
ASSESSMENT PROCEDURES

QUESTION 1:

In respect of Mr. Naksh, who is engaged in the export of fabrics, information is flagged as per the risk management strategy formulated by the CBDT for A.Y.2021-22, A.Y.2022-23, A.Y.2023-24 and A.Y.2024-25.

In case of Mr. Ramesh (friend of Mr. Naksh), who is engaged in trading of commodities, the Assessing Officer has in his possession certain documents showing information pertaining to shares of value ₹ 28 lakhs purchased in the P.Y. 2018-19 and shares of value of ₹ 21 lakhs purchased in the P.Y.2019-20. Can the Assessing Officer issue notice under section 148 to Mr. Naksh and Mr. Ramesh in April 2025? If so, in respect of which assessment years can notice be issued? Is it necessary that they be provided with an opportunity of being heard before issuance of notice?

What would be your answer with respect to issue of notice to Mr. Ramesh if the shares purchased in the P.Y.2018-19 were of ₹ 30 lakhs instead of ₹ 28 lakhs, all other facts remain the same?

ANSWER:

⇒ **In case of Mr. Naksh:**

Notice u/s 148 can be issued for **A.Y.2021-22, A.Y.2022-23 and A.Y.2023-24**, since the **time limit** of **3 years and 3 months** from the end of the relevant assessment year has **not expired** in April, 2025. Before issuing such notice, Mr. Naksh should provided an opportunity of being heard by issuing a show cause notice within 3 years from the end of relevant A.Y. [for A.Y. 2021-22, show cause notice should be issued latest by 31/3/2025].

However, notice u/s 148 cannot be issued in respect of **A.Y.2024-25** because for A.Y.2024-25 it is possible to make **regular/best judgment assessment**.

⇒ **In case of Mr. Ramesh:**

In case of Mr. Ramesh, the A.O. has in his possession certain documents which reveal **escapement** of income represented in the form of shares **amounting to ₹ 49 lakhs** [PY 2018-19 ₹ 28 lakhs + PY 2019-20 ₹ 21 lakhs]. Since the amount is lower than

₹ 50 lakhs, **notice cannot be issued beyond 3 years and 3 months** from the end of the relevant AY. In this case, the relevant AYs are A.Y.2019-20 and A.Y.2020-21. In respect of these A.Y.s, the time limit of 3 yrs and 3 months has expired before April 2025. Accordingly, notice cannot be issued u/s 148 in April 2025. However, where the escaped income represented in the form of shares amounts to **₹ 51 lakhs** (i.e., ₹ 30 lakhs + ₹ 21 lakhs), an **extended period of 5 years and 3 months** from the end of the relevant AY would be available for issue of notice, which has not expired in April, 2025. Therefore, the A.O. can issue notice u/s 148 for A.Y.2019-20 and A.Y.2020-21. Before issuing such notice, Mr. Ramesh should provided an opportunity of being heard by issuing a show cause notice within 5 years from the end of relevant A.Y. [for A.Y. 2019-20, show cause notice should be issued latest by 31/3/2025].

QUESTION 2:

Tai Ltd. filed its return of income for assessment year 2024-25 on 26th September, 2024. The return is selected for regular assessment under section 143(3) for which notice under section 143(2) is served on the company on 3rd July, 2025. The company responded to the notice under section 143(2).

Examine whether the service of the notice is within time and if not, whether the assessment order can be challenged by the assessee.

What would be your answer if the A.O. failed to issue notice under section 143(2) ?

ANSWER:

→ The time limit for service of notice u/s 143(2) is **3 months** from the end of the year in which the **return** was **filed** by the assessee. The return of income for AY 2024-25 was filed by the assessee on 26th September, 2024. Therefore, the notice u/s 143(2) must be served by **30th June, 2025**. However, the notice was served on the assessee on **3rd July, 2025**. Hence, the notice issued u/s 143(2) is **time-barred**.

As per **section 292BB**, where an assessee had **appeared** in any proceedings or **co-operated** in any enquiry relating to an assessment or reassessment, it shall be **deemed that any notice**

required to be served upon him, **has been duly served upon him in time** in accordance with the provisions of the Act and **after completion** of such assessment/reassessment, the assessee **cannot raise objection** that the notice was not served properly. However, the assessee **can raise such objection before** the assessment/reassessment is **completed**.

Therefore, in the instant case, if the assessee, Tai Limited, had **raised an objection** for late service of the notice u/s 143(2) [**before** the passing of assessment order], then, the validity of the assessment **order can be challenged** and if the **objection is not raised before** the passing of assessment order then, the assessment **order cannot be challenged**.

➔ Section 292BB is a deeming provision that seeks to cure defects in any notice issued under any provision of the Income-tax Act, 1961, if the assessee has participated in the proceedings. It is, however, to be noted that the **section does not save complete absence of issue of notice**. For section 292BB to apply, the notice must have been issued by the Department. The section only seeks to cure the defects in the manner of service of notice. The section is not intended to cure complete absence of notice itself. This was held by **Supreme Court** in the case of **Laxman Das Khandelwal**. Hence, the assessee can challenge the assessment order if the A.O. fails to issue the notice u/s 143(2).

QUESTION 3:

Ram, an individual, filed his return of income for the assessment year 2025-26 on 15.6.2025. He later discovered that he had not claimed deduction under section 80C in the said return. He claimed the said deduction through a letter addressed to the Assessing Officer. The Assessing Officer completed the assessment without allowing the deduction claimed by Ram. Is the Assessing Officer justified in doing so?

ANSWER:

In the case of **Goetze (India) Ltd.**, the Supreme Court has ruled that the assessing officer has **no power to entertain** any **fresh claim** made after filing of the return of income **otherwise than by way of a revised return**.

In the instant case, Ram has claimed the deduction under section 80C, which he omitted to claim in the original return of income, **through a letter** addressed to the Assessing Officer and **not by filing a revised return** under section 139(5).

In view of the decision of the Supreme Court cited above, the A.O. was **justified** in completing the assessment without allowing the deduction under section 80C.

QUESTION 4:

Mr. X filed his return of income for A.Y. 2025-26 by declaring a total income of ₹ 10 lakhs. His case was selected for scrutiny assessment and an addition of ₹ 4 lakhs was made by the Assessing Officer on account of disallowances of certain expenses. During the course of the assessment proceedings, Mr. X found that he erroneously failed to claim the set-off of brought forward losses under section 72 amounting to ₹ 3 lakhs, which he was otherwise entitled to. By the time the error was discovered by Mr. X, the time-limit for filing revised return had also expired. Hence, during the course of the proceedings, Mr. X approached the Assessing Officer to allow the set-off of the brought forward losses which was erroneously not claimed in the return of income filed under section 139(1). Whether the Assessing Officer is bound to accept the request of Mr. X? Your Answer should cover these aspects:

- Issue involved
- Provision applicable
- Analysis and
- Conclusion

ANSWER:

Issue Involved:

The issue under consideration is whether the Assessing Officer is bound to allowed the set-off of brought forward losses under section 72 even if the assessee, Mr. X, in this case, has not claimed the same in the return filed by him and the time limit for filing revised return has expired.

Provision Applicable:

Under section 72, business losses shall be **carried forward** and **shall be set-off** against the profits and gains of any business in the next assessment year. It is assumed that the assessee has filed the return of income within the time stipulated u/s 139(1) and hence is eligible for set off of the unabsorbed loss in the subsequent year.

The wording used in section 72 is “shall”, indicating that the provisions relating to set off of brought forward business loss are **mandatory** provided the return for the year of loss was filed on time.

Analysis:

As per a CBDT Circular, it is the **duty of the A.O. to assist a taxpayer** in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard, they should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him. Thus, it is the duty of the Assessing Officer to apply the relevant provisions of the Act for the purpose of determining the true figure of Mr. X's total income and consequential tax liability. Merely because Mr. X has not claimed the set-off of brought forward losses of ₹ 3 lakh in the original return filed and the time limit for filing revised return has expired, it cannot relieve the Assessing Officer of his duty to apply section 72 in the appropriate case.

Conclusion:

The Assessing Officer is **bound to accept the request** of Mr. X and allow the set-off of brought forward losses of ₹ 3 lakh under section 72, even if Mr. X has not claimed the same in the return filed, and the time limit for filing the revised return has expired.

Note – The facts of this case are similar to the case of **Mahalakshmi Sugar Mills Co. Ltd.**, wherein the Supreme Court gave ruling taking note of the CBDT Circular.

QUESTION 5:

Pruthvi Ltd. did not make a claim of ₹ 20 lakhs in the return of income filed for A.Y. 2025-26 which was disallowed in the previous assessment year under section 43B. However, the said claim was also not considered by the Assessing Officer during assessment proceedings on the ground that no revised return was filed. Can the assessee now make such claim before the appellate authority?

ANSWER:

Yes, the assessee is entitled to raise additional claims before the appellate authorities.

The restriction that an additional claim must be made by filing a revised return applies only in respect of a claim made before the Assessing Officer. An assessee cannot make a claim before the Assessing Officer otherwise than by filing a revised return. It was so held by the Supreme Court in the case of **Goetze (India) Ltd.**

However, this restriction **does not apply to an additional claim made before an appellate authority.** The appellate authorities have jurisdiction to permit additional claims before them. though, the exercise of such jurisdiction is entirely the **authorities' discretion.** It was so held by the Bombay High Court in the case of **Pruthvi Brokers & Shareholders.** Thus, additional claim **can be raised** before Appellate Authority even if no revised return is filed.

QUESTION 6:

Mr. Surajit e-filed his Income-tax Return for A.Y. 2024-25 on July 21, 2024. He declared a total income of ₹ 11,75,000.

Total income includes interest from Public Provident Fund (PPF) ₹ 95,530 and long- term capital gains on agricultural land exempt under section 10(37). Both these incomes were disclosed in the schedule of exempt income.

Mr. Surajit also found that by mistake he failed to claim the current year business loss in the Income-tax Return amounting to ₹ 4,50,000 which he is entitled to claim.

In due course of time, the above I.T. Return got processed under section 143(1) and both the above exemptions for Interest on Public Provident Fund and long-term capital gains on agricultural land were denied. Intimation was served to Mr. Surajit and a demand of tax was raised.

For all the above mistakes in the return he filed a revised return u/s 139(5) but time limit for e-verification of revised return had lapsed and the same became invalid.

Assessee filed for rectification under section 154 which was also rejected by the Assessing Officer. Is the Assessing Officer bound to accept the request of Mr. Surajit?

Your answer should cover:

- (1) Issues involved
- (2) Provisions Applicable
- (3) Analysis and Conclusion

ANSWER:

Issue Involved:

The issue under consideration is whether a rectification application before the Assessing Officer u/s 154 can be filed to rectify a mistake

- for denial of exemption in respect of interest on PPF and Long-term Capital Gains on agricultural land u/s 10(37) while processing return u/s 143(1) which was disclosed by the assessee in the Schedule of exempt income of ITR; and
- to claim a business loss which the assessee failed to claim in the return filed by him.

Provisions Applicable:

As per section 154, the Income Tax Authority can rectify a mistake in his **order** or **intimation** if such mistake is "**apparent**" from the record.

Analysis and Conclusion:

The jurisdiction of any authority u/s 154 depends upon the existence of a mistake apparent on the face of the record. As per section 154, an income-tax authority can rectify mistake which is committed in the intimation passed u/s 143(1) or an order passed under the Act.

In the present case, **denial of exemption** while processing the return u/s 143(1) in respect of interest from Public Provident Fund (PPF) and LTCG on agricultural land exempt under section 10(37) are **mistakes in the intimation [apparent from record]**.

However, **mistake to claim current year business loss** in the return of income is not a mistake in the intimation [apparent from record]. It is a **mistake in the return** for which the only remedy is to revise the return. Moreover, the assessing officer has no power to entertain a fresh claim for deduction made after filing return of income otherwise than by way of a revised return.

Accordingly, the Assessing Officer is bound to **accept the request** of Mr. Surajit for rectification only **in respect of** exemption of **interest** on PPF and **LTCG** under section 10(37) and **not in respect** of claim for **business loss**.

QUESTION 7:

Mr. Ravi would like to furnish his updated return for the AY 2024-25. In case he furnished his updated return, his tax liability would be ₹4,50,000 [including ₹55,000 towards interest].

Tax paid by him at the time of filing previous return was ₹1,65,000 [including ₹15,000 towards interest].

- You are required to examine whether Mr. Ravi can furnish updated return:
 - (i) on 05.03.2026
 - (ii) on 28.02.2027
 - (iii) on 31.05.2028
- If yes, compute the amount of additional income tax payable by him at the time of filing his updated return.
- Would your answer be different if the assessee has received notice u/s 148 for the said AY 2024-25 on 23.07.2026 ?
- What would be the time limit for completion of assessment u/s 143(3) if Mr. Ravi files the updated return for AY 2024-25 on 20.05.2026 ?

ANSWER:

- Updated return can be filed **within 24 months** from the end of relevant AY i.e. within 24 months from 31.03.2025 i.e. latest **upto 31.03.2027**.

Accordingly, Mr. Ravi **can furnish** updated return on **5.3.2026** and on **28.2.2027**. However, he **cannot** furnish such return on **31.05.2028**, since it falls beyond 24 months.

- Additional income tax payable if updated return is filed on 5.3.2026 i.e. **within 12 mnths** from the end of relevant AY
 $= (4,50,000 - 1,65,000) \times 25\% = ₹ 71,250$

Additional income tax payable if updated return is filed on 28.02.2027 i.e. **after 12 mnths** from the end of relevant AY
 $= (4,50,000 - 1,65,000) \times 50\% = ₹ 1,42,500$

- An assessee **cannot furnish** updated return in respect of a year for which **assessment proceedings** under Income tax are **pending**.

Accordingly, if Mr. Ravi received notice u/s 148 on 23.07.2026 then the he **cannot** file updated return **28.2.2027**. However, he **can** file the updated on **5.3.2026** because as on this date the proceeding did not commence.

- If Mr. Ravi files the updated return for AY 2024-25 on 20.05.2026 then the assessment of AY 2024-25 u/s 143(3) should be completed **within 12 months** from the end of the year in which **updated return is filed** i.e. the time limit for completion of assessment would be **31.03.2028**.

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CA SHIRISH VYAS