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# FINAL CA

**MAY '19**  
**REVISION NOTES**

**DIRECT TAX**

## Part - 4

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**ASSESSMENT PROCEDURE**

Section	Provision						
<p><b>Section 139(1) - Compulsory filing of Return of income</b></p>	<p>1. company or a firm                      2. person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax                      3. a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6, who is not required to furnish a return under this sub-section and who at any time during the previous year,—                      (a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or                      (b) is a beneficiary of any asset (including any financial interest in any entity) located outside India,</p> <p>“ total income “ means income before giving effect of Chapter VI – A</p> <p>"beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person</p> <p>"beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.</p> <p>"Due date for furnishing return of income" means,—</p> <table border="1" data-bbox="395 1182 1489 1576"> <tr> <td data-bbox="395 1182 1034 1473">(1) where the assessee is— (i) a company ; or (ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or (iii) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force,</td> <td data-bbox="1034 1182 1489 1473">30<sup>th</sup> day of September of the AY</td> </tr> <tr> <td data-bbox="395 1473 1034 1541">(2). in the case of an assessee who is required to furnish a report referred to in section 92E</td> <td data-bbox="1034 1473 1489 1541">30<sup>th</sup> day of November of the AY</td> </tr> <tr> <td data-bbox="395 1541 1034 1576">(3) in the case of any other assessee</td> <td data-bbox="1034 1541 1489 1576">31<sup>st</sup> day of July of the AY</td> </tr> </table>	(1) where the assessee is— (i) a company ; or (ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or (iii) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force,	30 <sup>th</sup> day of September of the AY	(2). in the case of an assessee who is required to furnish a report referred to in section 92E	30 <sup>th</sup> day of November of the AY	(3) in the case of any other assessee	31 <sup>st</sup> day of July of the AY
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<p><b>loss return (section 139(3))</b></p>	<p>If any person who has sustained a loss in any previous year under the head "Profits and gains of business or profession" or under the head "Capital gains" and claims that the loss or any part thereof should be carried forward under section 72, or section 73, or section 73A or section 74, or section 74A, he may furnish, within the time allowed under sub-section (1), a return of loss.</p>						
<p><b>Belated return section 139(4)</b></p>	<p>Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier</p>						
<p><b>Sec - 139(4A) Charitable Trust</b></p>	<p>Every person in receipt of income -                      (i) Derived from property held under a trust or any other legal obligation wholly or partly for charitable or religious purpose; or                      (ii) By way of voluntary contributions on behalf of such trust or institution must furnish a return of income if the total income in respect of which he is assessable as a</p>						

	representative assessee (computed before allowing any exemption under sections 11 and 12) exceeds the basic exemption limit.
<b>Sec - 139(4B) Political Party</b>	Political party is required to file a return of income if, before claiming exemption under section 13A, the party has taxable income.
<b>Sec - 139(4C) Specified Person</b>	It will be mandatory for the institutions/associations/persons etc. to file the return of income if their Total income without giving effect to exemption under section 10, exceeds the basic exemption limit Example – Research association, News agency, Mutual Fund, Securitisation Trust
<b>Sec – 139(4D)</b>	It will be mandatory for every university, college or other institution referred to in clause (ii) and clause (iii) of section 35(1), which is not required to furnish its return of income or loss under any other provision of section 139, to furnish its return in respect of its income or loss in every previous year
<b>Sec -139(4E)</b>	Every business trust, which is not required to furnish return of income or loss under any other provision of this section, has to furnish the return of its income in respect of its income or loss in every previous year.
<b>Sec - 139(4F)</b>	Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provision of this section, shall furnish the return of income in respect of income or loss in every previous year.
<b>Sec- 139(5)</b>	1. If any person having furnished a return under section 139(1) or section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return <b>at any time before the end of the relevant assessment year</b> or before completion of assessment, whichever is earlier. 2. The return can be revised for any number of times within the given time limit
<b>Sec - 139(9)</b>	1. Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee. 2. If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. 3. Assessing Officer can condone the delay and treat the return as a valid return 4. A return of income shall be regarded as defective unless all the following conditions are fulfilled, namely: (i) The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income and total income have been duly filled in. (ii) The return of income is accompanied by the following, namely: (a) a statement showing the computation of the tax payable on the basis of the return. (b) the report of the audit obtained under section 44AB (If such report has been furnished prior to furnishing the return of income, a copy of such report and the proof of furnishing the report should be attached). (c) the proof regarding the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid. (However, the return will not be regarded as defective if (a) a certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income, (b) such certificate is produced within a period of 2 years). (d) the proof of the amount of compulsory deposit, if any, claimed to have been paid under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974; (iii) Where regular books of account are maintained by an assessee, the return of income is accompanied by the following - (a) copies of manufacturing account, trading account, profit and loss account or

	<p>income and expenditure account, or any other similar account and balance sheet;</p> <p>(b) The personal account of the proprietor or personal accounts of partners or members or partner’s personal account in firm, member’s personal account in the association of persons or body of individuals</p> <p>(iv) Where the accounts of the assessee have been audited, the return should be accompanied by copies of the audited profit and loss account and balance sheet and the auditor’s report.</p> <p>(v) Where the cost accounts of an assessee have been audited under section 233B1 of Companies Act, 1956, the return should be accompanied by such report.</p> <p>(vi) Where regular books of account are not maintained by the assessee, the return should be accompanied by -</p> <p>(a) a statement indicating the amount of turnover or gross receipts, gross profit, expenses and net profit of the business or profession;</p> <p>(b) the basis on which such amounts mentioned in (1) above have been computed,</p> <p>(c) the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.</p> <p><b><i>It may be noted that a return which is otherwise valid would not be treated as defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing the return.</i></b></p>		
<p><b>Sec - 139B</b></p>	<p>1. This section provides that, for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income, the CBDT may notify a Scheme to provide that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.</p> <p>2. The Tax Return Preparer shall assist the persons furnishing the return</p> <p>3. A <b>Tax Return Preparer</b> can be an individual, other than</p> <p>(i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.</p> <p>(ii) any legal practitioner who is entitled to practice in any civil court in India.</p> <p>(iii) a chartered accountant.</p> <p>(iv) an employee of the ‘specified class or classes of persons’.</p> <p>The “<b>specified class or classes of persons</b>” for this purpose means any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act.</p>		
<p><b>VERIFICATION OF RETURN (SECTION 140)</b></p>	<p><b>Assessee</b></p>	<p><b>Circumstances</b></p>	<p><b>Authorised Persons</b></p>
	<p>Individual</p>	<p>(i) In circumstances not covered under (ii), (iii) &amp; (iv) below</p> <p>(ii) where he is absent from India</p> <p>(iii) Where he is mentally incapacitated from attending to his affairs</p> <p>(iv) where, for any other reason, it is not possible for the individual to verify the return</p>	<p>the individual himself</p> <p>the individual himself; or - any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</p> <p>- his guardian; or - any other person competent to act on his behalf</p> <p>- any person duly authorised by him in this behalf holding a valid power of attorney from the</p>

		individual (Such power of attorney should be attached to the return of income)
Hindu Undivided Family	(i) in circumstances not covered under (ii) and (iii) below	- the karta
	(ii) where the karta is absent from India	- any other adult member of the HUF
	(iii) where the karta is mentally incapacitated from attending to his affairs	- any other adult member of the HUF
Company	(i) in circumstances not covered under (ii) to (vi) below	- the managing director of the company
	(ii) (a) where for any unavoidable reason such managing director is not able to verify the return; or	- any director of the company
	(b) where there is no managing director	- any director of the company
	(iii) Where the company is not resident in India	- a person who holds a valid power of attorney from such company to do so (such power of attorney should be attached to the return).
	(iv) (a) Where the company is being wound up (whether under the orders of a court or otherwise); or	- Liquidator
	(b) where any person has been appointed as the receiver of any assets of the company	- Liquidator
	(v) Where the management of the company has been taken over by the Central Government or any State Government under any law	- the principal officer of the company
<b><i>(vi) Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.</i></b>	<b><i>- insolvency professional appointed by such Adjudicating Authority</i></b>	
Firm	(i) in circumstances not covered under (ii) below	- the managing partner of the firm
	(ii) (a) where for any unavoidable reason such managing partner is not able to verify the return; or	- any partner of the firm, not being a minor
	(b) where there is no managing partner.	- any partner of the firm, not being a minor
LLP	(i) in circumstances not covered under (ii) below	- Designated partner
	(ii) (a) where for any unavoidable reason such designated partner is not able to verify the return; or	- any partner of the LLP

		(b) where there is no designated partner.	-any partner of the LLP
	Local authority		- the principal officer
	Political party		- the chief executive officer of such party
	Any other association		- any member of the association or the principal officer of such association
	Any other person		- that person or some other person competent to act on his behalf.
<b>SELF ASSESSMENT [SECTION 140A]</b>	<p><b>Payment of tax, interest and fee before furnishing return of income</b>                  Where any tax is payable on the basis of any return required to be furnished under, <i>inter alia</i>, section 139, after taking into account -                  (i) the amount of tax, already paid, under any provision of the Income-tax Act, 1961                  (ii) any tax deducted or collected at source;                  (iii) relief of tax claimed under section 90 or 90A;                  (iv) deduction of tax claimed under section 91;                  (v) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD.                  the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. The return shall be accompanied by the proof of payment of such tax, interest and fee.</p>		

**Section 142 - Inquiry Before Assessment**

**Section 142 (1) – Notice**

**142(1)(i)**

- To furnish a return of his income or the income of any other person in respect of which he is assessable under the Act
- In a case where a person has not filed return within the time specified u/s 139(1) or before the end of the relevant A.Y.

**142(1)(ii)**

- To produce or cause to be produced, such accounts or documents as the A.O. may require
- AO shall not require production of any accounts relating to a period more than 3 years prior to the P.Y.

**142(1)(iii)**

- To furnish in writing , information on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the A.O. may require
- Previous approval of JC to be obtained for requiring assessee to furnish stt of all assets and liabilities not included in the account

**Section 142 (2A) (2B) (2C) (2D) – Special Audit****142 (2A)**

- If at any stage of the proceedings before him, the AO, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the PCC or CC or the PC or CIT, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit

**142 (2B)**

- The Assessing Officer is empowered to direct the audit to be carried out in the case of any particular assessee even if the accounts of the assessee have already been audited under any other law for the time being in force or otherwise.

**142 (2C)**

- Report to be furnished by Assessee within 180 days. This time of 180 days must be reckoned from the date on which the Assessing Officer's direction to get the accounts audited is received by the assessee.

**142 (2D)**

- the expenses of, and incidental to, such special audit, including remuneration of the Accountant, shall be determined by the PCC or CC or PC or CIT
- The expenses so determined shall be paid by the Central Government.

**Other Points**

1. The accountant by whom the audit should be carried out would be nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner of Income-tax
2. The report of the auditor should be furnished in Form No.6B prescribed under Rule 14A of the Income-tax Rules, 1962.
3. Assessing Officer is required to give the assessee an opportunity of being heard before issuing directions for special audit under section 142(2A).

**Section 142(2) –** For the purpose of obtaining full information in respect of the income or loss of any person, the AO may make such inquiry as he considers necessary

**Section 142(3) – Opportunity of being heard**

The assessee should, however, be given an opportunity of being heard in respect of any material gathered on the basis of –

- (i) any inquiry under section 142(2); or
- (ii) any audit under section 142(2A)

which is proposed to be utilized for the purposes of the assessment. If, however, the assessment is in nature of a best judgment assessment under section 144, it is not obligatory for the Assessing Officer to give the assessee an opportunity to be heard, before passing the assessment order on the basis of the report of the auditor.

**Section 142A : Reference to valuation Officer**

1. The Valuation Officer is required to estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.
2. If the assessee does not co-operate or comply with the directions of the Valuation Officer he may, estimate the value of the asset, property or investment to the best of his judgment.
3. The Valuation Officer shall send a copy of his estimate to the Assessing Officer and the assessee within a period of six months from the end of the month in which the reference is made.
4. On receipt of the report from the Valuation Officer, the Assessing Officer may, after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

**Section 144A : Power Of Joint Commissioner To Issue Directions In Certain Cases**

- (1) A Joint Commissioner may, on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason it is necessary so to do, he may issue such direction as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment. Such directions shall be binding on the Assessing Officer.
- (2) No directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard.

**Section 144C : Dispute Resolution Panel**

1. "Eligible assessee" means,-
  - (i) any person in whose case such variation arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and
  - (ii) any foreign company.
2. The eligible assessee shall, within thirty days of the receipt by him of the draft order,- (a) file his acceptance of the variations to the Assessing Officer; or (b) file his objections, if any, to such variation with,—
  - (i) The Dispute Resolution Panel; and
  - (ii) The Assessing Officer.
3. The Assessing Officer has to complete the assessment on the basis of the draft order, if—
  - (a) the assessee intimates the acceptance of the variation to the Assessing Officer; or (b) no objections are received within the period of 30 days specified in (2) above.
4. The Assessing Officer shall, notwithstanding anything contained in section 153 or section 153B, pass the assessment order within one month from the end of the month in which,—
  - (a) the acceptance is received; or
  - (b) the period of filing of objections expires.
5. The Dispute Resolution Panel shall, in a case where any objections are received, issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.
6. The Dispute Resolution Panel shall issue such directions, after considering the following, namely:—
  - (a) Draft order;
  - (b) Objections filed by the assessee;
  - (c) Evidence furnished by the assessee;
  - (d) Report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;
  - (e) Records relating to the draft order;
  - (f) Evidence collected by, or caused to be collected by, it; and
  - (g) Result of any enquiry made by, or caused to be made by it.
7. The Dispute Resolution Panel may, before issuing any such directions -
  - (a) make such further enquiry, as it thinks fit; or
  - (b) cause any further enquiry to be made by any income tax authority and report the result of the same to it.

8. The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order.
9. Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.
10. If any direction is prejudicial to the interest of the assessee or the interest of the revenue, then, the same can be issued only after an opportunity of being heard is given to the assessee or the Assessing Officer, as the case may be.
11. Such direction has to be issued within nine months from the end of the month in which the draft order is forwarded to the eligible assessee.
12. Upon receipt of such direction, the Assessing Officer has to complete the assessment in accordance with the same, within one month from the end of the month in which the direction is received.
13. "Dispute Resolution Panel" means a collegium comprising of three commissioners of Income-tax constituted by the CBDT for this purpose.

**Summary assessment [Section 143(1)/(1A)/(1B)/(1C)]**

1. Where a return has been made under section 139 or in response to a notice under section 142(1), if any tax or interest is found due an intimation should be sent to the assessee which will be deemed to be a demand notice. If any refund is due to the assessee it shall be granted.
2. Section 143(1) provides for computation of the total income of an assessee after making the following adjustments to the returned income:-
  - (a) any arithmetical error in the return; or
  - (b) an incorrect claim, if such incorrect claim is apparent from any information in the return.
  - (c) Disallowance of loss claimed, if return is filed beyond due date u/s 139(1)
  - (d) Disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return
  - (e) Disallowance of deduction u/s 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or 80-IE, if return is filed beyond due date u/s 139(1)

The term "an incorrect claim apparent from any information in the return" shall mean such claim on the basis of an entry, in the return, –

- (a) of an item, which is inconsistent with another entry of the same or some other item in such return;
  - (b) in respect of which, information required to be furnished to substantiate such entry, has not been furnished under this Act; or
  - (c) In respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.
3. Before making any such adjustments, in the interest of natural justice, intimation has to be given to the assessee requiring him to respond to such adjustments.
  4. If no response is received within 30 days of issue of such intimation, the processing shall be carried out incorporating the adjustments.
  5. An intimation shall be sent to the assessee within a period of one year from the end of the financial year in which the return was made.
  6. Where there is neither any adjustment nor any tax due from or refund payable to the assessee, the acknowledgement of the return shall be deemed to be the intimation under section 143(1).

**Section 143(2) & 143(3) – Scrutiny Assessment**

1. If the Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated his income or has not computed excessive loss or has not underpaid his tax in any manner.
2. He can issue a notice for making the assessment in the normal manner as at present. It may be noted that notice for detailed scrutiny under section 143(2) cannot be issued after the expiry of 6 months from the end of the financial year in which the return of income is furnished.
3. On the day specified in the notice issued under section 143(2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.
4. **1<sup>st</sup> Proviso to section 143(3)**
  - A) It is also obligatory for research associations and other institutions exempt under clauses (21),(22B),(23A),(23B), sub-clauses (iv),(v),(vi) and (via) of clause (23C) of section 10 to file their returns of income.
  - B) In these cases, the Assessing Officer cannot make an assessment denying exemption under section 10 without intimating the Central Government or the prescribed authority of the contravention of the provisions of the relevant sections and till the approval granted to these funds, trusts, institutions, universities, educational institutions or hospitals or medical institutions has been withdrawn or notification rescinded.  
The time period for completing the assessment in such cases will exclude the period between the date on which the Assessing Officer gives the intimation of the default and date on which copy of the order withdrawing the approval is received by the Assessing Officer.
5. **2<sup>nd</sup> Proviso to Section 143(3)**  
**Assessing Officer empowered to send a proposal to the Central Government recommending withdrawal of approval of research association, university, college or other institution approved under section 35(1)(ii) and (iii)**
  - (i) The guidelines, the manner and the conditions in accordance with which an application made by a research association, university, college or other institution shall be approved under section 35(1)(ii)/(iii) have been provided by the Taxation Laws (Amendment) Act, 2006. Also, the amendment provides for grant of one time approval, which means the approval is to remain in force unless it is withdrawn.
  - (ii) Therefore, the Assessing Officer is now required to satisfy himself as to the activities of the university, college or other institution referred to in clause (ii) or clause (iii) of section 35(1).
  - (iii) If the activities are not being carried out in accordance with all or any of the conditions subject to which any of the said entities had been approved, the Assessing Officer may, after giving a reasonable opportunity of showing cause to the concerned entity, send a proposal to the Central Government recommending withdrawal of approval.
  - (iv) The Central Government may, by order, withdraw the approval and forward a copy of the order to the concerned university, college or other institution and to the Assessing Officer.

**Section 144 – Best Judgment Assessment**

1. If any person—
  - a. fails to make the return required under sub-section (1) of section 139 and has not made a return or a revised return under sub-section (4) or sub-section (5) of that section, or
  - b. fails to comply with all the terms of a notice issued under sub-section (1) of section 142 or fails to comply with a direction issued under sub-section (2A) of that section, or
  - c. having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 143, the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment :
2. **Provided** that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment;
3. **Provided further** that it shall not be necessary to give such opportunity in a case where a notice under sub-section (1) of section 142 has been issued prior to the making of an assessment under this section;
4. Further, as per section 145(3) of the Act, where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in section 145(1) has not been regularly followed by the assessee, or income has not been computed in accordance with the Income Computation and Disclosure standards notified under section 145(2), the Assessing Officer may make an assessment in the manner provided in section 144.

**Income Escaping Assessment - Section 147 – 153**

**(1) Section 147** - If the Assessing Officer has **reason to believe that any income chargeable to tax has escaped assessment for any assessment year**, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or re-compute the loss or the depreciation allowance or any other allowance, as the case may be, for the relevant assessment year.

**1<sup>st</sup> Proviso to section 147 – Restriction on reopening of cases under 147**

Where an assessment under section 143(3) or 147 has already been made by the Assessing Officer for the relevant assessment year, then, no action shall be taken under this section after the expiry of **four years from the end of the relevant assessment year**.

The exception would be in cases where any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139, or in response to a notice issued under section 142(1) or section 148 or to disclose, fully and truly, all material facts necessary for his assessment for that assessment year.

**2<sup>nd</sup> Proviso to Section 147 –** The above time limit shall also not apply in a case where

income chargeable to tax, in relation to an asset (including financial interest in an entity) located outside India, has escaped assessment for any assessment year.

**3<sup>rd</sup> Proviso to section 147** – The Assessing Officer may assess or reassess an income which is chargeable to tax and has escaped assessment other than the income involving matters which are the subject matter of any appeal, reference or revision.

**Explanation 1 to section 147** – It has been clarified that production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure.

**Explanation 2 to section 147** – Circumstances when income is deemed to have escaped assessment

Case	When income is deemed to have escaped assessment
Where the assessee's total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax.	No return of income has been furnished by the assessee
Where a return of income has been furnished by the assessee but no assessment has been made	It is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return.
Where the assessee is required to furnish a report in respect of any international transaction under section 92E.	The assessee has failed to furnish such report
Where an assessment has been made	(a) income chargeable to tax has been under-assessed (b) such income has been assessed at too low a rate (c) such income has been made the subject of excessive relief under this Act (d) Excessive loss or depreciation or any other allowance under this Act has been computed.
where a return of income has <b>not</b> been furnished by the assessee or where a return of income has been furnished by the assessee	On the basis of information or document received from the prescribed income-tax authority, under section 133C(2), it is noticed by the Assessing Officer that the income of the assessee exceeds the basic exemption limit
In addition, income chargeable to tax has escaped assessment, where a person is found to have any asset located outside India.	

**Explanation 3 to Section 147** - The Assessing Officer may assess or reassess the income in respect of any issue (which has escaped assessment) which comes to his notice subsequently in the course of proceedings under this section, even though the reason for such issue does not form part of the reasons recorded under section 148(2).

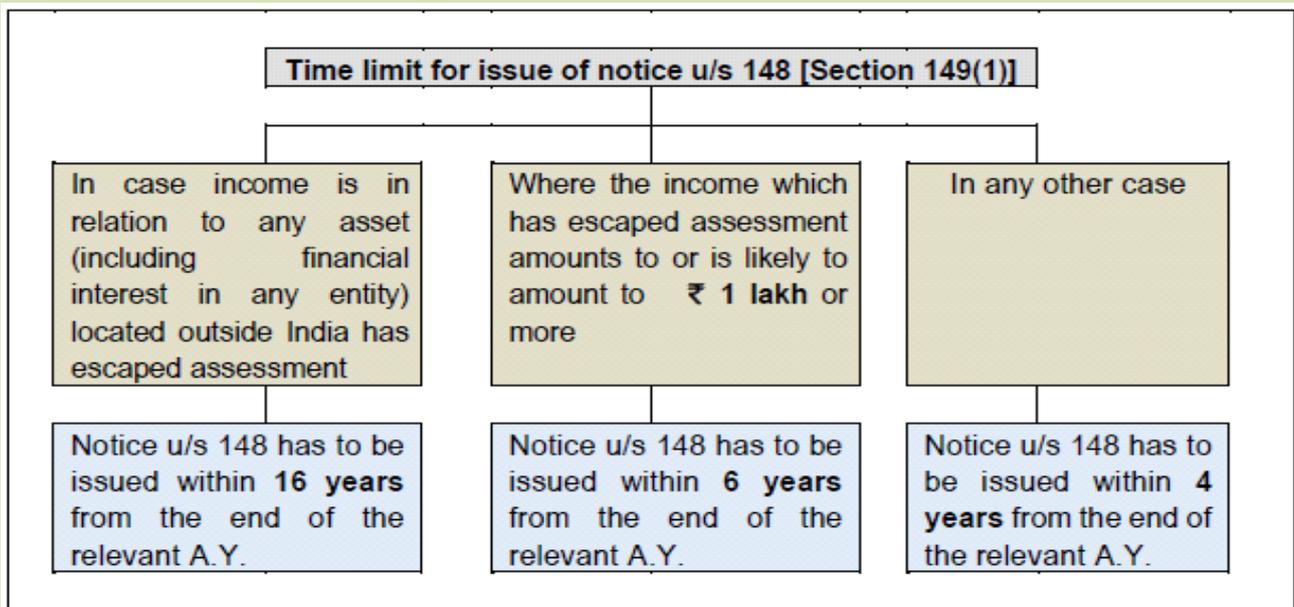
**Issue Of Notice Where Income Has Escaped Assessment (Section 148)**

1. Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, as may be specified in the notice, a return of his income or the income of any other

person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

- The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

**Section 149 – Time Limit For Issue Of Notice**



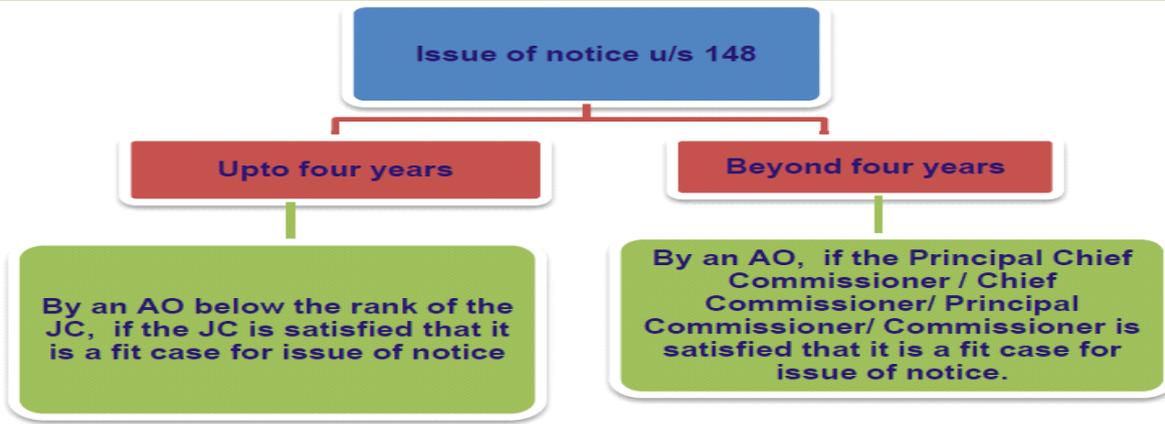
**Section 149(2)** - The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151 i.e. the assessing officer shall have obtain prior sanction in accordance with provisions of section 151.

**Section 149(3)** - If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of six years from the end of the relevant assessment year

**Reassessment pursuant to an appeal order etc. (section 150)**

- Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.
- The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

**Section 151 –Sanction**



**OTHER PROVISIONS [SECTION 152]**

**(1) Income escaping assessment to be charged to tax at rates applicable for respective years [Section 152(1)]**

In the case of any assessment or reassessment or recomputation made under section 147, the income escaping assessment would be chargeable to tax at the rate applicable to the respective years in which such income is liable to be taxed.

**(2) Assessee entitled to claim dropping of proceedings under section 147 in certain cases [Section 152(2)]**

Where an assessment is reopened under section 147, the assessee may claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account. Alternatively, he can make such a claim on showing that the assessment or computation had been properly made. An assessee can avail this benefit only if he had not challenged any part of the original assessment order either by filing an appeal or filing a revision petition. The assessee, while making such claim, shall not be entitled to reopen matters concluded by an order under sections 154,155, 260, 262 or 263

**Change of Income-tax Authority [Section 129]**

**(i) Stage from which the succeeding Income-tax authority would continue:** In cases where an income-tax authority succeeds another income-tax authority, who ceases to exercise jurisdiction, then, the succeeding income-tax authority may continue the proceedings from the stage at which the proceedings was left by his predecessor.

**(ii) Opportunity to be reheard:** The assessee concerned may demand that before continuance of proceedings as in (i) above, the previous proceedings or any part thereof be reopened or be reheard before passing of any assessment order against him.

**Discovery, production of evidence etc. [Section 131]**

**(i) Income-tax Authorities to have powers vested in a Civil Court in certain matters [Section 131(1)]:** The Assessing Officer, Deputy Commissioner (Appeals), Joint Commissioner, Commissioner (Appeals), the Principal Chief Commissioner or Chief Commissioner and the Dispute Resolution Panel referred to in section 144C have the powers vested in a Civil Court under the Code of Civil Procedure, 1908 while dealing with the following matters:

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and documents; and
- (d) issuing commissions

The powers aforementioned are normally those exercisable by a Court when it is trying a suit. While exercising these powers, the authorities act in a quasi-judicial capacity and ought to conform to the principles of judicial procedure.

**(ii) Powers under section 131(1) to be exercised in certain cases, even if no proceeding is pending [Section 131(1A)/(2)]:**

- (a) If the Principal Director General or Director General or Principal Director or Director or Joint Director or Assistant Director or Deputy Director or the authorized officer referred to in section 132(1), before he takes action under the said sub-section, has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then for the purposes of making an enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred in section 131(1) on the income-tax authorities referred to therein, even if no proceedings with respect to such person or class of persons are pending before him or any other income-tax authority.
- (b) For facilitating quick collection of information on request from tax authorities outside India, notified income-tax authorities (not below the rank of Assistant Commissioner of Income-tax), as may be notified by the Board, to have powers under section 131(1) for making an inquiry or investigation in respect of any person or class of persons relating to an agreement for exchange of information under section 90 or 90A, even if no proceeding is pending before it or any other income-tax authority with respect to the concerned person or class of persons.

**(iii) Power to impound or retain books of accounts [Section 131(3)]:** The income-tax authority is vested with the power to impound or retain in its custody for such period as it may think fit, any books of account or other documents produced before it in any proceeding under this Act.

The powers are unrestricted in the case of all the authorities except the Assessing Officer or an Assistant Director or Deputy Director whose powers are subjected to two restrictions;

- (a) he must record his reasons for impounding books of account or other documents; and
- (b) if he desires to retain in his custody any such books or documents for a period exceeding 15 days (excluding holidays), he must obtain the prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Commissioner or Principal Commissioner or Principal Director or Director, as the case may be, for the purpose.

**Search and Seizure [Section 132]:** Under this section, wide powers of search and seizure are conferred on the income-tax authorities.

The provisions of the Criminal Procedure Code relating to searches and seizure would, as far as possible, apply to the searches and seizures under this Act. Contravention of the orders issued under this section would be punishable with imprisonment and fine under section 275A.

**(i) Authorities empowered to issue authorization [Section 132(1)]:** Search and seizure can be authorized by Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Commissioner or Principal Commissioner or Additional Director or Additional Commissioner or any such Joint Director or Joint Commissioner as may be empowered by the Board.

A Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may authorize any Joint Director, Joint Commissioner, Additional Director or Additional Commissioner, Assistant Director, or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer.

An Additional Director or Additional Commissioner, Joint Director or Joint Commissioner can authorize Assistant Director or Deputy Director or Assistant Commissioner or Deputy Commissioner or Income-tax Officer.

Thus, under section 132(1), the income-tax authorities listed above are empowered to authorize other income-tax authorities to conduct search and seizure operations.

**The authorities empowered to issue authorization are:**

- (1) Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner;
- (2) Principal Director or Director or Principal Commissioner or Commissioner; and
- (3) Such Additional Director or Additional Commissioner, Joint Director or Joint Commissioner as are empowered by the CBDT to do so.

**(ii) 'Reasons to believe' pre-requisite for authorization [Section 132(1)]:** Such authorization could take place if the authority believes, on the basis of information in his possession:

- (a) that the person to whom a summons under section 131(1) or notice under section 142(1) was issued to produce or cause to produce books of account or other documents has omitted or failed to do so; or
- (b) that a person to whom a summons or a notice has been or might be issued, does not or would not produce any books of account or other documents called for or which will be useful or relevant to any proceeding under the Income-tax Act, 1961; or
- (c) that a person who is in possession of any valuable articles or things, including money, bullion or jewellery etc. (which has not been disclosed or would not be disclosed by the person concerned for income-tax purposes).

**Powers of Authorised Officer [Section 132(1)]**

**(a) Power to seize money, books of accounts etc.:** Such an authorization can empower the authorized officer to enter any building or place or vehicle, vessel or aircraft where he has reasons to suspect that such books of account, documents, articles including money, jewellery, valuables etc. are kept and in case they are found, he may seize them, place marks of identification on them or make a note or inventory thereof for the purpose.

However, any bullion, jewellery or other valuable article or thing, which is in the nature of stock-in-trade of the business, found as a result of search shall not be seized but the authorized officer shall make a note or inventory of such stock-in-trade of the business.

The person who is in possession or control of books of account or other documents maintained

in the form of electronic records, shall be required to afford the necessary facility to authorized officer to inspect all such books of account or other documents.

In the discharge of such a duty, he is authorized to break open the locks in case keys are not readily available.

The books of account and other documents seized should be returned within a period of 30 days from the date of the order of assessment under section 153A, unless the reasons for retaining the same are recorded and approved by the Principal Chief Commissioner or Chief Commissioner or Commissioner or Principal Commissioner or Principal Director General or Director General or Principal Director or Director.

The persons from whose custody any books of account or other documents have been seized may make copies thereof or take extracts therefrom

The Authorised Officer is empowered to search any person in or about the building or place in respect of which a search has been authorised, if he has reason to suspect that any article for which the search is being made is concealed about his person.

This Authorised Officer is also entitled to search any person who has got out of or is able to get into or is in the building, place, vessel, vehicle or aircraft in respect of which a search has been authorised, if he has reason to suspect that such person has secreted about his person any books of account or other documents, money, bullion, jewellery or other valuable articles for which the search is being made.

**Power exercisable outside jurisdiction, if delay would be prejudicial to the interests of the revenue:** The Commissioner or Principal Commissioner of Income-tax has the power to authorise the search of any building, place, vessel, vehicle, aircraft etc., within his territorial jurisdiction and also in cases where he has no jurisdiction over the persons concerned, if he has reason to believe that any delay in obtaining authorisation from the Commissioner or Principal Commissioner having jurisdiction over the person would be prejudicial to the interests of revenue.

**Rebuttable presumption [Section 132(4A)]:** Now there is a rebuttable presumption to the effect that the books of account or other documents and assets found in the possession of any person in the course of a search belong to such person and also that the contents of such books of account and other documents are true and that the signature and every other part of such books of account and other documents are in hand-writing of the persons who can reasonably be assumed to have signed or written the books of account or other documents.

**Deemed Seizure:** Where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the Authorised Officer may serve an order on the owner or the person who is in immediate possession thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the Authorised Officer shall be deemed to be seizure of such valuable article or thing. This is called a restraint order. However, such a deeming seizure would not apply to stock-in-trade of the business.

**Order not to remove books of account etc. without prior permission of Authorised Officer [Section 132(8A)]:** The authorised officer may, where it is not practicable to seize any

such books of account, other documents, money, bullion, jewellery or other valuable article or thing (for reasons other than those mentioned in (viii) above] serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section. However, serving of such an order shall not be deemed to be seizure of such valuable article or thing. Such order shall not be in force for a period exceeding 60 days from the date of the order.

**Making copies and taking extracts of books of account permitted [Section 132(9)]:**The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorized officer or any other person empowered by him in this behalf, at such place and time as the authorized officer may appoint in this behalf.

**Time limit for handing over books of account etc. to jurisdictional Authorised Officer [Section 132(9A)]:** Where the authorized officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of point (ii) above, the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under that sub-section shall be handed over by the Authorised Officer to the Authorised Officer having jurisdiction over such person within a period of 60 days from the date of which the last of the authorizations for search was executed and thereupon the powers exercisable by the authorized officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.

**(i) Requirement of “reasons to believe” for requisition of books of account [Section 132A(1)]:** Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner on the basis of information in his possession, has reason to believe that-

(a) any person to whom a summons under section 131(1) or a notice under section 142(1) was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, such as, by the Collector of Customs, the Sales-tax Commissioner etc. or

(b) any books of account or other documents will be useful for, or relevant to, any proceeding under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, such as, by the Collector of Customs, the Sales-tax Commissioner etc. or

(c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority

under any other law for the time being in force, such as, by the Collector of Customs, the Sales-tax Commissioner etc.

then, the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Commissioner or Principal Commissioner may authorise any Additional Director, Additional Commissioner, Joint Director Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner, Deputy Commissioner or Income-tax Officer (referred to as the requisitioning officer) to require the officer or authority under any other law referred above, as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

**(ii) Delivery of books of accounts to the Requisition Officer [Section 132A(2)]:** On a requisition being made under (i), the officer or authority under any other law referred above, as the case may be, shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

**(iii) Certain search provisions to apply in case of requisition also [Section 132A(3)]:** Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sections 132(4A) to 132(14) and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under section 132(1) by the requisitioning officer from the custody of the concerned person and for the words "the Authorised Officer" occurring in any of the above mentioned sections, the words "the requisitioning officer" were substituted.]

#### **Application of retained assets [Section 132B]**

**(i) Manner of application of assets seized [Section 132B(1)(ii)/(iii)]:** If the assets consist solely of money or partly of money and partly of other assets, the Assessing Officer may apply the money in discharge of the liabilities mentioned above. The assessee shall be discharged to the extent of the money so applied.

The assets other than money may also be applied for the discharge of such liabilities which still remains undischarged. For this purpose, such assets shall be deemed to be under distraint, as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorization from the Principal Chief Commissioner or Chief Commissioner or Commissioner or Principal Commissioner under section 226(5). The Assessing Officer or the Tax Recovery Officer, as the case may be, may recover the amount of such liabilities by the sale of such assets in the manner laid down in the Third Schedule.

**(iii) Release of seized asset [Section 132B(4)]:** Where the person concerned makes an application to the Assessing Officer within 30 days from the end of the month in which the asset was seized, for release of the asset and explains the nature and source of acquisition of seized assets is explained satisfactorily, then, such assets are required to be released within a period of 120 days from the date on which last of the authorisations for search under section 132 is executed after meeting any existing liabilities. The assessee shall be entitled to simple interest at  $\frac{1}{2}$  % per month or part of a month, if the amount of assets seized exceeds the liabilities eventually, for the period immediately following the expiry of 120 days from the date on which the last of the authorisations for search under section 132 or requisition under section 132A was executed to the date of completion of the assessment under section 153A or under Chapter XIV-B.

**ASSESSMENT PROCEDURE IN CASE OF SEARCH OR REQUISITION [SECTION 153A/153B/153C]**

The block assessment procedure introduced in 1995 and in operation since then for 8 years with various amendments from time to time has been abolished in respect of search carried out after 31st May, 2003. In the place of the block assessment, a scheme of reassessment was introduced by inserting three sections 153A, 153B and 153C with effect from 1st June, 2003 for assessment in case of search or making requisition.

**(1) Procedure for assessment where search is initiated under section 132 or books of account etc. are requisitioned under section 132A [Section 153A]**

**(i) Overriding provisions of section 153A:** The provisions of section 153A prescribing a procedure for assessment in the case of search or requisition will apply notwithstanding anything contained in sections 139/147/148/149/151 and 153.

This section provides for the procedure for completion of assessment where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after 31st May, 2003.

**(ii) Issue of Notice:** In such cases, the Assessing Officer shall issue notice to such person. Such a person has to furnish a return of income within such period as may be specified in the notice setting forth such other particulars as may be prescribed.

**(iii) Filing of return in response to notice:** Such a return should be filed in respect of six assessment years and for the relevant assessment year or years immediately preceding the assessment year relevant to the previous year in which the search was conducted under section 132 or requisition was made under section 132A.

The expression "**relevant assessment year**" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

**(iv) Year upto which income can be assessed:** The Assessing Officer shall assess or reassess the total income of each of these six assessment years **and for the relevant assessment year or years.**

**(v) Pending assessments to abate:** The assessment or reassessment, if any, relating to any assessment year falling within the above period of six assessment years **and for the relevant assessment year or years**, pending on the date of the initiation of the search under section 132 or requisition under section 132A, as the case may be, shall abate. In other words, they will cease to be applicable.

**(vi) Notice to be issued only for the assessment year relevant to the previous year of search in case of notified class of cases:** The Central Government is empowered to notify class or classes of cases [except the cases where any assessment or reassessment has abated] in which the Assessing Officer shall not be required to issue notice for initiation of assessment or reassessment of total income for six assessment years immediately preceding the assessment year relevant to the previous year in which the search was conducted or requisition was made **and for the relevant assessment year or years.** The assessment proceedings in the class or classes of cases so notified shall be carried out only for the assessment year relevant to the previous year in which search was conducted or requisition was made, except in cases where any assessment or reassessment in respect of any of the earlier six years **and for the relevant assessment year or years** has abated.

Accordingly, in exercise of this power, the Central Government has, through Notification No.42/2012 dated 4.10.2012, inserted Rule 112F which came into force from 1<sup>st</sup> July, 2012.

**The said Rule provides that the Assessing Officer is not required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made, in the following cases:**

(a) where as a result of a search under section 132(1) or a requisition made under section 132A, a person is found to be in possession of any money, bullion, jewellery or other valuable articles or things, whether or not he is the actual owner of the same, and

(b) where such search is conducted or such requisition is made in the territorial area of an assembly or parliamentary constituency in respect of which a notification has been issued under section 30 read with section 56 of the Representation of the People Act, 1951, or where the assets so seized or requisitioned are connected in any manner to the ongoing election in an assembly or parliamentary constituency.

However, this Rule is not applicable to cases where such search under section 132 or such requisition under section 132A has taken place after the hours of poll so notified.

Circular No.10/2012 dated 31.12.2012 clarifies that the aforesaid provision would reduce infructuous and unnecessary proceedings under the Income-tax Act, 1961 in cases where a search is conducted under section 132 or requisition is made under section 132A and cash or other assets are seized during the election period, generally on a single warrant, and no evidence is available, or investigation required, for any assessment year other than the assessment year relevant to the previous year in which search is conducted or requisition is made.

**In such cases, the officer investigating the case, with the approval of the Director General of Income-tax, is required to certify that –**

- (a) the search is conducted under section 132 or the requisition is made under section 132A in the territorial area of an assembly or parliamentary constituency in respect of which a notification has been issued under section 30, read with section 56 of the Representation of the People Act, 1951; or
- (b) the assets seized or requisitioned are connected in any manner to the ongoing election process in an assembly or parliamentary constituency; and
- (c) no evidence is available or investigation is required for any assessment year other than the assessment year relevant to the previous year in which search is conducted or requisition is made.

The certificate of the investigating officer shall be communicated to the Commissioner of Income-tax and the Assessing Officer having jurisdiction over the case of such person.

**(vii) Conditions to be satisfied for issue of notice beyond six years prior to the year of search:**

No notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless:

- (a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of assets, which has escaped assessment amounts to or is likely to amount to ` 50 lakhs or more in the relevant assessment year or in aggregate in the relevant assessment years.
- (b) the income so referred above has escaped assessment for such year or years
- (c) the search under section 132 is initiated or requisition under section 132A is made on or after 1.4.2017

For this purpose, "asset" includes immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.

**(viii) Revival of abated proceeding:** If any proceeding initiated under section 153A or any order of assessment or reassessment made under section 153A(1) has been annulled in any appeal or other legal proceeding, the abated assessment or reassessment relating to any assessment year shall stand revived with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner. If the order of annulment is set aside, such revival shall cease to have effect.

**(ix) Applicability of other provisions of the Act:** Unless section 153A, section 153B and section 153C provide otherwise, all other provisions of the Income-tax Act, 1961, shall apply to the assessment or reassessment made in respect of assessment year under this section.

**(x) Applicable rate of tax:** The tax shall be chargeable at the rate or rates as applicable to such assessment year.

**Assessment or reassessment of income of any other person [Section 153C]**

**(i) Handing over of books of accounts, documents, assets seized or requisitioned to jurisdictional Assessing Officer, where they belong to another person:** Section 153C provides for assessment or reassessment of income of any other person.

Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that -

- (a) any money, bullion, jewellery or other valuable article or thing seized or requisitioned **belongs to** ; or
- (b) any books of account or documents seized or requisitioned **pertain to**; or
- (c) any information contained therein, **relates to**,  
any person, other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person.

**(ii) Jurisdictional Assessing Officer to proceed against other person [Section 153C(1)]:** The Assessing Officer having jurisdiction over the other person shall proceed against such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A only if he is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years referred to in section 153A(1).

**(iii) Pending assessments to abate:** The assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in the said section and for the relevant assessment year or years referred to in section 153A(1) pending on the date of initiation of the search under section 132 or on the date of making of requisition under section 132A, as the case may be, shall abate.

**(iv) Date of initiation of search [Section 153C(1)]:** In case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having the jurisdiction over such other person.

**(v) Notice for the assessment year relevant to the previous year of search in case of notified class of cases:** The Central Government is empowered to notify class or classes of cases [except the cases where any assessment or reassessment has abated] in which the Assessing Officer shall not be required to issue notice for initiation of assessment or reassessment of total income for six assessment years immediately preceding the assessment year relevant to the previous year in which the search was conducted or requisition was made and for the relevant assessment year or years as referred to in sub-section (1) of section 153A.

The assessment proceedings in the class or classes of cases so notified shall be carried out only for the assessment year relevant to the previous year in which search was conducted or requisition was made, except in cases where any assessment or reassessment in respect of any of the earlier six years has abated.

Accordingly, in exercise of this power, the Central Government has, through *Notification No.42/2012 dated 4.10.2012*, inserted Rule 112F which came into force from 1st July, 2012.

The said Rule provides that the Assessing Officer is not required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made, in the following cases:

- (a) where as a result of a search under section 132(1) or a requisition made under section 132A, a person is found to be in possession of any money, bullion, jewellery or other valuable articles or things, whether or not he is the actual owner of the same, and
- (b) where, such search is conducted or such requisition is made in the territorial area of an assembly or

parliamentary constituency in respect of which a notification has been issued under section 30 read with section 56 of the Representation of the People Act, 1951, or where the assets so seized or requisitioned are connected in any manner to the ongoing election in an assembly or parliamentary constituency.

However, this Rule is not applicable to cases where such search under section 132 or such requisition under section 132A has taken place after the hours of poll so notified.

Circular No.10/2012 dated 31.12.2012 clarifies that the aforesaid amendment was introduced with a view to reduce infructuous and unnecessary proceedings under the Income-tax Act, 1961 in cases where a search is conducted under section 132 or requisition is made under section 132A and cash or other assets are seized during the election period, generally on a single warrant, and no evidence is available, or investigation required, for any assessment year other than the assessment year relevant to the previous year in which search is conducted or requisition is made.

In such cases, the officer investigating the case, with the approval of the Director General of Income-tax, is required to certify that -

- (a) the search is conducted under section 132 or the requisition is made under section 132A in the territorial area of an assembly or parliamentary constituency in respect of which a notification has been issued under section 30, read with section 56 of the Representation of the People Act, 1951; or
- (b) the assets seized or requisitioned are connected in any manner to the ongoing election process in an assembly or parliamentary constituency; and (c) no evidence is available or investigation is required for any assessment year other than the assessment year relevant to the previous year in which search is conducted or requisition is made.

The certificate of the investigating officer shall be communicated to the Principal Commissioner or Commissioner of Income-tax and the Assessing Officer having jurisdiction over the case of such person.

**(vi) Manner of assessment where jurisdictional Assessing Officer receives books of account etc. after due date of filing of return [Section 153C(2)]:** In respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, in case of such other person, where -

- (a) no return of income has been furnished by such person and no notice under section 142(1) has been issued to him, or
- (b) a return of income has been furnished by such person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or
- (c) assessment or reassessment, if any, has been made,  
Before the date of receiving of books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person for such assessment year in the manner provided in section 153A. [Section 153C(2)].

The provisions of sub-section (2) would apply where books of account or documents or assets seized or requisitioned referred to in sub-section (1) has been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A.

**Prior approval of Joint Commissioner required for assessment or reassessment in respect of search cases [Section 153D]**

Section 153D provides that assessment or reassessment of search cases in respect of each assessment year referred to in section 153A(1)(b) or the assessment year referred to in 153B(1)(b) shall not be made by an Assessing Officer below the rank of Joint Commissioner without the previous approval of the Joint Commissioner.

**RECTIFICATION OF MISTAKES (SECTION 154)**

1. With a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may,—
  - A. Amend any order passed by it under the provisions of this Act ;
  - B. Amend any intimation or deemed intimation under sub-section (1) of section 143;
  - C. Amend any intimation under sub-section (1) of section 200A;
  - D. Amends any intimation under sub-section (1) of section 206CB.
2. Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided;
3. Subject to the other provisions of this section, the authority concerned— a. may make an amendment under sub-section (1) of its own motion, and b. 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 Commissioner (Appeals), by the Assessing Officer also.
4. 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.
5. Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned.
6. 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 Assessing Officer shall make any refund which may be due to such assessee or the deductor or the collector.
7. 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, the Assessing Officer 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 under section 156 and the provisions of this Act shall apply accordingly.
8. Save as otherwise provided in section 155 no amendment under this section shall be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.
9. Without prejudice to the provisions of sub-section (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 1<sup>st</sup> day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six 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.

Section	Proceeding	Case/Circumstance	Time limit for completion of assessment or reassessment
153(1)	Order of assessment u/s 143 or 144	In respect of an order relating to: A.Y.2017-18 or any earlier A.Y. and made on or after 1.6.2016	21 months from the end of the assessment year in which the income was first assessable
		A.Y.2018-19	18 months from the end of the assessment year in which the income was first assessable
		A.Y.2019-20 and thereafter	12 months from the end of the assessment year in which the income was first assessable
153(2)	Order of assessment, reassessment or recomputation u/s 147	Where notice u/s 148 is served before 1.4.2019	9 months from the end of the financial year in which the notice is served
		Where notice u/s 148 is served on or after 1.4.2019	12 months from the end of the financial year in which the notice is served

Section	Proceeding under section	Case/Circumstance	Time limit for completion of assessment or reassessment
153B(1)	153A – for the assessment year relevant to the previous year in which search is conducted u/s 132 or requisition is made u/s 132A and for each of the 6 assessment years and for the relevant assessment year or years immediately preceding the assessment year relevant to the previous year in which search was conducted	Where the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed prior to F.Y. 2018-19	21 months from the end of the financial year in which the last of the authorizations for search u/s 132 or for requisition u/s 132A was executed.
		Where the last of the authorizations for search u/s 132 or for requisition u/s 132A was executed during the F.Y. 2018-19.	18 months from the end of the financial year in which the last of the authorizations for search u/s 132 or for requisition u/s 132A was executed.
		Where the last of authorizations for search u/s 132 or requisition u/s 132A was executed during the F.Y.2019-20 or thereafter	12 months from the end of the financial year in which the last of the authorizations for search u/s 132 or for requisition u/s 132A was executed.
153B(1) – First Proviso	In case of a person assessed under section 153C – for the assessment year relevant to the previous year in which search is conducted and for each of the 6 assessment years and for the relevant assessment year or years immediately preceding the assessment year relevant to the previous year in which search was conducted	Where the last of the authorizations for search u/s 132 or for requisition u/s 132A was executed prior to F.Y.2018-19	21 months from the end of the F.Y. in which last of the authorizations for search u/s 132 or for requisition u/s 132A was executed (or) 9 months from the end of the F.Y.in which books of account or documents or assets seized or requisitioned are handed over to the jurisdictional A.O. u/s 153C, whichever is later
		Where the last of the authorizations for search under section 132 or for requisition under section	18 months from the end of the F.Y. in which last of the authorizations for search u/s 132 or for requisition u/s 132A was

		132A was executed during the F.Y. 2018-19.	executed (or) 12 months from the end of the F.Y. in which books of account or documents or assets seized or requisitioned are handed over to the jurisdictional A.O. u/s 153C, whichever is later
		Where the last of authorizations for search u/s 132 or requisition u/s 132A was executed during the F.Y.2019-20 or thereafter	12 months from the end of the F.Y. in which last of the authorizations for search u/s 132 or for requisition u/s 132A was executed (or) 12 months from the end of the F.Y. in which books of account or documents or assets Seized or requisitioned are handed over to the jurisdictional A.O. u/s 153C, whichever is later.
153(8)	The order of assessment or reassessment, relating to any assessment year, which stands revived under section 153A(2)		1 year from the end of the month of such revival or within the period specified in section 153 or section 153B(1), whichever is later.

**SURVEY (SECTION 133A)**

1. Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter—

- (a) any place within the limits of the area assigned to him, or
- (b) any place occupied by any person in respect of whom he exercises jurisdiction, or
- (c) any place in respect of which he is authorized for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place, at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—
  - (i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,
  - (ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and
  - (iii) To furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

**Explanation.**—For the purposes of this sub-section, a place where a business or profession or activity for charitable purpose is carried on shall also include any other place, whether any business or profession or activity for charitable purpose is carried on therein or not, in which the person carrying on the business or profession or activity for charitable purpose states that any of his books of account or other documents or any part of his cash or stock or other valuable article

or thing relating to his business or profession or activity for charitable purpose are or is kept.

2. An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.
3. Without prejudice to the provisions of sub-section (1), an income-tax authority acting under this sub-section may for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions under sub-heading B of Chapter XVII or under sub-heading BB of Chapter XVII, as the case may be, enter, after sunrise and before sunset, any office, or any other place where business or profession is carried on, within the limits of the area assigned to him, or any place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept and require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work,—
  - i. To afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and
  - ii. To furnish such information as he may require in relation to such matter.
4. An income-tax authority acting under this section may,—
  - i. if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,
  - ii. impound and retain in his custody for such period as he thinks fit any books of account or other documents inspected by him:

**Provided that such income-tax authority shall not—**

- a) impound any books of account or other documents except after recording his reasons for so doing; or
  - b) retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General or the Principal Commissioner or the Commissioner or the Principal Director or the Director therefor, as the case may be,
  - iii. make an inventory of any cash, stock or other valuable article or thing checked or verified by him,
  - iv. record the statement of any person which may be useful for, or relevant to, any proceeding under this Act :
5. An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any cash, stock or other valuable article or thing.
  6. Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.
  7. If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or

evades to do so, the income-tax authority shall have all the powers under sub-section (1) of section 131 for enforcing compliance with the requirement made :

8. Provided that no action under sub-section (1) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.

**Power to call for information (Section 133)**

**The Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals) may, for the purposes of this Act,—**

- (1) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;
- (2) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;
- (3) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;
- (4) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than one thousand rupees, or such higher amount as may be prescribed, together with particulars of all such payments made;
- (5) require any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts ;
- (6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals), giving information in relation to such points or matters as, in the opinion of the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals), will be useful for, or relevant to, any enquiry or proceeding under this Act :

Provided that the powers referred to in clause (6), may also be exercised by the Principal Director General or Director-General, the Principal Chief Commissioner or Chief Commissioner, the Principal Director or Director or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director:

Provided further that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of Principal Director or Director or Principal Commissioner or Commissioner, other than the Joint Director or Deputy Director or Assistant Director, without the prior approval of the Principal Director or Director or, as the case may be, the Principal Commissioner or Commissioner:

Provided also that for the purposes of an agreement referred to in section 90 or section 90A, an income-tax authority notified under sub-section (2) of section 131 may exercise all the powers conferred under this section, notwithstanding that no proceedings are pending before it or any other income-tax authority.

**POWER TO COLLECT CERTAIN INFORMATION (SECTION 133B)**

1. Notwithstanding anything contained in any other provision of this Act, an income-tax authority may, for the purpose of collecting any information which may be useful for, or relevant to, the purposes of this Act, enter—
  - (a) any building or place within the limits of the area assigned to such authority ; or
  - (b) any building or place occupied by any person in respect of whom he exercises jurisdiction, at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to furnish such information as may be prescribed.
2. An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession.
3. For the removal of doubts, it is hereby declared that an income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.
4. Explanation.—In this section, "income-tax authority" means a Joint Commissioner, an Assistant Director or Deputy Director or an Assessing Officer, and includes an Inspector of Income-tax who has been authorised by the Assessing Officer to exercise the powers conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or part thereof.

**Power to call for information by prescribed income-tax authority (Section 133C)**

1. The prescribed income-tax authority may, for the purposes of verification of information in its possession relating to any person, issue a notice to such person requiring him, on or before a date to be specified therein, to furnish information or documents verified in the manner specified therein, which may be useful for, or relevant to, any inquiry or proceeding under this Act.
2. Where any information or document has been received in response to a notice issued under sub-section (1), the prescribed income-tax authority may process such information or document and make available the outcome of such processing to the Assessing Officer.
3. The Board may make a scheme for centralised issuance of notice and for processing of information or documents and making available the outcome of the processing to the Assessing Officer.