Advertisement.
- >Contribution of article in newspapers, magazines, journals relating to game or sports in India.

2. Guarantee Income received by NR sports association or institution in relation to any game or sports played in India.

3. Income received for performing in India by NR entertainer (who is not a citizen of India).

Section	Nature of Payment	Payer	Payee	Rate
194-I	Rent of P&M, Equipment's, Building, Furniture & Land	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > ₹ 1 Cr in case of business or G/R > ₹ 50 Lakhs in case of profession]	Resident Person	Equipment's - 2% Land, Building, Furniture - 10%

Additional Points

1. No TDS if rent is upto **₹ 50,000 to a person per month** or part of the month.

2. **2. No TDS on 'Refundable Deposits'**. However, 'Non-Refundable Deposits' shall attract TDS under this section.
3. **3. Arrears of Rent** received during the current year shall also be considered for the purpose of deducting TDS u/s 194-I.
4. **4.** Even **Advance Rent** shall also be **subject to TDS** in the year of payment.
5. **5. Warehousing charges** shall also be subjected to TDS under this section.
6. **6.** It is **not necessary that the Payee must be the owner** of any of the above-mentioned assets.
7. **7.** CBDT circular-Lumpsum lease premium or onetime upfront lease charges which are not adjustable against periodic rent and which are paid for acquisition of long term lease rights - are not in the nature of rent within the meaning of sec 194-I, therefore NO TDS.
8. **8. Passenger Service fees (PSF)** paid by Airline's Company to Airport Operator is **not treated as rent** so TDS not applicable u/s 194-I [Circular No. 21/2017].
9. **9. No TDS** on payment in the nature of **lease rent**, made by a lessee to a lessor (being a Unit located in IFSC), for lease of an **aircraft or ship for 10 AY's** in which lessor claiming deduction u/s 80LAcase

10. Case Laws

1. **Indus Towers Ltd (2014)(Del):** Payment made for use of mobile towers was for use of technical and specialized equipment used by the Assessee. The towers are neutral platform without which mobile operators could not operate. The dominant intention was the use of P&M and use of premises was only incidental. Hence, although the transaction is renting, it is renting of P&M and hence, **TDS @ 2% u/s 194-I is applicable.**
2. **Senior Manager, SBI (2012) (All.):** Since the payment of rent is made to each co-owner by way of separate cheque and their share is definite, the threshold limit **₹ 50,000 in sec 194-I has to be seen separately for each co-owner.**
3. **Shree Mahalaxmi Transport Co. (2011) (Guj.):** Assessee was engaged in the business of transportation of building material, salt, black trap, iron, etc. During the PY, the assessee made payment for hiring of dumpers and deducted TDS u/s 194C. According to AO TDS should be deducted u/s 194-I. HC held that assessee have given sub-contract and not hired any P&M, liable for TDS u/s 194C and not u/s 194-I.

Section	Nature of Payment	Payer	Payee	Rate
194-IA	Transfer of Immovable property (other than rural agriculture land)	Any Person (Buyer)	Resident Person (Seller)	1% of Consideration or SDV, whichever is higher

Additional Points

1. TDS is applicable only if **Consideration or SDV is ₹ 50, 00,000 or more.**
2. Where there is more than one transferor or transferee in respect of any immovable property, then the consideration shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property. [Added w.e.f. 1/10/24]
3. Consideration for transfer of immovable property includes club membership fees, car parking fees, electricity or water facility fees, maintenance fees, advance fees or any other similar charges incidental to transfer of immovable property.

Section	Nature of Payment	Payer	Payee	Rate
194-IB	Rent of Immovable property	Individual/HUF (Not covered u/s 194-I)	Resident Person	2%

Additional Points

1. **1.** No TDS if rent is **upto ₹ 50,000 per month** or part of the month.
2. **2.** In this section **TDS required to be deducted only at the time of credit or actual payment of the last month rent**, whichever is earlier. [Here last month of year or tenancy as the case may be]
3. **3.** Where the payee fails to furnish his PAN, TDS shall be deducted at the rate of 20%. However, in any case, such deduction cannot exceed the rent of the last month.

Section	Nature of Payment	Payer	Payee	Rate
194-IC	Consideration under Joint development agreement (JDA)	Any Person	Resident Person	10%

Additional Points

In this case TDS applicable only for cash/money consideration u/s JDA as specified u/s 45(5A).

Section	Nature of Payment	Payer	Payee	Rate
194J	a) Fees for professional Service (FPS) b) Fees for Technical Services (FTS) c) Remuneration to directors d) Royalty e) Non-compete fees (NCF)	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > ₹ 1 Cr in case of business or G/R > ₹ 50 Lakhs in case of profession]	Resident Person	10%

Additional Points

1. In following cases **TDS rate is 2% instead of 10%** :-
 - >Payment to any call centre.
 - >Fees for Technical service (not being professional service).
 - >Royalty paid for sale distribution or exhibition of cinematographic film.
2. No TDS if amount is **upto ₹ 30,000 p.a.**; limit of ₹ 30,000 p.a. is applicable separately for each nature of payment (i.e. ₹ 30,000 each for FPS, FTS, Royalty, Non-compete). **No limit for director fees** (TDS to be deducted mandatorily).
3. **No TDS on FPS by Individual/HUF** if made exclusively for **personal purposes**.
4. **Individual/HUF**, if last year T/O > ₹ 1 Cr or G/R > ₹ 50 Lakhs, are required to deduct TDS **only from FPS and FTS**. No need to deduct TDS on royalty or NCF even if last year TO/GR more than prescribed limit.

5. **5. CBDT Notification:** Payments made to Sports person, Sports Columnist, Umpire, Commentator, Referee, Physiotherapist, Team Physician, Anchor, Event Manager will also be regarded as **FPS** and accordingly be liable to TDS u/s 194J.
6. **6.** Consideration paid for **acquisition of software** falls within the definition of royalty and hence would be liable for TDS u/s 194J. However, **no TDS** would be attracted in cases of subsequent transfers if the transfer is made without any modification and TDS has already been deducted u/s 194J or 195 in the earlier transfers & transferor submit declaration along with PAN for same.
7. **7. CBDT Circular:** Third Party Administrators (TPA) making payments on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. are liable to deduct TDS u/s 194J.

8. Kotak Securities Ltd (2016) (SC): Service charges paid by members of stock exchange to BSE for their BSE Online Trading (BOLT). AO held that it was a payment for fees for technical services. SC held, 'Technical services' like 'Managerial and Consultancy service' would denote seeking of services to cater to the special needs of the consumer/user as may be felt necessary and the making of the same available by the service provider. It is the above feature that would distinguish/identify a service provided from a facility offered. While the former is special and exclusive to the seeker of the service, the latter, even if termed as a service, is available to all and would, therefore, stand out in distinction to the former. The service provided by the Stock Exchange for which transaction charges are paid fails to satisfy the aforesaid test of specialized, exclusive and individual requirement of the user or consumer who may approach the service provider for such assistance/service.

Section	Nature of Payment	Payer	Payee	Rate
194K	Income from UTI or Mutual Fund Units	Any Person (UTI/MF)	Resident Person	10%

Additional Points

No TDS if payment is **upto ₹ 10,000** in a P.Y.

Section	Nature of Payment	Payer	Payee	Rate
194LA	Compensation on compulsory acquisition of Immovable Property	Any Person	Resident Person	10%

Additional Points

1. TDS required to deduct only at the **time of payment**.
2. No TDS if payment is **upto ₹ 5, 00,000** in a P.Y.
3. No TDS if the Immovable Property is an 'Urban or Rural Agricultural Land' in India.

Section	Nature of Payment	Payer	Payee	Rate
194M	Work pursuance contract, Commission / Brokerage, Fees for Professional service	Individual/HUF (other than required to deduct TDS u/s 194C, 194H, 194J)	Resident Person	2%

Additional Points

1. **1.** No TDS if amount is **upto ₹ 50, 00, 000**.
2. **2.** TDS u/s 194C, 194H & 194J in case of Ind/HUF payer applicable only if last year TO/GR more than prescribed Limit and u/s 194C & 194J TDS not applicable in case of personal nature contract or FPS so in those cases TDS required to be deducted u/s 194M if amount more than ₹50 lakhs.
3. **3. Note for Sec 194-IA, 194-IB, 194M:** In these sections payer not required to opt TAN numbers and TDS required to deposit online to Govt. along with TDS return in **Form 26QB, 26QC and 26QD** within 30 days from the end of the month in which TDS was deducted.

Section	Nature of Payment	Payer	Payee	Rate
194N	Cash withdraw from Bank, Co-op. Bank, Post office	Bank, Co-op. Bank, Post office	Any Person	2% (refer point 3)

Additional Points

1. **1.** TDS is required to be deducted only at the **time of payment**.
2. **2.** No TDS if cash withdraw is **upto ₹ 1 Crore** in a PY. If cash withdraw more than ₹ 1 crore then TDS applicable only on excess amount over ₹ 1 crore. Where the recipient is a co-operative society, limit of ₹ 3 crores is applicable for cash withdrawals.
3. **3.** If payee has **not filed return for all 3 preceding PY's** for which due date u/s 139(1) already expired then TDS shall be deducted as follows:

1. > **2%** on cash withdraw in excess of ₹ 20 lakhs upto ₹ 1 crore and
2. > **5%** on cash withdraw in excess of ₹ 1 crore.
3. *Note: Here we will check ROI of PY21-22, PY22-23 & PY23-24 for the TDS liability in PY 25-26.*
4. **4. No TDS if cash withdrawal by:**
 0. >Government (SG/CG),
 1. >Banks, Co-op. Bank, Post office and their business correspondent,
 2. >White label ATM operator of Banks or Co-op. Bank,
 3. >Cash Replenishment Agencies (CRA's) and franchise agents of White Label ATM Operators in respect of withdrawal made from a separate bank a/c maintained **only for replenishing cash in ATM,**
 4. >Registered Commission agent/trader operating under **Agriculture Produce Market Committee (APMC)** and certifies that withdrawal is made for the purpose of making payments to farmers,
 5. >Authorised dealer, Full Fledged Money changer (FFMC), their franchise agent and sub-agent in respect of withdrawal made for **purchasing foreign currency from NR/ foreign tourist** visiting India or resident Indians on their return to India or for disbursement of inward remittances to recipient beneficiaries in India in cash under Money Transfer Service Scheme.

Section	Nature of Payment	Payer	Payee	Rate
194-O	E-Commerce (Sale of Goods/Service)	Any Person (E-com. operator who owns, operate or manage E-Facility or platform) Ex.	Resident Person (E-com. participant who selling goods or service through E-com. operator facility or platform)	0.1% (Gross amount of sale i.e., Price collected from Customer by E-com. operator)

		Amazon, Flipkart etc.		
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Additional points

1. **1. No TDS if ALL the following conditions are satisfied:**
 - >The e-com. Participant is an **Ind or HUF**.
 - >The gross amount of such sale or services or both during the PY **upto ₹ 5 lakh**.
 - >The e-com. participant has furnished his **PAN or Aadhaar** to the e-com. operator.
2. **2. Any payment made by a purchaser of goods or services directly to an e-com. participant but sale facilitated by e-com. operator, shall deemed to be the amount paid/ credited by e-com. operator to e-com. participant and shall be included in gross amount for the purpose of TDS.**
3. **3. If TDS deducted u/s 194-O (or not deductible due to ₹ 5 lakhs limit), TDS cannot be deductible under any other section.** However this rule is not applicable if amount received by e-commerce operator for hosting advertisement or providing any other services which are not related to sale of goods/services.
4. **4. This section include sale of goods as well as service and service includes fees for professional and technical service also. If any professional service or technical service provided through online mode then this section applicable.**
5. **5. CBDT Clarifications:**
 - >**Payment gateway** will not be required to deduct tax u/s 194-O, if the tax has been deducted by the e-com. operator u/s 194-O of the Act, on the same transaction.
 - **Example:** BB Virtuals sales COMPACT Books through makemydelivery.com an E-Com. operator. MMD using payment gateway of CcAvenue. Now in this case MMD is required to deduct TDS of BB Virtuals and CcAvenue not required to deduct TDS of MMD provided CcAvenue takes undertaking from MMD regarding deduction of tax by MMD.
 - >**Applicability of on insurance agent or insurance aggregator:** In years subsequent to the first year, if the insurance agent or insurance aggregator has no involvement in transactions between insurance company and the buyer of insurance policy, he would not

be liable to deduct tax u/s 194-O for those subsequent years. However, the insurance company shall be required to deduct tax on commission payment, if any, made to the insurance agent or insurance aggregator for those subsequent years under the relevant provision of the Act.

- **Example:** ICICI Lombard sales insurance policy through PolicyBazaar.com. Suppose in current year policybazaar.com collected insurance premium of ₹ 2 Crores for first year of insurance so in this case policybazaar.com required to deduct TDS of ICICI Lombard. In subsequent years policy holder directly making payment to ICICI Lombard then PolicyBazaar.com not required to deduct TDS however ICICI Lombard required to deduct TDS u/s 194D on commission paid to PolicyBazaar.com.

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- **>TDS shall not apply in e-auction activities carried out by e-auctioneers if all facts are satisfied:**

(a) The e-auctioneer conducts e-auction in its e-portal only for the price discovery for the client and not responsible for purchase and sale.

(b) Price so discovered is not necessarily the price at which the transaction takes place.

(c) Transaction takes place directly between the buyer and the seller party outside the e-portal.

(d) Payments for the transactions are carried out directly between the buyer and the seller and the e-auctioneer does not have any info. About the quantum and the schedule of payment.

(e) For payment made to e-auctioneer for providing e-auction services, the client deducts TDS under respective section.

Further, it is clarified that buyer would still be liable for **TDS as per 194Q**.

6. CBDT Clarifications on ONDC (Open Network for Digital Commerce)

- **> Tax Deduction in case of multiple E-commerce operators (ECO) involved in transactions like ONDC Platform:**

If multiple E-com. Operators (Seller Side & Buyer Side E-Com Operator) are involved in a single transaction, the responsibility for section 194-O compliance depends on whether the seller-side ECO is the actual seller or not.

Situation-1: If the seller side ECO is not the actual seller, the compliance u/s 194-O of the Act, is to be done by the seller side ECO, who finally makes the payment to the seller for goods or services sold or provided.

Situation-2: If the seller side ECO is the actual seller, the compliance u/s 194-O of the Act, is to be done by the buyer side ECO which finally makes the payment to the seller.

- **> Inclusion of several fees in gross amount:**

(a) Convenience fees, commissions, logistic charges, and delivery fees should be included in the "gross amount" for TDS purposes because in this section TDS applicable on Gross amount of sale Value.

(b) Payments made to platform providers for transaction facilitation are included if linked to the transaction.

- **> Treatment of discounts:**

(a) **Seller Discount:** Where discounts are given by the seller (E-commerce participant) then such amount would be reduced from the "Gross amount" for the purpose of TDS.

E.g.: If the label-price of a product is ₹ 100, and the seller offers a discount of ₹ 10, ₹ 90 will be receivable from the buyer. In this case, the seller will invoice the buyer for ₹ 90 and hence TDS will be calculated on ₹ 90.

b) Buyer ECO & Seller ECO Discount: where a discount is given by the buyer ECO/seller ECO, usually the seller receives full consideration of the product. Thus, in such instances, the TDS must be deducted from the "gross amount" without giving effect to the discount offered by such ECOs.

E. g. If the price quoted by the seller is ₹ 100 and the buyer ECO gives a discount of ₹ 10, ₹ 90 (i.e. 100-10) will be collected from the buyer and remitted to the seller, and the buyer ECO will pay the remaining ₹ 10 to the seller via seller-side ECO. The invoice on the buyer will be raised for ₹ 100 and tax will be deducted by the seller-side ECO on ₹ 100, which is the gross amount of sales. **TDS applicable on ₹ 100.**

Section	Nature of Payment	Payer	Payee	Rate
194P	TDS by Bank in case of senior citizen	Specified Bank	Resident Individual age 75 Years or more in PY	Slab Rate

Additional Points

1. This section apply only if individual having income in the **nature of pension and no other income except the income in the nature of interest** from any account maintained in the same specified bank in which he is receiving his pension and has furnished a declaration to the specified bank containing such particulars, in **paper FORM 12BBA** and duly verified.

2. Once the declaration is furnished by senior citizen, the bank would be required to compute the income of such senior citizen. For computing total income deduction u/s 80C to 80U should be given (if assessee opted out from 115BAC) along with rebate u/s 87A. The bank shall deduct tax on such total income on the basis of slab rate after considering any TDS deducted on pension.

3. If TDS deducted under this section then assessee **not required to file his ROI**.

4. "Specified bank" means a schedule bank which has been appointed as agent of RBI u/s 45 of RBI Act, 1934.

Section	Nature of Payment	Payer	Payee	Rate
194-Q	Purchase of Goods more than ₹ 50 Lakhs in a PY	Any Person (Buyer) whose last year T/O more than ₹ 10 Crore	Resident Person (Seller)	0.1% of sum in excess of ₹ 50 Lakhs

Additional Points

1. In this section TDS required to deduct only on **excess amount over ₹ 50 lakhs**.

2. TDS is not required to be deducted under this section, if -

- > TDS is deductible under any other section;
- > TCS is collectible u/s 206C.

3. In case of a transaction to which **both sec. 206C (1)/ (1F)/ (1G) and 194Q** applies, TCS to be collected u/s 206C (1)/ (1F)/ (1G).

4. In case of a transaction to which sec. 194-O and 194Q applies, **TDS deducted u/s 194-O**.

5. If **PAN of payee is not available**, tax will be deducted u/s 194-O & 194Q at the **rate of 5%**.

6. CBDT Clarifications:

- > **Applicability on transactions carried through various Exchanges:** Section **194-O & 194Q shall not apply** in relation to transactions in securities and commodities which are traded through recog. Stock exchanges or cleared and settled by the recog. Clearing corp.,

including RSE or RCC located in IFSC or transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges.

Example: Mr. BB purchased 10,000 shares of Bajaj Finance Ltd @ ₹ 3800 through ICICI Direct Broker at BSE. In this case section 194-O or 194Q not applicable.

- > If any goods mentioned u/s 206C(1) purchased and used by buyer for manufacture of any product or power generation and buyer submit declaration for same then TCS not applicable but **TDS u/s 194Q may apply** if other conditions of 194Q are satisfied.
- > **GST/VAT/Sales tax/CST/Excise Duty (IDT):** TDS u/s 194Q **NOT applicable on IDT amount** if it is separately indicated in invoice but **if advance payment is made then TDS should be deducted on total advance payment** as we are not aware what will be IDT amount in invoice.
- > **Purchase Return:** TDS deducted at the time of crediting the party or payment, whichever is earlier, so at the time of purchased TDS already deducted by Buyer. In case of purchase return there is no need to return TDS amount and it can be adjusted against future purchase from same seller. In case of replacement of Goods, no adjustment required.
- > **Non-Resident Buyer:** Sec. 194Q **NOT applicable** in case of NR buyer except where NR having PE in India and purchased relates to that PE.
- > **Exempt Income of Seller:** If seller whole Income is exempt under IT Act [like 10(23A), 10(44)], then TDS u/s 194Q **NOT applicable**.
- > **First year of Incorporation:** TDS required to be deducted only if buyer's last year T/O more than ₹ 10 Crores. Since in case of first year of incorporation last year T/O is nil so this section **NOT applicable** in first year of Incorporation.
- > **Last Year T/O:** While checking last year T/O of buyer it should include only Business T/O or G/R and it should be more than ₹ 10 Crores. Non-Business T/O not to be counted.
- > **CG or SG shall not be considered as 'seller'** and no tax is to be deducted by the buyer, in cases where any Dept. of Govt. are seller of goods. Any other person, such as a PSU or corp. established under Act or any other such body, authority or entity, shall be required to comply with the provisions of 194Q & TDS applicable.

Section	Nature of Payment	Payer	Payee	Rate
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194R	Any benefit or perquisite, whether converted into money or not, arising from business or profession	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > ₹ 1 Cr in case of business or G/R > ₹ 50 Lakhs in case of profession]	Resident Person	10%
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Additional Points

1. No TDS if amount of benefit or perquisite provided to a person is **upto ₹ 20,000 in PY**.

2. If the benefit or perquisite is wholly in kind or it is partly in kind & partly in cash and the cash balance is not sufficient enough to meet the TDS liabilities, then Payer shall **release the benefit or perquisite only after ensuring** that tax is paid on such benefit or perquisite by way of:

(a) He has collected the amount equivalent to **TDS amount** from the Payee, or

(b) He paid **TDS from his own pocket**, or

(c) He insists the Payee to make the payment of **TDS on his own by way of advance tax & submit the proof to the Payer**.

3. CBDT Clarifications:

>Payer is **not required to check** that the benefit or perquisite is taxable in the hands of recipient or not. Thus, the deductor is required to deduct tax u/s 194R of the Act in all cases where benefit or perquisite (of whatever nature) is provided so even if capital nature benefit is provided like car or land etc. then also TDS is applicable.

> **Sales discount, cash discount and rebates:** No TDS on sales discount, cash discount and rebates allowed to customers.

> **Kohinoor Garments shop** having ongoing offer to buy units 10 get 2 units free offer on the occasion of Diwali. Price of each unit is ₹ 15,000. In this case total selling price of seller would be ₹ 1, 50,000 for 12 products. In this case it is difficult for seller to deduct TDS on benefit or perquisite so **TDS NOT applicable** but in case of free samples TDS applicable.

> **TDS required to be deducted u/s 194R in following cases:**

- (i) Incentives in the form of cash or kind such as car, TV, gold coin, mobile phone etc. upon achieving certain targets.
- (ii) Sponsors a trip for the recipient and his/her relatives upon achieving certain targets.

- (iii) Provides free ticket for an event.
- (iv) Medicine samples free to medical practitioners.

Note: If receiver use such asset for his business or profession purpose then **Actual cost of asset** shall be FMV on which he already paid taxes. Depreciation can be claimed on such FMV.

- **> Free Samples by Pharmaceuticals Company to Dr/Hospitals**

- **Situation-1:** Cipla Ltd provided free sample worth ₹ 50,000 to Dr. Bin who is employee of M/s Bharti Hospitals Mumbai. In this case benefit/perquisite is provided to the doctor on account of him being the employee of the hospital so Cipla required to deduct **TDS u/s 194R of Hospital**. Hospital may subsequently treat this benefit/perquisite as the perquisite given to its employee's **u/s 17** & deduct tax **u/s 192** of the Act thus ultimately it's taxable in hands of Dr. Bin.
- **Situation-2:** Suppose in above situation Dr. Bin is a consultant of hospital instead of an employee. In this case Cipla will deduct **TDS u/s 194R of Hospital** and Hospital will deduct **u/s 194R of Dr. Bin**. Alternatively, Cipla can directly deduct TDS of Dr. Bin u/s 194R.
- **Situation-3:** TDS u/s 194R shall not apply if the benefit/perquisite is being provided to a **Government entity**, like Government hospital, not carrying on business/profession.

- **> Calculation of value of benefit /perquisite:-**

- (i) Provider has purchased the benefit/perquisite before providing it to the recipient - **Purchase Price**.
- (ii) Provider manufactures such items - **Price that it charges to its customers for such items**.
- (iii) In any other case - **FMV of benefit/perquisite**.

Note: GST will not be included for the purposes of valuation for TDS purpose.

E.g.: Samsung India Pvt Ltd., on 24/04/2025, had given a Phone (Valuing ₹16,000) to Mr. Ashish Chanchlani (social media influencer) for advertising. Further on 16/10/2025, Mr. Ashish was given another one costing ₹ 18,000.

In this case, If the products are: -

- (a) **Retained by Ashish** - TDS applicable u/s 194R.
- (b) **Return to Samsung after marketing** - TDS not applicable as it's not a benefit.
 - Assume products retained by Ashish, since the total benefit (16000+18000=34000) in a PY exceeds ₹ 20,000, TDS is required to be deducted.

TDS to be deducted = 34,000 x 10% = ₹ 3,400.

TDS to be deducted = 34,000 x 10% = ₹ 3,400.

>**AB & Associates (Kolkata)**, Auditor of **BB Ltd. (Mumbai)** goes to client's place for audit (12/11/2025). Travelling expenses (not invoiced in Client's name) invoicing ₹ 32,000 are paid by the client.

In this case BB Ltd required to be deducted **TDS u/s 194R** on the Travelling Expenses borne i.e. **TDS = ₹ 32,000 x 10% = ₹ 3,200.**

There would have been no requirement to deduct TDS if—

- The client had not borne this expenditure or,
- Invoice was in the name of the client and expense was paid directly or re-imbursed by it.

Notes:

1. **1.** If out of pocket expenses (reimbursement) are already part of the consideration and TDS deducted u/s 194C/194J on total consideration then **TDS not applicable u/s 194R** on such out-of-pocket expenses reimbursed by client.
2. **2.** If any expenditure is incurred by "**Pure Agent**" on behalf of any "other person" and GST credit also availed by such "other person" then it is not treated as benefit /perquisite to "Pure Agent".

> **The expenditure pertaining to dealer/business conference would not be considered as benefit/perquisite, in case conference is for:**

- (a) New product being launched
- (b) Discussion as to how the product is better than others
- (c) Obtaining orders from dealers/customers

- (d) Teaching sales techniques to dealers/ customers
- (e) Addressing queries of the dealers/customers
- (f) Reconciliation of accounts with dealers/customers.

> In following cases expenditure on dealer/business conference would be treated as perquisite/benefit:

- (i) Expense attributable to **leisure trip or leisure component**, even if it is incidental to the dealer/business conference.
- (ii) Expenditure incurred for **family members** accompanying the person attending dealer/business conference.
- (iii) Expenditure on participants of dealer/business conference for **days which are on account of prior stay or overstay** beyond the dates of such conference. However, a day immediately prior to actual start date of conference and a day immediately following the actual end date of conference would **not be considered as over stay**.

Note: It is clarified that if benefit/perquisite is provided in a group activity in a manner that it is difficult to match such benefit/perquisite to each participant using a reasonable allocation key, the benefit/perquisite provider may **at his option not claim the expense**, representing such benefit/perquisite, as deductible expenditure for calculating his total income. If he decides to opt so, he will not be required to deduct TDS u/s 194R and therefore he will not be treated as assessee in default u/s 201.

- **> In case of waiver or settlement of loan** by Schedule bank, Co. op. Bank, PFI, NBFC, SFC, SIIC, Public company engaged in long term loan or asset Reconstruction Company is **not treated as benefit/perquisite** for the purpose of section 194R and not requires to deduct TDS.
- **> An embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign state not required to deduct TDS under this section.**
- **> TDS u/s 194R not required in case of Bonus shares** issued by any company to all the shareholders and in case of **Right shares** by widely held company to all shareholders also out of scope from this section.

Section	Nature of Payment	Payer	Payee	Rate
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194T	Any salary, remuneration, commission, bonus or interest to a partner of the firm	Firm (Including LLP)	Partner	10%
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Additional Points

No TDS if aggregate of amount to a person is **upto ₹ 20,000 in PY.**

Section	Nature of Payment	Payer	Payee	Rate
194LB	Interest from Infrastructure Debt Fund referred u/s 10(47)	Infrastructure Debt Fund referred u/s 10(47)	NR/Foreign Co.	5% + HEC
194LC	Interest on money borrowed in foreign currency under loan agreement or issue of long-term bonds or rupee denominated bond upto 30.6.23	Indian Company or Business Trust	NR/Foreign Co.	5% + HEC

Note: Issue of any long-term bond or RDB between 1.4.20 and 30.6.23, which is listed only on a recognised stock exchange located in any IFSC then TDS rate is **4%**.

Issued on or after 1.7.23 and listed at IFSC stock exchange then **TDS rate 9%**.

Section	Nature of Payment	Payer	Payee	Rate
196A	TDS on Income in respect of Units	Any Person (UTI/MF)	NR/Foreign Co.	20% + HEC
196B	TDS on Income or LTCG referred u/s 115AB	Any Person	Offshore Fund	10% + HEC
196C	TDS on Interest or Dividend or LTCG on Bonds/GDR referred u/s 115AC	Any Person	NR	10% + HEC

Amendment: w.e.f. 23/07/2024 TDS rate in case of **LTCG u/s 196B & 196C is 12.5%**.

Section	Nature of Payment	Payer	Payee	Rate
196D	TDS on Income (Interest / Dividend) referred u/s 115AD	Any Person	FII / Specified Fund	20% + HEC / 10% + HEC

195	Any sum payable t NR/Foreign Co.	Any person	NR/Foreign Co.	Rate in force of DTAA rate
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Additional points for sec. 195

1. **1. Liability to deduct tax u/s 195 applies to all person, whether Resident or Non-resident, irrespective of whether the NR has a Residence or a Place of Business or Business Connection in India or not.**
2. **2. Case Laws:**
 1. **V.S. Dempo & Co P Ltd (2016) (Bom):** No TDS u/s 195 on the demurrage charges paid to a foreign shipping company which is governed by sec 172 for the purpose of levy and recovery of tax.
 2. **Wizcraft International Entertainment (P) Ltd (2014) (Bom):** Commission paid to an overseas agent for bringing artists into India does not accrue/arise in India as the services were rendered completely from outside India and payment also received outside India. Hence, the same is not taxable in India and there lies no obligation to deduct TDS u/s 195.

Miscellaneous Provisions

- **> Sec 196:** TDS not applicable if payee is Government, RBI, Statutory Corporation, Mutual Fund, New Pension Trust.
- **> CBDT Circular:** TDS **NOT applicable** in case of "**GST on services**" separately indicated in Invoice.
- **> Sec 197 - Lower Deduction Certificate:** Where assesses Total Income or receipts of income is not liable to tax or taxable at lower rate in current year (it may be due to b/f losses) then assessee can apply to AO for issue of certificate for No Deduction or Low deduction of TDS. If AO satisfied with application of assessee then he may issue such certificate. In this case assessee's TDS will be deducted as per rate given in certificate.
- **> 197A: Declaration in Form 15G/15H:** Where the total income of the Resident (other than company & firm) is below basic exemption limit during the year, no TDS shall be deducted u/s 192A, 193, 194, 194A, 194D, 194DA, 194-I, 194K if Assessee furnishes a self-declaration to the payer in **Form 15G**.

- **Exception:** Benefit will not be available, if the incomes referred to in the above sections itself is beyond basic exemption limit.

However, in case of Resident Senior Citizen, he may furnish **Form-15H** requesting for non-deduction as long the tax payable during the year is **NIL** (even by way of rebate u/s 87A).**Example:** Rent received by Mr Kunal is ₹ 3,60,000 and he has invested ₹ 1,20,000 u/s 80C. Now his NTI is less than basic exemption then also Kunal can't furnish 15G but suppose he is Senior Citizen then he can furnish 15H.

- **Sec 198:** TDS shall also be deemed to be the income of the Payee, except TDS paid by Employer on Non-monetary perquisite or TDS deducted u/s 194N.
- **Sec 199:** TDS credit available to a person from whose income deduction is made except:-
 - In case of clubbing, credit is available to a person in **whose hands the income is ultimately taxable**.
 - In case of tax paid by employer from own pocket on non-monetary perquisite, the **employee can take credit**.

Due date of payment of TDS and TCS

TDS deducted/ TCS collected month	TDS Due date	TCS Due date
During April to February months	7th of Next month	7th of Next month
March month	30th April of next FY	7th April of next FY

Note: If TDS is deducted u/s **194-IA, 194-IB or 194M**, then it should be deposited to Govt. within **30 days** from the end of the month in which it was deducted, along with the return in **Form 26QB, 26QC, 26QD**.

Due date of TDS/TCS Returns/Statements

Quarter Ended	TDS Return	TCS Return
30th June	31st July	15th July
30th September	31st October	15th October

31st December	31st January	15th January
31st March	31st May	15th May

Notes:

(i) Fees of ₹ 200 per day of default u/s 234E is applicable if TDS/TCS return is filed after due dates.

(ii) If TDS/TCS return is filed **after 1 year** of the prescribed date, a penalty u/s 271H ranging from a **min. of ₹ 10,000 to a max. Of ₹ 1, 00,000** shall also be applicable.

Sec 200A/206CB: Processing of TDS/TCS Returns (Intimation by CPC)

1. TDS/TCS returns filed shall be processed electronically and the following adjustments can be made:
 1. (a) Rectification of any **Arithmetical errors**;
 2. (b) **Incorrect claim** apparent on record.
2. An Intimation will be prepared specifying the amount of demand/refund along with interest, fees (if any) and sent to the deductor/collector **within 1 year** from the end of the FY in which the return was filed.

Sec 201 - Assessee in default: If payer not deducted TDS or after deduction not paid to Govt. then such person is treated as assessee in default and required to pay penalty u/s 221 and that can be maximum 100% of TDS amount. AO shall pass order to treat assessee in default within 7 years from end of FY in which payment/credit is made if payment made without TDS. If TDS deducted but not paid to Govt. then there is no time limit in law to treat assessee in default.

Exception: Payer shall not be treated as assessee in default if payments made / credited to Payee without TDS, if such Payee fulfills all the following 4 conditions:

- He has furnished his ROI u/s 139;
- Such sum has been taken into account by him, in such ROI;
- He has paid the tax due on income declared by him in his ROI; and
- Payer has furnished a Certificate in this regard from a CA in Form 26A.

Sec 201(1A): Interest on Late deduction or late payment of TDS

- **Late Deduction:** Interest @ **1%** per month or part of the month on amount of TDS from the date on which TDS was deductible till the date on which TDS actually deducted.
 - **Late Payment:** Interest @ **1.5%** per month or part of the month on amount of TDS from the date on which TDS actually deducted till the date on which such tax actually paid.
-

Case Laws

- **Sun Outsourcing Solutions Private Limited 2018:** Interest u/s 201(1A) is automatically attracted for failure to deduct TDS and does not require a proof of willful default unlike Penalty u/s 221. Hence, if no deduction was made even on a bonafide belief that no TDS is applicable, nevertheless the company is liable to pay interest u/s 201(1A).
 - **Pioneer Overseas Corporation USA (India Branch) (2022) (SC):** Merely raising the dispute before any authority cannot be a ground not to levy the interest and/or waiver of interest u/s 220. Otherwise, each and every assessee may raise a dispute and thereafter, may contend that since the litigation was bona fide, no interest is leviable. It is required to be noted that u/s 220, the levy of simple interest on non-payment of the tax at 1% p.m. is mandatory. (if assessee not paid demand notice u/s 156 within 30 days then interest u/s 220 apply from 31st day)
-

Sec 239A: Refund for denying liability to deduct tax in certain cases

(1) Where under an arrangement, in writing, TDS on any income, (other than interest), u/s 195 is to be borne by payer, and such payer paid such tax to CG claims that no tax was required to be deducted, may, within a period of 30 days from the date of payment of such tax, file an application before AO for refund of such tax in Form 29D.

(2) AO shall, by an order in writing, allow or reject (after giving opportunity of being heard) the application.

3) AO may, before passing an order, make such inquiry as he considers necessary.

(4) Order shall be passed within **6 months from the end of the month in which application is received.**

Case Laws

Air India Ltd. [2023] (SC)

- **Issue:** Whether **Section 206AA** (mandating 20% TDS in the absence of PAN) overrides **DTAA** rates.
- The Court held that **Section 90(2)** gives primacy to DTAA provisions if they are more beneficial to the assessee, even over charging sections 4 & 5.

- Since TDS u/s 195 applies only to amounts chargeable under the Act read with DTAA, Section 206AA cannot compel deduction at 20% where DTAA prescribes a lower rate. Thus, if tax is deducted at DTAA rate, 206AA cannot be invoked. Supreme Court upheld HC & ITAT view, dismissing Revenue's appeal.

BDR Finvest Pvt. Ltd. [2024] (Delhi)

- The Court held that **credit of TDS cannot be denied** to the deductee merely because the deductor failed to deposit it with the Government or it is not reflected in **Form 26AS**.
- Section 199 says TDS is treated as payment of tax only when deposited, but **Section 205** clearly protects the assessee once tax has been deducted from his income.
- Therefore, no recovery of such TDS can be made from the deductee; the remedy lies against the deductor who acted as the Government's agent but defaulted.
- The assessee, having followed the system of tax deduction at source, cannot be penalized for the deductor's failure.

8. Cold Storage charges, which involves providing of refrigeration facility as well as storage facility, shall also be subject to **TDS u/s 194C** as a contract charge only and not u/s 194-I (Rent).

9. Payments by broadcasters or Telecasters (TV channels) to production houses for production of content for broadcasting / telecasting:

Scenario A	Scenario B
Where the content is produced as per the specifications of broadcaster/telecaster and the copyright of the content is also transferred to them (e.g. Production of New Ramayan)	Where telecaster/broadcaster acquires only the telecasting/ broadcasting rights of the content already produced by the production house (Getting right of original Ramayan)



Such contract is covered by the definition of the term ' work ' u/s 194C and	there is no contract for carrying out any work , as required u/s 194C
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Subject to TDS u/s 194C

NO TDS u/s 194C

10. Payment for transportation of gas [Circular 9/2012]

If Seller sells as well as transports the gas to the buyer till the point of delivery, nature of such contract which remains '**contract for sale**' and not a 'works contract' irrespective of fact whether the transportation charges are included in the cost of gas or shown separately. However, if transportation charges paid to a third-party transporter, then **TDS shall be made u/s 194C.**

11. Japan Airlines Co. Ltd. / Singapore Airlines Ltd. (2015) (SC)

Landing and parking charges paid by airline co. to airport authority are not merely for the use of land but it is also for various other facilities provided like air traffic services, ground safety services, aeronautical communication facilities. Hence, these charges are **not liable for TDS u/s 194-I.** In this case **TDS applicable u/s 194C.**

TDS Rates Table

Section	Nature of Payment	Payer	Payee	Rate
194D	Insurance Commission	Any Person	Resident Person	2% (10% if payee Dom. Co.)
194G	Commission on sale of lottery tickets	Any Person	Any Person	2%
194H	Commission and Brokerage	Any Person other than Individual & HUF [Ind/HUF required to deduct TDS, if last year T/O > ₹ 1 Cr in...]	Resident Person	2%

Section 206C (1F)

Section	Nature of Transaction	Rate	Collector (Seller)	Collectee (Buyer)
206C(1F)	Sale of a motor vehicle or any other goods may be notified, of the value exceeding ₹ 10 lakhs	1%	Same as section 206C(1)	Any person other than mentioned in Note-1

Notified Goods:

(a) Any wrist watch (b) Any art piece such as antiques, painting, sculpture (c) Any collectibles such as coin, stamp (d) Any yacht, rowing boat, canoe, helicopter (e) Any pair of sunglasses (f) Any bag such as handbag, purse (g) Any pair of shoes (h) Any sportswear and equipment such as golf kit, ski-wear (i) Any home theatre system (j) Any horse for horse racing in race clubs and horse for polo.

Notes:

1. Public Sector Co engaged in the business of carrying passengers, CG, SG, Embassy, High comm, legation, consulate, trade representation, and Local authority.
2. TCS will apply only in case of **sale of motor vehicle at retail level**. No TCS under this section on sale by manufacturers to dealers/distributors.
3. Threshold limit of ₹ 10 lakhs has to be looked at on **each individual purchase** and not on aggregate purchases made during the year.

Section 206C (1G)

Section	Nature of Transaction	Purpose	Rate	Collector (Seller)
206C(1G)	Remittance of money more than ₹ 10 lakhs under Liberalized Remittance Scheme (LRS) of RBI	Education or Medical	5% of amount in excess of ₹ 10 lakhs (Note: 2)	Authorized dealer
		Other Purpose	20% of amount in excess of ₹ 10 lakhs	
	Sale of overseas tour program package (OTPP)		5% of sale value upto ₹ 10 lakhs and 20% above ₹ 10 lakhs.	Seller of OTPP

Additional Points:**1. No TCS if buyer is:**

>Deducted TDS under any section;

>CG, SG, Embassy, High comm., legation, consulate and trade representation, Local authority.

> Non Resident Visiting India.

2. In case of LRS if remitted amount is out of **Educational Loan (referred u/s 80E)** taken from Financial Institution then **TCS not apply**.

3. "OTPP" means any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

1. 4. Authorized dealer shall not collect TCS on an amount in respect of which TCS has been collected by the seller.

5. CBDT Clarifications

- **Payment through overseas credit card not counted in LRS:** No TCS applicable on expenditure through international credit card while being overseas till further order.
- **Threshold of ₹ 10 lakh for LRS is a combined threshold** for applicability of the TCS on LRS irrespective of the purpose of the remittance (like education, medical, or others).
- **Medical treatment** shall include remittance for purchase of tickets of patient and his attendant, his medical expense, and other day-to-day expenses required for such purpose.
- **Education purpose** shall include remittance for purchase of tickets, tuition, and other fees to be paid to educational institute and other day-to-day expenses required for undertaking such study.
- Only overseas flight ticket is booked or only hotel booked **not covered in "OTPP"**.

Examples

1. **Mr. BB wants to transfer ₹ 15 lakhs on 15/9/25 & ₹ 12 lakhs on 14/2/26 to USA for buying property through AB Ltd. (an authorized dealer) under LRS scheme of RBI.**

1. **Sol.-** In this case, AB Ltd is required to collect TCS from Mr. BB @ 20% of ₹ 5 lakhs (amount exceeding ₹ 10L) i.e., **₹ 1,00,000** on 15/9/25 & @ 20% of ₹ 12 lakhs i.e., **₹ 2,40,000** on 14/2/26.

2. **Suppose in Q 1, Mr. BB wants to transfer only ₹ 5 lakhs instead of ₹ 27 lakhs.**

2. **Sol. -** In this case, TCS is **NOT applicable** as it applies only if the amount is more than ₹ 10 lakhs.

3. Suppose in Q 1, Mr. BB wants to transfer for the purpose of Education or Medical treatment.

3. **Sol.-** In this case, AB Ltd is required to collect TCS from Mr. BB @ 5% of ₹ 5 lakhs i.e., ₹ **25,000** on 15/9/25 & @ 5% of ₹ 12 lakhs i.e., ₹ **60,000** on 14/2/26.

4. Suppose in Q 1, Mr. BB wants to transfer for the purpose of Education and this amount is out of an educational loan taken from IDFC First Bank.

4. **Sol. -** In this case, AB Ltd is **not required** to collect TCS.

5. Suppose in Q 1, Mr. BB remitted ₹ 15 lakhs through AB Ltd. (dealer) and ₹ 12 lakhs through JJ Ltd (dealer).

5. **Sol.-** As per CBDT clarification, the limit of ₹ 10, 00,000 is applicable on the total LRS remittance made by any person in a PY. In this case, TCS is applicable as per the answer given in point 1. JJ Ltd. will take a **self-declaration** from Mr. BB about his earlier remittance through AB Ltd.

6. Mr. Devam purchased a Singapore tour package from Thomas Cook for ₹ 2, 50,000 on 16/6/25.

6. **Sol.-** In this case, Thomas Cook is required to collect **TCS @ 5%** of ₹ 2,50,000 i.e., ₹ **12,500**.

2. **7. Suppose in the above example, Devam deducted TDS of Thomas Cook u/s 194C.**

0. **Sol.-** If TDS is deducted under any provisions of IT, then **TCS does not apply** u/s 206C(1G).

3. **8. Mr. SS purchased a Thailand tour package from MMT for ₹ 15, 00, 000 on 10/12/25.**

0. **Sol.-** In this case, MMT is required to collect TCS @ 5% of ₹ 10, 00,000 i.e., ₹ **50,000** & 20% of ₹ 5,00,000 i.e., ₹ **1,00,000**. Total TCS amount is ₹ **1, 50,000**.

Miscellaneous Provisions

- **Time of Collection TCS:** TCS has to be collect at the time of debiting the party or receiving the consideration, whichever is earlier but in case of **section 206C(1F)** it has to collected only at the time of receive the consideration.
- **Sec 206C(7): Interest on late collection/deposit TCS:**

- **Late Collection:** Interest @ 1% per month or part of the month on amount of TCS from the date on which TCS was collectible till the date on which TCS actually collected.
- **Late Payment:** Interest @ 1.5% per month or part of the month on amount of TCS from the date on which TCS actually collected till the date on which such tax actually paid.
- **Sec 206CC:** If the collectee has not provided **PAN or Aadhaar** to the collector, then TCS rate shall be:
 - (a) Twice of the rate or
 - (b) 5%

Whichever is higher

Note: From 1.7.23, the higher rate of TCS leviable for non-furnishing of PAN should not exceed 20%.

22 ASSESSMENT PROCEDURE

Sec 139(1): Filing of Return of Income (ROI) [Normal return]

- **A. for Company & Partnership Firm (including LLP)** - Return filing is compulsory.
- **B. For other Assessee** - If GTI (before claiming exemption u/s 54, 54B, 54D, 54EC, 54F, 54G, 54GA) is more than the **Basic exemption**, then return filing is compulsory.
- **C. Following persons are compulsorily required** to file the return:
 1. **Resident Individual** - Resident (other than R but NOR)
 2. ↓

Category A	Category B
<ul style="list-style-type: none"> • Beneficial owner of any asset (including financial interest) located outside India. 	<ul style="list-style-type: none"> • Beneficiary of any asset (including financial interest) located outside India.
<ul style="list-style-type: none"> • Has signing authority in any Account outside India. 	

Note: If income is already included in the income of person "A", then "B" is not required to file ROI.

- **Beneficial Owner:** Individual providing consideration for the asset directly or indirectly for the immediate or future benefit of himself or any other person.
- **Beneficiary:** Individual deriving benefit from the asset, consideration for which has been provided by any other person.

2. Person (other than Company and Firm) not covered in above points required to file ROI, if:

- Assessee has **deposited** an aggregate amount **exceeding ₹ 1 crore rupees** in one or more **current accounts** maintained with a bank or a co-operative bank or **deposited ₹ 50 lakhs or more** in one or more **savings accounts**.
- Assessee has incurred **foreign travel expenditure** of an aggregate amount **exceeding ₹ 2 lakhs** for himself or any other person.
- Assessee has incurred expenditure of an aggregate amount **exceeding ₹ 1 lakh** towards **consumption of electricity**.
- Assessee's **total sales, turnover or gross receipts**, as the case may be, in the **business exceeds ₹ 60 lakhs** during the PY or **total gross receipts in profession exceeds ₹ 10 lakhs** during the PY.
- Assessee's aggregate of **TDS and TCS** during the PY is **₹ 25,000 or more** (in case of senior citizens, **₹ 50,000**).

Due Dates of Return Filing

Assessee	Due Dates
Person required to furnish Transfer Pricing Audit report u/s 92E including the partners* of the firm	30th Nov. of AY
<ul style="list-style-type: none"> • Company, other than above • Person whose Books of Accounts are required to be audited under any law • Partner* of a firm, where firm's Books of Accounts are required to be audited under any law 	31st Oct. of AY
Person other than the above	31st July of AY

*** Or the spouse of such partner if the provisions of section 5A applies to such spouse.**

Note: As per section 5A, if an individual is governed by the **Portuguese Civil Code of 1860** in Goa, Dadra and Nagar Haveli, and Daman and Diu, then Income shall be equally distributed between husband and wife except Salary.

Sec 139(1C): Central Govt may exempt class of person to file ROI

Central Government may by notification specify such class or classes of persons who will be **exempted from the requirement of filing of return:—**

- 1. NR/Foreign Co.,** having income only from **Investment fund set up in IFSC** are exempted from furnishing return provided tax on such income has been deducted u/s 194LBB and paid to the CG. However, no exemption will be available where a notice u/s 142(1) or Sec 148 has been issued by the AO for filing a return of income.
 - 2. NR/Foreign company,** having only income from **specified Fund referred u/s 10(4D) &** provisions of obtaining PAN are not applicable for such assessee.
 - 3. NR,** being an eligible foreign investor having income only from **transfer of capital asset referred to in section 47(viiab)** of the said Act, which are listed on RSE in IFSC and the consideration is paid or payable in foreign currency & provisions of obtaining PAN are not applicable for such assessee.
-

Sec 139(3): Loss Return

As per sec 80, the assessee is required to file the return **upto the due date u/s 139(1)** for the carry forward of the following losses:

- Business loss u/s 72(1)
- >Speculation business loss u/s 73(2)
- >Loss from specified business u/s 73A(2)
- >Loss under the head "Capital Gains" u/s 74(1)
- >Loss from the activity of owning and maintaining race horses u/s 74A(3)

Notes:

1. **Loss can be set-off** even if return filed after due date.
2. **House property losses & unabsorbed depreciation** can be Carry Forward even if return late filed.

3. The condition stipulated/enumerated in sec. 80 applies only for the **year in which the loss was sustained/incurred**. It does not apply to the ROI of the year in which carry forward is claimed.
4. **Govind Nagar Sugar Ltd. (2011) (Delhi)**: Unabsorbed depreciation will be allowed to be c/f to subsequent year even though the ROI of the current AY was not filed within the due date u/s 139(1).
5. As per CBDT Circular, Loss can be c/f even if ROI filed after due date and delay in filing of loss return in case of genuine hardship can be condoned by:

❖ **Monetary limits - Circular 11/2024 w.e.f. 1/10/24**

Authority	Return Losses
CIT/PCIT	upto ₹ 1 Crore
CCIT	> ₹ 1 Crore upto ₹ 3 Crores
PCCIT	> ₹ 3 Crores

6. Condonation appln can be made **within 5 years** from end of AY. IT Authority will dispose appln within 6 month from end of the month in which appln is received.

Sec 139(4): Belated Return

If Assessee fails to file return within due date then he can file belated return within following time limit:

- Before the **three months** prior to end the of the relevant AY (**31st Dec. 26** for AY 26-27)
- OR**
- Before completion of **Assessment**
- Whichever is earlier**

❖ **Consequences of belated return**

- No carry forward of specified loss as per sec 80.
- No deduction of certain Income u/c VI-A (80-IA to 80RRB) and u/s 10AA as per 80AC.
- Interest u/s 234A i.e. 1% pm or part of the month.
- Late filing fees u/s 234F i.e. ₹ 5,000/1,000.

- Interest on refund u/s 244A calculated from the date of filing of ROI and not from 1st April of AY.
-

Sec 139(5): Revised Return

Any person filed return u/s 139(1) or 139(3) or 139(4), if discover any omission or wrong statement in such ROI filed earlier, then such person can file revised return within following time limit:

- Before the **three months** prior to end the of the relevant AY (**31st Dec. 26** for AY 26-27)
OR
 - Before completion of **Assessment**
Whichever is earlier
-

Notes:

1. Belated return filed u/s 139(4) can be revised u/s 139(5).
 2. Revised return substitutes original return from the date the original return was filed.
 3. Assessee can revise return any no. of times within time limit.
 4. Return can be revised even after receiving intimation or refund under **sec. 143(1)** as **sec. 143(1)** is not completion of assessment.
 5. **Orissa Rural Housing Development Corpn. Ltd. (2012) (Orissa):** Assessee cannot revise the particulars filed in the original return of income by filing a revised statement of income. He has to file a revised return u/s 139(5). AO has no power to entertain a fresh claim made by the assessee after filing of the original return except by way of filing a revised return.
-

Sec 139(4A): Return of Trust

If total income before giving exemption **u/s 11 & 12** is more than basic exemption, then trust is required to file returns.

Note: If Trust file late return then **penalty of ₹ 500 per day u/s 272A** for default period also applicable in addition to fees u/s 234F.

Sec 139(4B): Return of Political Parties

If total income before giving exemption **u/s 13A** more than basic exemption, then political party is required to File the return.

Sec 139(4C): Return of Certain Institutions

If total income before giving exemption **u/s 10** more than Basic exemption, then Hospitals, Medical Institutions, Infrastructure debt fund, Mutual fund, Securitization Trust, Venture capital Co., Venture capital funds, Research association, News agency, Trade union, Investor protection fund, Fund for the welfare of employees and their dependents, Core settlement guarantee fund are required to file return.

Note: If above institution file late return then **penalty of ₹ 500 per day u/s 272A** for default period also applicable in addition to fees u/s 234F.

Sec	Assessee	Return Filing
139(4D)	College, University or Educational Institution approved u/s 35	Return Filing
139(4E)	Business Trust (REIT/InvIT)	is
139(4F)	Investment Fund (AIF Cat. I & II)	mandatory

Sec 139(6): Particulars to be furnished with the ROI

The ITR form may require assessee to file details of Exempt Income, Assets of specified nature & value, Bank a/c & Credit card, Expenditure more than specific limits in prescribed head.

Sec 139(6A): Particulars to be furnished with the ROI for Assessee engaged in Business

The ITR form shall require following when assessee engaged in Business or Profession:—

- Tax Audit Report u/s 44AB
- Location and Style of Principal Place and Branches
- Name and address of partners/members of Firm/AOP/BOI.

Sec 139(9): Defective Return

Return shall be considered as defective, if—

- (a) Return not Filed in **prescribed form**,
- (b) **Proofs of tax** not attached with return,
- (c) **Report u/s 44AB** not submitted.

If return treated as defective, A.O. shall intimate the defect to assessee & give him an opportunity to rectify the defect within **15 days or extended time**; if assessee does not rectify the defect then return shall be treated as invalid return (**void-ab-initio**).

Sec 139A: Permanent Account Number (PAN)

S.No	Persons required to apply for PAN	Time limit for application
1.	Every person, if his total income or the total income of any other person in respect of which he is assessable exceeds Basic exemption .	upto 31st May of the AY
2.	Every person carrying on Business or Profession whose Turnover or Gross receipts are or is likely to exceed ₹ 5 lakhs in any PY	Upto end of PY
3.	Trust required u/s 139(4A)	Upto end of PY
4.	Resident, other than an individual , which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a FY	upto 31st May of the AY
5.	MD, director, partner, trustee, author, founder, Karta, CEO, principal officer or office bearer of person referred in (4)	upto 31st May of the AY
6.	Person intends to enter into following transactions: (a) Cash deposits aggregating ₹ 20 lakhs or more in a FY, in one or more a/c with a Bank or a co-op. bank (b) Cash withdrawals aggregating ₹ 20 lakhs or more in a FY, in one or more account with a Bank or a co-op. bank (c) Opening of a current a/c or cash credit a/c with a Bank /Co-op. bank	At least seven days before the date on which he intends to enter into the said transaction.

Note: If a person entering into specified transaction (above point 6) required to apply for PAN. In case of **NR or foreign company** entering into this transaction in **IFSC Banking units** and such NR/FC not having any income in India not required to apply for PAN.

Cases where PAN to be quoted in Transactions

S.No	Nature of transaction	Value of transaction
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1.	Sale or purchase of a motor vehicle, other than two-wheeler	All such transactions
2.	Opening an account [other than FD referred in 12 and a Basic Savings Bank Deposit Account] with a Bank or Co-Op. Bank	All such transactions
3.	Making an application to Bank or Co-Op. Bank or to any other company or institution for issue of a Credit or Debit card	All such transactions
4.	Opening of a D-Mat account	All such transactions
5.	Payment to a hotel or restaurant against a bill or bills at any one time	Cash of > ₹ 50,000
6.	Payment in connection with travel to any foreign country or for purchase of any foreign currency at any one time	Cash of > ₹ 50,000
7.	Payment to a Mutual Fund for purchase of its units	Amount > ₹ 50,000
8.	Payment to Company or Institution for acquiring debentures or bonds issued by it	Amount > ₹ 50,000
9.	Payment to RBI for acquiring bonds issued by it	Amount > ₹ 50,000
10.	Deposit with Bank or Co-Op. Bank or post office	Cash deposit > ₹ 50,000 during any one day
11.	Purchase of bank drafts or pay orders or banker's cheques from a Bank or Co-Op. Bank	Cash payment > ₹ 50,000 during any one day
12.	FD with Bank or Co-Op. Bank or post office or Nidhi or NBFC	Amount > ₹ 50,000 or aggregating to more than ₹ 5 lakhs during a FY

13.	Payment for one or more pre-paid payment instruments of Bank or Co-Op. Bank or to any other company or institution	Amount > ₹ 50,000
14.	Payment as life insurance premium to Insurer	Amount > ₹ 50,000 in FY
15.	A contract for sale or purchase of securities (other than shares)	Amount > ₹ 1 lakh per transaction
16.	Sale or purchase of Unlisted shares of a company	Amount > ₹ 1 lakh per transaction
17.	Sale or purchase of any immovable property	Amount or SDV > ₹ 10 lakhs
18.	Sale or purchase of any goods or services (other than covered above)	Amount > ₹ 2 lakhs per transaction

Following person not required to obtain PAN:

1. **Minor** not having any income taxable in his own hands, can enter into the above transactions by quoting the PAN of his parents or guardian.
2. In case of **NR**, earn only income from investment in specified fund (AIF I & II located in IFSC) in PY & specified fund deducted TDS u/s 194LBB.

3. In case of **NR eligible foreign investor**, earn only income from transaction made in capital assets referred u/s 47(vii ab), which were listed on a recognised stock exchange in IFSC & consideration on transfer shall be paid or payable in foreign currency.

Common points for Point 2 & 3:

I. The NR/Foreign investor furnishes the following details and documents to the Specified fund/stock broker, namely:

- name, e-mail id, contact number
- address in the foreign country of which he is a resident
- a declaration that he is a resident of a foreign country
- Tax Identification Number in the country of his residence, if not available then a unique number on the basis of which the NR is identified in that country.

II. The Specified fund/Broker files quarterly statement for the quarter in which, the above details are received in **Form 49BA to PDGIT/DGIT (Systems)** and upload declarations received within 15 days from the end of the quarter to which statement relates.

Form 60 requirement in case of Foreign Company enters into transactions in IFSC banking unit

Foreign company who does not have any income chargeable to tax in India and does not have **PAN** and enters into following transactions, in IFSC banking unit, has to make declaration in **Form No. 60**.

S.No	Nature of transaction	Value of transaction
1.	Opening an account [other than FD & Basic Saving A/c] with Bank or Co-Op. Bank	All such Transactions
2.	FD with Bank or Co-op Bank or Post Office or Nidhi or NBFC	Amount > ₹ 50,000 or aggregating to more than ₹ 5 lakhs during a FY

PAN & Aadhaar Interchangeable

- Every person who is required to intimate/quote his PAN **may quote his Aadhaar** if he:
 - has not been allotted a PAN but possesses the Aadhaar (PAN will be allotted automatically by dept. without any documents & Fees), or
 - Has been allotted a PAN and has already linked Aadhaar & PAN.
- Every person entering into prescribed transaction (point 6 of sec 139A) shall be required to **authenticate the PAN or Aadhaar** quoted. Also, every person receiving such documents should ensure that PAN or Aadhaar is quoted on the documents and authenticated.

E.g. Suppose Mr. BB deposited cash of ₹ 25 lakhs with HDFC Bank and BB submitted his PAN/Aadhaar then BB require to authenticate that PAN/Aadhaar belongs to him. In this case HDFC Bank also require to authenticate that PAN/Aadhaar belongs to BB only.

Note: Provided that the provision of above point 2 shall not apply where the person, depositing or withdrawing money or opening a current a/c or cash credit a/c, is the CG, SG or the Consular Office.

Sec. 272B: Penalty for failure to comply with section 139A

S.No.	Failure	Penalty (₹)

1.	Fails to comply with provisions of sec 139A	10,000
2.	If a person requires to quote his PAN or Aadhaar, in any document referred u/s 139A, quotes a false number	10,000 for each default
3.	Person entering into prescribed transactions fails to authenticate PAN or Aadhaar in documents	10,000 for each default
4.	Person receiving such documents fails to ensure that PAN or Aadhaar quoted and fails to authenticate	10,000 for each default
	In case of	Verified by
5.	Company	MD
	• No MD	Any other Director or *any other person may be prescribed
	• Co. under liquidation	Liquidator
	• Application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the IBC, 2016	Insolvency professional appointed by such Adjudicating Authority
6.	Political Party	CEO
7.	Local Authority	Principal officer
8.	Any other person	Person competent to verify

**Person, appointed by the Adjudicating Authority for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the IBC, 2016.*

Sec 139AA: Aadhaar Number

A. Every person who is eligible to obtain Aadhaar number shall, on or after the 1st July, 2017, quote Aadhaar number:

(i) in the application form for allotment of PAN;

(ii) in the return of income.

If Aadhaar No. not available then that person should quote **Aadhaar Enrolment ID**. From 1/10/24, Enrolment ID option not available and if any person applied for PAN on the basis of Enrolment ID then he mandatorily required to intimate his Aadhaar No. upto 31/12/25 to DGIT/PDGIT(system).

B. Every person already holding PAN on 1st July 2017, shall link Aadhaar with PAN till 31/03/2022 otherwise PAN shall be made inoperative.

Note: As per C.G Notification, Sec. 139AA not apply to an individual who **does not possess the Aadhaar number** or Enrolment ID and is:

(i) Residing in the states of J&K, Meghalaya and Assam

(ii) NR as per IT Act, 1961

(iii) Age of 80 years or more at any time during the P.Y.

(iv) Not a citizen of India

- Where a person fails to link his Aadhaar No. with PAN upto 31/03/2022, the **PAN shall become inoperative** till the same is linked and until such date it shall be deemed that the person has not quoted his PAN in any transaction, thus becoming liable for penalty u/s 272B. His PAN would become operative within 30 days from the date of intimation of Aadhaar number.
- If assessee link Aadhaar with PAN on or after 01/04/2022 then he is required to pay **fees as per sec. 234H** (given in advance tax topic).

-
- If assessee fails to link till 31/03/22 then PAN will be inoperative but as per CBDT negative consequences of not quoting or not furnishing PAN shall be **applicable from 01/07/23**.

Sec 139B: Tax Return Preparer (TRP)

1. CBDT to frame a scheme whereby a **specified class of persons** can file their ROI through TRPs.
2. A TRP means an **Individual** who is authorised to act as TRP by CBDT, other than following persons:
 1. A Chartered Accountant;
 2. A Legal Practitioner;

3. An Officer of Scheduled Bank with which assessee maintains an account;
 4. Employee of specified class of person.
3. **Specified class of persons** means any persons who is required to file ROI, other than:—
0. (a) A Company
 1. (b) Person whose BOA are required to be audited u/s 44AB or under any other law
 4. As per CBDT, scheme only **Individual and HUF** can file their return through TRP.
 5. Individual holding bachelor degree from recognised Indian university or passed inter exam of ICAI/ICSI/ICAI(CMA) can become TRP.

Sec 139C: Annexure-Less ROI

CBDT to make rules providing for persons who shall not be required to furnish any Certificate, Audit Report, any Document or a Receipt etc. along with their ROI.

Empowers CBDT to make rules for the followings:

- (a) A class of person who shall be required to furnish their ROI mandatorily on a computer readable media (i.e., **e-filing of ROI**)
- (b) The terms and the manner and the form in which such return can be filed electronically
- (c) CBDT may require the persons who are not required to attach any documents along with ROI, to furnish such documents whenever required by an AO. **[Sec. 139D]**

Sec 140: Verification of Return

**Person, appointed by the Adjudicating Authority for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the IBC, 2016.*

Note: If return not verified then it is treated as return **void-ab-initio (invalid return)**.

Sec 140A: Self-Assessment Tax (SAT)

Assessee is required to **pay taxes before Filing of return** [after considering advance tax, TDS, TCS, MAT, AMT credit, relief (include relief u/s 89) any tax, interest payable u/s 191(2)] along **with interest & Fees**.

If there is short payment then the amount so paid is **first adjusted towards Fees, thereafter towards interest & balance towards taxes**.

Sec 139(8A): Updated Return (Added by FA 2022 w.e.f. 01/04/2022)

- **Updated return:** Any person may furnish an updated return of his income (or the income of any other person in respect of which he is assessable). This section applicable from **1st April, 2022**.
- **Time-limit:** Updated return can be submitted **within 48 months from the end of the relevant AY**.
E.g.:- Updated return for the **AY 25-26** can be submitted on or before **31st March, 2030**.
- **Who can submit updated return:** Updated return can be submitted by any person whether (or not) he has furnished a return u/s 139(1)/ (4)/ (5) for an AY.
- **Other points: The following points should be noted: -**
 - If a person has sustained a loss for any PY and he has already submitted return of loss for the year within due date u/s 139(1), he can furnish an updated return **where such return is a return of income**.
 - If as a result of submitting updated return, the quantum of carried forward loss (or unabsorbed depreciation or MAT/AMT credit) is to be reduced for any subsequent year, then an updated return shall be furnished for each such subsequent year.

When updated return cannot be submitted:-

1. If updated return is a **return of a loss**.
2. If updated return has the effect of **decreasing the total tax liability** determined on the basis of return furnished u/s 139(1)/(4)/(5) or **results in refund or increases the refund due** on the basis of return furnished u/s 139(1)/(4)/(5), of such person for the RAY.
3. A person shall **not be eligible** to furnish an updated return, if -
 - (a) **Search** has been initiated u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A in the case of such person, or
 - (b) **Survey** has been conducted u/s 133A [other than TDS/TCS survey] of that section in the case of such person, or
 - (c) a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned u/s 132 or 132A in the case of **any other person belongs to such person**, or
 - (d) a notice has been issued to the effect that any books of account or documents, seized or requisitioned u/s 132 or 132A in the case of any other person, pertain or pertains to, or any

other information contained therein, **relate to, such person. Note:** This provision is for the AY relevant to the PY in which search is initiated, or survey is conducted or requisition is made and any AY preceding such AY. For instance, if search is initiated on 10th May, 25, then updated return cannot be submitted for the AY26-27 or any preceding AY.

4. **No updated return** shall be furnished by any person for the RAY, where, -
 - (a) Updated return has been furnished by him **u/s 139(8A)** for the RAY, or
 - (b) Proceeding for assessment/reassessment/re-computation/revision of income is **pending or has been completed** for the RAY in his case, or
 - (c) AO has information in respect of such person for the RAY in his possession under the **Prevention of Money Laundering Act, 2002** or the **Black Money** (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or the **Prohibition of Benami Property Transactions Act, 1988** or **The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976** and the same **has been communicated to him**, prior to the date of his filing of ROI u/s 139(8A), or
 - (d) Information for RAY has been received under an agreement **u/s 90 or 90A** in respect of such person and the same has been communicated to him, prior to the date of his filing of ROI u/s 139(8A), or
 - (e) **Prosecution proceedings u/c XXII** have been initiated for the RAY in respect of such person, prior to the date of his filing of return u/s 139(8A), or
 - (f) Where any notice to show-cause u/s 148A has been issued in his case after **36 months** from the end of the RAY and case decided to be fit to issue notice u/s 148.
- **Updated return to be accompanied by proof of payment of tax and additional income-tax** - updated return cannot be submitted unless it is accompanied by proof of payment of tax u/s 140B (i.e., tax and additional income-tax).

How to calculate tax on updated return [Sec. 140B]

Mode of computation of tax (including additional tax) is given by section 140B as follows: —

- **Where assessee has not furnished return earlier** - Where no return of income u/s 139(1)/(4) has been furnished by an assessee, he shall before furnishing updated return is liable to pay the tax due together with interest and fee payable for any delay in furnishing return or any default or delay in payment of advance tax, along with the payment of additional tax. The tax payable shall be computed after considering the following: —
 - any advance tax (already paid);
 - any TDS/TCS;

- any relief of tax claimed u/s 89/90/90A/91;
- Any AMT/MAT credit u/s 115JAA/115JD.

Such updated return shall also be accompanied by proof of payment of such tax, additional tax, interest and fee u/s 234F.

- **Where assessee has furnished return earlier** - If an assessee has furnished return u/s 139(1)/ (4)/ (5) (referred to as earlier return), he (before submitting updated return) is liable to pay the tax due together with interest payable for any default or delay in payment of advance tax, along with the payment of additional tax, as reduced by the amount of interest paid in the earlier return. The tax payable shall be computed after considering the following: —

- the amount of relief or tax, referred u/s 140A(1), credit for which has been taken in the earlier return;
- TDS/TCS on any income which is subject to such deduction or collection, and which is taken into account in computing total income and which has not been claimed in the earlier return;
- any relief of tax or deduction of tax claimed u/s 90/90A/91 which has not been claimed in the earlier return;
- Any MAT/AMT credit claimed, to be set off which has not been claimed in the earlier return.

The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of earlier return. The updated return shall be accompanied by proof of payment of such tax, additional tax, interest and fee.

Computation of Additional Tax

Time limit of filing updated return from end of RAY	Additional Tax on tax computed above
after expiry of time u/s 139(4)/(5) but within 12 months	25% of (Tax + SC + HEC + Interest)
after expiry of 12 months but before 24 months	50% of (Tax + SC + HEC + Interest)
after expiry of 24 months but before 36 months	60% of (Tax + SC + HEC + Interest)
after expiry of 36 months but before 48 months	70% of (Tax + SC + HEC + Interest)

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- **How to calculate interest u/s 234B where an earlier return is furnished:** - Where an earlier return has been furnished, interest payable u/s 234B shall be computed on an amount equal to the assessed tax. For this purpose, "assessed tax" means the tax on the total income as declared in updated return after considering the following: -
 - the amount of relief or tax, referred u/s 140A(1), the credit for which has been taken in the earlier return;
 - TDS/TCS on any income declared in updated return and which has not been claimed in the earlier return;
 - any relief u/s 90/90A/91 which has not been claimed in the earlier return;
 - Any AMT/MAT credit, which has not been claimed in the earlier return.

The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of such earlier return.

Other points - The following points should be noted

1. If no earlier return is furnished, interest payable u/s 234A shall be calculated on the basis of tax on total income as declared in the updated return.
2. If earlier return is furnished, interest payable u/s 234C shall be computed after considering the total income furnished in the updated return as the returned income.

Example

Mr. X would like to furnish his updated return for the A.Y. 23-24. In case he furnished his updated return of income, he would be liable to pay ₹ 2, 50,000 towards tax and ₹ 35,000 towards interest after adjusting tax and interest paid at the time of filing earlier return. You are required to examine whether Mr. X can furnish updated return- (i) as on 31.3.25 (ii) as on 28.2.28 (iii) as on 31.5.28. If yes, compute the amount of additional income-tax payable by Mr. X at the time of filing his updated return.

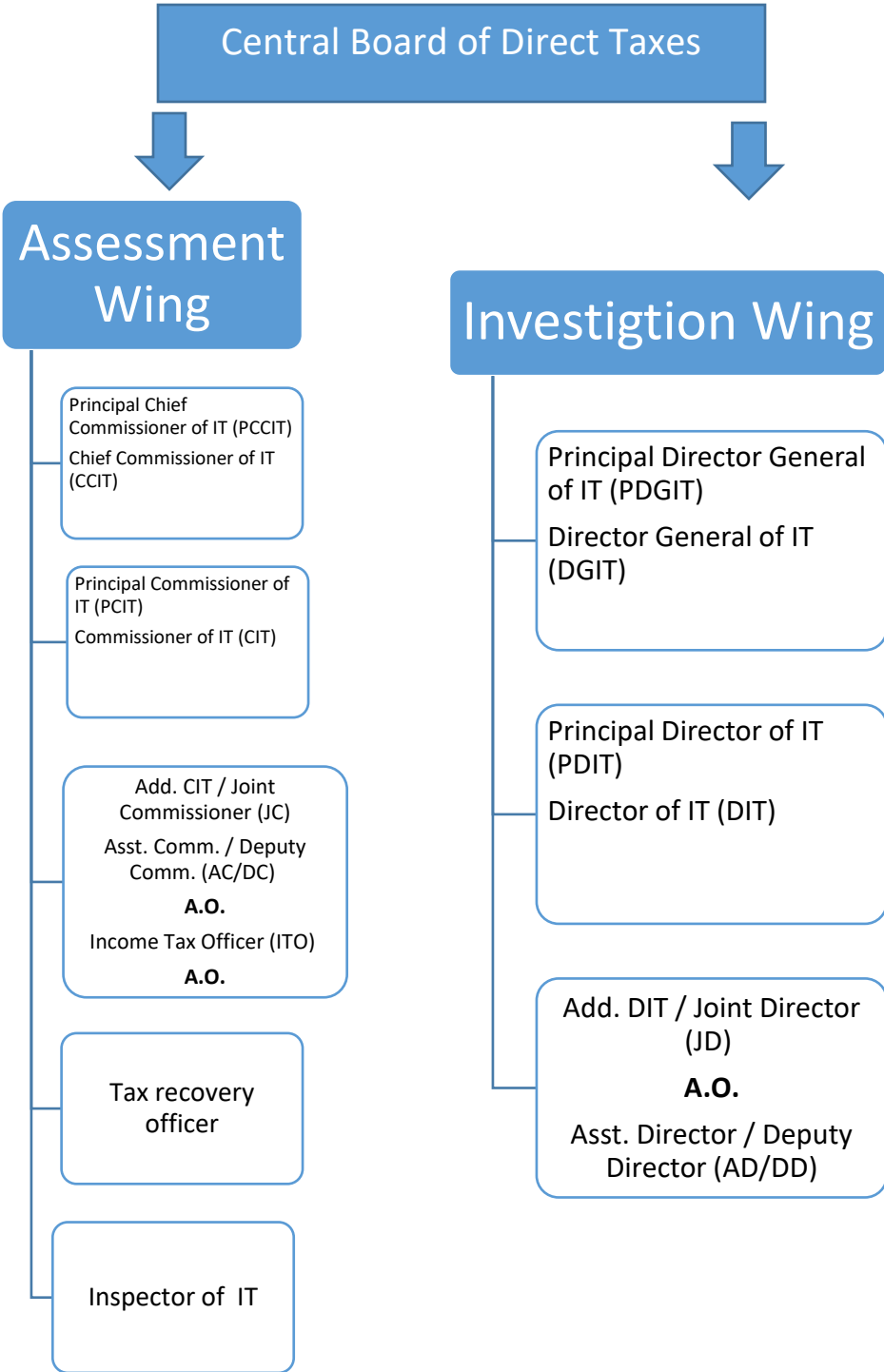
Sol. Mr. X may furnish an updated return of his income for A.Y. 23-24 at any time within 48 months from the end of AY i.e., 31.3.28. Accordingly, Mr. X can furnish updated return as on 31.3.25 and 28.2.28. However, he cannot furnish such return as on 31.5.28.

Accordingly, **Mr. X is liable** to pay additional IT in case he furnished his updated return as on:

- (i) **31.3.25 - ₹ 71,250** [25% of 2,85,000, being tax of ₹ 2,50,000 plus interest of ₹ 35,000]
- (ii) **28.2.28 - ₹ 1,99,500** [70% of 2,85,000, being tax of ₹ 2,50,000 plus interest of ₹ 35,000]

He cannot furnish updated return where he has received notice u/s 147, since proceeding for income escaping assessment for the A.Y. 23-24 are pending.

Income Tax Authorities & their powers
Sec 116: Income Tax Authorities



Notes

1. **CIT (Appeals) & JC (Appeals)** are also considered **I.T. Authorities** as per **Section 116**.
2. **Section 2(7A)**: Defines the **Assessing Officer (A.O.)** – This includes Additional CIT / JC / AC / DC / ITO / Addl. DIT / JD / AD / DD.

Section 119: Power of CBDT to issue orders, instructions, and circulars

1. The **CBDT** can issue orders, instructions, and circulars to its subordinates for the proper administration of the Act. These are **binding** on the subordinates.
2. However, the **CBDT is NOT empowered** to issue orders, instructions, or directions that:
 - a. Require any I.T. authority to make a **particular assessment** in a particular manner.
 - b. Interfere with the **discretion of the CIT (A) / JC (A)** while they are exercising their appellate functions.
3. The CBDT can **relax certain provisions** of the Income Tax Act to remove difficulties faced by taxpayers (e.g., extending the **due date** for filing returns).
4. The CBDT can pass general or special orders authorizing any I.T. authority [other than CIT(A) / JC(A)] to admit claims for **exemptions, deductions, refunds, or carry forward of losses**, even after the expiry of the specified period, to avoid **genuine hardship** for the assessee.

5. Case Laws

- **SV Gopala Rao and Others [2017] (SC)**: CBDT does not have the power to amend legislative provisions in exercise of its powers **u/s 119** of the Income-tax Act, 1961 by issuing a Circular.
- **Regen Powertech Private Ltd. [2019] (Mad)**: A CA refused to sign an audit report on the last day. The assessee appointed a new CA, but due to delays in obtaining an NOC from the previous CA, the audit and subsequent return filing were delayed. The court held that delay in carrying out an audit is a circumstance **beyond the control of the assessee**. Any delay in filing the return due to such reasons should be condoned by the CBDT; it is the duty of the CBDT to exercise its discretion in a proper manner.

Sec 119A: Taxpayer Charter

The Income-tax department is committed to:

- Providing fair, courteous, and reasonable treatment.
- Treating the taxpayer as honest.
- Providing mechanisms for appeal and review.
- Providing complete and accurate information and timely decisions.
- Collecting the correct amount of tax.
- Respecting taxpayer privacy and maintaining confidentiality.
- Holding its authorities accountable.
- Enabling a representative of choice and providing a mechanism to lodge complaints.
- Providing a fair and just system, publishing service standards, and reducing the cost of compliance.

The Income-tax department expects taxpayers to:

- Be honest, compliant, and informed.
- Keep accurate records.
- Know what their representative does on their behalf.
- Respond in time and pay the due amount on time.

Sec 120: Jurisdiction of Income-tax Authority

Jurisdiction is allotted on the basis of:

1. **Territorial Area:** e.g., PIN code.
2. **Person or Class of person:** e.g., Company.
3. **Income or Class of Income:** e.g., Salary Income.
4. **Cases or Class of Cases:** e.g., Professionals like CAs, Doctors, Lawyers, etc.

Sec 124: Jurisdiction of Assessing Officer

Once jurisdiction of an area is allotted to an A.O., they can exercise jurisdiction over any person:

1. Who is **carrying on Business or Profession** in that area; or
2. Who has their **Principal Place of Business or Profession** in that area; or
3. Who **resides** in that area.

In case of disputes over jurisdiction, the A.O. shall refer the matter to a higher authority.

Assessee can also challenge the jurisdiction of A.O. within the following limits:

ROI filed 139(1)	ROI not filed
(a) 1 month from the date of receipt of notice u/s 142(1)/143(2); or	(a) within limit allowed in notice u/s 142(1)/148 to furnish ROI; or
(b) Before completion of assessment whichever is earlier.	(b) Within limit allowed in a Show Cause Notice u/s 144 to show a cause whichever is earlier.

Sec 127: Power to transfer cases

- CCIT/PCCIT/DGIT/PDGIT/CIT/PCIT/DIT/PDIT can transfer the case from one A.O. to another A.O. subordinate to him after giving a **reasonable opportunity of being heard** to the concerned assessee.
- **Exception:** No opportunity of being heard shall be required if the case is to be transferred from one A.O. to another A.O. within the **same city, town or locality**.
- Disputes regarding jurisdiction shall be resolved by higher authorities on mutual understanding.

Sec 129: Change of Income-tax Authority

1. Where an IT authority succeeds another IT authority (who ceases to exercise jurisdiction), the succeeding IT authority may **continue the proceedings from the stage at which the proceedings were left** by his predecessor.
2. The assessee concerned may **demand** that the previous proceedings (or any part thereof) be reopened or reheard before passing any assessment order.

Sec 130: Faceless Jurisdiction of IT Authority

As per the scheme, the exercise of powers and performance of functions assigned to IT authorities u/s 120 or 124 shall be in a **faceless manner**. This is done through **automated allocation** in accordance with **Section 144B** for making faceless assessments of the total income or loss of the assessee.

Sec 131: Power of I.T. Authority

The I.T. Authority shall have all the powers vested in a **civil court under the CPC, 1908**:

- Discovery & Inspection.
- Enforcing the attendance of any person & examining such person on **oath**.
- Compelling the production of books of accounts & documents.
- Issuing commission (Summons).
- I.T. Authority can **impound** Books of A/c's for a **maximum of 15 working days**.

Sec 133: Power to call for Information

- I.T. Authority can **call information from any person**.
 - *Example:* Information from a bank relating to any account holder, etc.
 - **Note:** U/s 133(6), AO, CIT(A), JC(A), CCIT, CIT, PCCIT, PCIT, PDIT, DIT, PDGIT, DGIT may require any person to furnish any information.
 - This power **cannot be exercised** by any authority below the rank of CIT/DIT/PCIT/PDIT if a proceeding is **not pending** without prior approval of CIT/DIT/PCIT/PDIT.
 - This power can be exercised by **JD, DD, and AD** without approval of CIT/DIT/PCIT/PDIT.
 - **Kathiroor Service Co-operative Bank Ltd. (2014)(SC):** Even where no proceeding is pending against a person, AO can definitely call for information u/s 133(6) which is useful or relevant to any enquiry, with the permission of DIT, CIT, PDIT, PCIT.
-

Sec 133B: Power to collect Information

- I.T. Authority may enter at **any place at which Business/profession is carried on** and collect information from there.

- I.T. Authority may enter such a place **only during the hours at which such place is open** for business or profession.
- Under this section, the authority **cannot remove Books of Accounts** or other valuable articles.

Sec 133C: Power to call for Information by Prescribed IT Authority (Investigating wing)

- I.T. authority may, for the purpose of **verification of information** in its possession, issue a notice requiring a person to furnish information & documents and utilize such information in accordance with the scheme notified u/s 135A.
- This power can be exercised **even if no proceedings are pending**.

Sec 135: Faceless Collections of Information

As per the scheme, powers **u/s 133, 133B & 133C** shall be exercised in a **faceless manner** by the prescribed IT Authority.

Sec 133A: Power to Survey

1. I.T. Authority may enter any building or place at which **Business or profession** is carried on or activity of **charitable purpose** is carried on.

Provided that no action under this section shall be taken by an IT Authority without the approval of **PDGIT or DGIT or PCCIT or CCIT**.

"IT Authority" means:

- (i) A PCIT or CIT, a PDIT or DIT, a JC or JD, an AD or a DD or an AO, or a TRO; and
- (ii) Includes an **Inspector**, for the purposes of inspecting Books of Accounts (BOA) & Documents, placing marks of identification, and making copies & extracts therefrom, and for survey at any **Function, ceremony or event**.
- Who is subordinate to the PDGIT/DGIT or the PCCIT/CCIT as may be specified by CBDT.

2. Upon entering, they can:

- Inspect any Books of A/c's or docs.
- Check or verify the **cash, stock or other valuable articles**.

- Place marks of identification on Books of A/c's & docs.
- Make an **inventory** of any cash, stock or other valuable articles.
- **Impound Books of A/c's:** [Max 15 working days; it can be retained for more than 15 days with the approval of PCCIT/CCIT/PDGIT/DGIT/CIT/PCIT/DIT/PDIT].
- Record the **statement** of any person.

3. If Books of A/c's or assets relating to Business/profession or charitable purpose are kept at **some other place**, then such other place can also be covered under survey.

4. Entry Restriction:

- a. **Business/Profession Place:** Entry can be only during hours during which such place is **kept open** for conducting business.
- b. **Any other place:** Entry can be only **after sunrise but before sunset**.
- *Note: Restriction is only for entry, Not for Exit.*

5. Function, Ceremony or Event:

If the I.T. Authority is of the opinion that it is necessary to survey at any function, ceremony or event, they may do so, but **only after conclusion** of such event. They may require any person to furnish information and record their statement.

6. Non-cooperation:

If a person does not co-operate in a survey, the I.T. Authority shall issue **summons u/s 131**.

7. Sec 133A (2A): TDS/TCS Survey

- I.T. Authority can conduct a survey for verifying if TDS/TCS has been deducted/collected and paid as per the law.
- They can enter premises where Business or profession is carried on **after sunrise but before sunset**.
- **Limitations:** In a TDS/TCS survey, the authority **cannot impound** books of account and **cannot make an inventory** of cash, valuables, stock etc.

Sec 132: Procedure to Search & Seizure [RAID]

1. Who can authorize search [issue search warrants]

- PCCIT / CCIT / PDGIT / DGIT
- PCIT / CIT / PDIT / DIT

- Additional CIT / DIT or JC / JD  If empowered by CBDT

2. When search can be authorized

If I.T. Authority has **reason to believe** that:

- Any person to whom **Notice u/s 142(1)** or **summon u/s 131** issued or might be issued to produce Books of A/c's or documents & Assessee **failed to produce / will not produce** such Books of A/c's or docs.
- Any person is in **possession of any money, jewellery or any other valuable articles** and such asset, which has not been disclosed / would not be disclosed for the purposes of I.T. Act.

Note: However, the **reason to believe**, as recorded by the IT Authority, **shall not be disclosed** to any person or any authority or the Appellate Tribunal (ITAT).

3. Power of Authorised officer in course of search

- **Enter & Search** any Building, place, vessel, vehicle or aircraft where he has **suspect** that Books of A/c's, money etc. are kept.
- Power to **break lock** of any door, box, locker etc. if keys are not available.
- **Search any person** who has got out of, or is about to get into, or is in, the Building, vessel, place, vehicle etc.
- Require any person who is in control of any Books of A/c's maintained in the electronic form, to **provide password**.
- **Seize** any Books of A/c, docs. Money, bullion, jewellery etc. found under search. However, **stock cannot be seized**.
- Authorised officer may **take help of any police officer** or any officer of CG or any person or entity as may be approved by PCCIT or CCIT or PDGIT or DGIT in accordance with prescribed procedure.

Notes:

Deemed/Constructive Seizure: Where it is **not possible/practical to take physical possession** of any asset due to **volume, weight, nature etc.**, then authorized officer may serve an order on the owner or the person who is in immediate possession thereof, that he

shall not remove/deal with/part with such asset without the approval of Authorised officer may serve an order on the owner or the person who is in immediate possession that he shall not remove/deal with/part with such asset without approval of Authorised officer. **This order is valid for maximum 60 days.**

3. Presumption (Assumption) under Search:

Where any Books of A/c's, other documents, money, bullion, jewellery etc. found in possession of any person, it may be presumed:

a) That such Books of A/c's, docs, money, bullion, and other valuable article **belongs to such person.**

Officer may serve an order on the owner or the person who is in immediate possession that he shall not remove/deal with/part with such asset without approval of Authorised officer. **This order is valid for maximum 60 days.**

3. Presumption (Assumption) under Search:

Where any Books of A/c's, other documents, money, bullion, jewellery etc. found in possession of any person, it may be presumed:

(a) That such Books of A/c's, docs, money, bullion, and other valuable article **belongs to such person.**

(b) That the **content** of such Books of A/c's & docs are **true.**

(c) That the **signature** & every other part of such Books of A/c's & other docs which purport (seems) to be in the handwriting of any particular person are in **that person's handwriting.**

(d) That the **document** which purports to be attested or stamped by a particular person is presumed to be attested or stamped by **such person.**

4. Sec 132(9A):

Where the authorised officer has no jurisdiction over the person searched by him, the books of accounts or any money, bullion, jewellery etc. shall be handed over by the authorised officer to the A.O. having jurisdiction over such other person **within a period of 60 days** from the date on which the search was completed.

5. Sec 132(9B): Provisional Attachment:

During the course of search/within 60 days from the date of conclusion of search, the search party may **provisionally attach any property** belonging to the assessee. However, before doing so:

- Reasons shall be recorded in writing.
- Interest of revenue shall be involved.

Provisional attachment so made shall be operational for **6 months**, after which it shall be automatically vacated. [**Sec 132(9C)**]

6. Sec 132(9D): Valuation Officer:

During the course of search/within 60 days of the conclusion of search, the authorised officer may make a reference to a Valuation Officer (VO) or any other approved person/entity. The VO shall estimate the FMV of the property and submit a report **within 60 days** of receipt of such reference.

7. Conclusion of Search or Requisition:

- **Search:** Date of Last Panchnama drawn.
- **Requisition:** Date of actual receipts of BOA or assets.

Sec 132A: Requisition

Where a search has already been conducted by any Authority under another law (e.g., GST, CBI, Election Commission, etc.) or search conducted by IT Authority but BOA or assets are with any other authority, then the authorised officer shall require such other authority to deliver Books of A/c's or assets seized as early as possible.

Sec 132B: Application of Books of A/c's & Assets Seized

A. Books of a/c's & docs:

- It shall be released within **one month** from the end of the quarter in which assessment, reassessment, or recomputation is made.
- For retaining BOA & docs beyond this period, permission of **PCCIT/CCIT/PDGIT/DGIT/PCIT/CIT/PDIT/DIT** is required.

B. Money, Bullion, Jewellery, other valuable Assets:

- **Explain Assets:** If the assessee makes an application **within 30 days** from the end of the month in which the asset was seized and explains the nature and source of acquiring such asset to the satisfaction of the A.O., then such asset can be released with the prior approval of **PCCIT/CCIT/PCIT/CIT** after adjusting any existing tax liability.
- Such release shall be made within **120 days** from the date of conclusion (completion) of search.
- **Other Assets:** Assets seized & requisitioned can be utilized to recover:
 - Existing liability under the Income Tax Act & Black Money Act, 2015.

- New liability determined on completion of assessment.

Notes:

- (a) Money seized shall first be used for discharging the above liability.
- (b) If money falls short, then assets may be sold for discharging liability.
- (c) If assets remain thereafter, they shall be handed over to the assessee.
- (d) The Central Government (CG) shall pay simple interest at the rate of **0.5% per month or part of the month** on the following amounts:

Interest Calculation	Amount
Money seized u/s 132 or requisitioned u/s 132A	XX
Add: Proceeds of any Assets sold	XX
Less: Explain Money released	(XX)
Less: Aggregate amt. required to meet the liabilities	(XX)
Balance amount on which interest is paid	XX

Timeline: Such interest shall run from the date immediately following the expiry of the period of **120 days** from the date on which the search was completed to the date of completion of assessment or reassessment.

Case Law

Hemant Kumar Sindhi & Another (2014) (ALL):

Assets seized during search can be sold and adjusted in pursuance to **Sec 132B** only when liability is determined. Liability is determined only on completion of assessment; hence, demand can be raised and recovery initiated only after such date. Any application made by the assessee to the AO for early sale of assets seized (to avoid interest u/s 234B) and adjustment of the same is **not tenable**.

Sec 142(1): Enquiry before Assessment (Return, Info. & Accounts Notice)

- **Return: Sec 142(1)(i):** If assessee has not filed return within time limit **u/s 139(1)**, then A.O. or any authority not below the rank of I.T.O. may issue a notice requiring him to furnish the return.
- **Info./A/c's: Sec 142(1)(ii):** For the purpose of making an assessment, A.O. can issue notice:
 - To produce **Books of A/c's & documents** (Max 3 years prior to relevant P.Y.)
 - To furnish information including details of **asset & liabilities** (prior approval of J.C. required if information demanded is related to Assets & liabilities not included in BOA).

Sec 142(2A): Special Audit and Inventory Valuation

1. **A.O. may**, at any stage of proceeding, having regards to complexities in A/c's, volume of A/c's, doubt about **correctness of A/c's**, multiplicity of transactions in the A/c's, nature of the business activity & if it is in the interest of revenue (Dept.), direct the assessee to get either or both of the following: -
 1. **a.** Accounts audited by **CA** and furnish a report of such audit (special audit).
 2. **b.** Inventory valued by **cost accountant (CMA)** and furnish a report of such inventory valuation.
2. Direction can be issued with **prior approval of CIT/CCIT/PCIT/PCCIT**.
3. An **opportunity of being heard** must be given before directing.
4. CA & CMA shall be **nominated by CIT/CCIT/PCIT/PCCIT** & remuneration shall be **paid by CG**.
5. Direction can be given even if A/c's already audited u/s 44AB or any other law.
6. Audit report or inventory valuation report has to be submitted within time allowed by A.O. which can be extended but maximum time **must not exceed 180 days**.
7. Special audit can be directed for **particular segment of A/c's** i.e. sales, purchase etc.
8. An opportunity of being heard must be given before **utilising** material and evidences gathered from special audit or inventory valuation.

9. Failure to get the Books of Accounts audited or get inventory valued or failure to furnish Report within the time allowed will lead to **Best Judgement Assessment u/s 144** and it also attracts a **penalty of ₹ 10,000 u/s 272A**.
10. The expenses of audit or inventory valuation (including the remuneration of the Accountant [CA], Cost Accountant, qualified assistants, semi-qualified and other assistants who may be engaged by such Accountant or Cost Accountant) should **not be less than ₹ 3,750 and not more than ₹ 7,500** for every hour of the period as specified by the AO.

Sec 142A: Reference to Valuation Officer (V.O.)

1. A.O. may for the purpose of Assessment, make a reference to V.O. to estimate the value (including FMV) of any – **a) Asset or b) Property or c) Investments**.
2. V.O. shall estimate the value of asset after considering evidences the assessee may produce or gathered by V.O.
3. V.O. shall send copy of the report to the A.O. & Assessee within **6 months** from the end of the month in which a reference was made by A.O. to V.O.
4. A.O. may consider such report after giving a **reasonable opportunity of being heard**.

Sec 142B: Faceless Inquiry or Valuation

As per scheme,

- (a) Issuing notice u/s 142(1),
- (b) Making inquiry before assessment u/s 142(2),
- (c) Directing the assessee u/s 142(2A),
- (d) Estimating the value of any asset, property or investment by a VO u/s 142A,

Shall be in a **faceless manner**, through automated allocation, in accordance with **section 144B** with reference to making faceless assessment of total income or loss of assessee.

Sec 143(1): Processing of Return (Intimation)

Where return has been filed u/s 139 or 142(1), the same shall be processed by **CPC** after making the following adjustments:

- **(a)** Arithmetical error in the return.

- **(b) Incorrect claim** is apparent in the return.
- **(c)** Inconsistency in the return, with respect to info. In return of any preceding PY, as may be prescribed.
- **(d)** Disallowance of **loss claimed**, if return filed late of the year in which losses incurred.
- **(e)** Disallowance of **expenditure or increase in income** indicated in the audit report but not considered in the return.
- **(f)** Disallowance of deduction claimed **u/s 10AA or u/c VI-A** under the heading "C - Deductions in respect of certain incomes", if the return filed late.

Key Rules for Adjustments:

- Before making any such adjustment, an intimation has to be given to the assessee requiring him to respond.
- If **No Response** is received within **30 days** of issue of such intimation, the processing shall be carried out incorporating the adjustments.
- After processing, intimation shall be sent if there is refund/demand/adjustment in losses [in practical life, intimation shall be sent in all cases].
- Intimation shall be issued within **9 months** from the end of the financial year in which the return was filed.

Sec 143(1D)

From AY 17-18, the department will issue intimation even if the A.O. has already issued a **Scrutiny Notice u/s 143(2)**.

Sec 143(2): Notice of Scrutiny Assessment

For making assessment **u/s 143(3)**, A.O. or any I.T. authority not below the rank of I.T.O. is required to serve notice **u/s 143(2)**. The notice has to be '**served**' **within 3 months** from the end of the FY in which the return was filed. Notice u/s 143(2) can be issued after issuing Intimation **u/s 143(1)**.

Sec 143(3): Order of Scrutiny Assessment

Based on material & evidences furnished by the assessee in response to notice u/s 143(2) or gathered by A.O., A.O. shall **determine the income or loss of assessee**, by way of

passing an order along with determination of **tax payable or refundable** to assessee u/s 143(3).

- Any institution to whom exemption **u/s 10(21)/10(22B)/10(23A)/10(23B)** is available, A.O. cannot disallow such exemption if any contravention is made by such Institutions. A.O. will inform the Govt / prescribed authority about the same & wait for Govt notifications. He can disallow the exemption u/s 143(3) if the Govt/Prescribed Authority has rescinded the notification withdrawing the exemption.
- Where the AO is satisfied that any institution or trust referred **u/s 10(23C) or 11**, has committed any specified violation as defined in section 12AB (4), he shall send a reference to the PCIT / CIT to withdraw the approval or registration and no order making an assessment of the total income or loss shall be made by him without giving effect to the order passed by the PCIT/CIT **u/s 12AB (4)**.

Sec 144: Best Judgment Assessment

In case of any one of the following 4 defaults, A.O. shall make an assessment to the best of his judgment & knowledge: -

1. Failure to furnish **ROI u/s 139(1)** and not filed **u/s 139(4) or u/s 139(5) or 139(8A)**.
2. Failure to comply with **notice u/s 142(1)** [RIA Notice].
3. Failure to comply with **directions issued u/s 142(2A)** [Special audit].
4. Failure to comply with **notice u/s 143(2)** [Scrutiny notice].

Notes:

1. BJA can be taken up only after issuing a **SCN (Show Cause Notice)**, giving an opportunity of being heard to the assessee u/s 144 [No opportunity of being heard given, if assessee fails to comply with notice u/s 142(1)].
2. No refund can be issued by A.O. u/s 144.
3. Assessment u/s 143(3) & 144 should be **completed (order passed) within 12 months** from the end of R.A.Y. (Relevant Assessment Year).
4. Where **BJA** is done, A.O. determines the income to the best of his judgment. The judgment of the A.O. **cannot be arbitrary** and has to be based on some evidence. The A.O. **cannot do adhoc addition**.

Sec 144A: Power of J.C. to issue Direction

1. The **Joint Commissioner (J.C.)** may, on **his own motion**, or on the **application of the Assessee**, or on a **reference made by the A.O.**, call to examine the record of any proceeding in which an assessment is pending.
2. If necessary, the J.C. may issue directions for the **guidance of the A.O.** [AC/DC/ITO] to enable him to complete the assessment.
3. Such directions shall be **binding** on the A.O.
4. A direction **prejudicial to the assessee** can be issued only after giving an **opportunity of being heard**.
5. **No appeal** can be filed against the direction itself; however, an appeal can be filed against the final assessment order.

Sec 144B: Faceless Assessment

A. Procedure for Faceless Assessment/Reassessment u/s 143(3) or 144 or 147:

Sec 144 B: Faceless Assessment
A. Procedure of Faceless Assessment/Reassessment u/s 143(3) or 144 or 147

National faceless Assessment Centre (NFAC) shall assign

thecase selected for the purposes of faceless assessment to a specific assessment unit (AU) through an automated allocation system (AAS).

NFAC shall intimate the assessee that assessment shall be made as per this section.

NFAC shall serve notice u/s 143(2) or u/s 142(1) to assessee and the assessee may file his response to such notice within the date specified therein, to the NFAC which shall forward the same to the "AU".

AU may make request to NFAC for

Obtaining Information, documents or evidences from assessee or any other person

Conducting enquiry or verification from "VU"

Technical assistance from "TU"

NFAC to issue notice to assessee or any other person for info, or document to be submitted within time given in notice to NFAC

NFAC to assign case to any "VU" through AAS"

NFAC to assign case to any "TU" through AAS

Assessee or any other person file response to NFAC

"VU" & "TU" will send report to NFAC.

NFAC shall send the report received from "VU" & "TU" and info/document. Received from assessee/ other person to "AU".

If assessee fails to comply with above notice or notice issued u/s 142(1) or the terms of notice issued u/s 143(2), the NFAC shall intimate such failure to the "AU".

AU shall serve a notice, through the NFAC, u/s 144, giving him an opportunity to show-cause as to why the assessment in his case should not be completed

If assessee file response then NFAC forward that to "AU" or assessee fails to file response then NFAC shall intimate such failure to the "AU".

AU shall, after taking into account all the relevant material available on the record, prepare, in writing

An income or loss determination proposal, where no variation prejudicial to assessee is proposed and send a copy of such income or loss determination proposal to the NFAC.

In any other case, a SCN stating the variations harmful to the interest of assessee proposed to be made & calling upon him to submit as to why the proposed variation should not be made and serve such SCN, on the assessee through the NFAC.

If assessee file response then NFAC forward that to "AU" or assessee fails to file response then NFAC shall intimate such failure to the AU.

- AU" after considering above response & on the basis of relevant material available, prepare an income or less determination proposal and send the same to the NFAC.

NFAC shall convey to the "AU" to prepare draft order in accordance with the income or loss determination proposal, which shall thereafter prepare a draft order.

NFAC shall assign the income or loss determination proposal to a "RU" through an AAS, for conducting review of such proposal.

"RU" shall conduct review of the income or loss determination proposal assigned to it by the NFAC, it shall prepare a review report and send to the NFAC.

NFAC shall, upon receiving the review report, forward the same to the "AU" which had proposed the income or loss determination proposal.

AU shall send such draft order to the NFAC

AU shall, after considering such review report, accept or reject some or all of the modifications and after recording reasons in case of rejection of such modifications, prepare a draft order.

In case of an eligible assessee u/s 144C(1), the NFAC shall serve the draft order.

In other case, the NFAC shall convey to the AU to pass the final assessment order in accordance with such draft order, which shall thereafter pass the final order and initiate penalty proceedings, if any, and send it to the

Assessee shall.-

- (a) File his acceptance to the NFAC
- (b) File his objections to DRP and NFAC

Upon receiving the final order, the **NFAC shall serve a copy of such order** and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice or refund of any amount due to the

Where eligible assessee files objections with the DRP, the **NFAC shall send such intimation** along with a copy of objections filed to the AU.

AU shall, upon receipt of intimation, pass the assessment order, in accordance with the relevant draft order, and initiate penalty proceedings, if any, and send the order to the NFAC.

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graph TD; A[ ] --> B[NFAC shall upon receipt of the directions issued by the DRP, forward such directions to the "AU".]; B --> C[AU shall, in conformity with the directions, complete the assessment and initiate penalty proceedings, if any, and send a copy of the assessment order to the NFAC.]; C --> D[NFAC shall, upon receipt of the assessment order, serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice, or the amount of refund due to the assessee on the basis of such assessment.]; D --> E[NFAC, after completion of assessment, transfer all the electronic records of the case to the AO having jurisdiction over the said case.];
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NFAC shall upon receipt of the directions issued by the DRP, forward such directions to the "AU".

AU shall, in conformity with the directions, complete the assessment and initiate penalty proceedings, if any, and send a copy of the assessment order to the **NFAC**.

NFAC shall, upon receipt of the assessment order, serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice, or the amount of refund due to the assessee on the basis of such assessment.

NFAC, after completion of assessment, transfer all the electronic records of the case to the AO having jurisdiction over the said case.

B. Faceless Assessment Centre and Units

1. National Faceless Assessment Centre (NFAC):

Facilitates the conduct of faceless assessment proceedings in a centralized manner.

2. Assessment Units (AU): Function of making assessment:

- Identification of points or issues.
- Seeking information or clarification on points or issues.
- Analysis of the material furnished by the assessee or any other person.

3. Verification Units (VU): Function of verification:

- Enquiry, cross-verification.
- Examination of books of account.
- Examination of witnesses and recording of statements.
- *Note:* Functions of VU may also be performed by a VU located in any other faceless centre set up under the Act, and the request for verification may also be assigned through the NFAC to such VU.

4. Technical Units (TU): Function of technical assistance:

- Assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management.
- Any other technical matter under this Act or an agreement entered into u/s 90 or 90A, which may be required in a particular case or a class of cases.

5. Review Units (RU): Function of review of the income determination proposal:

- Checking whether the relevant and material evidence has been brought on record.
- Relevant points of fact and law have been duly incorporated.
- The issues requiring addition or disallowance have been incorporated.

Authorities and Additional Points

The AU, VU, TU, and the RU shall have the following authorities:

1. Add. CIT or Add. DIT or JC or JD, as the case may be;
2. DC or DD or AC or AD, or ITO, as the case may be;

3. Such other IT authority, ministerial staff, executive or consultant, as may be considered necessary by the Board.

Additional Points:

(1) All communications between NFAC, AU, VU, TU, RU, Assessee, or any other person should be **exclusively by electronic mode**.

Note: It shall not apply to the enquiry or verification conducted by the VU in the circumstances as may be specified by the Board.

Assessment Procedure (Continued)

(2) Personal Hearing via Video Conferencing:

In a case where a **variation is proposed** in the income or loss determination proposal or the draft order, and an opportunity is provided to the assessee by serving a **Show Cause Notice (SCN)**, the assessee or his authorised representative may request a personal hearing.

- The purpose is to make oral submissions or present the case before the IT authority of the relevant unit.
- The relevant unit shall allow such hearing through the **NFAC**, conducted exclusively through **video conferencing or video telephony**.

(3) Examination of Records:

Examination of records or statements of the assessee or any other person shall be conducted by the IT authority **only through video conferencing**.

(4) CBDT Facilities:

The CBDT shall establish video conferencing facilities at various locations so that an assessee or any other person can use them if they do not have the facility at their own end.

(5) Invoking Special Audit (u/s 142(2A)):

If at any stage, the **Assessment Unit (AU)**—considering the nature/complexity of accounts, volume, doubts about correctness, or specialized nature of business—is of the opinion that it is necessary for the interest of the revenue, it may refer the case to the **NFAC** to invoke **Section 142(2A)** (Special Audit), after recording reasons in writing.

(6) Processing Special Audit Requests:

The **PCCIT or PDGIT** (in-charge of NFAC), if they consider it appropriate, will forward the reference for Special Audit received from an AU to the jurisdictional PCCIT, CCIT, PCIT, or CIT and inform the AU accordingly.

(7) Transfer of Case:

The **PCCIT or the PDGIT** in-charge of the NFAC, if he considers it appropriate, may transfer the case to the **Assessing Officer (AO)** having jurisdiction over such case.

Sec 144C: Reference to Dispute Resolution Panel (DRP)

1. The A.O. while making assessment is **bound to follow procedure** of forwarding draft order in the following cases:
 - **a) Foreign Co. or Non-Resident** in whose case A.O. wants to make variation which is prejudicial to assessee.
 - **b) Other Assessee** in whose case variation in total income arises on account of order of **TPO passed u/s 92CA**.
2. A.O. shall forward a copy of **draft order** to the Assessee.
3. Within **30 days** from the date of receipt of draft order, the assessee shall:
 - **a) File his acceptance** to A.O., or
 - **b) File his objections** to A.O. & DRP.
4. If assessee files his acceptance then A.O. shall pass the final order within **one month** from the end of the month in which acceptance is received by A.O.
5. If the assessee files **objection** then DRP shall issue direction within **9 months from the end of the month** in which draft order is forwarded to Assessee.
6. DRP shall issue Direction on the basis of Draft order, objection of assessee, material gathered by DRP, evidence produced by Assessee.
7. After receiving direction, the A.O. shall pass the final order within **one month from end of the month** in which directions are received by A.O.
8. DRP directions are received by A.O. are **binding on A.O.**
9. DRP may confirm, reduce or enhance the variation purposed in the draft order.
10. If Assessee is not satisfied with Final order passed by A.O. in pursuance of direction of DRP, he can file an appeal to **ITAT (Appellate Tribunal)**. (Dept can't challenge direction of DRP)

11. Provisions of this section **not applicable** in case of proceedings u/s 158B to 158BI (Search cases on or after 1st September, 2024).
12. CG may make and notify scheme for the purpose of **Faceless issuance** of directions by the DRP.

Sec 145(1): Method of Accounting

- **For PGBP and IFOS:** Cash or Mercantile.
- **For Salary, H.P., and CG:** No method. These income taxable as per specific rules applicable to them.

Sec 145(2): Income computation & disclosure Standards (ICDS)

- CG has been empowered to notify ICDS. CG has notified **10 ICDS effective from A.Y. 2017-18**, for computing income under the head **PGBP & IFOS**, who are following **mercantile system** of Accounting.

Sec 145(3): Discretionary Best Judgement Assessment

In the following three circumstances, the **A.O. may take up the case and complete the assessment** in the manner provided in **Sec. 144**:

1. A.O. is **not satisfied about the completeness or correctness** of the Books of Accounts and documents of the assessee;
2. **Correct Method of Accounting** was not regularly followed by the assessee;
3. **ICDS** notified by the CG may have **not been followed** by the assessee for the computation of income.

Sec 145A: Method of Accounting in Certain Cases

(Already Covered with ICDS Topic)

Sec 145B: Taxability of Certain Income

- **(i)** Interest received on **late compensation** shall be taxable in the **year in which it is received**.
- **(ii)** Any claim for **escalation of price** in a contract or **export incentives** shall be deemed to be the income of the PY in which **reasonable certainty of its realization** is achieved.

- **(iii) Govt. Grant** is taxable in the year in which it is **accrued or received, whichever is earlier**.

Sec 147: Income Escaping Assessment or Reassessment (Reopening of Cases)

1. If any income chargeable to tax has **escaped assessment** for any AY, then the **AO may assess or reassess** such income of such AY, subject to provisions of section 148 to 153.
2. For making assessment u/s 147, **AO is bound to serve a notice u/s 148**. Notice u/s 148 can be served only after following the procedure given u/s 148A. Notice u/s 148 will be served with an order u/s 148A (exception in some cases).
3. During the assessment, if the AO finds some **other income escaped** for the same AY, then the **AO can assess or reassess such income also** without issuing a fresh notice u/s 148 and without passing an order u/s 148A.

Example: AO having information related to escaped income under the head PGBP of Mr. Bala for AY 2023-24. AO followed procedure u/s 148A and validly served notice u/s 148. During the assessment, AO finds that Bala is also having Capital Gain for the same year which was not assessed earlier. In this case, **AO may assess income from capital gain also** without following the procedure of sec 148 & 148A.

Suppose in the above example if AO finds that Capital Gain is related to AY 2022-23, then he **has to follow** the procedure of sec 148 & 148A.

Sec 148: Issue of Notice [Amended w.e.f. 01/09/2024]

1. Before making the assessment, reassessment, or recomputation u/s 147, the AO shall **issue a notice** to the assessee, along with a **copy of the order passed u/s 148A (3)**, requiring him to furnish, within such period as may be specified in the notice (not exceeding **3 months** from the end of the month in which such notice is issued), a **return of his income** or the income of any other person in respect of which he is assessable.
2. Notice u/s 148 can be issued only when **AO has information** related to income escaping assessment. If AO received information as per scheme u/s 135A, then AO must obtain **prior approval of higher authority u/s 151** before issuing notice u/s 148.
3. In response to notice u/s 148, the assessee is required to file his **return of income** for that year. It shall be deemed that the assessee was required to file his ROI u/s 139. However, where the return of income is furnished beyond the period allowed above, such return would not be deemed to be a return u/s 139.

4. The assessee is required to file return u/s 148 even if he has **already filed his return earlier** as per normal provisions. A return filed u/s 148 **cannot be revised**, as a return can be revised only if the return was made u/s 139(1) or 139(4).
5. Notice u/s 148 can be issued only if the following conditions are satisfied:
 - **(a)** AO has information which suggests that income has escaped assessment. **Information means:**
 - **(b)** Info. in accordance with the **risk management strategy** formulated by the CBDT (like info from SFT u/s 285BA, info from investigation wing u/s 133C).
 - **(c)** Any **audit objection** to the effect that the assessment in the case of the assessee for the RAY has not been made in accordance with the provisions of this Act.
 - **(d)** Any info received under **DTAA u/s 90 or 90A**.
 - **(e)** Any info made available to the AO under the **scheme notified u/s 135A**.
 - **(f)** Any info which requires action in consequence of the **order of a Tribunal or a Court**.
 - **(g)** Any info in the case of the assessee emanating from a **survey conducted u/s 133A** [other than TDS/TCS survey], on or after 1st September, 2024.
 - AO has complied with the **procedure given u/s 148A** [In cases other than 135A info].

Sec 148A: Providing opportunity before issue of notice u/s 148 [Amended w.e.f. 01/09/2024]

1. Where the AO has information, before issuing notice u/s 148, the AO shall provide an **opportunity of being heard** to the assessee by serving an **SCN (Show Cause Notice)** to show cause as to why notice u/s 148 should not be issued to him on the basis of information. The SCN shall be accompanied by the information which suggests that income has escaped assessment.
2. On receipt of the notice, the assessee may furnish his reply within such period as may be specified in the notice.
3. The AO shall decide on the basis of material available on record, including the reply of the assessee, and pass an **order u/s 148A (3)** as to whether the case is fit to issue notice u/s 148 or not, with the **prior approval of higher authority u/s 151**.

Notes on Section 148A

1. **No Appeal:** An appeal to CIT (A)/ITAT is **not possible** against an order u/s 148A (3). However, the assessee can file a **WRIT to the High Court** if the principle of natural justice was not complied with by the AO.
2. **Exception to 148A:** Section 148A is **not applicable** where the AO has received information under the scheme notified u/s 135A. In such cases, the AO can issue a notice u/s 148 **without** following the Section 148A procedure.

Sec 148B: Prior approval for assessment/reassessment in certain cases

Where a search is initiated u/s 132 or a survey is conducted u/s 133A (other than TDS/TCS survey), assessment or reassessment shall not be made by an AO below the rank of **JC (Joint Commissioner)**, except with the approval of **JC/JD/Add. CIT/Add. DIT**.

Sec 149: Time Limit for issue of notice u/s 148 & 148A [Amended w.e.f. 01/09/2024]

Case	Notice u/s 148	Notice u/s 148A
Normal Case	Notice can be issued within 3 years and 3 months from end of RAY.	Notice can be issued within 3 years from end of RAY.
Specific Case	Notice can be issued within 5 years and 3 months from end of RAY.	Notice can be issued within 5 years from end of RAY.

Definition of Specific Case: The AO has evidence/documents related to any asset, expenditure, transaction, or entries showing income escaping assessment that amounts to or is likely to amount to **₹50 lakhs or more**.

Sec 151: Sanction for Issue of Notice [Amended w.e.f. 01/09/2024]

The **Higher Authority** for granting sanction is: **Add. CIT or Add. DIT or JC or JD**.

Sec 150: Unlimited time limit to issue notice u/s 148

If reassessment is to give effect to any findings or directions in an order passed by **CIT (A), ITAT, HC, SC, or revision u/s 263/264**, there is **no time limit** to issue a notice u/s 148.

- **Applies when order contains directions:**
 - To exclude income from an AY and include it in another AY.
 - To exclude income from one assessee and include it in another.

- **Exception:** No reassessment can be made if the time limit for reopening was already **time-barred** when the original order being appealed was passed.

- **Sec 152(1): Tax rate for Escaped Income**
Respective year tax rate shall apply.

- **152(2): Dropping of Assessment Proceeding**
Proceedings once initiated under sec. 147, may be dropped by AO, if assessee satisfies him that:
 - **(a)** There will be no impact or no effect on his tax liability, even after taking into account the income escaping assessment; and
 - **(b)** He has not gone in an Appeal, Revision or Reference, against any part of original assessment order.

- **Sec 153(2): Time limit to complete assessment**
12 months from the end of FY in which notice u/s 148 was served.

- **Sec 151A: Faceless income escaping assessment**
As per scheme, (a) assessment, reassessment or recomputation u/s 147, (b) issuance of notice u/s 148 of the Act, shall be in a faceless manner, through automated allocation, in accordance with section 144B with reference to making faceless assessment of total income or loss of assessee.

Position of Law before 1st Sep. 24 & on or after 1st Sep. 24

Section	Upto 31st August 2024	w.e.f 1st September, 2024
148	AO shall Serve the Notice. Assessee required to file return within 3 months from end of the month in which notice is issued or such further period as allowed by AO.	AO shall Issue the Notice. Assessee required to file return within period specified in notice but not exceeding 3 months from end of the month in which notice issued.
148A	AO can conduct enquiry on the basis of info. Before providing opportunity of being heard. AO will pass order u/s 148A (d) whether case is fit to issue notice	AO will issue SCN for providing opportunity of being heard. AO will pass order u/s 148A (3) whether

	u/s 148 or not. No need to follow procedure in case of search & info. Received u/s 135A.	case is fit to issue notice u/s 148 or not. No need to follow procedure in case of info. Received u/s 135A.
149(1)	Time limit to issue Notice u/s 148: Upto 3 years from the end of RAY, or Upto 10 years from the end of RAY, if income has escaped assessment amounts to or is likely to amount to ₹50 lakhs rupees or more for that year.	Time limit to issue Notice u/s 148A: Normal Case - 3 years from end of RAY. Special case - 5 years from end of RAY. For 148 - Extra time limit of 3 months.
151	Within 3 years from the end of the RAY - CIT/PCIT/DIT/PDIT. After 3 years- PCCIT/PDGIT/CCIT/DGIT	Add. CIT or Add. DIT or JC or JD.
Raid case	In case of search assessment has to be made u/s 147	In case of search assessment has to be made u/s 158 (BA) to 158 (BI)

Sec 154: Rectification of mistake

1. Income tax authority [A.O. / CIT / CIT(A) / JC(A)] can rectify a mistake which is apparent on record [**not debatable mistake**] in:
 - **a.** Any order passed by authority
 - **b.** Intimation u/s 143(1)
 - **c.** TDS/TCS intimation u/s 200A / 206CB(1)
2. Rectification can be done by IT Authority either "**own motion**" or "**on application made by assessee**".
3. **No fees & No form prescribed.**

4. If rectification is done on his own motion, then it should be done within **4 years** from the end of the F.V. in which order containing mistake was passed.
 5. If rectification is done on application by assessee, then it should be done within **6 months** from the end of the month in which application is received by IT authority.
 6. Rectified order can be passed after 4 years if assessee made application within 4 years & it is in the advantage of assessee.
 7. Rectified order can be further rectified. The time limit of 4 years will be calculated from the end of the year in which rectified order was passed (means fresh time limit of 4 years will arise).
 8. Every rectified order passed under sec 154 is an appealable order.
-

Sec 156: Demand Notice

When any tax, interest, penalty or any other sum payable due to any order passed under IT. Act, then **A.O. shall serve demand notice** specifying the payment.

Assessee should pay the amount **within 30 days from the date of receipt of notice of demand**. If he fails to pay then recovery proceedings shall be initiated & assessee shall be treated as assessee in default, in such case, he will be liable to pay interest u/s 220 & penalty u/s 221.

In case of intimation u/s 143(1), 200A (1) & 206CB (1) intimation shall be **deemed to be notice of demand**.

Sec 156A: Modification and Revision of notice in Certain Cases

(1) Where demand notice has been issued u/s 156 and demand is reduced as a result of an order of the Adjudicating Authority (AA) as defined in IBC, 2016, the AO shall modify the demand payable as per order of AA and shall thereafter serve on the assessee a revised notice of demand.

(2) Where the order of AA is modified by the NCLT or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the AO shall be revised accordingly.

Protective Assessment (No Section)

When ownership of the income is in dispute or is a matter of doubt then A.O. can assess income in the hands of **all persons (who are claiming ownership)**. This is called **protective Assessment**.

The objective of the protective assessment is to **protect the interest of revenue**. In this case, the income tax authority cannot recover tax from both the persons.

Time Limit for Completing Assessment

Sec	Assessment	Time Limit for Completion of Assessment
153(1)	143(3) Scrutiny Assessment 144 Best Judgement Assessment	For AY 22-23 onwards - 12 months from end of AY. For AY 21-22 - 9 months; For AY 20-21 - 18 months. For AY 19-20 - 12 months; For AY 18-19 - 18 months. For AY 17-18 & earlier year - 21 months from end of AY.

Note:

1. Where updated return **u/s 139(8A)** is furnished, then time limit is **12 months from the end of the FY** in which such return was furnished.
2. Where return filed due to order **u/s 119** [CBDT allowed to file late return], then time limit is **12 months from the end of the FY** in which such return was furnished.

Sec	Assessment	Time Limit for Completion of Assessment
153(2)	147 Income Escaping Assessment	12 months from the end of FY in which notice u/s 148 was served.
153(3)	Fresh assessment u/s 143/144/147 or on fresh order u/s 92CA (TPO), where the original assessment or order u/s 92CA, has been set aside, cancelled and referred back to the AO by an order u/s 250/254/263/264.	12 months from the end of the FY in which order u/s 250 or 254 is received by PCCIT/CCIT/PCIT/CIT or the order u/s 263/264 passed by CIT/PCIT/CCIT/PCCIT.

153(3A)	Where an assessment or reassessment is pending on the date of initiation of search u/s 132 or making of requisition u/s 132A.	All above time limits shall increase by 12 months .
153(4)	Where reference made to TPO u/s 92CA.	All above time limits shall increase by 12 months .
153(5)	Effect to be given by AO/TPO to an order u/s 250/254/260/262/263/264 (otherwise than fresh assessment/orders).	3 months from end of the month in which order u/s 250/254/260/262 is recd. by CCIT/PCCIT/CIT/PCIT or order u/s 263/264 passed by CIT/PCIT/CCIT/PCCIT.

- Additional period of **6 months** may be allowed by CIT/PCIT to AO/TPO if AO/TPO apply that order could not be given effect within 3 months.
- If AO/TPO 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 time limit to give effect is **12 months as provided in 153(3)**.
- Where the TPO gives effect to an order or direction u/s 263 by an order u/s 92CA and forwards such order to the AO, the AO shall proceed to modify the order of assessment, in conformity with such order of the TPO, **within 2 months from the end of the month** in which such order of the TPO is received by him. **Sec 153(5A)**.

Sec	Assessment	Time Limit
153(6)(i)	Where assessment/reassessment made in consequence of or to give effect to any finding or direction in any order u/s 250/254/260/262/263/264 or order of any court. (Refer section 150)	12 months from the end of the month in which the order is received or passed by the PCCIT/CCIT/PCIT/CIT.
153(6)(ii)	Where assessment made on partner due to assessment made on firm u/s 147.	12 months from end of the month in which the assessment order in case of firm was passed.

For the purpose of Sec 153, the following time periods shall be excluded (extended):

S.No.	Particular	From	Till
1	Contravention of the provisions of 10(21)/(22B)/(23A)/(23B)	Date on which A.O. Informs to Govt. or prescribed authority	Date on which Govt. Notification received by A.O. withdrawing the approval.
2	Direction to get accounts audited or inventory valued u/s 142(2A)	Date on which A.O. directs	Last date on which assessee is required to file report, OR Date on which order setting aside such direction was recd by CIT/PCIT [if challenged in court].
3	Reference made to valuation officer u/s 142A	Date on which A.O. makes reference	Date on which report is received by A.O.
4	Declaration filed by assessee u/s 158AA [Avoiding repetitive appeal]	Date on which A.O. has recd. declaration	Date on which A.O. or ITAT passed order to accept or reject declaration (period cannot exceed 60 days).
5	Application made to BAR (Board for Advance Rulings)	Date on which application was made	Date on which order of rejection is recd. by CIT/PCIT, OR date on which advance ruling pronouncement is recd by CIT/PCIT.
6	Reference for exchange of info. u/s 90/90A	Date on which reference is made	Date on which info is recd. by CIT/PCIT, OR 1 year , whichever is less.
7	AO made reference to CIT/PCIT for specified violation by Trust/institution u/s 12AB(4)	Date on which AO makes reference to CIT/PCIT	Date on which copy of order of CIT/PCIT u/s 12AB(4) is received by AO.
8	Assessment proceeding is stayed by any court	Date stay on the assessment	Date on which certified copy of order vacating the stay was received by CIT/PCIT.

		proceeding was granted	
9	Time lost in giving opportunity to be re-heard u/s 129	—	—

Important Note

After the exclusion of the above time limits, if the period available to the A.O. (referred to in Sec 153(1)/(2)/(3)) is **less than 60 days**, such remaining period shall be **extended to 60 days**.

Special Procedure for Assessment in Search Cases [Chapter XIV - B] [Added w.e.f. 01/09/24 by FA 2024]

Section	Content
158BA	Assessment of Total Undisclosed Income as a Results of Search (Raid)
158BB	Computation of Total Undisclosed Income of Block Period
158BC	Procedure of Block Assessment: 158BC(1)(a): Issue of notice to file Return 158BC(1)(b): Assessment of Total Income 158BC(1)(c): Passing of Assessment order
158BD	Undisclosed income of any other person
158BE	Time-limit for completion of block assessment

158BF	Certain Interest and Penalty Not applicable
158BFA	Penalty in search cases

Sec 158BA: Assessment of Total Undisclosed Income as a Results of Search (Raid)

1. Whenever a **Search is initiated u/s 132** or a **requisition is made u/s 132A** on or after **1st September 2024**, in respect of any person, the assessment of such person will be governed by provisions of chapter XIV-B.
2. AO shall issue a notice to such person, requiring him to furnish within such period, **maximum 60 days**, as may be specified in the notice, return in the **form ITR B**, setting forth his undisclosed income for the **block period**. **[Sec 158BC]**
 - Provided that such return shall be considered as **return furnished u/s 139** and notice u/s 143(2) shall thereafter be issued.
 - Notice under this section shall be issued by AO with the **prior approval of Add. CIT/ Add. DIT/ JC / JD**.
 - Provided further that any ROI furnished beyond the period allowed in the notice shall **not be deemed to be a return u/s 139**.
 - **No notice u/s 148** is required to be issued for the purpose of proceeding under this Chapter.
 - Provided also that person shall **not be entitled to furnish a revised return**.
 - Provision of section **143(1)** shall **not apply** to return furnished under this section.
 - Time allowed for furnishing a return may be extended by a **further period of 30 days**, where:
 - **(i)** Due date for last year return had not expired when the search/requisition began,
 - **(ii)** Assessee was required to get accounts audited **u/s 44AB**,
 - **(iii)** Accounts were not yet audited on the date of notice, and
 - **(iv)** Assessee makes a written request for extra time to complete the audit.

3. "Block Period" means the period comprising PY's relevant to 6 AY's preceding the PY in which search was initiated u/s 132 or requisition was made u/s 132A and also includes the period starting from 1st April of the PY in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorizations for such search or such requisition.

Last of the authorizations shall be deemed to have been executed:

- **(a) Search:** on the conclusion of search as recorded in the **last panchnama drawn**.
- **(b) Requisition:** on the **actual receipt of the BOA (Books of Account)** or other documents or assets by the Authorised Officer. **[Sec 158B]**

Example: If a search is initiated on 30/09/2025 and concluded on 05/10/2025, the block period consists from **AY 20-21 (PY 19-20) to AY 25-26 (PY 24-25)** and the period from **01/04/25 to 05/10/25**.

4. Abatement of Pending Assessments:

Any assessment/reassessment, which is **pending as on the date of initiation of search** or requisition, in relation to such last 6 PY's shall **abate** (cancel). If any notice for assessment is issued after the date of search and before completion of block assessment that proceeding shall also abate— except for the year of the last search authorisation.

- *Note:* Only assessment/reassessment shall abate; other proceedings such as **Appeals or Revision**, which are pending, shall **not abate**.
- If a reference is made to the **TPO u/s 92CA (1)** or an order is passed by the TPO u/s 92CA (3), such reference or order shall also abate.

5. Revival of Assessments:

If any proceeding initiated under this Chapter or any order of assessment/reassessment u/s 158BC has been **annulled in appeal** or any other legal proceeding, then, the abated assessment or reassessment shall **revive** with effect from the date of receipt of the order of such annulment by the CIT/PCIT.

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

6. Successive Searches:

Where an assessment of a search case (first search) is required for an assessee in whose case a **subsequent search (second search)** is initiated, the first search assessment shall be completed first. Thereafter, the assessment for the subsequent search shall be made.

- *Note:* If the time period for completing the subsequent search assessment is **less than 3 months**, it shall be extended to **3 months from the end of the month** in which the earlier search assessment was completed.

7. Determination of Income:

The AO shall proceed to determine the total undisclosed income of the block period in the manner laid down **u/s 158BB**. The provisions of sections 142, 143(2), 143(3), 144, 145, 145A, and 145B shall, so far as may be, apply.

8. Passing the Order:

AO, on determination of the total undisclosed income of the block period, shall pass an order of assessment or reassessment and determine the tax payable by him on the basis of such assessment or reassessment.

- **Note:** Nothing in the provisions of **Section 144C** (Dispute Resolution Panel) shall apply in respect of such order.

9. Separate Assessment for Search Year:

Total income (other than undisclosed income) of the AY relevant to the PY in which the last of the authorizations for a search is executed or a requisition is made, shall be **assessed separately** in accordance with the other provisions of this Act.

10. Rank of Assessing Officer [Sec 158BG]:

The order of assessment for the block period shall be passed by an AO not below the rank of a **DC or AC or DD or AD**, as the case may be.

- **Proviso:** No such order shall be passed without the **previous approval** of the **Add. CIT or Add. DIT or the JC or JD**.
-

Sec 158BB: Computation of Total Undisclosed Income of Block Period

Particular	Income
A. Undisclosed Income declared in the return furnished u/s 158BC	xx
B. Undisclosed income determined by AO	xx
Total Undisclosed Income	xx

Incomes NOT Included in Undisclosed Income

The following income shall **not be included** in the total undisclosed income of the block period:

<ul style="list-style-type: none"> • A. Total Income assessed u/s 143(3) or 144 or 147 or 153A or 153C or 158BC (prior to the date of initiation of the search or the date of requisition).
<ul style="list-style-type: none"> • B. Total Income declared in the return u/s 139 or in response to a notice u/s 142(1) and not covered under point A.
<ul style="list-style-type: none"> • C. Income Computed by the assessee in respect of: <ul style="list-style-type: none"> ○ Past year (already ended): If the return due date has not expired before the search, income is computed from books/documents maintained in the normal course. ○ Current year (till date of search): From 1st April of that year up to the day before the search, based on regular books/documents. ○ During search period: From the date of search till completion of last authorisation, based on books/documents maintained up to that date. ○ <i>Note: If the AO feels any part of this income is undisclosed, he can recompute it.</i>
<ul style="list-style-type: none"> • D. Total income referred u/s 115A (5) or u/s 115G or u/s 194P (cases where return filing is not mandatory for non-residents/specified senior citizens).

Note-1: Computation of Undisclosed Income

Undisclosed income within the block period shall be computed based on evidence found during a search (or requisition of books/documents), or survey, or any other materials/information available to the AO or coming to his notice during proceedings u/s 158B to 158BI.

"**Undisclosed income**" includes any money, bullion, jewellery, **Virtual Digital Asset (VDA)**, or other valuable article/thing, or any expenditure or income based on entries in books of account (BOA) where such transaction represents 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 that is found to be incorrect. **[VDA added w.e.f. 01/02/2025]**

Note-2: FIRM Assessments

While determining Undisclosed Income, **interest and remuneration are not allowed** to a Partner in case of a FIRM (other than a working partner).

Note-3: International Transactions

If a search reveals income relating to an international or specified domestic transaction (u/s 92CA) for the period from April 1st to the date of search authorisation, it **will not be treated as undisclosed income** of the block period. Instead, it will be assessed separately under normal provisions.

Note-4: Losses and Depreciation

any brought forward (B/f) losses or unabsorbed depreciation (for the PY before the block period) are **not allowed to be set-off** against undisclosed income.

Note-5: Tax Rate, Interest, and Penalty

- **Tax Rate:** Tax shall be charged at **60%** for the block period as per **Section 113**.
- **Exemptions [Sec 158BF]:** No interest under **Section 234A, 234B, or 234C** and no penalty under **Section 270A** shall be levied in respect of the undisclosed income assessed for the block period.

Sec 158BD: Undisclosed income of any other person

Where the **AO of the assessee (specified person)** is satisfied that any undisclosed income belongs to (or pertains to, or relates to) **any other person**, then:

- Any money, bullion, jewellery, assets, or documents seized/requisitioned shall be handed over to the AO having jurisdiction over such other person.
- That **AO shall proceed as per the provisions of this chapter** (Sections 158BA, 158BB, and 158BC shall apply).

In such cases, if there is only one specified person linked with the other person, then the block period for **other person** will be the same as that of the specified person. However, if there are multiple specified persons, the block period will match the specified person whose block period ends on the **later date**.

Further, for the purpose of abatement of proceedings u/s 158BA(2) & (3), the "**date of search or requisition**" in the case of the other person will be taken as the date when the AO of that person actually **receives** the seized material or information related to such undisclosed income.

Sec 158BE: Time-limit for completion of block assessment

1. The time-limit for completion of block assessment of the searched assessee shall be **12 months from the end of the quarter** in which the **last of the authorizations** for search u/s 132 (or requisition u/s 132A) was executed or made.

- *However, an exclusion of time period [max 6 months] shall be available in respect of period from date of initiation of search to the date of handing over of seized material to the AO having jurisdiction over assessee.*
2. The time-limit for completion of block assessment of **any other person** shall be **12 months from the end of the quarter** in which the **notice u/s 158BC** in pursuance of section 158BD, was **issued** to such other person.
 3. If case is transfer to **TPO u/s 92CA** then above time limit shall be **extended by 12 months**.
 4. In cases where the time permitted for furnishing a return u/s 158BC(1) is extended by 30 days, the period of "12 months" for completion of assessment shall be deemed to be "**13 months**".
 5. While computing time limit, time lost due to certain procedure shall be excluded. (Same as given u/s 153 like reference to VO or Info. u/s 90/90A etc.)

Sec 158BFA: Levy of Interest and Penalties in Certain Cases

1. **Interest:** Where ROI is not furnished within time specified in such notice u/s 158BC, or is **not furnished**, the assessee shall be liable to pay simple **interest @ 1.5% pm** or part of the month of the tax on undisclosed income, commencing on the day immediately after the expiry of the time given in the notice, and ending on the date of completion of assessment.

2. Penalty - Penalty on the undisclosed income shall be levied at **50% of the tax payable** on undisclosed income.

However, penalty u/s **158BFA (2)** and u/s **271AAD/271D/271DA/271E** can be avoided if the following conditions are satisfied:

- Assessee has furnished a return **u/s 158BC**;
- 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;
- Evidence of tax paid is furnished along with the return; and
- An appeal is **not filed** against the assessment of that part of income which is shown in ROI.

However, the above concession shall not apply where the undisclosed income in the return and in such cases the determined by the AO is in excess of the income shown

penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of income shown in the return.

23 APPEALS & REVISIONS

Appeal to Joint Commissioner (Appeals) or Commissioner (Appeals) JC(A) or CIT(A) [Sections 246 to 251]

1. Sec 246(1) - Appealable orders before JC (A): On or after 1/4/23 assessee aggrieved by following order of AO (below the rank of JC) may appeal to JC (A):

- Order passed by A.O. u/s 143(3), 144, 147 (Assessment Order by AC/DC/ITO)
- Intimation u/s 143(1) or 200A or 206CB
- Rectification order u/s 154 or 155
- Order u/s 201 or 206C(6A) (assessee in default if TDS/TCS not deducted or collected)
- Order of Penalty

Note: If above order passed with the prior approval of IT Authority above the rank of DC then appeal **cannot be filed to JC (A)**. In this case appeal will be file to **CIT (A)**.

2. Sec 246A - Appealable orders before CIT (A):

- Order passed by A.O. u/s 143(3), 144, 147, 158BC (Assessment Order)
- Intimation u/s 143(1) or 200A or 206CB
- Rectification order u/s 154 or 155
- Order where the assessee denies his liability to be assessed under this Act
- Any order of AO u/s 92CD, 115VP, 163, 170, 171, 201, 206C (6A), 237, 239A, 221, Penalty.

Notes:

1. Where any appeal filed against an order u/s 246(1) is pending before CIT (A), CBDT or authorised IT authority, may transfer such appeal to JC (A). JC (A) may then proceed with such appeal or matter from the stage at which it was before it was so transferred.
2. CBDT or authorised IT authority may transfer any appeal which is pending before JC (A) to CIT (A).
3. Where an appeal is transferred, the appellant shall be given an opportunity of being reheard.

3. JC (A) or CIT (A) can be filed only by **assessee** (First appeal) within **30 days** from the date of receipt of demand notice (in case of assessment/penalty) or date of receipt order/intimation (in any other case). However, delay can be condoned by JC (A) or CIT (A).

4. It can be filed in prescribed form i.e. **Form No. 35** along with the **Statement of facts, Grounds of appeal**, copy of order/intimation of A.O., filing fees. This entire set called as Memorandum of appeal.

5. JC (A) or CIT (A) shall give the judgment (pass order) within **1 year** from the end of the year in which appeal is filed or transferred, if possible [Advisory time limit].

6. An appeal with JC (A) or CIT (A) will be entertained only if —

- Assessee has paid the tax on the amount of income returned by him.

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- If no ROI is filed, then the assessee should have paid the tax, which is equal to the amount of advance tax payable by him. (However, on an application made by the assessee, JC (A) or CIT (A) may exempt the assessee from the payment of this amount and admit his appeal without payment of tax.)
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Appeal to ITAT [Sections 252 to 255]

1. A case at ITAT level appeal shall be heard by a "**Bench**" (Panel of Judges). Normally heard by a 2-member bench (**Division bench**), consisting of one judicial member & one Accountant member.
 - However, if the total income of the assessee is up to **₹50 lakhs**, then the appeal can be heard by a **single member**.
 - Decision at ITAT level shall be taken according to the **opinion of the majority**. However, if the members differ on any point, and the members are equally divided on that point, then such point shall be referred to the **president of ITAT** who shall then refer the case to be heard by another member and then the decision shall be taken according to the opinion of the majority.
2. **Time Limit for Filing:** Appeal to ITAT has to be filed within a time period of **2 months from the end of the month** in which a copy of the order sought to be appealed against is received.
3. **Form & Fees:** It shall be filed in prescribed **Form No. 36** along with the statement of facts, grounds of appeal, copy of order, and filing fees.
4. **Time Limit for Order:** ITAT shall give Judgment within **4 years from the end of the year** in which the appeal was received by it, if possible.
5. **Appealable Orders against ITAT:** Following orders can be appealed against to the ITAT:
 - Order of JC(A) or CIT(A)
 - Order of A.O. passed on the basis of direction of DRP u/s 144C
 - Revision order u/s 263
 - Order of A.O. Passed with approval of CIT/PCIT u/s 144BA
 - Any other order of CIT/CCIT/DIT/DGIT/PCIT/PCCIT/PDIT/PDGIT
6. **Stay of Demand:** While filing an appeal to ITAT, the assessee can apply for a stay of demand. ITAT may, after considering the merits of the application, grant a stay of demand for **180 days** if the assessee deposited **atleast 20%** of the amount of tax, interest, fee, penalty or any other sum payable under the provisions of the Act or furnishes security of equal amount.

- If ITAT fails to give judgment within 180 days & the delay is not attributed to the assessee, then ITAT can **extend the stay period**, but the maximum period (original + extended) should **not be more than 365 days**.

Case Law: Pepsi Foods Ltd. (2021) (SC):

The SC observed that the ITAT, wherever possible, has to hear and decide appeals within a period of 4 years from the end of the FY in which such appeal is filed. It is only when a stay is granted by the ITAT, the appeal is required to be disposed of within 365 days.

So far as the disposal of an appeal by the ITAT is concerned, this is a **directory provision**.

However, the condition of **automatic vacation of stay** on expiry of the period (365 days) becomes **mandatory** so far as the assessee is concerned.

The SC pointed out that the said proviso would result in the automatic vacation of a stay even if the ITAT could not take up the appeal in time for no fault of the assessee. Further, vacation of stay in favour of the department would ensue even if the department itself is responsible for the delay.

Final Ruling: The SC held that any order of stay shall stand vacated after the expiry of the 365-day period **only if the delay in disposing of the appeal is attributable to the assessee**.

7. Where any party files an appeal before the ITAT, the other party is allowed to file cross objections.

- **Form:** Filed in **Form 36A**.
- **Time Limit:** Within **30 days** of receipt of notice from ITAT that the first party has filed an appeal.
- **Fees:** **No fees** applicable for filing cross objections.

Difference between Power of JC (A) or CIT(A) & ITAT

S.No.	Particulars	JC(A) or CIT(A)	ITAT
1.	Power to enhance the Assessment	Yes	No

2.	Power to reduce/confirm the Assessment	Yes	Yes
3.	Power to cancel the Assessment	Yes	Yes
4.	Power to set aside and refer back to A.O.	No (Note 1)	Yes
5.	Power to condone delay	Yes	Yes
6.	Power to make inquiries	Yes	Yes
7.	Power to rectification of mistake	Yes - Sec. 154	Yes - Sec. 254
8.	Power to review	No	No
9.	Power to admit additional grounds of appeal	Yes	Yes
10.	Power to admit additional evidence	Yes (Note 2)	Yes (Note 3)
11.	Power to grant stay of demand	Yes	Yes
12.	Power to Award cost (in case of frivolous Appeal)	No	Yes
13.	Power to Reject appeal	Yes	Yes

Important Notes on Rectification

- **Sec 154:** JC (A) & CIT (A) are covered under IT Authority; they can rectify orders u/s 154.
- **Sec 254:** ITAT can rectify its order if there is a mistake apparent on record within **6 months from the end of the month** in which the original order was passed. It can be rectified on its own motion or on application made by the assessee or A.O.

Notes:

1. If an appeal is against **AO's order u/s 144** (Best Judgment Assessment), then **CIT(A) may set aside and refer back to AO** for fresh assessment. **[Added by FA 24 w.e.f. 1/10/2024]**
2. **JC(A) or CIT(A)** can admit **additional evidence** in the following cases:

- a. Assessee produced evidence but the **A.O. rejected** it.
 - b. A.O. completed the assessment **without giving an opportunity** to produce such evidence.
 - c. Where **A.O. demanded** such evidence but the **assessee could not produce** it for sufficient cause.
 - d. Where **A.O. didn't demand** such evidence and the evidence was **relevant**, but the assessee **could not produce** it for sufficient cause.
3. **ITAT can admit additional evidence** furnished by the appellant assessee, which were not furnished earlier:
- a. In a case where ITAT is satisfied that the Income Tax Authorities decided the case without giving sufficient opportunity to the assessee to produce relevant evidence; or
 - b. In a case where ITAT requires the production of additional evidence/documents on its own to enable it to pass its order.

4. Appeal Filing Fees

S.No.	Particulars	JC(A) or CIT(A) (₹)	ITAT (₹)
1	Assessed Income is upto ₹ 1,00,000	250	500
2	Assessed income more than ₹ 1,00,000 upto ₹ 2,00,000	500	1500
3	Assessed income more than ₹ 2,00,000	1000	1% of assessed income (Max 10,000)
4	In any other case	250	500
5	Appeal filed by department to ITAT	—	No Fees
6	Filing of Memorandum of Cross objections to ITAT	—	No Fees

7	Application of stay of demand to ITAT	—	500
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Appeal to H.C. [Section 260A & 260B]

1. Appeals to H.C. can be filed within **120 days** only if there is a **Substantial Question of Law**.
2. Appeal form, fees, and procedure are governed by the **Code of Civil Procedure, 1908**.
3. H.C. has the power to **review its order** (as per S.C. case law).

Appeal to S.C. [Section 261 & 262]

1. Appeal against a **High Court order**.
2. Must be filed within **90 days**.
3. S.C. has the power to **review its order**.
4. Appeal form, fees, and procedure are governed by the **Code of Civil Procedure, 1908**.

Sec 263: Revision of orders prejudicial to the Interest of Revenue

1. **CIT/PCIT/CCIT/PCCIT** can call for and examine the "**Records**" of any proceeding in which an order has been passed by an **A.O. / TPO** which is:
 - **Erroneous, and**
 - **Prejudicial to the interest of Revenue.**

Then CIT/PCIT/CCIT/PCCIT can pass any revisional order under this section, as he deems fit.
2. CIT/PCIT/CCIT/PCCIT can **enhance, modify or cancel the assessment & direct for fresh assessment** or order modifying the order u/s 92CA or an order cancelling the order u/s 92CA and directing a fresh order u/s 92CA.
3. An **opportunity of being heard** must be given to the assessee before any such revisional order.
4. The **time limit** to pass any such order by CIT/PCIT/CCIT/PCCIT is **2 years from the end of the financial year** in which the original order of A.O. / TPO was passed.

5. Order passed u/s 263 can be **appealed against at ITAT level**.
6. CIT/PCIT/CCIT/PCCIT **cannot revise matter involving appeal**, meaning matters which are decided or considered in any appeal cannot be revised (**Partial merger**). However, they can revise other matters of the same order.
7. "**Record**" means everything which is available on record at the time of examination of the file by CIT/PCIT/CCIT/PCCIT and not only those things which were available on record at the time of passing of the order by A.O. /TPO.
 - **Eg:** Report of a valuation officer, which was not available earlier at the time of passing of the order of A.O. but is now available at the time of examination of the file by CIT/PCIT/CCIT/PCCIT.
8. Order passed by A.O./TPO shall be **deemed to be erroneous** in so far as it is prejudicial to the interest of the revenue, if in the opinion of the CIT/PCIT/CCIT/PCCIT:
 - **(i)** Order passed without making inquiries or verification which should have been made.
 - **(ii)** Order is passed allowing any relief without inquiring into the claim.
 - **(iii)** Order has **not been made** in accordance with any order direction or instruction of CBDT.
 - **(iv)** Order has not been passed in accordance with any **decision which is Prejudicial to the assessee**, rendered by the jurisdictional HC or SC in the case of the assessee or any other person.

Sec 264: Revision of other Order

1. **CIT/PCIT/CCIT/PCCIT** may either on **his own motion or on an application made by assessee**, call & examine the **records** of any proceeding, in which an order **other than referred u/s 263** has been passed by A.O. & CIT/PCIT/CCIT/PCCIT may pass such revisional order u/s 264 as he deems fit.
2. CIT/PCIT/CCIT/PCCIT can revise the order on his own motion **within 1 year from date of passing** of the order by A.O.
3. If assessee applies for revision, then he can make an application **within 1 year from the date of receiving** a copy of order by assessee.

4. If assessee has asked for revision the CIT/PCIT/CCIT/PCCIT has to pass an order **within 1 year from the end of F.Y. in which application was made** by assessee.
5. Order which is **prejudicial to the interest of assessee cannot be passed** under this section.
6. Appeal **cannot be filed** against order u/s 264.
7. Assessee can apply for revision u/s 264 only if:—
 - **(i)** Time limit to file JC(A) or CIT(A) has been expired (30 days), or
 - **(ii)** Assessee waived his right of appeal in writing.
 - *Assessee can either prefer an appeal or can apply to CIT/PCIT/CCIT/PCCIT for revision u/s 264. Both the remedies cannot be available simultaneously, even if they pertain to different matters. [Total merger].*

Point to be remember

- If the order of A.O. has subject matter of appeal then such order can be revised u/s 263 but **cannot be revised u/s 264**.
- Revisional order u/s 263 can be appealed to ITAT but **order u/s 264 cannot be appeal**.
- U/s 263 & 264 if proceeding is stayed by any court then time from when a court grants stay on the proceeding till the date the CIT/PCIT receives the certified copy of the order vacating the stay shall be excluded.

Sec 264A: Faceless Revision of Orders

CG may make and notify scheme for the purpose of Faceless Revision of orders u/s 263 & 264.

Other Concepts

Sec 158A: Special provisions for avoiding repetitive appeals

In case of an assessee, for an **earlier assessment year**, if an appeal is pending before the **High Court (HC) or Supreme Court (SC)** on a particular matter and for an identical point.

In the case of the **same assessee**, but for a **subsequent year**, if the same matter is pending before:

- **(i)** Any IT Authority (AO), or
- **(ii)** JC(A), CIT(A), or
- **(iii)** ITAT

Then the assessee, rather than filing the appeal once again, can furnish a **declaration in Form No. 8** to the AO/JC (A)/CIT (A)/ITAT, requesting that if they agree to apply the decision of the HC/SC in the current case, then the **Assessee shall not appeal**. The AO/JC (A)/CIT (A)/ITAT may admit or reject the application of the Assessee.

Sec 158AB: Procedure where an identical question of law is pending before HC or SC

1. In case of the **assessee or any other person**, if a question of law for **any AY** is pending before the jurisdictional **HC or SC (first case)** against the order of the ITAT or HC which was in **favour of the assessee/other person** (order was against the dept.), and in case of the **assessee on the same question of law** is decided by the **JC(A)/CIT(A) or ITAT (second case)** in favour of the assessee, then instead of filing an appeal to the ITAT/HC (by the dept.), the **collegium** may decide and inform the CIT/PCIT **not to file any appeal**, at this stage, to the ITAT or HC.

"Collegium" means a collegium comprising of 2 or more CCIT or PCIT or CIT specified by the CBDT.

2. CIT/PCIT shall, on receipt of a communication from the collegium, **direct the AO** to make an application to the ITAT or HC in **Form 8A within 120 days** from the date of receipt of the JC (A)/CIT (A) or ITAT order, stating that an appeal on the question of law arising in the second case may be filed when the decision of the first case becomes final.

3. CIT/PCIT shall direct the AO to make an application **only if an acceptance is received from the assessee** to the effect that the question of law in the first case is identical. In case no such acceptance is received, the PCIT or CIT shall file a regular appeal to the ITAT/HC.

4. When the question of law is **decided by the HC/SC (in the first case) in favour of the dept.**, then the CIT/PCIT may direct the AO to appeal to the ITAT/HC. The appeal to the **ITAT should be filed within 60 days** and the **HC within 120 days** from the date on which the order of the HC/SC is received by the CIT/PCIT.

Sec 268A: Special provision for appeal by Dept.

1. This section empowers **CBDT to fix monetary limits** to regulate appeals by the Dept. in order to **avoid litigation in small cases**.

2. As per notification, the dept. can file an appeal only if the **Tax effect** is more than the following amount:

S.No.	Appeals in IT matters	Monetary Limit
1.	Before ITAT	₹ 60,00,000
2.	Before HC	₹ 2,00,00,000
3.	Before SC	₹ 5,00,00,000

3. If the Dept. has not filed an appeal on a particular issue in the case of a particular assessee in a particular year, then it **shall not stop the dept.** from filing an appeal on the same issue:

- (a) In case of the same Assessee in another year.
- (b) In case of another assessee in any year.

4. The assessee cannot contend that the dept. has agreed on a particular issue by not filing an appeal on such issue.

Case Laws

- **Pruthvi Brokers & Shareholders (2012) (Bom.):** Assessee can make an **additional/new claim** before an appellate authority, which was not claimed by the assessee in the return of income, otherwise than by way of filing a revised return of income.
- **Ritha Sabapathy [2019] (Mad):** The ITAT **cannot dismiss an appeal**, without deciding the case on its merits, solely on the ground that the assessee had not appeared on the appointed date of hearing. ITAT should not shirk its responsibility to decide a case on its merits. **Cryptic orders**, not touching the merits of the case, would not give rise to any substantial question of law for consideration by the High Court u/s 260A.
- **Earnest Exports Ltd. (2010) (Bom.) / Lachman Dass Bhatia Hingwala (P) Ltd. (2011) (Delhi):** ITAT does **not have the power to review** or re-appreciate the correctness of its earlier decision u/s 254(2). It only has the power to **rectify an apparent mistake**. While exercising the power of rectification u/s 254(2), ITAT can recall its order in entirety if it is satisfied that prejudice has resulted to the party which is attributable to the ITAT's mistake, error or omission and the error committed is apparent.

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- **Meghalaya Steels Ltd. (2015) (SC):** High Court being a court of record has **inherent power to review its own order**. There is nothing in the Income Tax Act or Constitution of India precluding it from doing the same. So, HC has an inherent power under the Income Tax Act, 1961 to review an earlier order passed on merits.
 - **Sunil Vasudeva & Others v. Sundar Gupta & Others (2019) (SC):** High Court can review its own order, where the **grounds for review** were:
 - **(i)** Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
 - **(ii)** Mistake or error apparent on the face of the record;
 - **(iii)** Any other sufficient reason.
 - *A review will, however, not be maintainable in the following cases:*
 - *(i) Repetition of old and overruled argument;*
 - *(ii) Minor mistakes of inconsequential import.*
 - **AA Estate Pvt. Ltd. (2019) (SC):** While deciding an appeal, High Court cannot hear and decide on the case based on the questions urged by the appellant. The Court is obligated to **formulate the substantial question of law** and decide on the case only based on these questions formulated by itself.
 - **Spinacom India (P.) Ltd. [2018] (SC):** Delay in filing an appeal to High Court on the grounds that appellant was seeking an alternate remedy u/s 254 for rectification of mistakes apparent from record in ITAT order is **not acceptable and shall not be condoned**. Appellant should have filed the appeal to HC mentioning in the memorandum of appeal stating that an application for rectification has been filed before ITAT which is pending as on date.
 - **Fortaleza Developers (2015) (Bom):** When the order of the CIT(A) is complete and the appeal is pending before the ITAT, the **CIT/PCIT is precluded from invoking sec. 263** for revision of the very same matter decided by the CIT(A). Accordingly, the High Court held that the order passed by the AO got merged with the order of the CIT (A). The very same issue cannot be revised by invoking revisionary jurisdiction u/s 263.
 - **Reliance Telecom Ltd. / Reliance Communications Ltd. (2022) (SC):** Can the powers under section 254(2) be exercised by the Tribunal to recall an order and rehear the entire

order on merits?

No, ITAT cannot recall its order. ITAT has only power for rectification of mistake as per section 254. If assessee is not satisfied with the judgment of ITAT then he may file appeal to HC. ITAT is not allowed to recall or rehear a matter on which judgment has already been given by ITAT, except in the case of rectification of mistake.

SAP Labs India Pvt. Ltd. [2023] (SC)

As per SC, HC has power to consider the substantial question of law involving determination of ALP (Arm's Length Price):

- While determining ALP, ITAT has to follow the guidelines of transfer pricing (sec. 92 to 92F).
 - If ITAT has not determined ALP as per rules of TP, then it is treated as **QOL (Question of Law)** and HC can determine ALP.
 - HC can also examine the question of comparability of two companies or selection of filters and examine whether the same is done judiciously and on the basis of relevant material/evidence on record.
 - HC can also examine whether the comparable transactions have been taken into consideration properly or not, i.e., to the extent as to whether non-comparable transactions are considered as comparable transactions or not.
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Industrial Development Bank of India Ltd. [2023] (SC)

Does the limitation period for exercising the powers u/s 263 reckon from the date of passing of the original assessment order rather than the date of reassessment order for issues covered under the original assessment but not covered in the reassessment proceedings?

As observed and held by the Court in earlier decisions, once an order of assessment is re-opened, the previous order of assessment will be held to be set aside. The whole proceedings would start afresh, but the same would not mean that even when the subject matter of reassessment is distinct and different, the entire proceedings would be deemed re-opened.

It means that only in a case where the issues before the CIT at the time of exercising powers u/s 263 **relate to the subject matter of reassessment** would the limitation start from the date of the reassessment order. However, if the subject matter of reassessment is **distinct and different**, in that case, the relevant date for the purpose of determining the

period of limitation for exercising powers under section 263 would be the **date of the original Assessment Order**.

Accordingly, the Apex Court held that the issues before the CIT while exercising powers u/s 263 related back to the original assessment order which were not covered in the reassessment proceedings and, therefore, the **limitation would start from the original assessment order** and not from the reassessment order.
