

ASSESSMENT

Assessment means the determination of total income and tax payable.

Assessment can be of the following types :

(1) Self-Assessment, (2) Regular Assessment, (3) Best Judgement Assessment, (4) Re-assessment.

SELF-ASSESSMENT

(Sec. 140A)

If on the basis of return an assessee finds that some amount is payable as tax after adjusting (i) tax deducted and collected at source, (ii) tax paid in advance, (iii) double taxation relief u/ss 90 90A, 91, (iv) tax credit u/s 115JAA or tax credit u/s 115JD, he shall deposit it with a challan for self-assessment before filing the return.

The return shall be filed along with the proof of payment of such tax and interest. If there is delay or shortfall in payment of any installment of advance tax and/or delay in filing the return he shall also deposit the interest for this default by the aforesaid challan.

Such assessment is known as self-assessment because in this case, the assessee computes his total income, tax payable on it and deposits the tax and interest himself.

If any assessee fails to pay the whole or any part of such tax or interest or both (in accordance with the above provisions), he shall be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid, and all the provisions of this Act shall apply accordingly.

Fee for late filing of return of income (*w.e.f.* the Assessment Year 2018-19), if the return of income is furnished late, on self-assessment the assessee shall deposit tax and interest along with the fee for delay in furnishing the return. U/s 234F the quantum of the fee is as under :

(i) Where the total income does not exceed ₹ 5,00,000—₹ 1,000.

(ii) In any other case :

(a) If a return is furnished on or before 31.12. of the assessment year—₹ 5,000.

(b) If a return is furnished after 31.12. of the Assessment Year—₹ 10,000.

Computation of Interest on Self-assessment

Interest payable u/s 234A and u/s 234B shall be computed as under :

	₹
(i) The amount of tax on the total income declared in return	.....
(ii) Less : (a) Advance tax paid	.....
(b) Tax deducted or collected at source	.....
Amount on which interest shall be calculated	.....

Notes: (1) When a belated return is filed or return not filed, interest is levied u/s 234A.

(2) When assessee fails to pay advance tax, interest is levied u/s 234B.

SUMMARY ASSESSMENT OR ASSESSMENT ON THE BASIS OF RETURN OR PROVISIONAL ASSESSMENT

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In such an assessment neither the assessee is called by the department nor is he required to produce his books of account or other documents. [Sec. 143(1)]

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

- (a) The total income or loss shall be computed after making the following adjustments :
- (i) any arithmetical error in the return;
 - (ii) an incorrect claim, if such claim is apparent from any information in the return.
 - (iii) disallowance of brought forward loss, if the return for the previous year for which the loss is b/f furnished after the due date specified in *section* 139(1);
 - (iv) disallowance of expenditure indicated in the audit report but not taken into the account in computing total income in the return;
 - (v) disallowance of deduction claimed under *sections* 10AA, 80IA, 80IAB, 80IB, 80IC or 80IE, if the return is furnished after the due date specified in *section* 139(1); or
 - (vi) addition of income appearing in form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.

However, no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode.

The response received from the assessee shall be considered before making any adjustment. If no response is received within thirty days of the issue of such intimation, such adjustments shall be made.

Note : No adjustment shall be made under (vi) in respect of return furnished for the A.Y. commencing on or after 1.4.2018.

(b) The tax and interest and fee (*w.e.f.* the Assessment Year 2018-19), if any, shall be computed on the basis of the total income computed under (a).

(c) The sum payable by, or the amount of refund due to, the assessee shall be determined as under :

		₹
Tax and interest and fee (the Assessment Year 2019-20) computed under (b)	....	....
<i>Less :</i> Tax deducted at source	....
Tax collected at source	....
Advance tax paid	....
Any tax rebate	....
Tax paid on self-assessment	....
Any amount paid otherwise by way of tax or interest or fee	....	....
Sum payable or refundable	....	....

- (d) An intimation shall be prepared and sent to the assessee specifying the sum payable by, or the amount of refund due to, the assessee as per (c).
- (e) The amount of refund shall be granted to the assessee.
- (f) Intimation shall also be sent to the assessee where the loss declared in the return by the assessee is adjusted but no tax or interest or fee is payable by, or no refund is due to, him.
- (g) No intimation shall be sent after the expiry of one year from the end of the financial year in which the return is made.
- (h) Where no sum is payable by, or refundable to, the assessee under (c) and where no adjustment has been under (a), the acknowledgement of the return shall be deemed to be the intimation.

REGULAR ASSESSMENT

'Regular assessment' means the assessment made on the basis of evidence u/s 143(3) or best judgment assessment u/s 144.

> **Assessment on the Basis of Evidence or Scrutiny Assessment** [Sec. 143(3)]

Notice u/s 143(2). When the Assessing Officer or prescribed authority, as the case may be, considers it necessary to verify the correctness or completeness of the return, to ensure that the income has not been understated or the loss declared is not excessive, or the tax has not been underpaid, he shall serve on the assessee a notice either to attend his office or to produce on a date specified any evidence in support of his return.

However, such a notice can be served on the assessee only within six months from the end of the financial year in which the return is filed. [Sec. 143(2)]

Inquiry before Assessment. (Sec. 142) For the purpose of making an assessment, the Assessing Officer may serve on any person who has made a return or in whose case the time allowed u/s 139(1) for furnishing the return has expired, a notice requiring him, or a date to be specified therein :

- (i) where such person has not made a return before the end of the relevant assessment year, to furnish a return of his income assessable under this Act, in the prescribed form, or
- (ii) to produce such accounts or documents as the Assessing Officer may require, or
- (iii) to furnish in writing and verified in the prescribed manner information in such form and on such points or matters as the Assessing Officer may require.

He can also call for a statement of all assets and liabilities of the assessee but for doing so he has to take the previous approval of the Joint Commissioner.

Assessment after Evidence. Where the notice is issued to the assessee [u/s 143(2)], he will pass an order after hearing such evidence as the assessee may produce in response to notice u/s 143(2) and such other evidence as the Assessing Officer may require on specified points and after taking into account all relevant material which the Assessing Officer has gathered, he shall pass an order in writing determining the total income or loss of the assessee and the sum payable by him or refund of any amount due to him on the basis of such assessment.

BEST JUDGMENT ASSESSMENT

(Sec. 144)

In a best judgment assessment the Assessing Officer should really base the assessment on his best judgment, *i.e.*, he must not act dishonestly or vindictively or capriciously. He must make a fair estimate of the proper figure of assessment and for this purpose he must be able to take into consideration local knowledge and repute in regard to the assessee's circumstances and his own knowledge of previous returns and assessment of the assessee and all other matters which he thinks will assist him in arriving at a fair and proper estimate. Although there must necessarily be guess-work in the matter but it must be honest guess-work. [*CIT vs. Laxmi Narayan Badridas* (1937) 5 ITR 170-80]. If an appeal is filed against such an assessment the Assessing Officer shall have to disclose the basis of judgment before the appellate authority. The aforesaid assessment is also called an '*ex-parte assessment*'.

Best Judgment Assessment can be compulsory or discretionary.

> **Compulsory Best Judgment Assessment**

The Assessing Officer shall make the assessment to the best of his judgment compulsorily in any of the following three cases :

- (i) Where the assessee has failed to make the voluntary return or fails to file the return after receiving a notice from Assessing Officer; or
- (ii) Where there has been a failure to comply with all the terms of a notice [under *section 142(1)*] requiring the assessee to produce accounts or other documents or information specified therein or fails to get the accounts audited [under *section 142(2A)*]; or
- (iii) Where the return has been made, but the Assessing Officer considers it to be incorrect or incomplete and serves a notice [under *section 143(2)*] upon the assessee requiring his appearance or the production by him of evidence in support of his return, but the assessee does not comply with the terms of the notice.

> **Consequences of Best Judgment Assessment**

The following are the consequences of a best judgment assessment :

- (i) The assessee becomes liable to penalties (under *section 272A*).
- (ii) The assessee becomes liable to prosecution (u/s 276CC and 276D).
- (iii) The assessee is prevented from bringing on record any new facts before the appellate authorities if an appeal is preferred against a best judgment assessment regarding the quantum of assessment.
- (iv) A refund may not be granted under this section.

➤ Remedy against Best Judgment Assessment

Filing an appeal. If in the opinion of the assessee, the excessive tax has been imposed on him under best judgment assessment, the assessee is entitled to :

- (i) appeal to the Commissioner (Appeals) against such assessment;
- (ii) appeal to the Appellate Tribunal against the order of the Commissioner (Appeals);
- (iii) he may go to the High Court on any question of law involved in the case;
- (iv) he may apply to the Commissioner for revision.

➤ Discretionary Best Judgment Assessment

Where the Assessing Officer is not satisfied with the (i) correctness of the accounts of the assessee, (ii) where no method of accounting has been regularly employed by the assessee, or (iii) income has not been computed in accordance with the standard notified by the Government, the Assessing Officer may, in his discretion make the best judgment assessment under *section 144*. The assessee can file an appeal against such an assessment as under compulsory best judgment assessment.

RE-ASSESSMENT (INCOME ESCAPING ASSESSMENT)

Income Escaping Assessment. If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year he may assess or re-assess such income. (Sec. 147)

The following shall be deemed to be cases of income escaping assessment :

- (i) Where no return of income has been furnished by an assessee, although his total income is above the non-taxable limit;
- (ii) Where a return of income has been furnished but no assessment has been made and the assessee is found to have understated his income or claimed an excessive loss, the deduction, etc., in the return;
- (iii) Where an assessment has been made but (a) income chargeable to tax has been under-assessed; or (b) assessed at too low a rate or (c) any excessive loss or relief or depreciation allowance or any other allowance under the Act has been allowed; and
- (iv) Where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year.
- (v) Where on the basis of information or document received from the prescribed income tax authority it is noticed by the A.O. that the income of the assessee exceeds the exemption limit or the assessee has understood the income or has claimed excessive loss, deduction, allowance or relief in the return.

Once an assessment is re-opened, any other income which has escaped assessment and which comes to the notice of the Assessing Officer subsequently in the course of the proceeding under this section can also be included in the assessment.

Issue of notice where income has escaped assessment

(Sec. 148)

Before making the assessment, re-assessment or recomputation u/s 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish the return of income within such period as may be specified in the notice.

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

For notice u/s 148 up to four years from the end of the relevant assessment year, approval of Joint Commissioner is needed by the A.O. who is below the rank of Joint Commissioner.

No notice shall be issued u/s 148 by the A.O. after the expiry of four years from the end of the relevant assessment year unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied that such notice is needed. (Sec. 151)

> Time-limit for the issue of notice u/s 148

(Sec. 149)

For issuing a notice under *section 148* shall be as under :

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| (1) If the escaped income is less than ₹ 1,00,000. | Up to four years from the end of the relevant assessment year. |
| (2) If the escaped income is ₹ 1,00,000 or more. | Beyond four years, but up to six years from the end of the relevant assessment year. |
| (3) Income in relation to any asset (including financial interest in any entity) located outside India has escaped assessment. | Beyond four years but up to sixteen years from the end of the relevant assessment year. |

> Exception to time-limit

(Sec. 150)

The time-limit prescribed under *section 149* regarding the issue of notice under *section 148* shall not apply where the assessment or re-assessment is to be made to give effect to any finding or direction contained in an order passed by any authority by way of appeal, reference or revision or by a Court in any proceeding under any other law.

> Time-limit for completion of assessment or re-assessment

(Sec. 153)

Section 153 prescribed the following time-limits for completion of assessment and re-assessment :

- (1) An assessment order u/s 143 or 144 shall be made within : (i) for the Assessment Year 2017-18—21 months, (ii) for the Assessment Year 2018-19—18 months, (iii) for the Assessment Year 2019-20—12 months from the end of the assessment year in which the income was first assessable.
- (2) An assessment, re-assessment or re-computation order u/s 147 shall be made within nine months (if notice is served on or after 1.4.2019—twelve months) from the end of the financial year in which the notice u/s 148 (income escaped assessment) was served.
- (3) An order of fresh assessment in pursuance of an order of Appellate Tribunal (u/s 254) or a revision order of the Principal Commissioner or Commissioner (u/s 263 or u/s 264) shall be made within nine months (if the order is received or passed on or after 1.4.2019—twelve months) from the end of the financial year in which the order u/s 254 is received or in which the order is passed u/s 263 or u/s 264.

RECTIFICATION OF MISTAKES

(Sec. 154)

Who can rectify a mistake? The rectification can be done by :

- (i) the authority concerned on its own; or
- (ii) on an application being made by the assessee in this connection; or
- (iii) where the authority concerned is the Commissioner (Appeals), the mistake is brought to his notice by the Assessing Officer.

The order of rectification shall be passed in writing by the authority concerned. Thus, the only authority which can rectify an order is the authority which passed the order and not any higher and lower authority. However, the person holding that office may change and the rectification may be made by his successor.

Which mistake can be rectified? Any mistake *apparent from the record* in the order passed by the authority can be rectified.

Limitations. (i) Normally, where an application for rectification is made by the assessee, 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.

(ii) Within four years from the end of the financial year in which the order sought to be rectified was passed.

➤ Notice for Rectification

If the rectification enhances the liability of the assessee or reduces the refund, the authority concerned shall give notice to the assessee of its intention so to do and shall give him a reasonable opportunity of being heard before such an order is passed.

Where any such rectification has the effect of reducing the assessment the Assessing Officer shall make any refund which may be due to such assessee.

The above provisions shall also apply to a tax deductor or tax collector who has submitted a statement of tax deducted at source or tax collected at source.

NOTICE OF DEMAND

(Sec. 156)

When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under the Income Tax Act, the Assessing Officer shall serve upon the assessee a notice of demand (under *section 156* in the prescribed form) specifying the sum so payable.

Where any sum is determined to be payable by the assessee on assessment on the basis of return [u/s 143(1)], the intimation u/s 143(1) shall be deemed to be a notice of demand u/s 156.

Similarly where any sum is determined to be payable by tax deductor or collector on processing of statements of tax deducted at source or collected at source, the intimation shall be deemed to be a notice of demand u/s 156.

INTIMATION OF LOSS

(Sec. 157)

When in the course of the assessment of the total income of any assessee, it is established that a loss has taken place which the assessee is entitled to carry forward and set-off against future profits, the Assessing Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him.