

## 4. ASSESSMENT PROCEDURE

### Sec 282 Service of Notice

- 1) The service of a notice /summon / requisition / order / any other communication under this Act may be made by delivering or transmitting a copy thereof, to the person therein named
  - a) by post or by such courier services as may be approved by the Board; or
  - b) in such manner as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; or
  - c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or
  - d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.
- 2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication may be delivered or transmitted to the person therein named.

### Sec 282A Authentication of notices & other documents

- 1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.
- 2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.
- 3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication

### Sec 292B ROI, etc., not to be invalid on certain grounds

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 or 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 292C Power to withdraw approval

Where the CG or the Board or an income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, the CG or the Board or such authority may, notwithstanding that a provision to withdraw such approval has not been specifically provided for in such provision, withdraw such approval at any time



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Provided that the CG or Board or income-tax authority shall, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the assessee concerned, at any time, withdraw the approval after recording the reasons for doing so.

### **Sec 285 Statement by non-resident having liaison office**

Every person, being a non-resident having a liaison office in India set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall, in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within sixty days from the end of such financial year, a statement in such form and containing such particulars as may be prescribed.

### **Sec 288 Appearance by authorised representative** [Only relevant portion]

- 1) Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required u/s 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative.
- 2) For the purposes of this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being -
  - i) a person related to the assessee in any manner, or a person regularly employed by the assessee; or
  - ii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or
  - iii) any legal practitioner entitled to practise in any civil court in India; or
  - iv) an accountant; or
  - v) any person who has passed any accountancy examination recognised in

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this behalf by the Board; or

vi) any person who has acquired such educational qualifications as the Board may prescribe for this purpose; or

vii) any person who, before the coming into force of this Act in the Union territory of Dadra & Nagar Haveli, Goa, Daman and Diu / Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee; or

viii) any other person who, immediately before the commencement of this Act, was an income-tax practitioner u/s 61(2)(iv) of the Indian Income-tax Act, 1922, & was actually practising as such.

(viii) any other person as may be prescribed. [FA'20] [Amendment because of IBC Act]

### 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.

[3B] 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.



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

[3C] 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.

CIRCULAR NO 27/2019 dt 26.09.2019

- a) In all cases (other than covered under E Assessment scheme, 2019 notified by Board), where the assessment is to be framed u/s 143(3) during FY 19-20, such assessment shall be conducted electronically
- b) Assessee are required to produce/cause to produce their response/evidence to any notice/communication/show cause, unless specified otherwise through E Filing Account on E Filing portal
- c) For Assessment during FY 19-20, E Proceeding shall not be mandatory :
  - 1) Where assessment is to be framed u/s(s) 153A, 153C and 144 of the Act. In respect of assessments to be framed u/s 147 of Act, any relaxation from e-proceeding due to the difficulties in migration of data from ITO to ITBA etc. shall be dealt as per clause (f) below;
  - 2) In set-aside assessments;
  - 3) Assessments being framed in non-PAN cases;
  - 4) Cases where Income-tax return was filed in paper mode & the assessee concerned does not yet have an 'E-filing' a/c;
  - 5) In all cases at stations connected through the VSAT or with limited capacity of bandwidth (list of such stations shall be specified by the Pr. DGIT (System));
  - 6) In cases covered under para 1 (i) above, the jurisdictional PCIT/CIT, in extraordinary circumstances such as complexities of the case / administrative difficulties in conduct of assessment through 'E-Proceeding', can permit conduct of assessment proceedings through the conventional mode. It is hereby further directed that PCIT/CIT is required to provide such relaxation only in extraordinary circumstances after examining the necessity for such relaxation & recording reasons for providing relaxations.
- d) In cases where assessment proceedings are being carried out through the 'E-Proceeding' as per para 1 (i) above, personal hearing/ attendance may take place in following situation(s):
  - 1) Where books of accounts have to be examined;
  - 2) Where AO invokes provisions of section 131 of the Act;
  - 3) Where examination of witness is required to be made by assessee/Dept;
  - 4) Where a show-cause notice contemplating any adverse view is issued by AO & assessee requests through 'E-filing' account for personal hearing to explain matter.
  - 5) However, the details pertaining to above shall be uploaded on ITBA subsequently

For Computing PGBP/OS method of accounting is relevant. CG shall notify ICDS (10 notified to be followed by all assessee - other than an individual or HUF who is not required to get his accounts of the previous year audited in accordance with the provisions of section 44AB following the mercantile system of accounting.)