

# MISCELLANEOUS PROVISIONS



## LEARNING OUTCOMES

After studying this chapter, you would be able to -

- ❑ **identify** the permissible mode of taking or accepting certain loans, deposits and money receivable in relation to transfer of immovable property and **examine** the penal consequences for non-compliance;
- ❑ **recognize** the permissible mode of receipt of amounts exceeding a certain threshold limit and **examine** the penal consequences for receipt of such amount by any other mode;
- ❑ **identify** the permissible mode of repayment of certain loans or deposit or advance money repayable in relation to transfer of immovable property and **examine** the penal consequences for non-compliance;
- ❑ **appreciate** the provisions relating to provisional attachment of property to protect the interest of the revenue;
- ❑ **list out** the permissible modes of service of notice and the persons on whom notice should be served;
- ❑ **comprehend** the meaning of “specified financial transaction” and **identify** the specified persons responsible for furnishing statement of financial transaction or reportable account;
- ❑ **list out** the persons who can act as “authorised representatives” on behalf of the assessee.

## CHAPTER OVERVIEW



Mode of taking or accepting loan, deposit and specified sum [Section 269SS]

- Penalty u/s 271D attracted for non-compliance

Mode of repayment of certain loan or deposits [Section 269T]

- Penalty u/s 271E attracted for non-compliance

Mode of undertaking transactions [Section 269ST]

- Penalty u/s 271DA attracted for non-compliance

Facility for accepting payment through prescribed electronic modes [Section 269SU]

- Penalty u/s 271DB attracted for non-compliance

Statements by producers of cinematograph films or persons engaged in specified activity [Section 285B]

Statement of Financial Transaction or Reportable Account [Section 285BA]

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Other Miscellaneous Provisions

Sections 287, 287A, 288, 290, 291, 292, 293, 292A, 292B, 292C, 293C, 294, 295 and 296

## 18.1 MODE OF TAKING OR ACCEPTING CERTAIN LOANS, DEPOSITS AND SPECIFIED SUM [SECTION 269SS]

Section 269SS provides that no person shall take or accept any loan or deposit or specified sum from any other person (depositor) except by account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other prescribed electronic mode, if –

**Loan, deposit and specified sum of ₹ 20,000 or more received otherwise than by specified modes attracts penalty**

- (1) The amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit of specified sum; **or**
- (2) On the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; **or**
- (3) The amount or the aggregate amount referred to in (1) together with the amount or the aggregate amount referred to in (2)

is **₹ 20,000 or more**.

However, **higher limit of ₹ 2,00,000** is applicable in case of any deposit or loan where, -

**Higher limit of ₹2,00,000 for deposit accepted by/ loan taken from PACS or PCARD**

- such deposit is accepted by a primary agricultural credit society (PACS) or a primary cooperative agricultural and rural development bank (PCARD) from its member or
- a loan is taken from a primary agricultural credit society or a primary cooperative agricultural and rural development bank by its member.

### **Non-applicability of the above requirement in certain cases**

- (1) Loan or deposit or specified sum taken or accepted from, or any loan or deposit taken from or accepted by
  - the Government;
  - any banking company;

- post office saving bank or
- any co-operative bank,
- any corporation established by a Central, State or Provincial Act or any Government company as defined in 2(45) of the Companies Act, 2013.
- any institution, association or body or class of institutions, associations, bodies which the Central Government may, for reasons to be recorded in writing notify in this behalf in the Official Gazette.

**Govt. Bank, PO, Co-operative bank and farmers excluded.**

- (2) Cases where the persons involved in the transaction derive income **only** from agriculture or where neither of them has any income chargeable to tax under the Act.

#### Meaning of certain terms

	Term	Meaning
(i)	Loan or deposit	Any loan or deposit of money
(ii)	Specified sum	any sum of money receivable, whether as advance or otherwise, in relation to transfer of immovable property, whether or not the transfer takes place.
(iii)	Prescribed electronic modes (for the purposes of section 269SS, 269ST and 269T)	(a) Credit Card; (b) Debit Card; (c) Net Banking; (d) IMPS (Immediate Payment Service); (e) UPI (Unified Payment Interface); (f) RTGS (Real Time Gross Settlement); (g) NEFT (National Electronic Funds Transfer), and (h) BHIM (Bharat Interface for Money) Aadhar Pay.

#### Penalty for failure to comply with the provisions of section 269SS [Section 271D]

If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty under section 271D, a sum of equal to the amount of the loan or deposit or specified sum taken or accepted. Further, any such penalty shall be imposed by the Joint Commissioner.

**Penalty = amt. of loan, deposit or specified sum**

## 18.2 MODE OF UNDERTAKING TRANSACTIONS [SECTION 269ST]

Section 269ST provides that no person receive an amount of ₹ 2,00,000 or more except by account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other prescribed electronic mode, –

- (a) in aggregate from a person in a day; or
- (b) in respect of a single transaction; or
- (c) in respect of transactions relating to one event or occasion from a person.

### Circulars

- (1) **The CBDT has, vide Circular No. 22/2017 dated 3.7.2017**, clarified that in respect of receipt by **Non-banking Finance Companies(NBFCs) or Housing Finance Companies (HFCs)** in the nature of repayment of loan, the receipt of one instalment of loan repayment in respect of a loan shall constitute a 'single transaction' as specified in clause (b) of section 269ST and all the instalments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions section 269ST.

**Installments  
not to be  
aggregated**

- (2) **The CBDT has, vide Circular No. 25/2022 dated 30.12.2022**, clarified that in respect of Co-operative Societies, a dealership/ distributorship contract by itself may not constitute an event or occasion for the purposes of clause (c) of section 269ST.

Moreover, the receipt related to such a dealership/distributorship contract by the Co-operative Society on any day in a previous year, which is within 'the prescribed limit' and complies with clause (a) as well as clause (b) of section 269ST, may not be aggregated across multiple days for purposes of (c) of section 269ST for that previous year.

### Non-applicability of the above requirement in certain cases

- (1) any receipt by Government, any banking company, post office savings bank or co-operative bank
- (2) transactions of the nature referred to in section 269SS.
- (3) such other persons or class of persons or receipts, notified by the Central Government.

**Receipt by Govt. Bank, PO and  
Co-operative bank excluded**

Accordingly, vide Notification No. 28/2017, dated 5-4-2017 and Notification No. 57/2017, dated 3-7-2017, the Central Government has specified that the provision of section 269ST **shall not apply** to the following, namely:-

- (a) receipt (cash withdrawals) by any person from a bank, co-operative bank or a post office savings bank
- (b) receipt by a business correspondent on behalf of a banking company or co-operative bank, in accordance with the guidelines issued by the Reserve Bank of India;
- (c) receipt by a white label automated teller machine operator from retail outlet sources on behalf of a banking company or co-operative bank, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007;
- (d) receipt from an agent by an issuer of pre-paid payment instruments, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007;
- (e) receipt by a company or institution issuing credit cards against bills raised in respect of one or more credit cards;
- (f) receipt which is not includible in the total income under section 10(17A).

**Penalty for failure to comply with the provisions of section 269ST [Section 271DA]**

If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty under section 271DA, a sum equal to the amount of such receipt. However, no penalty shall be imposed if such person proves that there were good and sufficient reasons for the contravention. Further, any such penalty shall be imposed by the Joint Commissioner.

**Penalty = Amount received  
in contravention of section  
269ST**

**Circular**

**Applicability of income-tax provisions under section 40A(3), section 269ST and Rule 114B to cash sale of agricultural produce by cultivators/agriculturists to traders [Circular No. 27/2017, dated 3-11-2017]**

The provisions of section 40A(3) provide for the disallowance of expenditure exceeding ₹ 10,000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account. However, Rule 6DD carves out certain exceptions from application of the provisions of section 40A(3) in some specific cases and circumstances, which, *inter alia*, include payments made for purchase of agricultural produce to the cultivators of such produce. Therefore,

no disallowance under section 40A(3) can be made if the trader makes cash purchases of agricultural produce from the cultivator.

Further, section 269ST, subject to certain exceptions, prohibits receipt of ₹ 2 lakh or more, otherwise than by an account payee cheque/draft or by use of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. Therefore, any cash sale of an amount of ₹ 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST.

Furthermore, the provisions relating to quoting of PAN or furnishing of Form No. 60 under Rule 114B do not apply to the sale transaction of ₹ 2 lakh or less.

In view of the above, it is clarified by the CBDT that cash sale of the agricultural produce by its cultivator to the trader for an amount less than ₹ 2 lakh will not-

- (a) result in any disallowance of expenditure under section 40A(3) in the case of trader.
- (b) attract prohibition under section 269ST in the case of the cultivator; and
- (c) require the cultivator to quote his PAN or furnish Form No. 60.



### 18.3 FACILITY FOR ACCEPTING PAYMENT THROUGH PRESCRIBED ELECTRONIC MODES [SECTION 269SU]

- (1) **Legislative intent** - In order to achieve the mission of the Government to move towards a cash less economy to reduce generation and circulation of black money and to promote digital economy, section 269SU was inserted w.e.f. 1st November, 2019.
- (2) **Applicability** - This section requires every person, carrying on business to provide facility for accepting payment through the **prescribed electronic modes**, in addition to the facility for other electronic modes of payment, if any, being provided by such person, if his **total sales, turnover or gross receipts in business exceeds ₹ 50 crore during the immediately preceding previous year**.

**Facility for making digital payments**

The CBDT has, *vide* Circular No. 12/2020 dated 20.5.2020 clarified that the provisions of section 269SU shall not be applicable to a specified person having only B2B transactions (i.e., no transaction with retail customer/consumer) if at least 95% of aggregate of all amounts received during the previous year, including amount received for sales, turnover or gross receipts, are by any mode other than cash.

Rule 119AA prescribe the following electronic modes for making payment, namely -

- (a) Debit Card powered by RuPay;

- (b) Unified Payments Interface (UPI) (BHIM-UPI); and
- (c) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code).
- (3) **Penalty for non-compliance** - In order to ensure compliance of the provisions of section 269SU, section 271DB provides that the failure to provide facility for accepting electronic modes of payment prescribed under section 269SU would attract penalty of a sum of ₹ 5,000, for every day during which such failure continues. However, the penalty shall not be imposed if the person proves that there were good and sufficient reasons for such failure. Further, any such penalty shall be imposed by the Joint Commissioner.
- (4) **Consequential amendment in the Payment and Settlement Systems Act, 2007** – This has been effected to ensure that no bank or system provider imposes any charge upon anyone, either directly or indirectly, for using the modes of electronic payment prescribed under section 269SU of the Income-tax Act, 1961.

**₹ 5,000 per day penalty**

Further, the CBDT has, vide Circular No.16/2020 dated 30.8.2020 advised banks to immediately refund the charges collected, if any, on or after 1<sup>st</sup> January, 2020 on transactions carried out using the electronic modes prescribed under section 269SU and not to impose charges on any future transactions carried through the said prescribed modes.

## 18.4 MODE OF REPAYMENT OF CERTAIN LOANS OR DEPOSITS [SECTION 269T]

Section 269T provides that no branch of the banking company or a co-operative bank or any other company or co-operative society or a firm or other person, shall repay any loan or deposit made with it or any specified advance received by it otherwise than by account payee cheque or account payee bank draft, drawn in the name of the person who has made the loan or depositor paid the specified advance, or by use of electronic clearing system through a bank account or through such other prescribed electronic mode, if –

**Repayment of loan**

- (1) the amount of loan or deposit or specified advance together with interest, if any, payable thereon; or
- (2) the aggregate amount of such loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other

person on the date of such repayment, together with the interest, if any, payable on such loan or deposit; or

- (3) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with interest, if any, payable on such specified advances is **₹ 20,000 or more**.

However, **higher limit of ₹ 2,00,000** is applicable in case of any deposit or loan where –

- a deposit is paid by a primary agricultural credit society (PACS) or a primary cooperative agricultural and rural development bank (PCARD) to its member or
- a loan is repaid to a primary agricultural credit society or a primary cooperative agricultural and rural development bank by its member.

**Higher limit  
of ₹ 2,00,000 for deposit  
paid by/loan repaid to  
PACS/PCARD**

#### **Non-applicability of the above requirement in certain cases**

- (1) Where the repayment is made by a branch of bank or a co-operative bank, such repayment could be made by crediting the amount of such loan or deposit to the saving bank account or the current account, if any, with such branch of the person to whom such loan or deposit has to be repaid.
- (2) Further, the provisions of this section shall not apply in case of repayment of any loan or deposit or specified advance taken or accepted from -
- (i) Government;
  - (ii) any banking company, post office savings bank or co-operative bank;
  - (iii) any corporation established by a Central, State or Provincial Act;
  - (iv) any Government company as defined in section 617 of the Companies Act, 1956<sup>1</sup>;
  - (v) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.

**Non-applicability**

<sup>1</sup>Section 2(45) of the Companies Act, 2013

**Meaning of certain terms**

	Term	Meaning
(1)	Loan or Deposit	Any loan or deposit of money which is repayable after notice or repayable after a period.  In the case of any person other than a company, loan or deposit of any nature will be covered by this section.
(2)	Specified Advance	Any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.

**Penalty for failure to comply with the provisions of section 269T [Section 271E]**

If a person repays any loan or deposit or specified advance referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty under section 271E, a sum equal to the amount of the loan or deposit or specified advance so repaid. Further, any such penalty shall be imposed by the Joint Commissioner.

**Penalty = Amount repaid  
In contravention of  
section 269T**



## 18.5 TRANSFERS TO DEFRAUD REVENUE VOID [SECTION 281]

- (1) As a safeguard against non-realisation of revenue due to fraudulent transferring of assets by a defaulting assessee it is provided under this section that, certain transfers specified therein are deemed to be void for purpose of income-tax.

**Transfer of asset during  
pendency of proceedings  
shall be void**

- (2) Accordingly, in cases where, during the pendency of any proceeding under the Income-tax Act, 1961 or after the completion thereof, but before the service of notice by the Tax Recovery Officer, any assessee creates a charge on, or parts with, the property by way of sale, mortgage, gift, exchange, or any other mode of transfer whatsoever of any of his assets in favour of any other person, such a charge or transfer must be deemed to be void as against any claim in respect of any tax, penalty, interest or fine payable by the assessee as a result of the completion of the proceedings or otherwise.

- (3) This provision applies to all cases where the amount of tax or other sum of money which is payable or likely to be payable exceeds ₹ 5,000 and the assets which are charged or transferred by the assessee exceeds ₹ 10,000 in value, in the aggregate.
- (4) The charge or transfer made by the assessee, however, **would not be void** in case where it is made:
- (a) for adequate consideration and without any notice of the pendency of such proceeding or, as the case may be, without any notice of such tax or other monies remaining payable by the assessee; or
- (b) with the previous permission of the Assessing Officer.
- (5) For this purpose, the term '**assets**' should be taken to mean land, buildings, machinery, plant, shares, securities and fixed deposits in bank to the extent to which any of these assets do not form part of the stock-in-trade of the business carried on by the assessee. In other words, if these items of properties represent the stock-in-trade of the assessee's business, their transfer would not be treated as void.

Case when transfer is not void

Assets exclude stock-in-trade

## 18.6 PROVISIONAL ATTACHMENT TO PROTECT THE INTEREST OF THE REVENUE [SECTION 281B]

- (1) **Assessing Officer's power to provisionally attach property for protecting interests of the revenue:** Under section 281B, the Assessing Officer is empowered to provisionally attach any property of the assessee, by an order in writing, during the pendency of assessment or reassessment proceedings of any income which has escaped assessment or for imposition of penalty under section 271AAD (penalty leviable for false entry etc. in books of accounts) where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds ₹ 2 crores, with the prior approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General, Principal Director or Director, if he is of the opinion that it is necessary to do so for the purpose of

Provisional attachment where penalty u/s 271AAD exceeds ₹ 2 crores

protecting the interests of the revenue. Such provisional attachment has to be made in the manner provided in the Second Schedule.

- (2) **Validity of provisional attachment:** The provisional attachment shall be valid for a period of 6 months from the date of the order. However, the Principal Chief Commissioner or Chief

**Valid for 6 months**

Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director may extend the period of provisional attachment, for reasons to be recorded in writing, by a further period as he thinks fit. However, the total period of extension should not exceed two years or sixty days after the date of assessment or reassessment, whichever is later.

- (3) **Recommendation of Income Tax Simplification Committee:** The Income Tax Simplification Committee under the chairmanship of Justice R.V. Easwar (Retd.) has recommended that provisional attachment of property could be substituted by a bank guarantee subject to fulfilment of certain conditions.

- (4) **Furnishing bank guarantee in lieu of provisional attachment of property:** Section 281B(3) to (9) provides for furnishing of bank guarantee in lieu of provisional attachment of property.

- (5) **Furnishing of bank guarantee in lieu of provisional attachment [Section 281B(3)]:** The Assessing Officer shall, by an order in writing, revoke provisional attachment of property made under section 281B(1) in a case where the assessee furnishes a guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.

**Bank  
gaurantee in  
lieu of  
provisional  
attachment**

- (6) **Reference to Valuation Officer [Section 281B(4)]:** For the purpose of determining the fair market value of the property provisionally attached, the Assessing Officer may, make a reference to the Valuation Officer, who is required to estimate of the fair market value of the property and submit the report of such estimation to the Assessing Officer within a period of 30 days from the date of receipt of such reference.

- (7) **Time limit for passing order revoking the attachment of property [Section 281B(5)]:** For ensuring revocation of attachment of the property in lieu of bank guarantee in a time bound manner, an order revoking the attachment has to be made by the Assessing Officer within

the following time period:

	Case	Time period for revoking attachment
(i)	in a case where a reference is made to the Valuation Officer	within 45 days from the date of receipt of such guarantee
(ii)	in any other case	within 15 days from the date of receipt of such guarantee

- (8) **Assessing Officer empowered to invoke bank guarantee for failure to pay sum specified in notice of demand [Section 281B(6)]:** Where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay such sum within the time specified in the notice of demand, the Assessing Officer may invoke the bank guarantee, wholly or partly, to recover the said amount.

**Power to invoke bank guarantee**

- (9) **Power to invoke bank guarantee on assessee's failure to renew or furnish new guarantee [Section 281B(7)]:** In a case where the assessee fails to renew the bank guarantee or fails to furnish a new guarantee from a scheduled bank for an equal amount fifteen days before the expiry of such guarantee, the Assessing Officer shall, in the interests of the revenue, invoke the bank guarantee.

- (10) **Manner of adjustment of amount realized by invoking bank guarantee [Section 281B(8)]:**

- (i) The amount realised by invoking the bank guarantee shall be adjusted against the existing demand which is payable by the assessee;
- (ii) The balance amount, if any, has to be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of Reserve Bank of India or the State Bank of India or of its subsidiaries or any bank as may be appointed by the Reserve Bank of India as its agent at the place where the office of the Principal Commissioner or Commissioner is situated.

**Adjustment against existing demand**

- (11) **Release of bank guarantee [Section 281B(9)]:** In a case where the Assessing Officer is satisfied that the bank guarantee is not required anymore to protect the interests of the revenue, he shall release that guarantee forthwith.



## 18.7 SERVICE OF NOTICE [SECTIONS 282, 283 & 284]

- (1) **Permissible modes of service of notice [Section 282]:** The service of a notice or summon or requisition or order or any other communication under the Act may be made by delivering or transmitting a copy thereof to the person named therein -

### Modes of Service

- (i) by post or such courier services as approved by the CBDT; or
- (ii) in such manner as provided in the Code of Civil Procedure, 1908 for the purposes of service of summons; or
- (iii) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or
- (iv) by any other means of transmission as may be provided by rules made by the CBDT in this behalf.

- (2) **Rules to provide for the addresses for communication:** The CBDT is empowered to make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which such communication may be delivered or transmitted to the person named therein.

- (3) **Addressee in case of different assessees:** The following is a list of persons on whom notice should be served and such a notice will be notice to the corresponding assessee mentioned.

	Assessee	Addressee
(i)	An existing firm	Any member of the firm
(ii)	An existing H.U.F.	The Manager or any adult member of the family.
(iii)	A Company	The Principal Officer thereof
(iv)	Local authority	The Principal Officer thereof
(v)	An existing association or body of individuals	The Principal Officer or any member thereof
(vi)	An individual	The individual himself
(vii)	Any other person	The person incharge of the management and control of his affairs.
(viii)	A dissolved firm	Any adult person who was a partner immediately before dissolution.

(ix)	A partitioned H.U.F.	The last manager of the family; if he is dead, all adults who were members immediately before the partition.
(x)	A dissolved association of persons	Any person who was a member immediately before dissolution
(xi)	A discontinued business	The assessee; In the case of a firm or an association of persons, any person who was a member at the time of discontinuance; In the case of a company, its Principal Officer.



## 18.8 AUTHENTICATION OF NOTICES AND OTHER DOCUMENTS [SECTION 282A]

- (1) Section 282A provides that where any notice or other document is required to be issued by any income-tax authority, such notice or other document should be signed and issued in paper form or communicated in electronic form by that authority in accordance with the prescribed procedure. This is in order to provide adequate legal framework for paperless assessment for improving efficiency and reducing the compliance burden.

### Authentication

Accordingly, Rule 127A provides for authentication of notices and other documents. Every notice or other document communicated in electronic form by an income-tax authority under the Income-tax Act, 1961 shall be deemed to be authenticated –

	Case	When it will be deemed as authenticated?
(i)	<b>Electronic mail or Electronic mail message</b>	
	If the notice or other document is in the e-mail body itself	If the name and office of such income-tax authority is printed on the e-mail body and the e-mail is issued from the designated e-mail address of such income-tax authority.
	If the notice or other document is in the attachment	If the name and office of such income-tax authority is printed on the attachment and the e-mail is issued from the designated e-mail address of such income-tax authority.

(ii)	<b>An electronic record</b>	
	If the notice or other document is contained as text or remark in the electronic record itself	If the name and office of such income-tax authority is displayed as a part of the electronic record and such electronic record is displayed on the designated website.
	If the notice or other document is in the attachment	If the name and office of such income-tax authority is printed on the attachment in the electronic record and such electronic record is displayed on the designated website.

- (2) Every notice or other document required to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.
- (3) A designated income-tax authority means any income-tax authority authorised by the CBDT to issue, serve or give such notice or other document after authentication in the manner as provided in (2) above.

## 18.9 SUBMISSION OF STATEMENTS BY PRODUCERS OF CINEMATOGRAPH FILMS OR PERSONS ENGAGED IN SPECIFIED ACTIVITY [SECTION 285B]

- (1) **Time limit for furnishing statement in prescribed form** - Section 285B read with Rule 121A, requires a producer of a cinematograph film or a person engaged in any specified activity, or both, during the whole or any part of any financial year to furnish a statement in the prescribed form<sup>2</sup> within 60 days from the end of the previous year, in respect of the period during which such production or specified activity is carried on by him in such financial year.
- 60 days from the end of P.Y.
- (2) **Manner of furnishing the statement** - The said statement has to be furnished electronically to the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, or any person authorised by the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

<sup>2</sup> Form No. 52A

- (3) **Threshold limit of payments in respect of which particulars have to be included in the statement**- Such statement would contain the particulars of **all payments exceeding ₹ 50,000 in the aggregate made by him or due from him to each such person** as is engaged by him in such production or specified activity. **Threshold limit**

- (4) **Meaning of “specified activity”** - “Specified activity” means any –

- (i) event management
- (ii) documentary production,
- (iii) production of programmes for telecasting on television or over the top platforms or any other similar platform,
- (iv) sports event management,

other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

## 18.10 OBLIGATION TO FURNISH STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT [SECTION 285BA]

- (1) Section 285BA imposes an obligation on specified persons to furnish statement of financial transaction or reportable account. Thus, the section also provides for furnishing of statement by a prescribed reporting financial institution in respect of a specified financial transaction or reportable account to the prescribed income-tax authority. **SFT**

- (2) As per section 285BA(1), the following persons, who are responsible for registering or maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed under any law for the time being in force, are required to furnish a statement in respect of such specified financial transaction or reportable account which is registered or recorded or maintained by him and information relating to which is relevant and required for the purposes of the Income-tax Act, 1961 to the income-tax authority or such other authority or agency as may be prescribed -

- (a) an assessee;
- (b) a prescribed person in the case of an office of Government;

- (c) a local authority or other public body or association; or
  - (d) the Registrar or Sub-Registrar appointed under the Registration Act, 1908; or
  - (e) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or
  - (f) the Post Master General referred to in the Indian Post Office Act, 1898; or
  - (g) the Collector referred to in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
  - (h) the recognised stock exchange referred to in the Securities Contracts (Regulation) Act, 1956; or
  - (i) an officer of the Reserve Bank of India; or
  - (j) a depository referred to in the Depositories Act, 1996; or
  - (k) a prescribed reporting financial institution; or
  - (l) a person, other than those referred to in clauses (a) to (k), as may be prescribed.
- (3) **“Specified financial transactions”** means any of the following transactions which may be prescribed -
- (a) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or
  - (b) transaction for rendering any service; or
  - (c) transaction under a works contract; or
  - (d) transaction by way of an investment made or an expenditure incurred; or
  - (e) transaction for taking or accepting any loan or deposit,
- (4) The CBDT may prescribe different values for different transactions in respect of different persons having regard to the nature of such transaction.
- (5) As per Rule 114E, the statement of financial transaction or reportable account shall be furnished in Form No. 61A and shall be verified in the manner indicated therein.

**Meaning of SFT**

**On or before 31<sup>st</sup> May from the end of FY**

Accordingly, the statement of financial transactions has to be furnished on or before 31<sup>st</sup> May, immediately following the financial year in which the transaction is registered or recorded.

- (6) Where the prescribed income-tax authority considers that the statement furnished under section 285BA(1) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of **Rectify the defect within 30 days** rectifying the defect within a period of 30 days from the date of such intimation. The prescribed income-tax authority may allow, on an application made in this behalf, a further period of time, at his discretion.
- (7) If the defect is not rectified within the said period of 30 days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement.
- (8) Where a person who is required to furnish a statement under section 285BA(1), has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice [Section 285BA(5)]. **Failure to furnish SFT**
- (9) If any person, having furnished a statement under section 285BA(1), or in pursuance of a notice issued under section 285BA(5), comes to know or discovers any inaccuracy in the information provided in the statement, he shall, within a period of **ten days** inform the income-tax authority or other authority or agency referred to in section 285BA(1), the inaccuracy in such statement and furnish the correct information in the prescribed manner [Section 285BA(6)] **Inform Discrepancy within 10 days**
- (10) Under section 285BA(7), the Central Government may, by way of rules, specify —
- (i) the persons referred to in section 285BA(1) to be registered with the prescribed income-tax authority;
  - (ii) the nature of information and the manner in which such information shall be maintained by the persons referred to in point (i); and
  - (iii) the due diligence to be carried out by the persons for the purpose of identification of any reportable account referred to in section 285BA(1).

- (11) **Furnishing of statement of financial transaction [Rule 114E:** The statement of financial transaction required to be furnished under section 285BA(1) of the Income-tax Act, 1961 shall be furnished by every person mentioned in column (3) of the Table below in respect of all the transactions of the nature and value specified in the corresponding entry in column (2) of the said Table, which are registered and recorded by him on or after 1<sup>st</sup> April, 2016.

S. No.	Nature and value of transaction	Class of person (reporting person)
(1)	(2)	(3)
1.	<p>(a) Payment made in cash for purchase of bank drafts or pay orders or banker's cheque of an amount aggregating to ₹ 10 lakh or more in a financial year.</p> <p>(b) Payments made in cash aggregating to ₹ 10 lakh or more during the financial year for purchase of pre-paid instruments issued by Reserve Bank of India under the Payment and Settlement Systems Act, 2007.</p> <p>(c) Cash deposits or cash withdrawals (including through bearer's cheque) aggregating to ₹ 50 lakhs or more in a financial year, in or from one or more current account of a person.</p>	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act)
2.	Cash deposits aggregating to ₹ 10 lakhs or more in a financial year, in one or more accounts (other than a current account and time deposit) of a person.	<p>(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act);</p> <p>(ii) Post Master General as referred to in the Indian Post Office Act, 1898.</p>
3.	One or more time deposits (other than a time deposit made through renewal of another time deposit) of a person aggregating to ₹ 10 lakhs or more in a financial year of a person.	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act);

		<p>(ii) Post Master General as referred to in the Indian Post Office Act, 1898;</p> <p>(iii) Nidhi referred to in section 406 of the Companies Act, 2013;</p> <p>(iv) NBFC which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934, to hold or accept deposit from public.</p>
4.	<p>Payments made by any person of an amount aggregating to-</p> <p>(i) ₹ 1 lakh or more in cash; or</p> <p>(ii) ₹ 10 lakh or more by any other mode,</p> <p>against bills raised in respect of one or more credit cards issued to that person, in a financial year.</p>	<p>A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) or any other company or institution issuing credit card.</p>
5.	<p>Receipt from any person of an amount aggregating to ₹ 10 lakh or more in a financial year for acquiring bonds or debentures issued by the company or institution (other than the amount received on account of renewal of the bond or debenture issued by that company).</p>	<p>A company or institution issuing bonds or debentures.</p>
6.	<p>Receipt from any person of an amount aggregating to ₹ 10 lakh or more in a financial year for acquiring shares (including share application money) issued by the company.</p>	<p>A company issuing shares</p>
7.	<p>Buy back of shares from any person (other than the shares bought in the open market) for an amount or value aggregating to ₹ 10 lakh or more in a financial year.</p>	<p>A company listed on a recognised stock exchange purchasing its own securities under section 68 of the Companies Act, 2013.</p>
8.	<p>Receipt from any person of an amount aggregating to ₹ 10 lakh or more in a financial year for acquiring units of one or more schemes of a Mutual Fund (other than the amount received on account of transfer from</p>	<p>A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.</p>

	one scheme to another scheme of that Mutual Fund).	
9.	Receipt from any person for sale of foreign currency including any credit of such currency to foreign exchange card or expense in such currency through a debit or credit card or through issue of travelers cheque or draft or any other instrument of an amount aggregating to ₹ 10 lakh or more during a financial year	Authorised person as referred to in section 2(c) of the Foreign Exchange Management Act, 1999.
10.	Purchase or sale by any person of immovable property for an amount of ₹ 30 lakhs or more or valued by the stamp valuation authority referred to in section 50C at ₹ 30 lakhs or more	Inspector-General appointed under the Registration Act, 1908 or Registrar or Sub-Registrar appointed under that Act
11.	Receipt of cash payment exceeding ₹ 2 lakh for sale, by any person, of goods or services of any nature (other than those specified at Sl. Nos.1 to 10 above, if any).	Any person who is liable for audit under section 44AB.

**Manner of application of threshold limit:** The reporting person mentioned in column (3) of the Table [other than the person at Sl.No.10 and 11] shall, while aggregating the amounts for determining the threshold limit for reporting the amount in respect of any person as specified in column (2) of the said Table,-

- (a) take into account all the accounts of the same nature as specified in column (2) of the said Table maintained in respect of that person during the financial year;
- (b) aggregate all the transactions of the same nature as specified in column (2) of the said Table recorded in respect of that person during the financial year;
- (c) attribute the entire value of the transaction or the aggregated value of all the transactions to all the persons, in a case where the account is maintained, or transaction is recorded in the name of more than one person;
- (d) apply the threshold limit separately to deposits and withdrawals in respect of transaction specified in item (c) under column (2), against Sl. No.1 of the said Table.

For the purposes of pre-filling the return of income, Rule 114E(5A) provides that the information relating to capital gains on transfer of listed securities or units of Mutual Funds, dividend income, and interest income mentioned in column (2) of Table below shall be

furnished by the persons mentioned in column (3) of the said Table in such form, at such frequency, and in such manner, as may be specified by the Principal Director General of Income Tax (Systems) or the Director General of Income Tax (Systems), as the case may be, with the approval of the CBDT:

Sl. No.	Nature of transaction	Class of person (reporting person)
(1)	(2)	(3)
1.	Capital gains on transfer of listed securities or units of Mutual Funds	(i) Recognised Stock Exchange; (ii) Depository as defined in section 2(1)(e) of the Depositories Act, 1996 (iii) Recognised Clearing Corporation; (iv) Registrar to an issue and share transfer agent registered under section 12(1) of the SEBI Act, 1992
2.	Dividend income	A company
3.	Interest income	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) (ii) Post Master General as referred to in section 2(j) of the Indian Post Office Act, 1898 (iii) Non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934, to hold or accept deposit from public.

**Note** - The information is to be reported for all account/deposit holders where any interest exceeds zero per account in the financial year excluding Jan Dhan Accounts [Notification No. 1/2023, dated 5.01.2023].

#### Meaning of certain terms:

Term	Meaning
Listed securities	Securities which are listed on any recognised stock exchange in India
Mutual Fund	A Mutual Fund as referred to in section 10(23D) of the Income-tax Act, 1961
Recognised clearing corporation	It has the same meaning as assigned to it in regulation 2(1)(o) of the Securities Contracts (Regulation) (Stock Exchanges and

	Clearing Corporations) Regulations, 2012 made under the Securities Contracts (Regulation) Act, 1956 and the SEBI Act, 1992
Recognised stock exchange	A stock exchange which is for the time being recognised by the Central Government under section 4 of the Securities Contracts (Regulation) Act, 1956
Securities	It has the same meaning as assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956

### **Penalty for Failure to Furnish Statement of Financial Transaction or Reportable Account [Section 271FA]**

Section 271FA provides that if a person who is required to furnish a statement of financial transaction or reportable account, as required under section 285BA(1), fails to furnish such statement within the

#### **Penalty**

time prescribed under section 285BA(2) [i.e., on or before 31<sup>st</sup> May, immediately following the financial year in which the transaction is registered or recorded], the prescribed income-tax authority [i.e., Director of Income-tax (Central Information Branch)] may direct that such person shall pay, by way of penalty, a sum of ₹ 500 for every day during which the failure continues.

Further, where such person fails to furnish the statement of financial transaction or reportable account within the period specified in the notice under section 285BA(5), he shall pay, by way of penalty, a sum of ₹ 1,000 for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the statement expires.

The penal provisions under section 271FA are summarized below -

<b>Non-compliance of section</b>	<b>Penalty under section 271FA</b>	<b>Period</b>
285BA(1)	₹ 500 per day of continuing default	1 <sup>st</sup> June immediately following the financial year in which the transaction is registered or recorded till the date of furnishing the statement of financial transaction or reportable account or the date of expiry of the time specified in the notice under section 285BA(5), as the case may be.
285BA(5)	₹ 1,000 per day of continuing default	The day immediately following the day on which the time specified in notice under section 285BA(5) for furnishing the statement expires till the date of furnishing of statement.

As per section 273B, no penalty is leviable under section 271FA, if the assessee proves that there was reasonable cause for the said failure.

**ILLUSTRATION 1**

A private bank has not filed its statement of financial transaction or reportable account in relation to the specified financial transactions for the financial year 2024-25. A notice was issued by the prescribed income-tax authority on 1<sup>st</sup> October, 2025 requiring the bank to furnish the statement by 31<sup>st</sup> October, 2025. The bank, however, furnished the statement only on 15<sup>th</sup> November, 2025. What would be the penalty leviable under section 271FA?

**SOLUTION**

(1) Non-compliance of section	(2) Penalty under section 271FA	(3) Period	(4) Quantum of penalty under section 271FA	
			(2) × (3)	(₹)
285BA(1)	₹ 500 per day of continuing default	1.6.2025 to 31.10.2025	153 days × ₹ 500	76,500
285BA(5)	₹ 1,000 per day of continuing default	1.11.2025 to 15.11.2025	15 days × ₹ 1,000	15,000
				<b>91,500</b>

**Penalty for furnishing inaccurate statement of financial transaction or reportable account****[Section 271FAA]**

Section 271FAA(1) provides for levy of penalty in case of **a person referred to in section 285BA(1)** who is required to furnish a statement of financial transaction or reportable account, where such person provides inaccurate information in the statement.

In such a case, the income-tax authority prescribed under section 285BA -

- (I) may direct levy of penalty of ₹ 50,000, subject to further satisfaction of any one of the following conditions –

**Penalty for inaccurate SFT**

- (i) The inaccuracy is due to a failure to comply with the due diligence requirement prescribed under section 285BA(7) or is deliberate on the part of that person; or
- (ii) The person is aware of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or

- (iii) The person discovers the inaccuracy after furnishing the statement of financial transaction or reportable account but fails to inform and furnish correct information within ten days, being the time specified under section 285BA(6).

*While reviewing India's CRS legislative framework under the Automatic Exchange of Information (AEOI) framework, the Global Forum on Transparency and Exchange of Information for Tax purposes has formed a view that the penal sanction available under section 271FAA for inaccuracies would not automatically extend to all cases where due diligence was not correctly done if the information did not lead to incorrect reporting.*

*Accordingly, w.e.f. 1<sup>st</sup> October 2024, 271FAA(1) has been substituted to provide that the income-tax authority prescribed under section 285BA may direct levy of penalty of ₹ 50,000, subject to satisfaction of any one of the following conditions –*

- (i) *The person provides inaccurate information in the statement or fails to furnish correct information within the period specified under section 285BA(6); or*
- (ii) *The person fails to comply with the due diligence requirement prescribed under section 285BA(7).*
- (II) shall direct levy of ₹ 5,000 for every reportable account, in addition to the levy of penalty of ₹ 50,000, in case of a prescribed reporting financial institution which is required to furnish a statement under section 285BA, if it provides inaccurate information in the statement and the inaccuracy in such statement is due to false or inaccurate information furnished by the holder or holders of the relevant reportable account or accounts.

Where such penalty is paid by the reporting financial institution, such institution would be entitled to recover the sum so paid on behalf of such reportable account holder, or to retain out of any moneys that may be in its possession or may come to it from every such reportable account holder, an amount equal to the sum so paid.



## 18.11 ANNUAL INFORMATION STATEMENT [SECTION 285BB]

- (1) The prescribed income-tax authority or the person authorised by such authority has to upload in the registered account of the assessee, an annual information statement in the prescribed form and manner and within the prescribed time along with the prescribed information in possession of the said authority.



(2) “Registered account” means the electronic filing account registered by the assessee in designated portal, i.e., web portal designated by the prescribed income-tax authority or the person authorised by such authority.

(3) Accordingly, Rule 114-I requires the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him, under section 285BB, to upload in the registered account of the assessee an annual information statement in Form No. 26AS containing the information specified in column (2) of the table below, which is in his possession within 3 months from the end of the month in which the information is received by him:—

## Form No. 26AS

Sl. No.	Nature of information
(i)	Information relating to tax deducted or collected at source
(ii)	Information relating to specified financial transaction
(iii)	Information relating to payment of taxes
(iv)	Information relating to demand and refund
(v)	Information relating to pending proceedings
(vi)	Information relating to completed proceedings

- (4) The CBDT may also authorise the Principal DGIT (Systems) or the DGIT (Systems) or any person authorised by him to upload the information received from any officer, authority or body performing any function under any law or the information received under an agreement referred to in section 90 or section 90A or the information received from any other person to the extent as it may deem fit in the interest of the revenue in the annual information statement.
- (5) The Principal DGIT (Systems) or the DGIT (Systems) has to specify the procedures, formats and standards for the purposes of uploading of annual information statement.

## 18.12 PUBLICATION OF INFORMATION [SECTION 287]

The Central Government is empowered to publish the name and address of any assessee and other particulars relating to any proceedings or prosecutions in respect of such assesseees, if it considers it necessary or expedient in the public interest to do so.

### Publication

However, no such publication relating to any penalty or prosecution shall be made until the time for presenting appeal

to the Joint Commissioner (Appeals) or Commissioner (Appeals) has expired without an appeal having been presented or until the appeal, if presented, has been disposed of.

In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company or members of the associations, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify the same.

### **18.13 APPEARANCE BY REGISTERED VALUERS [SECTION 287A]**

Any tax payer who is entitled to or required to attend before any income tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, otherwise than he is required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer.

### **18.14 APPEARANCE BY AUTHORISED REPRESENTATIVE [SECTION 288]**

- (1) Section 288 deals with appearance by authorised representative. Accordingly, any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may attend by an authorised representative.
- (2) For the purpose of this section, “authorised representative” means, a person authorised by the assessee in writing to appear on his behalf. The following persons can be authorised representatives:
  - (a) A person related to the assessee in any manner or a person regularly employed by the assessee
  - (b) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings
  - (c) any legal practitioner who is entitled to practice in any Civil Court in India

- (d) an Accountant i.e., a chartered accountant as defined in section 2(1)(b) of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under section 6(1) of that Act. However, the following persons are not included in the definition of “accountant” -

	Assessee	Person
(i)	Company	<p>A person who is not eligible for appointment as an auditor of the said company under section 141(3) of the Companies Act, 2013, namely,</p> <p>(a) A body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;</p> <p>(b) an officer or employee of the company</p> <p>(c) a person who is a partner, or who is in the employment, of an officer or employee of the company</p> <p>(d) a person who, or his relative or partner –</p> <p>(i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company<sup>3</sup></p> <p>(ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of ₹ 5 lakh.</p> <p>(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of ₹ 1 lakh.</p> <p>(e) a person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed.</p> <p>(f) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel.</p>

<sup>3</sup>However, the relative may hold security or interest in the company of face value not exceeding ₹ 1,000 or such sum as may be prescribed.

		<p>(g) a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than 20 companies</p> <p>(h) a person who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction</p> <p>(i) any person whose subsidiary or associate company or any other form of entity, is engaged as on the date of appointment in consulting and specialised services as provided in section 144 of the Companies Act, 2013.</p>
(ii)	Individual	The assessee himself or his relative
(iii)	Firm	Partner of the firm or his relative
(iv)	AOP	Member of the AOP or his relative
(v)	HUF	Member of the HUF or his relative
(vi)	Trust or Institution	<p>(1) The author of the trust or founder of the institution or his relative</p> <p>(2) Any person who has made a substantial contribution to the trust or institution, i.e., any person whose total contribution upto the end of the relevant previous year exceeds ₹ 50,000, or his relative</p> <p>(3) Where such author, founder or person is a HUF, a member of the HUF or relative of such member</p> <p>(4) Any trustee of the trust or manager of the institution, or relative of the trustee or manager</p>
(vii)	Any other person	The person who is competent to verify the return under section 139 in accordance with the provisions of section 140 or his relative.
(viii)	Any assessee referred to in (ii) to (vii)	<p>(1) An officer or employee of the assessee</p> <p>(2) An individual who is a partner, or who is in the employment, of an officer or employee of the assessee.</p> <p>(3) An individual who, or his relative or partner -</p> <p>(I) is holding any security of, or interest in, the assessee<sup>4</sup>.</p>

<sup>4</sup>However, the relative may hold security or interest in the assessee of the face value not exceeding ₹ 1 lakh

		<p>(II) is indebted to the assessee<sup>5</sup>.</p> <p>(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee<sup>6</sup>.</p> <p>(4) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed.</p> <p>“Business relationship” shall be construed as any transaction entered into for a commercial purpose, other than –</p> <p>(i) commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Income-tax Act, 1961 and the Chartered Accountants Act, 1949 and the rules and regulations made thereunder;</p> <p>(ii) commercial transactions which are in the ordinary course of business of the company at ALP – like sale of products or services to auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.</p> <p>(5) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.</p>
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However, the ineligibility for carrying out any audit or furnishing of any report/certificate in respect of an assessee shall not make an accountant ineligible for attending income-tax proceeding referred to in section 288(1) as authorised representative on behalf of that assessee.

- (e) any person who has passed any accountancy examination recognised in this behalf by the Board. Rule 50 prescribes the accountancy examination recognised for this purpose. They are as follows:
- (i) The National Diploma in Commerce awarded by the All India Council for Technical Education under the Ministry of Education, New Delhi, provided the

<sup>5</sup>However, the relative may be indebted to the assessee for an amount not exceeding ₹ 1 lakh

<sup>6</sup>However, the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding ₹ 1 lakh

diploma-holder has taken Advanced Accountancy and Auditing as an elective subject for the Diploma Examination

- (ii) Government Diploma in Company Secretaryship awarded by the Department of Company Affairs under the Ministry of Industrial Development and Company Affairs, New Delhi
  - (iii) Final Examination of the Institute of Company Secretaries of India, New Delhi
  - (iv) The Final Examination of the Institute of Cost and Work Accountants of India constituted under the Cost and Works Accountants Act, 1959
  - (v) The Departmental Examination conducted by or on behalf of the Central Board of Direct Taxes for promotion
  - (vi) The Revenue Audit Examination for Section Officers conducted by the Office of the Comptroller and Auditor General of India
- (f) any person who has acquired such education qualifications as the CBDT may prescribe for this purpose. Rule 51 prescribes the concerned educational qualifications as follows:

### Educational Qualifications

A degree in Commerce or Law conferred by any of the following Universities:

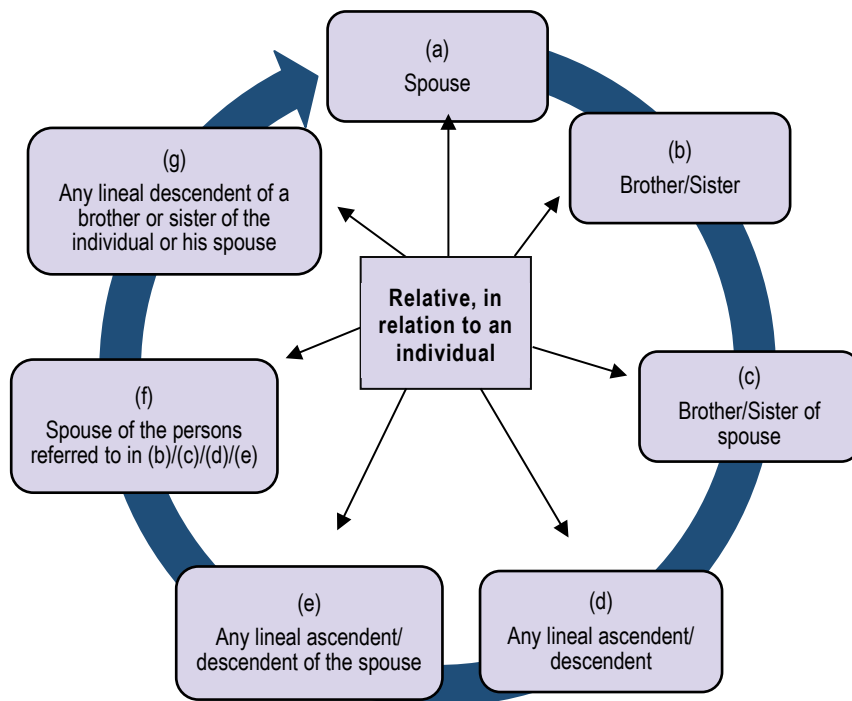
- (i) Indian Universities: Any Indian University incorporated by any law for the time being in force.
  - (ii) Rangoon University
  - (iii) English and Welsh Universities: The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales
  - (iv) Scottish Universities: The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews
  - (v) Irish Universities: The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin
  - (vi) Pakistan Universities: Any Pakistan University incorporated by any law for the time being in force.
- (g) Any other person as may be prescribed.

Accordingly, Rule 51B prescribes that any other person, in respect of a company or a limited liability partnership, as the case may be, shall be the person appointed by the Adjudicating Authority (i.e., National Company Law Tribunal constituted under section 408 of the Companies Act, 2013) for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder.

- (3) The following persons shall **not** be qualified to represent an assessee:
- (i) A person who has been dismissed or removed from government service.
  - (ii) **A person who has been convicted of an offence** connected with any income-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under section 272A(1)(d) - In this case, the person will be disqualified for such time as the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner may, by order, determine.
  - (iii) **A person has become insolvent** - In this case, he will be disqualified for a period during which the insolvency continues.
  - (iv) **A person convicted by a court of an offence involving fraud** - He shall not be eligible to act as authorised representative for a period of 10 years from the date of such conviction.
- (4) If any person is a legal practitioner or an accountant and is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an income-tax authority as it has in relation to his right to practice as a legal practitioner or accountant.
- (5) If a person is not a legal practitioner or an accountant and is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority, may direct that he shall henceforth be disqualified to represent an assessee.
- (6) Before any order or direction of disqualification under point 3(ii) or 5 above is made, the following conditions must be satisfied:

**Persons Not Qualified**

- (a) No such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard
- (b) any person against whom any such order or direction is made, may within one month of the making of the order or direction, may appeal to the Board to have the order or direction cancelled
- (c) No such order or direction shall take effect until the expiration of one month from the making thereof or, where an appeal has been preferred, until the disposal of the appeal.
- (7) A person disqualified to represent an assessee under Indian Income-tax Act, 1922 shall stand disqualified under this Act also
- (8) Meaning of the term “relative” for the purpose of section 288:



## 18.15 POWER TO TENDER IMMUNITY FROM PROSECUTION [SECTION 291]

The Central Government is empowered under section 291 to tender any person immunity from prosecution for any offence under this Act if it is of the opinion that it is necessary or expedient in the public interest to do so for the purpose of obtaining the evidence directly or indirectly concerned in or privy to the concealment of the income or to the evasion of payment to tax on any income taxable under the Act.

CG empowered to tender immunity from prosecution

A tender of immunity made to or accepted by the person concerned shall, to that extent, render him immune from prosecution for any offence in respect of which tender was made or from the imposition of any penalty under the Act. If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is willfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn. Further, any such person may be tried for the offence in respect of which tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.

## 18.16 COGNIZANCE OF OFFENCES AND BAR OF SUITS IN CIVIL COURTS [SECTIONS 292 AND 293]

- (1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.
- (2) No suit can be brought in any Civil Court to set aside or modify any proceeding taken or order made under this Act; and no prosecution, suit or other proceedings shall lie against the Government or any Government Officer for anything done or intended to be done in good faith under the Act.

### 18.17 CERTAIN LAWS NOT TO APPLY [SECTION 292A]

This section provides that the provisions of section 360 of the Code of Criminal Procedure, 1973 or the Probation of Offenders Act, 1958 shall not be applicable to any person who is convicted of an offence under the Income tax Act, 1961 unless that person is under 18 years of age.

### 18.18 RETURN OF INCOME ETC. NOT TO BECOME INVALID [SECTION 292B]

Section 292B provides that no return of income, order of assessment, notice, summons or other proceedings furnished or made or taken or purported to have been furnished or made in pursuance of

**Mistakes or defects not to make ROI invalid**

any of the provisions of the Income-tax Act, 1961 shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding, if they are in substance and effect in conformity with or according to the intent and purposes of the Income-tax Act, 1961.

The provision, thus, enables tax authorities to accept returns and other documents and tax payers to accept orders, notice, etc., received from tax authorities even in cases where there are a few typographical, arithmetical or other mistakes which do not materially affect the objects with which the document was submitted by the assessee or order was issued by the department.

### 18.19 NOTICE DEEMED TO BE VALID IN CERTAIN CIRCUMSTANCES [SECTION 292BB]

- (1) This section provides that the assessee would be precluded from raising any objection in any proceeding or inquiry that the notice was not served upon him or was not served in time or was served in an improper manner if he had appeared in any proceedings or co-operated in any enquiry relating to assessment or re-assessment.
 

**Appeared in proceedings or  
Co-operated in enquiry**
- (2) In short, if the assessee had appeared in any proceedings or co-operated in any enquiry, it shall be deemed that any notice required to be served on him has been duly served upon him in time in accordance with the provisions of the Act.

However, such deeming provision would not apply where the assessee has raised an objection (regarding non-service of notice or non-service of notice in time or improper service of notice) before the completion of such assessment or reassessment.



## 18.20 PRESUMPTION AS TO ASSETS, BOOKS OF ACCOUNT, ETC. [SECTION 292C]

- (1) Under section 132(4A), it is provided that the books of account, money, bullion, jewellery or other valuable article or thing found in the possession or control of any person in the course of a search under section 132 will be presumed to belong to the said person.
- (2) It is further provided that it will be presumed that -
  - (i) the contents of such books of account and other documents are true; and
  - (ii) the signature and every other part of such books of account and other documents which purport to be in handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and
  - (iii) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.
- (3) Therefore, section 292C was inserted to clarify that presumptions provided in section 132(4A) can be made in any proceeding under this Act. It would also be available for regular assessment.
- (4) This section provides that where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search under section 132 or survey under section 133A, it may, in any proceeding under this Act, be presumed that -
  - (i) such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;
  - (ii) the contents of such books of account and other documents are true; and

**Presumption**

**Search or Survey**

- (iii) the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting;
  - (iv) In the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.
- (5) Further, this presumption has also been extended to books of account, other documents or assets which have been delivered to the requisitioning officer in accordance with the provisions of section 132A. For this purpose, section 132A(2) provides that where any books of accounts, other documents or assets have been delivered to the requisitioning officer in accordance with the provision of section 132A then, the presumption would apply as if such books of accounts, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause(c), as the case may be, of section 132A(1), had been found in the possession or control of that person in the course of a search under section 132.



## 18.21 AUTHORITY EMPOWERED TO GRANT AN APPROVAL UNDER THE INCOME TAX ACT, 1961 DEEMED TO HAVE POWER TO WITHDRAW THE APPROVAL GRANTED [SECTION 293C]

- (1) The Central Government, CBDT and income-tax Authorities are empowered under the various provisions of the Income-tax Act to grant approval to the assesseees for availing the benefit of incentives available under the Act.
- (2) However, only some provisions of the Income-tax Act, 1961 specifically contain provisions **Power to Withdraw** for withdrawal of approval. In all other cases, there is no specific power to withdraw the approval granted.
- (3) Therefore, section 293C provides explicitly, such power to withdraw an approval granted. This section provides that an approval granting authority (i.e., the Central Government, CBDT or income-tax authority, as the case may be) shall also have the powers to withdraw the approval at any time.

- (4) However, such withdrawal can be made only after giving a reasonable opportunity to the concerned assessee of showing cause against the proposed withdrawal. Further, the reasons for withdrawal of the approval should be recorded by the concerned authority.

## 18.22 ACT TO HAVE EFFECT PENDING LEGISLATIVE PROVISION FOR CHARGE OF TAX [SECTION 294]

If on the 1st April in any assessment year, provision has not yet been made by a Central Act for the charging of income-tax for that assessment year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding assessment year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force.

**Existing Act**

## 18.23 RULES [SECTIONS 295 AND 296]

Section 295 authorises the CBDT to make rules for the whole or any part of India for carrying out the purposes and to implement the provisions of the Act. The powers of the Board in this regard are subject to the supervision and control of the Central Government. The Rules framed by the Board and approved by the Central Government are required to be placed before each House of the Parliament before enforcing the same. In exercise of the powers conferred on it by this section, the Board, with the approval and sanction of the Central Government and the Parliament, has framed the Income-tax Rules, 1962 which have been amended from time to time.

**Notifications**

This section also enumerates the important matters on which rules may be framed by the Board: the rules framed under this Act have the same force of the section of the Act. The rules must be interpreted in the light of the sections under which they have been made. But the rules should be so framed as not to adversely affect or derogate from the full operative effect of the provisions of the sections. The rules must be within the term of the mandate given to the Board and must be framed in such a way as to be consistent with and supplementary to the provisions of the Act.



## 18.24 SCHEDULES TO THE INCOME TAX ACT, 1961

There are fourteen Schedules to the Income-tax Act, 1961. The matters dealt with in certain schedules are highlighted below:

- Schedule I      Method of computing profits and gains of Insurance business Section 44
- Schedule II     Procedure for Recovery of Tax
- Schedule III    Procedure for distraint by Assessing Officer or Tax Recovery Officer
- Schedule IV    Recognised Provident Funds, approved superannuation funds and approved gratuity funds
- Schedule VII    List of minerals and group of associated minerals in the context of section 35E.

## SIGNIFICANT SELECT CASES

S. No.	Case Law	
1.	<b><i>CIT v. V. Sivakumar (2013) 354 ITR 9 (Mad.)</i></b>	
	<b>Issue</b>	<b>Analysis &amp; Decision</b>
	Can loan, exceeding the specified limit, advanced by a partnership firm to the sole-proprietorship concern of its partner be viewed as a violation of section 269SS to attract levy of penalty?	<p>In the present case, the assessee was a partner in four firms and also had a sole-proprietary business. In the relevant previous year, the partnership firms had advanced loan to the assessee in cash exceeding the specified amount mentioned in section 269SS.</p> <p>There is no separate identity for the partnership firm and that the partner is entitled to use the funds of the firm. In the present case, the assessee has acted <i>bona fide</i> and that there was a reasonable cause within the meaning of section 273B. Therefore, the transaction cannot be said to be in violation of section 269SS and no penalty is attracted in this case.</p>
2.	<b><i>CIT v. Muthoot Financiers (2015) 371 ITR 408 (Del)</i></b>	
	<b>Issue</b>	<b>Analysis &amp; Decision</b>
	Is penalty u/s 271D imposable for cash loans/deposits received from partners?	<p>There are three different High Courts, which have held that section 269SS would not be violative when money is exchanged <i>inter se</i> between the partners and the firm, since the partnership firm is not a separate legal entity.</p> <p>However, the Supreme Court has held that partners of the firm are distinct as civil entities while the firm as such is a separate and distinct unit for the purpose of assessment.</p> <p>In this case, there was no dispute as regards the money brought in by the partners of the assessee-firm. The source of money was also not doubted. The transaction was <i>bona fide</i> and not aimed to avoid any tax liability. <b>The credit worthiness of the partners and genuineness of the transactions coupled with relationship between the 'two persons' and two different legal interpretations put forward, could constitute a reasonable cause in a given case for not invoking sections 271D/271E read with section 273B.</b></p>

3.	<b><i>CIT v. Triumph International Finance (I.) Ltd. (2012) 345 ITR 270 (Bom.)</i></b>	
	<p style="text-align: center;"><b>Issue</b></p> <p><b>Where an assessee repays a loan merely by passing adjustment entries in its books of account, can such repayment of loan by the assessee be taken as a contravention of the provisions of section 269T to attract penalty under section 271E?</b></p>	<p style="text-align: center;"><b>Analysis &amp; Decision</b></p> <p>The obligation to repay the loan or deposit by account payee cheque/bank draft as specified in section 269T is mandatory in nature. The contravention of the said section will attract penalty under section 271E.</p> <p>The cause shown by the assessee for repayment of the loan otherwise than by account payee cheque/bank draft was on account of the fact that the assessee was liable to receive amount towards the sale price of the shares sold by the assessee to the person from whom loan was received by the assessee. In order to avoid the unnecessary circular transfer of shares, both the parties agreed to set-off the amount payable and receivable by way of passing journal entries and the balance loan amount was paid by the assessee by way of an account payee cheque. The amount of loan settled by way of passing journal entries exceeds ₹ 20,000. It would have been mere formality to repay the loan amount by account payee cheque/draft and receive back almost the same amount towards the sale price of the shares. Also, neither the genuineness of the receipt of loan nor the transaction of repayment of loan by way of adjustment through book entries carried out in the ordinary course of business has been doubted in the regular assessment. Therefore, there is nothing on record to suggest that the amounts advanced to the assessee represented the unaccounted money of either party and also it cannot be said that the whole transaction was entered into to avoid tax. This is accepted as a reasonable cause under section 273B.</p> <p>Section 269T does not make a distinction between a <i>bonafide</i> or a <i>non-bonafide</i> transaction neither does it require the fulfillment of the condition mentioned therein only in case where there is outflow of funds. It merely puts a condition that in case a loan or deposit is repaid, it should be by way of an account payee cheque/draft. Therefore, in the present case, the assessee has repaid a portion of loan in contravention of provisions of section 269T.</p> <p>In effect, the assessee has violated the provisions of section 269T by repaying the loan amount by way of passing book entries and therefore, penalty under section 271E is</p>

		<p>applicable. However, since the transaction is <i>bona fide</i> in nature being a normal business transaction and has not been made with a view to avoid tax and since the assessee has shown reasonable cause for the failure under section 269T, no penalty under section 271E could be imposed on the assessee for contravening the provisions of section 269T by virtue of the provisions of section 273B.</p> <p><b>Note:</b> <i>In order to mitigate the hardship caused by certain penalty provisions in case of genuine business transactions, section 273B provides that no penalty under, inter alia, section 271E shall be imposed on a person for any failure referred to in the said section, if such person proves that there was reasonable cause for such failure.</i></p>
4.	<b>Dr. Manoj Kabra v. ITO (2014) 364 ITR 541 (All)</b>	
	<b>Issue</b>	<b>Analysis &amp; Decision</b>
	<p><b>Can the Assessing Officer <i>suo moto</i> assume jurisdiction to declare sale of property as void under section 281?</b></p>	<p>The legislature had no intention to confer any exclusive power or jurisdiction upon the income-tax authority to decide any question arising under section 281. The Income-tax Act, 1961, does not prescribe any adjudicatory machinery for deciding any question which may arise under section 281. In order to declare a transfer as fraudulent under section 281, an appropriate proceeding in accordance with law was required to be taken under section 53 of the Transfer of Property Act, 1882. The Assessing Officer is required to file a suit for declaration to the effect that the transaction of transfer was void under section 281 of the Income-tax Act; but he himself cannot assume jurisdiction <i>suo moto</i> to declare the sale deed as void.</p>
5.	<b>CIT v. Laxman Das Khandelwal (2019) 417 ITR 325 (SC)</b>	
	<b>Issue</b>	<b>Analysis &amp; Decision</b>
	<p>Is the omission to issue notice u/s 143(2) a defect not curable in spite of section 292BB, inspite of participation by the assessee in assessment proceedings?</p>	<p>Without the statutory notice u/s 143(2), the Assessing Officer could not assume jurisdiction.</p> <p>According to section 292BB, if the assessee had participated in the proceedings, by way of legal fiction, notice issued would be deemed to be valid even if there be infractions as detailed in the said section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on the part of the assessee. It is, however, to be noted that the section does not save complete absence</p>

		<p>of issue of notice. <b>For section 292BB to apply, the notice must have emanated from the Department. It is only the infirmities in the manner of service of notice that the section seeks to cure.</b> The section is not intended to cure complete absence of notice itself.</p> <p>Non-issuance of notice u/s 143(2) is not a curable defect u/s 292BB inspite of participation by the assessee in assessment proceedings.</p>
6.	<b><i>Principal CIT v. Maruti Suzuki India Ltd. (2019) 416 ITR 613 (SC)</i></b>	
	<b>Issue</b>	<b>Analysis &amp; Decision</b>
	<p>Is notice issued u/s 143(2) and 142(1) to the amalgamating company, after approval of the Scheme of amalgamation by the High Court and intimation of the same to the A.O., a defect not curable u/s 292BB?</p>	<p>The consequence of the scheme of amalgamation approved u/s 394 of the Companies Act, 1956 (section 232 of the Companies Act, 2013) was that the amalgamating company ceased to exist. It could not thereafter be regarded as a person u/s 2(31) against which assessment proceedings could be initiated or an order of assessment made. Notice u/s 143(2) was issued to the amalgamating company. Prior to the date on which the jurisdictional notice u/s 143(2) was issued, the scheme of amalgamation had been approved by the High Court.</p> <p>Since the notice u/s 143(2) was issued in the name of the amalgamating company in spite of the fact that the amalgamated company had, prior to that date, addressed a communication to the Assessing Officer intimating the fact of amalgamation, <b>the initiation of assessment proceedings against an entity which had ceased to exist was void ab initio.</b> Further, participation in the proceedings by the amalgamated company would not cure this illegality.</p>

**TEST YOUR KNOWLEDGE****Questions**

1. *Fearless General Finance & Investment Limited, a residuary non-banking company, accepts public deposits, issues deposit certificate and repays the same after some period of time alongwith interest, under different schemes run by it. Following transactions were noted from their books of account:*

- (i) *Mr. A, an individual, has deposited ₹ 15,000 on 1<sup>st</sup> May, 2021 for 48 months by bearer cheque and another ₹ 15,000 on 30<sup>th</sup> June, 2024 in cash to purchase a new certificate of 48 months tenure.*
- (ii) *Mr. A has applied for premature withdrawal against both the certificates and the company has paid him ₹ 16,500, by a bearer cheque, against principal and interest on 23<sup>rd</sup> March, 2025, due against his first certificate (purchased in 2021) and ₹ 15,500 in cash on 25<sup>th</sup> March, 2025, against the second certificate.*

*Discuss the violation of income tax provision, if any, and consequential penalty for each transaction. Will it make any difference if the certificates were held by Mr. A with his wife Mrs. A, jointly, while repaying back in cash or bearer cheque?*

2. *The proceedings before the Income-tax Authorities either can be attended by the assessee in person or through an authorized representative. Who can be treated as an authorized representative of the assessee? Mention any five persons who can be treated as an authorized representative of the assessee.*
3. *An order for A.Y. 2023-24 was passed by the Assessing Officer as per section 143(3), but the typist wrongly typed in the order, the assessment year as A.Y.2022-23 and the relevant previous year as ending on 31.3.2022. The assessee claimed in appeal that the same is an invalid order which was not accepted by the CIT (Appeals) on the ground of the error being of clerical nature. Discuss the correctness of the order of the CIT(Appeals).*
4. *“Proceedings cannot be initiated under the Act, unless a proper notice to this effect has been served upon.” In this context answer:*
- (i) *What are the prescribed modes of service of such notice?*
  - (ii) *On whom should the notice be addressed and served upon in the cases where the assessee is a dissolved firm, a deceased person and a partitioned HUF.*

5. Explain the circumstances under which the Assessing Officer can resort to provisional attachment of the property of the assessee. Also, state the period of time for which such attachment can take place.

*When can the Assessing Officer revoke provisional assessment of property? Discuss.*

6. Mr. Biswas, a stock broker, has defaulted with regard to his income-tax payments and the Assessing Officer has attached his membership card of Stock Exchange under section 281B of the Income-tax Act, 1961. Mr. Biswas contends that the membership card is not transferable and is not his personal asset. Discuss the validity of attachment of the card by the Assessing Officer in the context of Section 281B.
7. An assessee had credited a sum of ₹ 50,000 in cash in the account of Madan, said to represent a loan obtained from him. The Assessing Officer, having gone into the genuineness of the transaction, disbelieved the story of loan and treated the sum of ₹ 50,000 as the income of the assessee from undisclosed sources. He also started proceedings under section 271D and levied a penalty of ₹ 60,000 on the assessee for having accepted the loan in contravention of section 269SS. Examine the correctness of the levy.

## Answers

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1. (i) There is no violation of section 269SS at the time of acceptance of the first deposit of ₹ 15,000 by bearer cheque on 1.5.2021, since it is not in excess of the threshold limit of ₹ 20,000. However, violation under section 269SS is attracted at the time of acceptance of the second deposit in cash on 30<sup>th</sup> June, 2024, since as on that date, there is already an outstanding deposit of ₹ 15,000 and another cash deposit of ₹ 15,000 would take the aggregate to ₹ 30,000, which exceeds the threshold limit of ₹ 20,000. Therefore, penalty under section 271D of a sum equal to the amount of deposit taken from Mr. A is attracted for failure to comply with the provisions of section 269SS.
- (ii) In this case, there is a violation of the provisions of section 269T at the time of first repayment by bearer cheque on 23<sup>rd</sup> March, 2025, since on that date, the aggregate amount of deposits held by Mr. A with the non-banking company (together with interest payable on such deposits) is more than ₹ 20,000. Therefore, penalty under section 271E equal to the amount of deposit so repaid will be attracted for failure to comply with the provisions of section 269T.

However, the second repayment of ₹ 15,500 on 25<sup>th</sup> March, 2025 in cash cannot be considered as a violation of section 269T, since neither the amount of deposit with interest thereon nor the aggregate amount of deposits held by Mr. A on that date together with interest exceeds the threshold limit of ₹ 20,000.

The provisions of section 269T will be attracted at the time of first repayment of bearer cheque even if the certificate is being held by Mr. A in joint name with his wife.

2. As per section 288, the proceedings before the income-tax authorities can be attended by an assessee in person or through an authorised representative, i.e., a person authorized by the assessee in writing to appear on his behalf, being -
  - (i) a person who is a relative or a regular employee of the assessee; or
  - (ii) any officer of a Scheduled Bank in which the assessee maintains a current account or has other regular dealings; or
  - (iii) a legal practitioner who is entitled to practise in any civil court in India; or
  - (iv) a chartered accountant within the meaning of the Chartered Accountants Act, 1949 who hold a valid certificate of practice
  - (v) any person who has passed any accountancy examination recognized in this behalf by the CBDT for this purpose; or
3. Section 292B provides that no return of income, assessment, notice or summons furnished or made or issued or taken in pursuance of any of the provisions of the Income-tax Act, 1961 shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment or notice etc., if such return of income, assessment, notice, summons etc. is in substance and effect in conformity with or according to the intent and purpose of the Act. **Therefore, a clerical mistake cannot invalidate an otherwise valid assessment.** Thus, the typographical error in the assessment order as to assessment year and previous year does not make the same invalid unless established otherwise. Accordingly, the action of the CIT(Appeals) in not accepting the claim of the assessee is valid.
4. (i) As per section 282(1), the service of notice or summon or requisition or order or any other communication under this Act may be made by delivering or transmitting a copy thereof to the person named therein -
  - (1) by post or such courier services as approved by the CBDT; or

- (2) in such manner as provided in the Code of Civil Procedure, 1908 for the purposes of service of summons; or
- (3) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or
- (4) by any other means of transmission of documents as may be provided by rules made by the CBDT in this behalf.

The CBDT is empowered to make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which such communication may be delivered or transmitted to the person named therein.

- (ii) The service of notice in the given cases should be on the persons mentioned hereunder:-

Person	Notice to be addressed and served on
A dissolved firm	Any person who was a partner (not being a minor) immediately before dissolution.
A deceased person	The legal heirs of the deceased.
A partitioned HUF	Last Manager of the HUF, or, if he is dead, then, all adult members of the erstwhile HUF.

5. As per the provisions of section 281B, there can be provisional attachment to protect the interest of Revenue in certain cases i.e.-
- (i) The proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment or for imposition of penalty under section 271AAD (penalty leviable for false entry etc. in books of accounts) where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds ₹ 2 crores should be pending.
  - (ii) Such attachment should be necessary for the purpose of protecting the interest of Revenue in the opinion of the Assessing Officer.
  - (iii) The previous approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director has been obtained by the Assessing Officer.
  - (iv) The Assessing Officer, may, by an order in writing attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

- (v) Such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of order made under section 281B(1). However, the period can be extended by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director, as the case may be, for the reasons to be recorded in writing for a further period or periods as he thinks fit. The total period of extension in any case cannot exceed 2 years or 60 days after the date of order of assessment or reassessment, whichever is later.

The Assessing Officer shall, by order in writing, revoke provisional attachment of a property made under section 281B(1) in a case where the assessee furnishes a guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.

6. The right of membership is not a private asset and it is merely a personal privilege granted to the member. It is non-transferable and incapable of alienation by the member or his legal representative except to the limited extent provided in the rules and regulations of the stock exchange and subject to the fulfillment of conditions prescribed by the stock exchange. The nomination, even if permitted, is subject to the rules and is not automatic. The right of nomination is vested in the stock exchange absolutely in the case of death of or default of a member. Thus, the membership card is not the property of the assessee and therefore cannot be attached under section 281B. It has been so held by the Apex Court in the case of *Stock Exchange Ahmedabad vs. ACIT (2001) 248 ITR 209*.
7. There are several flaws in the penalty levied by the Assessing Officer. Firstly, the penalty leviable under section 271D cannot exceed the sum equal to the loan taken. Hence, the maximum penalty leviable would be ₹ 50,000. Secondly, any penalty imposable under section 271D shall be imposed by the Joint Commissioner. Hence, unless the Assessing Officer happens to be a Joint Commissioner the levy of penalty will be invalid. Thirdly, the Assessing Officer cannot, on the one hand, treat the loan as undisclosed income of the assessee and on the other, treat it as a loan for the purpose of section 269SS read with section 271D. Such a treatment will be self-contradictory. The moment the amount of ₹ 50,000 is treated as undisclosed income, it ceases to bear the character of loan and therefore, the foundation for the levy of penalty under section 271D disappears. [*Diwan Enterprises v. CIT and Others (2000) 246 ITR 571*].