

# ADDITIONAL TOPICS FOR CMA FAST TRACK

---

**BY  
CA CS VIJAY  
SARDA**

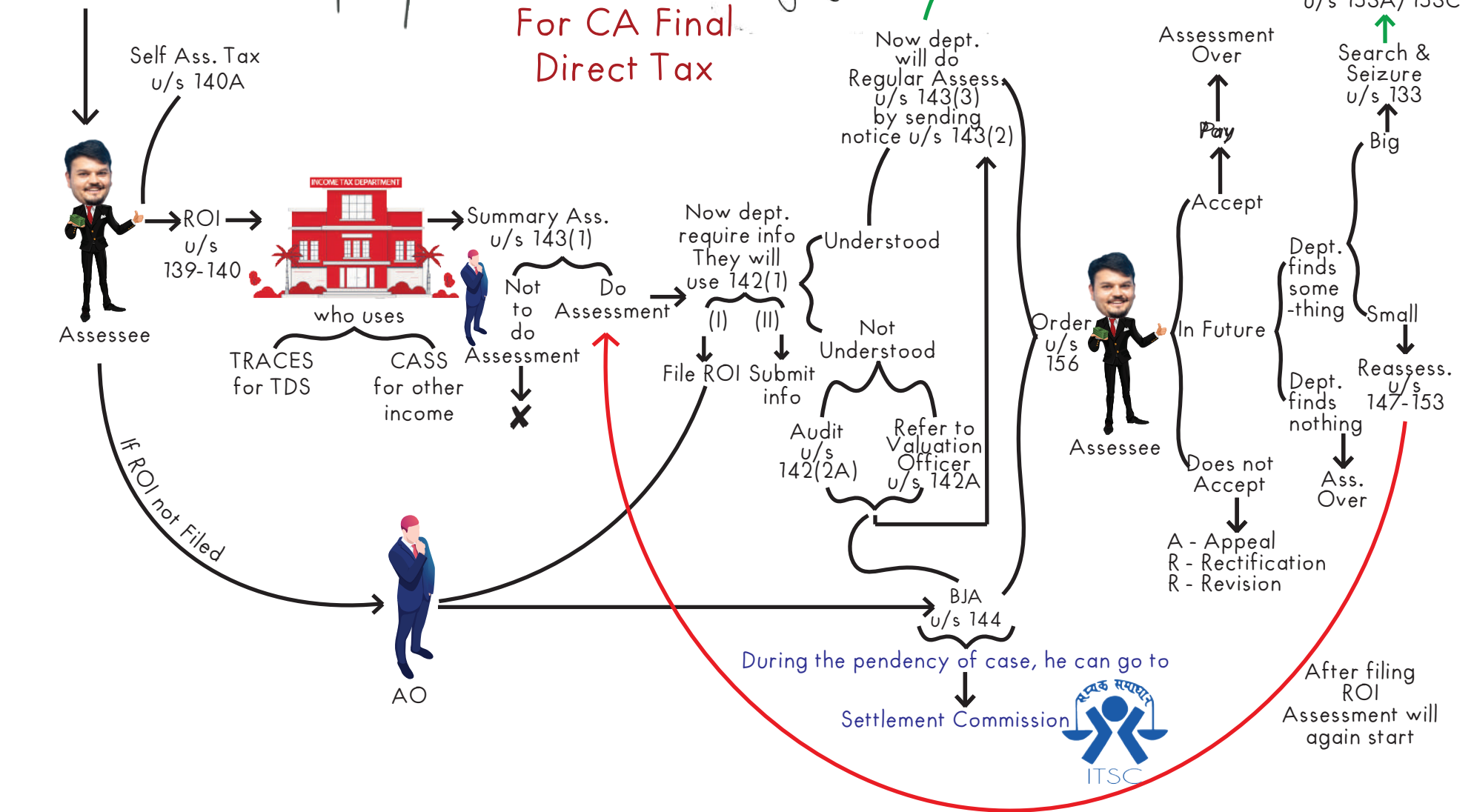




Sec 245N-245V

# The Assessment BY Vijay Sarada

## For CA Final Direct Tax



## INCOME TAX AUTHORITIES

Sec	Particulars	Pg No
116	Income Tax Authorities	2.2
117& 118	Control of ITA	2.2
119	Power of CBDT	2.2
119A	Tax Payer's Charter	2.2
120	Jurisdiction on of ITA	2.2
124	Jurisdiction on of AO	2.3
127	Power to Transfer case	2.3
129	Incumbent of Office	2.3
130	Faceless Jurisdiction of Income Tax Authorities	2.3

### IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS

Sr No.	Particulars	Pg No
1	Sec 119A Tax payer's Charter	2.2
2	Sec 130 Faceless Jurisdiction of ITA	2.2

“  
NEVER SETTLE  
for LESS than  
what you  
DESERVE



## SEC 116 - INCOME TAX AUTHORITIES

- ✓ CBDT
- ✓ PDGIT/PCCIT/CCIT/DGIT
- ✓ PC/CIT/DIT/CIT(A)
- ✓ JC/JDIT
- ✓ AC/DC/AD/DD
- ✓ ITO
- ✓ TRO
- ✓ Inspector of Income Tax

## SEC 117 & 118 CONTROL OF ITA

- > Sec 117 - CG appoint PDGIT/PCCIT/CCIT/DGIT/PC/CIT/DIT/CIT(A).
- > May authorise CBDT to appoint authority below rank of ACDC.
- > Sec 118 - CBDT shall by notification that ITA shall be subordinate to such other authority as may be specified.

## SEC 119 POWER OF CBDT

- > Board may Issue order instruction/direction/circular/notification
- > Board is not Empowered to issue following order -
  - a) Require ITA to make a particular assessment or make assessment in particular manner.
  - b) Interfere in work of CIT(A).
- > The CBDT may relax the provisions of sec 115P, 115S, 139, 143, 144, 147, 148, 154, 155, 234A, 234B, 234E, 270A, 271C, 271CA & 273. The CBDT can exercise its powers to remove difficulties in the matter of sections 201(1A), 210, 211 & 234C.

### My Notes:

- a) Decision of Board are not binding on Courts [Delhi Flour Mills]
- b) Cir. by Board are binding on Dept [Paper Product Ltd v. CCE]

ITA  
2.2

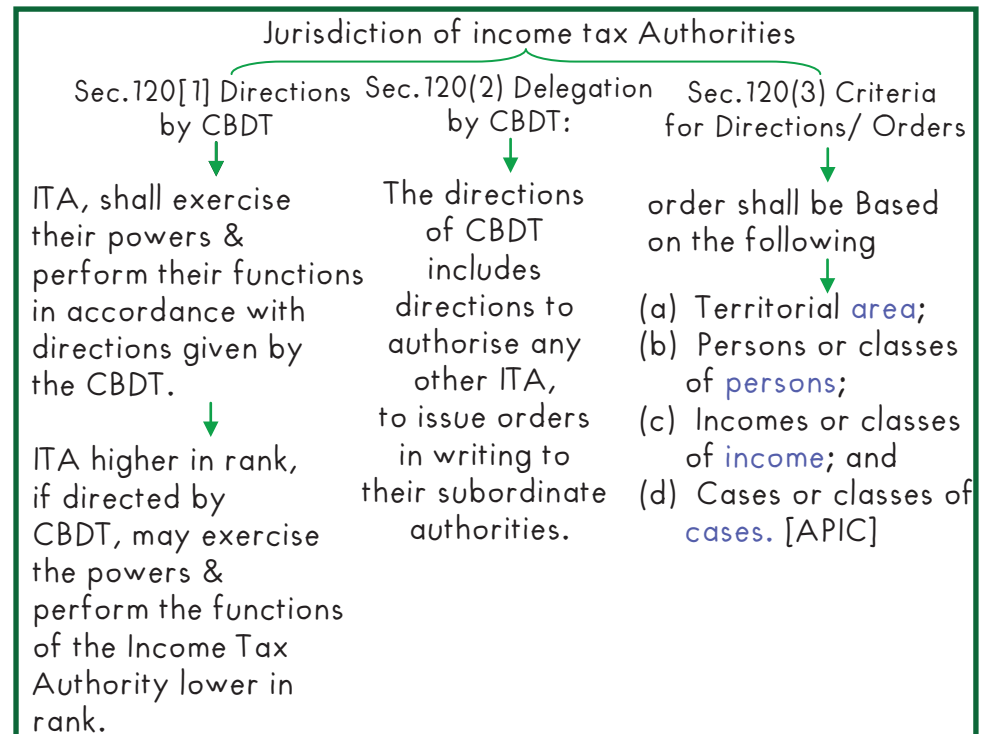
- c) Where a circular is issued after the date on which order is passed the later issued circular can have no application to the earlier passed order unless, retrospective [Rajarajeswari Mills]
- d) Where circular is issued after date completion of Assessment it can't be used Even in Reassessment. [Peria Karamalai Tea v CIT]

Board May By Order	<ul style="list-style-type: none"> <li>Admit Belated Application</li> <li>Allow Exemption /deduction</li> <li>Allow Refund</li> <li>Provide Any other Relief</li> </ul>	but Such order can't be issued to CIT[A]
-----------------------	---	--

## SEC 119A TAX PAYER'S CHARTER [FA'20]

The Board shall adopt & declare a taxpayer's charter & issue such orders, instructions, directions or guidelines to other income tax authorities as it may deem fit for the administration of such Charter.

## SEC 120 JURISDICTION OF ITA



## SEC 124 JURISDICTION ON OF AO

Jurisdiction will be Specified by CCIT/CIT/P.

Business	Place of Business
Multi Place of Business	Principal Place of Business
Other	Residence

Assessee can question Jurisdiction within 1 month from the date notice is served.

Sec 124(2): Any ques relating to Jurisdiction shall be determined by DGIT/CCIT/CIT. If both the Ao have different DGIT/CCIT/CIT then it shall be decided mutually. If both the authority are not in agreement matter shall be decided by CBDT

Sec 124(3): Right of Assessee to challenge Jurisdiction  
Return Filed - Within 1M from date of service of notice u/s 142 (1)/(2) or before completion of Assessment, whichever earlier.  
Return not filed - After expiry of time limit allowed by notice u/s 142(1) or Sec 148 for filing ROI or within time allowed in SCN issued seeking as to why a BJA u/s 144, whichever earlier.  
Search is done u/s 132 - Within 1M of service of notice u/s 153A/153C(2) or before completion of Assessment, whichever earlier

## SEC 127 POWER TO TRANSFER CASES

- > PDGIT/DGIT/PCCIT/CCIT/PCIT/CIT, can Transfer the case from one AO to another after OOBH & recording the Reason.
- > No OOBH if transfer is within same city
- > No Reissue of Notice is required.

## SEC 129 INCUMBENT OF OFFICE

When AO cease to exercise Jurisdiction succeeding AO may continue the proceeding from stage at which proceeding was left. However assessee may demand to relook the matter from the beginning.

The assessee concerned may demand that before proceeding is so continued previous proceeding or any part thereof be reopened or that before any order of AO is passed against him, he be reheard.  
[Notice shall be issued for change of incumbent of office, if th same is not issued Assessment would be bad in law - Automotive Tyre Manufacturing Association (I)(SC)]

## SEC 130 FACELESS JURISDICTION OF INCOME-TAX AUTHORITIES.

W.e.f 01.11.2020 -

- (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of -
- exercise of all or any of the powers and performance of all or any of the functions conferred on, or, as the case may be, assigned to income-tax authorities by or under this Act as referred to in section 120; or
  - vesting jurisdiction with AO as referred to in sec 124; or
  - exercise of power to transfer cases u/s 127; or
  - exercise of jurisdiction in case of change of incumbency as referred to in section 129,

so as to impart greater efficiency, transparency & accountability by—

- eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;
- optimising utilisation of the resources through economies of scale and functional specialisation;
- introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area or persons or classes of persons or incomes or classes of income/cases/classes of cases, with dynamic jurisdiction.



## ASSESSMENT PROCEDURES

Sec	Particulars	Pg No	Sec	Particulars	Pg No
140A	Self Assessment	4.2	143(3A)	E-Assessment	4.6
142(1)	Enquiry before Assessment	4.2	144	Best Judgement Assessment	4.7
143(1)	Summary Assessment	4.3	147	Income escaping Assessment	4.7
142(2A)	Special Audit	4.3	148	Notice for Assessment / Reassessment u/s 147	4.8
142A	Valuation Officer	4.4	152	Other Provisions	4.9
143(3)	Scrutiny Assessment	4.4	153	Time Limit to Complete Assessment	4.10
143(2)	Notice [Show Cause Notice]	4.5	156	Notice of Demand	4.11
144BA	References to PC	4.6		Relevant Case Laws	4.12
292B	ROI etc not to be invalid on certain goods	4.6		Faceless Assessment Scheme, 2019	4.12
292BB	Notice deemed to be valid in certain circumstances	4.6	142B	Faceless Enquiry & Valuation	4.20
145	Method of Accounting	4.6			4.20
145B	Taxability of Certain Income	4.6			

### IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS

Sr No.	Particulars	Pg No
1	Sec 140A Self Assessment	4.2
2	Sec 143(3A) E-Assessment	4.6
	Sec 156 Notice of Demand	4.11
	Faceless Assessment Scheme 2019	4.12

“  
Not ME  
then WHO  
not NOW  
then WHEN  
”



## SEC 140A SELF ASSESSMENT

Where any tax & interest u/s 234A, 234B & 234C & fee u/s 234F is payable by the assessee on the basis of the return of income required to be furnished u/s 139 or sec 142(1) / sec 148, or sec 153A, after deducting

- > Advance Tax;
- > any tax deducted or collected at source;
- > any relief of tax claimed u/s 89;
- > any relief of tax claimed u/s 90 / 91 of tax paid in country o/s India;
- > any relief of tax claimed u/s 90A on account of tax paid in any specified territory outside India referred to in that sec;
- > any MAT credit u/s 115JAA or AMT credit u/s 115JD; and
- > any tax or interest payable according to the provisions of sec 191(2) [FA'20]

### SIMPLIFIED ANALYSIS :

1. The Assessee is required to assess his own Income & Tax payable thereon after taking into account

Total Income	xxx	The assessee shall be liable to pay such tax with interest & Fees. Where the amount paid by the assessee falls short of the aggregate of the tax the amount so paid shall first be adj towards the Fees & thereafter interest payable as aforesaid & the balance, if any, shall be adjusted towards tax payable.
Compute tax on total income After surcharge & HEC	xxx	
Less: TDS/TCS//Advance tax relief 89/90/91/115JAA/115JD	[xxx]	
Add: Interest u/s 234A/B/234F Tax & Interest u/s 191(2)	xxx	
Final Advance Tax payable	xxx	

Notes :

### 1. Consequences of Failure to Pay Tax Interest or Fees

A) Assessee shall be deemed to be Assessee in Default & interest is payable u/s 220/221.

B) Recovery Proceeding shall be Initiated. However, ROI shall not be treated as defective, if SA is not paid

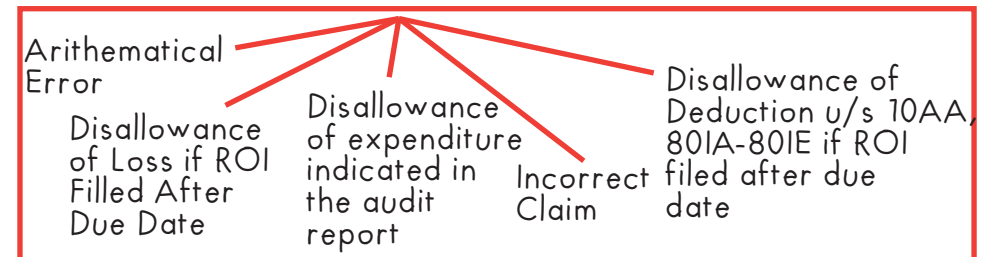
C) Penalty u/s 221 can also be levied -Maximum penalty = Tax in arrears.

After a regular assessment any amount of Advance tax shall be deemed to be paid towards regular Assessment.

## SEC 142(1) INQUIRY BEFORE ASSESSMENT

Where a return has been made u/s 139, or in response to a notice u/s 142(1), such return shall be processed in the following manner, namely

a) the total income / loss shall be computed after following adjustments,



Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing / electronic mode.

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made.

b) the tax, interest and fee, if any, shall be computed on the basis of the total income computed under clause (a);

c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed under clause (b)

by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable u/s 89, any relief allowable under an agreement u/s 90 / 90A, or any relief allowable u/s 91, any rebate allowable under Part A of Chap VIII, any tax paid on self-assessment & any amount paid otherwise by way of tax, interest or fee;

- d) an intimation shall be prepared / generated & sent to assessee specifying the sum determined to be payable by, amount of refund due to, assessee under clause (c); and
- e) the amount of refund due to the assessee in pursuance of determination under clause (c) shall be granted to the assessee

Notes :

<p>1. <b>Incorrect Claim Means</b> a claim on the Basis of an Entry in ROI</p> <p>a) Item which is inconsistent with another entry</p> <p>b) Information is required to be furnished, has not been furnished</p> <p>c) a deduction exceeds specified statutory limit</p> <p>2. Upon Summary Assessment</p> <table border="0"> <tr> <td style="color: green;">Adjustment Made</td> <td style="color: green;">No Adjustment Made</td> </tr> <tr> <td>1. Tax Payable or</td> <td rowspan="2">No Intimation is Generated</td> </tr> <tr> <td>2. refund or</td> </tr> <tr> <td>3. Adjustment made but no Liability arose</td> <td>Acknowledgement is deemed to be Assessment</td> </tr> <tr> <td><b>Intimation is Issued.</b></td> <td></td> </tr> </table> <p>3. If ROI is not Filled then summary Assessment is not Possible</p>	Adjustment Made	No Adjustment Made	1. Tax Payable or	No Intimation is Generated	2. refund or	3. Adjustment made but no Liability arose	Acknowledgement is deemed to be Assessment	<b>Intimation is Issued.</b>		<p>6. Summary Assessment</p> <p>a) Original ROI - ✓</p> <p>b) Belated ROI - ✓</p> <p>c) Revised ROI - ✓</p> <p>d) Return in response to notice. - ✓</p> <p>e) Re Assessment - ✓</p> <p>f) ROI filled after Search u/s 153A/C - ✓</p> <p>7. Remedies Against Summary Assessment</p> <p>Appeal - ✓</p> <p>rectification - ✓</p> <p>Revision - ✗</p> <p>8. Assessee can submit revised return after Intimation <b>Rajesh jhaveri [2006]</b></p>
Adjustment Made	No Adjustment Made									
1. Tax Payable or	No Intimation is Generated									
2. refund or										
3. Adjustment made but no Liability arose	Acknowledgement is deemed to be Assessment									
<b>Intimation is Issued.</b>										

## SEC 143(1) SUMMARY ASSESSMENT

Where ROI is made u/s 139(1) or 142(1) such return shall be processed total income or loss shall be computed after making

- 1) arithmetical error in the return
- 2) an incorrect claim:

AP  
4.3

- a) Inconsistence with another entry
  - b) Info Required is not furnished
  - c) Deduction exceed statutory Limit.
- 3) disallowance of loss claimed, if furnished beyond the due date specified u/s 139(1);
  - 4) disallowance of expenditure indicated in the audit report
  - 5) disallowance of deduction claimed u/s 10AA, 80-IA, to section 80-IE, if the return is furnished beyond the due date u/s 139(1)

**Sec 241A** - Where AO for purpose of making Assessment has issued notice 143[2] has reason that grant of refund adversely affect the revenue Then with previous Approval of PCIT/CIT it can be withheld

Amount Payable	Refund	Loss declared no amount payable or Refund	NO Adjustment Made
Intimation to be sent = Time Limit is 7 years from end of FY in which return is filled.			Ack = deemed Intimation

## REMEDIES AGAINST SUMMARY ASSESSMENT :

Appeal to CIT[A]	-	Allowed
Revision by CIT	-	NOT ALLOWED
Rectification u/s 154	-	Allowed

From 1st Oct'19, Document Identification Number has come into existence. Every CBST Communication must contain DIN & document without DIN shall be deemed to have never been issued by it,

- a) Notice
- b) Letter, order, summon or
- c) other correspondence

## SEC 142(2A) SPECIAL AUDIT

AO in following Cases

- a) Nature and complexity of accounts
- b) Volume of accounts
- c) Doubts about the correctness of the accounts
- d) Multiplicity of transactions in the accounts
- e) Specialised nature of business activity
- f) Interests of the Revenue



Previous Approval of PC/CIT is required.

My note: Done by CA / Report in form 6B/ Remuneration is paid by CG/ Mandatory even if audit is done/OOBH must be given/ report must be given in 180 days

> Direction can be given only when case is pending.

> CA nominated by PC/CIT

> Direction can be given even if accounts are audited.

> Penalty for Non Compliance u/s 272A[1] = 10,000

## SEC 142A VALUATION OFFICER

AO may for the purposes of assessment or Re-assess ,make a reference to a VO to estimate the value, including FMV, of any asset, property or investment and submit the report to him within a period of 6 months from the end of the month in which the reference is made.

While counting the period of completion of Assessment Time limit for making reference to AO is excluded.

Sec 142B Refer pg no 4.21

## SEC 143(3) SCRUTINY ASSESSMENT

On the day specified in the notice issued u/s 143(2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as AO may require on specified points, and after taking into account all relevant material which he has gathered, the AO shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on basis of such assessment.

Provided that in the case of a -

a. research association u/s 10(21)

b. news agency u/s 10(22B)

c. association or institution u/s 10(23A)

d. institution u/s 10(23B)

e. fund, institution, trust, university/other educational institution/ hospital or other medical institution u/s 10(23C)(iv),(v),(vi)(via) which is required to furnish the ROI u/s 139(4C) , no order making an assessment of the total income or loss of such research association, news agency, association or institution or fund or trust or university or other educational institution or any hospital or other medical institution, shall be made by AO, without giving effect to sec 10, unless- the AO has intimated the Central Government or the prescribed authority the contravention of clause (21) / (22B) / (23A) / (23B) / (23C)(iv) / (23C)(v) / (23C)(vi) / (23C)(via) sec 10, as the case may be, by such research association, news agency, association or institution or fund or trust or university or other educational institution or any hospital or other medical institution, where in his view such contravention has taken place; and the approval granted to such research association or other association or fund or trust or institution or university or other educational institution or hospital or other medical institution has been withdrawn or notification issued in respect of such news agency / fund or trust or institution has been rescinded.

### SIMPLIFIED ANALYSIS

The A.O. shall if he considers it necessary, take up the case for regular assessment by issuing a notice (Sec.143(2)), requiring the assessee to attend his office or produce any evidence on which the assessee may rely in support of return, to ensure that the assessee:

- 1.has not understated Income;
- 2.has not overstated the loss
- 3.has not underpaid the tax.

Assessment is possible only if returned is filled if return is not filled no Scrutiny assessment can be made.

3rd proviso : If gross receipt of the trust covered u/s 10(23C) is more than 20% of total receipt, AO shall not grant exemption.

### Additional Power of AO u/s 143[3]

1. The AO is satisfied that the activities of university/college/ institution referred to in section 35(1)(ii)/(iii) are not being carried out in accordance with all or any of the conditions subject to which approval was given to such institution.
2. He may recommend the CG to withdraw the approval given u/s 35.
3. Before recommending the CG the AO will have to give a reasonable opportunity of showing cause against purposed withdrawal to the university/college, etc.
4. CG may withdraw the approval & forward a copy to concerned institution.
5. No exemption u/s 10(23C) or 11 & 12 by AO for the PY in which Income of trust exceed 20% of total receipt, whether/ not approval has been cancelled

### Passing of Order:

1. After making Assessment Ao shall pass order called as Assessment order.
2. The order can be passed within time limit u/s 153(1) i.e. before expiry of 12 months from end of AY in which income was first assessable.
3. The order shall be speaking order

### REMEDIES AGAINST REGULAR ASSESSMENT :

Appeal to CIT[A]	-	Allowed
Revision by CIT	-	Allowed
Rectification u/s 154	-	Allowed

## SEC 143(2) NOTICE [SCN]

- > Where ROI is filed u/s 139[1] / 142[1] AO or PRESCRIBE ITA[Not below ITO] shall ensure that Assessee has not
- a) Understated his Income
  - b) Overstated the Loss, depreciation
  - c) Underpaid the tax
- > Time Limit = 6 months from the End of FY[BE SERVED] in which ROI is filled. [in case of revised return the time limit is counted from RR]

ROI Filed	Notice Issued	Served On	Valid On
6th June 2019	22.09.2020	29.09.2020	Yes
6th June 2019	30.10.2020	31.10.2020	No

### Sec.292BB:

Where the assessee has appeared in any processing / cooperated in any enquiry related to assesment / reassessment, it shall be deemed that notice under the act has been served.

### Is Assessment allowed u/s 148 after issue of 143[2] –

No, Because Assessee shall have to complete Assessment u/s 143[3]

### Special points:

1. Notice require the Assessee to appear before AO on specified date & Bring such document as may be specified.
2. Notice u/s 143[2] can be issued even if intimation u/s 143[1] is issued.
3. Notice u/s 142[1] or 143[2] can be issued simultaneously.

### Non compliance:

- a) BJA u/s144
- b) Penalty u/s 272A[1] – ₹10000

## SEC 144BA REFERENCE TO PC

A.O. to make reference to PC/C at any stage of Asst./ Reassessment proceedings, on the basis of material & evidence available to declare an arrangement as IAA and determine its consequence.

## SEC 292B ROI ETC NOT TO BE INVALID ON CERTAIN GOODS

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

## SEC 292BB NOTICE DEEMED TO BE VALID IN CERTAIN CIRCUMSTANCES

Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment/reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- a) not served upon him; or
- b) not served upon him in time; or
- c) served upon him in an improper manner.

Provided that nothing contained in this sec shall apply where assessee has raised such objection before completion of such assessment / reassessment.

## SEC 145 METHOD OF ACCOUNTING

For income under PGPB and IOS the computation shall be as per cash or accrual system of accounting.

The assessee is required to follow income computation and disclosure standards as may be notified by the CG.

If the accounts of the assessee are correct and complete, but the method of accounting is such (in the opinion of the AO) the correct profits cannot be derived there from then the AO may make the assessment u/s 144. **British Paints India Ltd v CIT (SC)**

## SEC 145B TAXABILITY OF CERTAIN INCOME

Interest received by assessee on any compensation/enhanced compensation, shall be deemed to be income of PY in which it is received (Refer IFOS).

Any claim for escalation of price in a contract/export incentives shall be deemed to be the income of PY in which reasonable certainty of its realisation is achieved.

Assistance in the form of subsidy/grant/cash incentive/duty drawback/ waiver/concession be deemed to be the income of the PY in which it is received (refer PGBP)

## SEC 143(3A) E-ASSESSMENT

The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income / loss of assessee u/s 143(3) / 144 [FA'20]

**[Amendment to improve effectiveness of tax administration]** to impart greater efficiency, transparency & accountability by

- a) eliminating the interface between AO & the assessee in the course of proceedings to the extent technologically feasible;

- b) optimising utilisation of the resources through economies of scale & functional specialisation;
- c) introducing a team-based assessment with dynamic jurisdiction.

The CG may, for the purpose of giving effect to the scheme made u/s 143(3A) by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

Provided that no direction shall be issued after 31st of March, 2022[FA'20]

Every Notification u/s 143(3A) & 143(3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

## SEC 144 BEST JUDGEMENT ASSESSMENT

### Compulsory BJA

- a) Fails to file return u/s 139(1) and has not filed belated return u/s 139(4) or revised return u/s 139(5)
- b) Having filed a return, fails to comply with all terms of a notice issued u/s 143(2)
- c) Fails to comply with all the terms of a notice issued u/s 142(1) or a direction issued u/s 142(2A).
- d) BJA is mandatory. OOBH must be given.

### AO is permitted to BJA in following cases:

- a) AO is not satisfied about correctness/completeness of a/c
- b) Method of accounting not regularly employed
- c) Income not computed as per ICDS.
- d) No refund can be issued by AO u/s 144

Order u/s 144 must be passed within 12 months from the end of the relevant AY.

AP  
4.7

### Mandatory BJA

1. Fails to make a return required U/s.139(1)/(4)/(5) ,or
- 2.Fails to comply with terms of notice issued U/s.142, or
- 3.Fails to get special audit u/s.142(2A)
- 4.Fails to comply with all the terms of notice U/s.143(2)

### Optional Mandatory BJA

1. Accounts are incorrect or
2. Accounts are incomplete or
- 3.where no method of accounting has been regularly employed by the assessee or ICDS is followed [Optional BJA] Sec.145[3]

## SEC 147 INCOME ESCAPING ASSESSMENT

If the A.O. has reason to believe that any income chargeable to tax has escaped assessment for any AY he may Subject to provision u/s 148 to 153

Assess or reassess such income

Also any other income chargeable to tax which has escaped assessment & Which comes to his notice subsequently in the course of proceedings under this section,

Recomputed the loss or the depreciation allowance/any other allowance,as the case may be, for the AY.

### Condition of Assessment:

AO should have reason to Believe.[Like document/statement/ third party confirmation]

Reason to believe shall be of AO, AO cannot borrow the opinion of other **Assessment/ Reassessment cannot be possible of an exempt Income.**

**AO cannot Assess / Reassess the Income which is subject matter of Appeal/ Revision.[Doctrine of Partial Merger]**

Where an assessment u/s 143(3) or 147 has been made, no action shall be taken u/s 147 beyond 4 years from the end of the relevant AY. If both conditions are satisfied:

- 1) Assessee has filed ROI
- 2) Assessee disclose truly / fairly all information necessary for Assessment.



## MEANING OF INCOME ESCAPED- Explanation 2

- > No return of income filed ,though income exceeds the basic exemption limit.
- > Return is furnished but no assessment has been made & A.O. notices that the assessee has understated the income/claimed excessive loss, deductions etc.
- > Where an assessment has been made but -
  - # The income chargeable has been under-assessed; or
  - # such income is assessed at too low rate; or
  - # excessive relief was given
  - # excessive loss, depreciation or other allowances has been computed.
- > Where an assessee has failed to furnish a report in respect of any international transaction u/s 92E.
- > Where a person is found to have any asset (including any financial interest in any entity) located outside India.
- > Information / Document u/s 133C

Return if Filled	# It is noticed by AO in such Information that assessee has Understated Income or # Claimed Excess Loss/Deduction/Allowance/relief in return
Return Not filled	Such Information provides that total income exceed BEL

All the above amendments shall apply to proceedings for earlier years also.

## MEANING OF INCOME ESCAPED- Explanation 3

For the purpose of assessment / reassessment under this sec, AO may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-sec (2) of section 148.

Reasons to Believe	NO Reasons to Believe
1. Later of SC/HC Judgement	1. Mere gossip, Rumour, or suspicion is not a sufficient cause
2. Retrospective amendment in Law	2. AO cannot make assessment to make rowing and fishing inquiries
3. Fresh evidence in possession of AO.	3. Change in opinion of AO [CIT vs Kelvinator India 2010(SC)]
	4. Reopening cannot be done as there was no failure on the part of assessee to disclose the true & fair Information. [ACIT vs. ICICI securities primary dealership 2012 SC]
	5. Report of DVO is merely as estimation it cannot be reason to believe [ACIT vs. Dhariya construction 2011 SC]
	6. Reopening cannot be done on the basis of Audit objection.

## SEC 148 NOTICE FOR ASSESSMENT/REASSESSMENT u/s 147

- > The A.O. before making an assessment or re-assessment or re-computation U/s.147 shall serve on assessee a notice U/s.148
- > The A.O. shall record his reasons for doing.
- > If notice is not served properly assessment is illegal and Void
- > The ROI is required to be furnished within time prescribed in notice by A.O.

After expiry of 4 years from end of relevant AY the notice u/s 148 cannot be issued unless

- A) assessee has not filed a return u/s 139 / 142/ 148
- B) Assessee has failed to fully and truly disclose all material facts at the time of assessment.

However this proviso shall not apply if any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any A.y

For a return filed in response to notice u/s 148, the notice u/s 143(2) must be served within 6 months from the end of FY in which ROI was filed, otherwise, Ass./Reass. u/s 147 shall be void.

The objective of this sec. is to increase the revenue collection. Hence the tax liability of an assessee cannot be reduced further in proceedings under this Sec.

CBDT Circular: [ Note Ban] : Reopening of case u/s 147 is feasible only when the AO has reason to believe that any income chargeable to Tax has escaped Assessment & not merely on the basis of any reason to suspect merely increase of turnover because of use of digital mode of payment in a particular year cannot be reason to believe that income has escaped Assessment.

Sec.147	Sec.148	Sec.149	Sec.151
.Assessment .Re-assessment .Re-Computation	Notice to be issued	Time Limit for issue of notice.	Sanction required for issuing notice.

### SEC 149: Time Limit to Send the Notice

Case	Years	Approval u/s 151
Normal Case	4 yrs	JC
Escaped > 1L	6 yrs	PC/CIT
Assets outside INDIA	16 yrs	PC/CIT

From End of RAY

### SEC 150: No Time Limit when Assess/reassess is out of Order of Court or Tribunal

## SEC 152 OTHER PROVISIONS

In an assessment or reassessment made u/s 147, the tax shall be chargeable at the rates at which it would have been charged had the income not escaped assessment.

### SUN ENGINEERING PRIVATE LIMITED (SUPREME COURT)

The assessee filed a ROI for AY 2012-13 declaring income of ₹20 lakhs. The AO u/s 143(3) made on 31.12.2014 disallowed expense A of ₹15 lakhs, although Supreme Court has held in some other case that expense A is allowable. The AO assessed the income at ₹35 lakhs u/s 143(3). The assessee did not file any appeal to CIT (Appeals) / revision application u/s 264/ rectification application u/s 154 and the time for filing appeal/ revision / rectification have all expired. AO finds income escaping assessment of ₹25 lakhs for AY ,2012-13 on 31.1.2019 & issues a notice u/s 148 to assess the escaped income of ₹25 lakh. Assessee files Return u/s 148 as under

Original assessed income	35 lakhs
Add: Escaped income	25 lakhs
Less: Expense wrongly disallowed u/s 143(3)	15 lakhs
	45 lakhs

HELD

Since the assessee has not appealed against the original order of AO passes u/s 143(3), it has become final. On re-assessment u/s 147, original assessment is not wiped off & original order does not cease & it remains.

The assessee cannot seek the reopening of the entire assessment & cannot claim credit in respect of items finally concluded in the original assessment. The assessee cannot claim re-computing of the income or redoing of an assessment and cannot be allowed a claim which he either failed to make or which was otherwise rejected at the time of original assessment, which has since acquired finality.

The assessee cannot re-agitate in the reassessment proceedings, the matter which he had lost during the original assessment proceedings. The reassessment does not wipe off the original assessment.

A matter not agitated in the concluded original assessment proceedings cannot be permitted to be agitated in the reassessment proceedings unless it relates to the item sought to be taxed as escaped income. In the reassessment proceedings for bringing to tax items which had escaped assessment, it would be open to the assessee to put forward claims for deduction of any expenditure in respect of that income or the non-taxability of the said income. The reassessment proceedings are for the benefit of the revenue and not for the benefit of assessee & an assessee cannot be permitted to convert the reassessment proceedings into appeal or revision and seek relief in respect of items rejected earlier or in respect of items not claimed in the assessment proceedings.

Re-assessment cannot result in reduction of income beyond the income originally assessed. In the present case, the assessee cannot be allowed Expense A of ₹15 lakhs since the issue of exp A has acquired finality

### Principles derived from Sun Engineering Case :

On reassessment u/s 147, the original assessment is not wiped off but it remains.

Matters lost in original assessment proceedings which have since acquired finality (i.e. against which no appeal/rectification application/revision application filed) cannot be claimed in the reassessment proceedings. Therefore, exp disallowed/ incomes taxed in original assessment against which no appeal/revision/rectification application was filed cannot be claimed as allowable/non-taxable in the reassessment proceeding u/s 147.

Expenses not claimed in the original assessment cannot be claimed in the reassessment proceedings u/s 147. However, the expenses pertaining to income which has escaped assessment can be claimed. The assessee can prove that the income which is alleged to have escaped assessment is not taxable.

U/s 147 the income cannot be reduced below the income originally assessed. Similarly, u/s 147 the losses cannot be assessed above the losses originally assessed.

Section 147 is for the benefit of revenue and not for the benefit of the assessee. Therefore, if no return was filed earlier and no assessment was made earlier, then u/s 147, the AO cannot compute the loss of the assessee.

### SEC 153 TIME LIMIT TO COMPLETE ASSESSMENT

Case	Time Limit
143/144	12 M from End of AY in which income was 1st Assessed
147	Notice is served before 01.04.19
	Notice is served after 01.04.19

+ 1 years if reference is made to TPO

Sec 153(3) - Notwithstanding anything contained in sub-section (1) & (2), where an assessment is cancelled or is set-aside by an order u/s 254, 263 or 264 and a direction is given to the AO in such order to make a fresh assessment, then such fresh assessment shall not be made after the expiry of 12 months from the end of the FY in which order u/s 254 is received by the CIT or order u/s 263 or 264 is passed by the CIT, as case may be.

Sec 153(4) - Where a reference has been made to the Transfer Pricing Officer u/s 92CA to determine the arm's length price, the time period for completion of assessment/ reassessment shall be increased by 1 year. This is explained below:

	Normal Period of Assessment / Reassessment	Period of Assessment/ Reassessment where a reference has been made to TPO to determine Arm's Length Price
Assessment u/s 143(3) or u/s 144	12 m from the end of the relevant AY	(Reference to TPO made during the course of assessment proceedings u/s 143(3)/ 144) 24 from the end of the relevant AY
Assessment or reassessment u/s 147	12 months from the end of the FY in which notice u/s 148 was served.	(Reference to TPO made during the course of assessment or reassessment proceedings u/s 147) 24 m from the end of the FY in which notice u/s 148 was served.
Fresh assessment u/s 143(3) /144/ 147 where assessment has been cancelled & referred back to AO for fresh assessment by an order u/s 254, 263 or 264	12 months from the end of the FY in which order under section 254 is received by the CIT or order u/s 263 / 264 was passed by the CIT.	(Reference to TPO made in the proceedings for fresh assessment) 24 months from the end of the FY in which order u/s 254 is received by the CIT or order u/s 263 or 264 was passed by the CIT.

### Sec 153(5) - Appeal Effect or Revision Effect

Where effect to an order u/s 250 / 254 / 260A / 262 / 263 / 264 is to be given by the AO, otherwise than by making a fresh assessment or reassessment, such effect shall be given within a period of 3 months from the end of the month in which order u/s 250 / 254 / 260A / 262 is received by the Commissioner, or the order u/s 263 / 264 is passed by the Commissioner. Provided that where it is not possible for the AO to give effect to such order within the aforesaid period, for reasons beyond his control, the Commissioner on receipt of such request in writing from the AO if satisfied, may allow an additional period of 6 months to give effect to the order. Provided further that where an order u/s 250 / 254 / 260A / 262 / 263 / 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided

AP  
4.11

to the assessee, the order giving effect to the said order u/s 250 / 254 / 260A / 262 / 263 / 264 shall be made within the time specified in sub-section (3).

### Sec 153(6) - Time Limit for Completion of Assessment or Re-assessment in Certain Cases Pursuant to Directions of Appellate Authorities and Courts

Nothing contained in sub-sections (1) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sec (3) and (5), be completed—  
where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order u/s 250/ 254 / 260 / 262 / 263 / 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of 12 months from the end of the month in which such order is received or passed by the Principal Commissioner or Commissioner, as the case may be; or

where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm u/s 147, on or before the expiry of 12 months from the end of the month in which the assessment order in the case of the firm is passed.

## SEC 156 NOTICE OF DEMAND

When any tax interest, penalty, fine, or any other sum is payable in consequence of any order passed, the A.O. shall serve upon the assessee, a notice of demand in the prescribed form specifying the sum so payable.

Where the income of the assessee of any AY, includes income of the nature specified in Sec 17(2)(vi) & such specified security



or sweat equity shares referred to in the said clause are allotted or transferred directly or indirectly by current employer, being an eligible start-up referred to in sec 80-IAC, the tax / interest on such income included in notice of demand referred to in sub-sec (1) shall be payable by assessee within 14 days -  
 (i) after the expiry of 48 months from the end of relevant AY; or  
 (ii) from the date of the sale of such specified security or sweat equity share by the assessee; or  
 (iii) from the date of the assessee ceasing to be the employee of employer who allotted or transferred him such specified security or sweat equity share,  
 whichever is earliest. [FA'20]

## RELEVANT CASE LAWS

Rajesh Jhaveri Stock Brokers Ltd	Case: Whether intimation u/s 143(1) can be treated as order of Assessment for the purpose of 147??	Held: Assessee can't challenge on grounds of change in opinion, since making adjustment u/s 143[1] AO has no power to beyond information given in return & make any allowance or disallowances. Hence 143[1] Intimation cannot be treated as an order of Assessment.
Aventis Pharma	Case: Can assessee open reassessment on the basis on change in opinion	Held: NO
Hemant Trader	Case: can notice u/s 148 be issued solely on the grounds that survey u/s 133A was carried out where nothing has been found therein which indicate escapement of Income	Held: merely because survey has taken place cannot be a ground for reopening of Assessment something more is required i.e. evidence.
Ranbaxy Lab Ltd (Delhi)/ Jet Airways (I) Ltd (Bombay)	Can the AO reassess issues other than the issues in respect of which proceedings were initiated u/s 147 when the original "reason to believe" on basis of which the notice was issued ceased to exist?	Held: As per section 147, the AO may assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice in the course of proceedings under this sec. The Delhi HC observed that the words "and also" used in sec 147 are of wide amplitude. Assessment/reassessment must be in respect of the income, in respect of which the AO has formed

		a reason to believe that the same has escaped assessment and also in respect of any other income which comes to his notice subsequently during the course of the proceedings as having escaped assessment. If the income, the escapement of which was the basis of the formation of the "reason to believe" is not assessed or reassessed, it would not be open to the AO to independently assess only that income which comes to his notice subsequently in the course of the proceedings under the sec as having escaped assessment. If he intends to do so, fresh notice u/s 148 would be necessary.
Godrej Ind. Ltd (Bom)	Case: Will the subsequent amendment of law with retrospective effect validate a reassessment notice issued on a different ground before the retrospective amendment was made?	Held: The High Court held that the position of law on the date of issue of notice u/s 148 must be looked into & the retrospective amendment subsequent to issue of notice could not validate a notice issued earlier. It could only amount to change of opinion & the notice for reopening of assessment would become unsustainable. Accordingly, the reason for reopening the assessment cannot get validated by retrospective amendment of law.
Vipin Walla (Del)	Case: Would the reassessment proceedings initiated u/s 147 against the legal heirs of the deceased assessee be valid if notice of reassessment was sent to the legal heirs after limitation period, though a notice addressed to the deceased assessee was sent prior to the limitation period?	Held: The High Court, accordingly, held that issue of notice on the legal representatives beyond the limitation time would render the reassessment proceedings invalid.

## FACELESS ASSESSMENT SCHEME, 2019

Order dated 13th Aug 2020 -

With the launch of the Faceless Assessment Scheme, 2019, the Income Tax Dept is moving towards minimal interface with the taxpayers, aiming at significant improvement in delivery of

service & greater transparency in the working of department. The survey action u/s 133A of the Act being an intrusive action, it is expected that the same should be carried out with utmost responsibility & accountability.

In furtherance of the above, the CBDT, in exercise of the powers u/s 119 of the Act hereby directs that the officers posted in Directorate of Investigation (Investigation Wing) & Commissioner of TDS, only & shall act as "ITA" for the purpose of the power of survey u/s 133A of the Act.

The competent authority for approval of such survey u/s 133A of the Act shall henceforth be DGIT (Inv't) for the investigation wing, PCCIT / CCIT (TDS) for TDS charges, as the case may be.

#### Order dated 13th Aug 2020 -

With the launch of various e-governance initiatives, Income-tax Department is moving toward total computerization of its work. This has led to a significant improvement in delivery of services and has also brought greater transparency in the functioning of the tax administration.

In order to ensure that all the assessment orders are passed through the Faceless Assessment Scheme, 2019, the Board in exercise of powers u/s 119 of the Income-tax Act, 1961 hereby directs that all the assessment orders shall hereafter be passed by National eAssessment Centre through the Faceless Assessment Scheme, 2019, except as provided hereunder-

- i) Assessment orders in cases assigned to Central Charges.
- ii) Assessment orders in cases assigned to International Tax Charges.

Any assessment order which is not in conformity with above, shall be treated as non-est and shall be deemed to have never been passed. This order shall come into force with effect from 13th day of August, 2020.

#### Notification No 61/2019, dt 12.09.2019 as corrected by Notification No 85/2019 dt 01.11.2019 -

In exercise of the powers conferred by sec 143(3A) of the Income-tax Act, 1961, the CG hereby makes the following Scheme, namely-

#### Short title and commencement -

This Scheme may be called the E-assessment Scheme, 2019. It shall come into force on the date of its publication in Official Gazette.

**Definitions** -In this Scheme, unless context otherwise requires -

- i)"Act" means the Income-tax Act, 1961;
- ii)"addressee" shall have the same meaning as assigned to it in sec 2(1)(b) of the Information Technology Act, 2000.
- iii)"assessment" means assessment of total income or loss of the assessee u/s 143(3) of the Act
- iv)"authorised representative" shall have the same meaning as assigned to it in sec 288(2) of the Act
- v)"automated allocation system" means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources;
- vi)"automated examination tool" means an algorithm for standardised examination of draft orders, by using suitable technological tools, including artificial intelligence & machine learning, with a view to reduce the scope of discretion.
- vii)"Board" means Central Board of Direct Taxes constituted under the Central Board of Revenues Act, 1963.
- viii)"computer resource" shall have the same meaning as assigned to them in sec 2(1)(k) of the Information Technology Act, 2000
- ix)"computer system" shall have the same meaning as assigned to them in sec 2(1)(l) of the Information Technology Act, 2000

- x) "computer resource of assessee" shall include assessee's registered account in designated portal of the Income-tax Department, the Mobile App linked to the registered mobile number of the assessee, or the email account of the assessee with his email service provider
- xi) "digital signature" shall have the same meaning as assigned to it in sec 2(1)(p) of the Information Technology Act, 2000
- xii) "designated portal" means the web portal designated as such by the PCCIT / PDGIT, in charge of the National e-assessment Centre.
- xiii) "e-assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal
- xiv) "electronic record" shall have the same meaning as assigned to it in sec 2(1)(t) of the Information Technology Act, 2000
- xv) "electronic signature" shall have the same meaning as assigned to it in sec 2(1)(ta) of the Information Technology Act, 2000
- xvi) "email" or "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.
- xvii) "hash function" and "hash result" shall have the same meaning as assigned to them in the Explanation to sec 3(2) of the Information Technology Act, 2000
- xviii) "Mobile app" shall mean the application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the registered mobile number of the assessee;
- xix) "originator" shall have the same meaning as assigned to it in sec 2(1)(za) of the Information Technology Act, 2000
- xx) "real time alert" means any communication sent to the assessee, by way of Short Messaging Service on his registered mobile number, or by way of update on his Mobile App, or by way of an email at his registered email address, so as to alert him regarding delivery of an electronic communication
- xxi) "registered account" of the assessee means the electronic filing account registered by the assessee in designated portal
- xxii) "registered e-mail address" means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including-
- (a) the email address available in the electronic filing account of the addressee registered in designated portal; or
  - (b) the e-mail address available in the last income-tax return furnished by the addressee; or
  - (c) the e-mail address available in the PAN database relating to the addressee; or
  - (d) in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India ;or
  - (e) in the case of addressee being a company, the e-mail address of the company as available on the official website of MCA; or
  - (f) any e-mail address made available by the addressee to the income tax authority or any person authorised by such authority
- xxiii) "registered mobile number" of the assessee means mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal
- xxiii) "video telephony" means the technological solutions for the reception and transmission of audio-video signals by users at different locations, for communication between people in real-time.

Words and expressions used herein and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act.

#### Scope of the Scheme -

The assessment under this Scheme shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.

#### E-Assessment centres -

For the purposes of this Scheme, the Board may set up -

- i) a National e-assessment Centre to facilitate the conduct of e-assessment proceedings in a centralised manner, which shall be vested with the jurisdiction to make assessment in accordance with the provisions of this Scheme
- ii) Regional e-assessment Centres as it may deem necessary to facilitate the conduct of e-assessment proceedings in the cadre controlling region of a PCCIT, which shall be vested with the jurisdiction to make assessment in accordance with the provisions of this Scheme.
- iii) assessment units, as it may deem necessary to facilitate the conduct of e-assessment, to perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under the Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making assessment.
- iv) verification units, as it may deem necessary to facilitate the conduct of e-assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of accounts, examination of witnesses

- and recording of statements, and such other functions as may be required for the purposes of verification
- v) technical units, as it may deem necessary to facilitate the conduct of e-assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter which may be required in a particular case or a class of cases, under this Scheme; and
- vi) review units, as it may deem necessary to facilitate the conduct of e-assessment, to perform the function of review of the draft assessment order, which includes checking whether the relevant and material evidence has been brought on record, whether the relevant points of fact and law have been duly incorporated in the draft order, whether the issues on which addition or disallowance should be made have been discussed in the draft order, whether the applicable judicial decisions have been considered and dealt with in the draft order, checking for arithmetical correctness of modifications proposed, if any, and such other functions as may be required for the purposes of review, and specify their respective jurisdiction.

All communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this Scheme shall be through the National e-assessment Centre.

The units referred to in sub-paragraphs (iii), (iv), (v) and (vi) of paragraph (1) shall have the following authorities, namely -  
(a) Add. CIT / Add. Director / JCIT / JDIT, as the case may be;  
(b) Deputy CIT or Deputy Director or Assistant CIT or Assistant Director, or Income-tax Officer, as the case may be;



(c) such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by the Board.

#### Procedure for Assessment -

The assessment under this Scheme shall be made as per the following procedure, namely

- i) the National e-Assessment Centre shall serve a notice on the assessee u/s 143(2), specifying the issues for selection of his case for assessment.
- ii) the assessee may, within fifteen days from the date of receipt of notice referred to in sub-clause (i), file his response to the National e-assessment Centre
- iii) the National e-assessment Centre shall assign the case selected for the purposes of e-assessment under this Scheme to a specific assessment unit in any one Regional e-assessment Centre through an automated allocation system
- iv) where a case is assigned to the assessment unit, it may make a request to the National e-assessment Centre for -
  - (a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;
  - (b) conducting of certain enquiry or verification by verification unit; and
  - (c) seeking technical assistance from the technical unit
- v) where a request for obtaining further information, documents or evidence from the assessee or any other person has been made by the assessment unit, the National e-assessment Centre shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by assessment unit
- vi) where a request for conducting of certain enquiry or verification by the verification unit has been made by the assessment unit, the request shall be assigned by the National e-assessment Centre to a verification unit through an automated allocation system.

vii) where a request for seeking technical assistance from the technical unit has been made by the assessment unit, the request shall be assigned by the National e-assessment Centre to a technical unit in any one Regional e-assessment Centres through an automated allocation system.

viii) the assessment unit shall, after taking into account all the relevant material available on the record, make in writing, a draft assessment order either accepting the returned income of the assessee or modifying the returned income of the assessee, as the case may be, and send a copy of such order to the National e- assessment Centre.

ix) the assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any.

x) the National e-assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to -

- (a) finalise the assessment as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or

- (b) provide an opportunity to the assessee, in case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or

- (c) assign the draft assessment order to a review unit in any 1 Regional e-assessment Centre, through an automated allocation system, for conducting review of such order.

xi) the review unit shall conduct review of the draft assessment order, referred to it by the National e-assessment Centre whereupon it may decide to -

- (a) concur with the draft assessment order & intimate National e-assessment Centre about such concurrence; or
- (b) suggest such modification, as it may deem fit, to the draft assessment order and send its suggestions to the National e-assessment Centre
- xii) the National e-assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in sub-paragraph (a) / (b) of para (x), as the case may be
- xiii) the National e-assessment Centre shall, upon receiving suggestions for modifications from the review unit, communicate the same to the Assessment unit
- xiv) the assessment unit shall, after considering the modifications suggested by the Review unit, send the final draft assessment order to the National e-assessment Centre;
- xv) The National e-assessment Centre shall, upon receiving final draft assessment order, follow the procedure laid down in sub-paragraph (a) / (b) of paragraph (x), as the case may be.
- xvi) The assessee may, in a case where show-cause notice under sub-para (b) of para (x) has been served upon him, furnish his response to the National e-assessment Centre on or before the date and time specified in the notice.
- xvii) The National e-assessment Centre shall -
  - (a) in a case where no response to the show-cause notice is received, finalise the assessment as per the draft assessment order, as per the procedure laid down in sub-para (a) of paragraph (x); or
  - (b) in any other case, send the response received from the assessee to the assessment unit;
- xviii) The assessment unit shall, after taking into account the response furnished by the assessee, make a revised draft assessment order and send it to the National e-assessment Centre.

- xix) The National e-assessment Centre shall, upon receiving the revised draft assessment order -
  - (a) in case no modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, finalise the assessment as per procedure laid down in sub-para (a) of para (x); or
  - (b) in case a modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, provide an opportunity to the assessee, as per the procedure laid down in sub-para (b) of para (x);
  - (c) the response furnished by the assessee shall be dealt with as per the procedure laid down in paras (xvi), (xvii) & (xviii);
- xx) The National e-assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the AO having jurisdiction over such case., for -
  - (a) imposition of penalty;
  - (b) collection and recovery of demand;
  - (c) rectification of mistake;
  - (d) giving effect to appellate orders;
  - (e) submission of remand report, or any other report to be furnished, or any representation to be made, or any record to be produced before the CIT(A), Appellate Tribunal or Courts, as the case may be;
  - (f) proposal seeking sanction for launch of prosecution and filing of complaint before the Court;
- xxi) Notwithstanding anything contained in paragraph (xx), the National e-assessment Centre may at any stage of the assessment, if considered necessary, transfer the case to the AO having jurisdiction over such case.

#### Penalty proceedings for non-compliance -

Any unit may, in the course of assessment proceedings, for non-compliance of any notice, direction or order issued under

this Scheme on the part of the assessee or any other person, send recommendation for initiation of any penalty proceedings u/c XXI of the Act, against such assessee or any other person, as the case may be, to the National e-assessment Centre, if it considers necessary or expedient to do so.

The National e-assessment Centre shall, on receipt of such recommendation, serve a notice on the assessee or any other person, as the case may be, calling upon him to show cause as to why penalty should not be imposed on him under the relevant provisions of the Act.

The response to show - cause notice furnished by the assessee or any other person, if any, shall be sent by the National e-assessment Centre to the concerned unit which has made the recommendation for penalty.

The said unit shall, after taking into consideration the response furnished by the assessee or any other person, as the case may be, -

- (a) make a draft order of penalty and send a copy of such draft to National e-assessment Centre; or
- (b) drop the penalty after recording reasons, under intimation to the National e-assessment Centre.

The National e-assessment Centre shall levy the penalty as per the said draft order of penalty and serve a copy of the same on the assessee or any other person, as the case may be.

#### Appellate Proceedings -

An appeal against an assessment made by the National e-assessment Centre under this Scheme shall lie before the CIT(A) having jurisdiction over the jurisdictional AO & any reference to the CIT(Appeals) in any communication from the National e-assessment Centre shall mean such jurisdictional CIT (Appeals).

#### Exchange of communication exclusively by electronic mode -

For the purposes of this Scheme -

- (a) all communications between National e-assessment Centre and the assessee, or his authorised representative, shall be exchanged exclusively by electronic mode; and
- (b) all internal communications between National e-assessment Centre, Regional e-assessment Centres and various units shall be exchanged exclusively by electronic mode.

#### Authentication of electronic record -

For the purposes of this Scheme, an electronic record shall be authenticated by the originator by affixing his digital signature in accordance with the provisions of sec 3(2) of the Information Technology Act, 2000.

Provided that in case of the originator, being the assessee or any other person, such authentication may also be done by electronic signature or electronic authentication technique in accordance with the provisions of sec 3A(2) of the said Act.

#### Delivery of electronic record -

Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being the assessee, by way of -

- (a) placing an authenticated copy thereof in the assessee's registered a/c; or
  - (b) sending an authenticated copy thereof to the registered email address of the assessee/his authorised representative;/
  - (c) uploading an authenticated copy on the assessee's Mobile App; and
- followed by a real time alert.

Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being any other person, by sending authenticated copy to registered email address of such person, followed by a real time alert.

The Assessee shall file his response to any notice or order or any other electronic communication, under this Scheme, through his registered account, and once an acknowledgment is sent by National e-assessment Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated.

The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of sec 13 of the Information Technology Act, 2000

#### No personal appearance in the Centres or Units -

A person shall not be required to appear either personally or through authorised representative in connection with any proceedings under this Scheme before the income-tax authority at the National e-assessment Centre or Regional e-assessment Centre or any unit set up under this Scheme.

In a case where a modification is proposed in the draft assessment order, and an opportunity is provided to the assessee by serving a notice calling upon him to show-cause as to why the assessment should not be completed as per the such draft assessment order, the assessee or his authorised representative, as the case may be, shall be entitled to seek personal hearing so as to make his oral submissions or present his case before the income-tax authority in any unit under this Scheme, and such hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony, in accordance with procedure laid down by Board. Any examination or recording of the statement of the assessee or any other person (other than statement recorded in course of survey u/s 133A of the Act) shall be conducted by an income-tax authority in any unit under this Scheme, exclusively through video conferencing, including use of any telecommunication

application software which supports video telephony in accordance with the procedure laid down by the Board. Board shall establish suitable facilities for video conferencing including telecommunication application software which supports video telephony at such locations as may be necessary, so as to ensure that the assessee, /his authorised representative, or any other person referred to in above is not denied the benefit of this Scheme merely on the consideration that such assessee or his authorised representative, or any other person does not have access to video conferencing at his end

#### Power to specify format, mode, procedure and processes -

The PCCIT / PDGIT, in charge of the National e-assessment Centre shall lay down the standards, procedures and processes for effective functioning of the National e-assessment Centre , Regional e-assessment Centres and the unit set-up under this Scheme, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following, namely-

- (i) service of the notice, order or any other communication;
- (ii) receipt of any information or documents from the person in response to the notice, order or any other communication;
- (iii) issue of acknowledgment of response furnished by person;
- (iv) provision of "e-proceeding" facility including login account facility, tracking status of assessment, display of relevant details, and facility of download;
- (v) accessing, verification and authentication of information & response including documents submitted during the assessment proceedings;
- (vi) receipt, storage and retrieval of information or documents in a centralised manner;
- (vii) general administration and grievance redressal mechanism in the respective Centres and units



## SEC 142B FACELESS ENQUIRY & VALUATION

W.e.f 01.11.2020,

- (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuing notice under sub-section (1) or making inquiry before assessment under sub-section (2), or directing the assessee to get his accounts audited u/s 142(2A), or estimating the value of any asset, property or investment by a Valuation Officer u/s 142A, so as to impart greater efficiency, transparency and accountability by -
  - (a) eliminating the interface between the income-tax authority or Valuation Officer and the assessee or any person to the extent technologically feasible;
  - (b) optimising utilisation of the resources through economies of scale and functional specialisation;
  - (c) introducing a team-based issuance of notice or making of enquiries or issuance of directions or valuation with dynamic jurisdiction.
- (2) The Central Government may, for the purpose of giving effect to the scheme made under sub-sec (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:  
Provided that no direction shall be issued after the 31st day of March, 2022.
- (3) Every notification issued under sub-sec (1) & (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

## SEC 142B FACELESS ASSESSMENT OF INCOME ESCAPING ASSESSMENT.

W.e.f 01.11.2020,

- (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of assessment, reassessment or re-computation u/s 147 or issuance of notice u/s 148 or sanction for issue of such notice u/s 151, so as to impart greater efficiency, transparency & accountability by-
  - (a) eliminating the interface between income-tax authority & the assessee or any other person to the extent technologically feasible;
  - (b) optimising utilisation of the resources through economies of scale and functional specialisation;
  - (c) introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.
- (2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:  
Provided that no direction shall be issued after the 31st day of March, 2022.
- (3) Every notification issued under sub-sec (1) & (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

## RECTIFICATION

Sec No	Particulars	Pg No
154	Rectification	6.2
	Relevant Case	6.3
157A	Faceless Rectification, Amendments & issuance of Notice or Intimation	6.3

### IMPORTANT AMENDMENTS/ NOTIFICATIONS/CIRCULARS

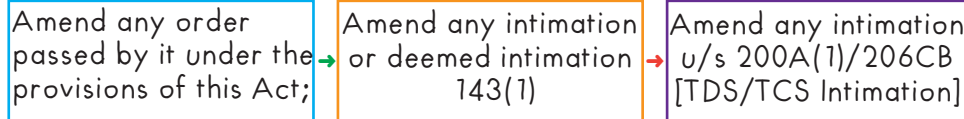
Sr No.	Particulars	Pg No
1	Sec 157A Faceless Rectification, Amendment & issuance of notice or intimation	6.3

“  
DREAM  
+  
WORK  
=  
SUCCESS  
”

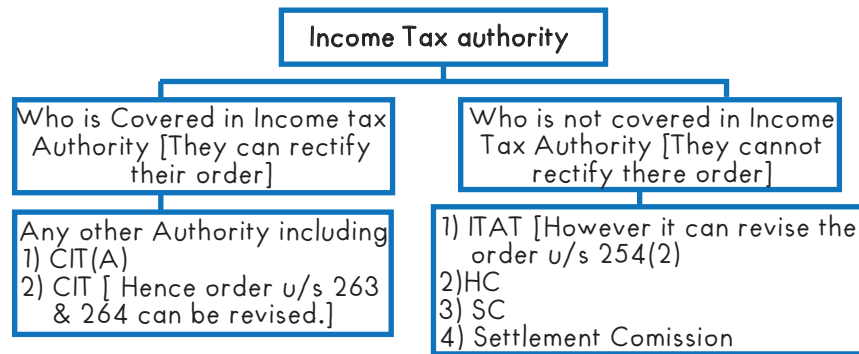


# SEC 154 RECTIFICATION

With a view to rectifying any mistake apparent from the record an income-tax authority referred to in sec 116 may, -



There is no fees payable by Assessee for rectification nor any form is prescribed.



## Order:

- > Intimation u/s 143(1)
- > Intitimation of TDS Statement 200A/206CB
- > Assessment order or reassessment order u/s 143(3)/144/147
- > Rectification u/s 154
- > Revision order u/s 263/264
- > CIT(A) order 250
- > Order passed by CIT/CCIT u/s 10(23C)/12AA/80G
- > Order of partition of HUF u/s 170

## Record:

- > Mistake must be apparent from record thus no new evidence can be furnished during rectification proceeding. Rectification can be done only on basis/record available at time of passing the order.

- > Records include current records and previous records also.
- > Mere change in opinion cannot be the basis for rectification
- > CIT vs India Cements Limited: Where AO has passed assessment order on the settled law/decision on the date of assessment &
  - Subsequently SC decision was given against assessee
  - Law was amended retrospectively

Rectification cannot be done as there was no mistake apparent from record however contrary decision are available [ACIT Vs Saurashtra Kutch Stock Exchange][ As per ICAI: Subsequent decision of Supreme Court - A mistake arising as a result of subsequent interpretation of law by the Supreme Court would also constitute error apparent from the record.]

Sec 154(2) - Subject to the other provisions of this section, the authority concerned—  
may make an amendment u/s 154(1) of its own motion, and shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee or by the deductor or by the collector, and where the authority concerned is the CIT (Appeals), by the Assessing Officer also.

Sec 154(3) - An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee or the deductor or the collector, shall not be made under this section unless the authority concerned has given notice to the assessee or the deductor or the collector of its intention so to do and has allowed the assessee or the deductor or the collector a reasonable opportunity of being heard.

Sec 154(4) - Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned.

Sec 154(5) - Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor or the collector, the AO shall make any refund which may be due to such assessee or the deductor or the collector.

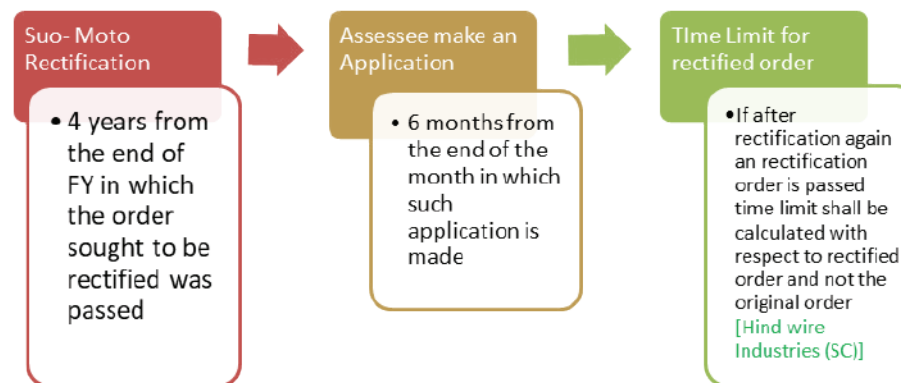
Sec 154(6) - Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or the collector, AO shall serve on the assessee or the deductor or the collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued u/s 156 & provisions of this Act shall apply accordingly.

Sec 154(7) - The application for rectification u/s 154 can be filed before the expiry of 4 years from the end of the FY in which the order sought to be amended was passed.

Sec 154(8) - Without prejudice to Sec 154(7), where an application for amendment under this section is made by the assessee or by the deductor or by the collector on or after the 1st day of June, 2001 to an ITA referred to in Sec 154(1), the authority shall pass an order, within a period of 6 months from the end of the month in which the application is received by it,—  
a) making the amendment; or  
b) refusing to allow the claim.

If the Assessee has made the rectification application within the prescribed period of 4 years and the concerned ITA could not pass the rectification order within the said 4 years, then it is permitted that the ITA can make a belated rectification (after the said four years) TO THE ADVANTAGE OF THE ASSESSEE.

Time Limit :



## RELEVANT CASES

Hind Wire Industries	Case: Time Limit for Rectification once rectification order is passed?	Held: If after rectification again an rectification order is passed time limit shall be calculated with respect to rectified order & not original order
Haryana state Handloom & Handicraft Corp	Case: Can AO issue notice of Rectification to a mistake apparent from record in the intimation under 143[1] after the issue of valid notice u/s 143[2]?	Held: NO, Rectification of intimation cannot be done after the issuance of notice u/s 143[2] and during the pendency of proceeding u/s 143[3].

## SEC 157A FACELESS RECTIFICATION, AMENDMENTS AND ISSUANCE OF NOTICE OR INTIMATION

W.E.F 01.11.2020 -

- (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of rectification of any mistake apparent from record u/s 154 or other amendments u/s 155 or issue of notice of demand u/s 156, or intimation of loss u/s 157, so as to impart greater efficiency, transparency and accountability by
- eliminating the interface between the ITA & the assessee or any other person to the extent technologically feasible;
  - optimising utilisation of the resources through economies of scale and functional specialisation;



- (c) introducing a team-based rectification of mistakes, amendment of orders, issuance of notice of demand or intimation of loss, with dynamic jurisdiction.
- (2) The Central Government may, for the purpose of giving effect to the scheme made under sub-sec (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:  
Provided that no direction shall be issued after the 31st day of March, 2022.
- (3) Every notification issued under sub-sec (1) & (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.