

**IN DEPTH ANALYSIS OF
AMENDMENTS IN SECTION
147 / 148 / 153A / 153C OF
THE INCOME TAX ACT, 1961**

Presented by

CA Paras Dawar

Mob - 9711107317

Email - paras@parasdawar.com

SECTION 147

Section 147 - Income escaping assessment

- Existing section 147 substituted and replaced with following
- If any **income chargeable to tax**, in the case of an assessee,
- has **escaped assessment** for any assessment year,
- The Assessing Officer may, subject to the provisions of sections 148 to 153,
 - assess or reassess such income or
 - recompute the loss or the depreciation allowance or any other allowance or deduction
- for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year).

Section 147 - Income escaping assessment

Explanation to section 147

- The Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment,
- **and**
- such issue **comes to his notice subsequently** in the course of the proceedings under this section,
- irrespective of the fact that the provisions of section 148A have not been complied with.

Section 147 - Income escaping assessment

Comparison with earlier provisions

- No need of '**reason to believe**'
- Safeguards of opening assessment after 4 years removed
 - ❑ income assessment due to failure to file return u/s 139 or 142(1) or 148 or
 - ❑ Failure to disclose fully and truly all material facts
- Long definition of '**income chargeable to tax**' removed and replaced by a narrow definition inserted u/s 148

SECTION 148

Section 148 - Issue of notice where income has escaped assessment

- Existing section 148 substituted and replaced with following
- Before making the assessment, reassessment or recomputation u/s 147,
- and **subject to the provisions of section 148A**,
- the Assessing Officer shall serve on the assessee **a notice**, along with a **copy of the order passed**, if required, u/s 148A(d)
- requiring him to furnish within such period, as may be specified in such 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, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; 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:

Section 148 - Issue of notice where income has escaped assessment

Proviso to section 148 – No notice u/s 148 unless

- There is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment
- AND
- Prior sanction u/s 151 obtained

Section 148 - Issue of notice where income has escaped assessment

Meaning of information which suggests that the income chargeable to tax has escaped assessment

Explanation 1: For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment **means-**

- i. **any information flagged** in the case of the assessee for the relevant assessment year in accordance with the **risk management strategy** formulated by the Board from time to time;
- ii. any **final objection** raised by **CAG**

Section 148 - Issue of notice where income has escaped assessment

Meaning of information which suggests that the income chargeable to tax has escaped assessment

Explanation 2: Deemed information which suggests income chargeable to tax has escaped assessment **for the three AYs immediately preceding the AY (Applicable on or after 01-04-2021 only)**

- i. Search u/s 132 or requisition u/s 132A
- ii. a survey is conducted under section 133A
- iii. Asset is seized or requisitioned in case of any other person
- iv. books of account or documents, seized or requisitioned in case of any other person

SECTION 148A

Section 148A – Inquiry & SCN before notice u/s 148

- New section 148A inserted
- The Assessing Officer **shall**, before issuing any notice under section 148, —
 - a) **conduct any enquiry**, if required, with the **prior approval** of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessments
 - b) provide an **opportunity of being heard** to the assessee, with the **prior approval** of specified authority, by serving upon him a **notice to show cause** (within time **not less than 7 days** but **not exceeding 30 days**) as to why a notice under section 148 should not be issued **on the basis of information** which suggests that income chargeable to tax has escaped assessment
 - c) **consider the reply** of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);

Section 148A – Inquiry & SCN before notice u/s 148

- The Assessing Officer **shall**, before issuing any notice under section 148, —
 - d) **decide**, on the basis of material available on record including reply of the assessee, **whether or not it is a fit case to issue a notice under section 148, by passing an order**, with the **prior approval** of specified authority (within 1 month from the end of the month in which the reply is received, or where no such reply is furnished, within 1 month from the end of the month in which time allowed to furnish a reply as per clause (b) expires)
- **No need to follow section 148A** process in case where (Applicable on or after 01-04-2021 only)
 - i. Search u/s 132 or requisition u/s 132A
 - ii. a survey is conducted under section 133A
 - iii. Asset is seized or requisitioned in case of any other person
 - iv. books of account or documents, seized or requisitioned in case of any other person

SECTION 149

Section 149 – Time limit for notice

- Time limit for issue of notice under section 148 is as under
 - a) General Cases – **3 years** from the end of the relevant AY
 - b) Special Cases – **10 years** from the end of the relevant AY if
 - i. the Assessing Officer has in his possession
 - ii. Books of accounts or other documents or evidence
 - iii. which reveal that the income chargeable to tax
 - iv. represented in the form of asset,
 - v. which has escaped assessment amounts to or is likely to amount to Rs. 50 lakhs or more for that year

SECTION 151

Section 151 – Sanction for issue of notice

- Specified authority for the purposes of section 148 and section 148A shall be,—
 - (i) **3 years of less** : Principal Commissioner or Principal Director or Commissioner or Director
 - (ii) **More than 3 years** : Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General

SECTION 153A AND 153C

Section 153A and 153C

- No proceeding u/s 153A and 153C
- In relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A
- on or after the 1st day of April, 2021.

THANK YOU



CA Paras Dawar

Daver Karnatak & Associates

Chartered Accountants

F.C.A, L.L.B., B. Com. (Hons.), Diploma in International Taxation (ICAI)

206-207, Harisadan, 4637/20, Ansari Road, Daryaganj, New Delhi – 110002

Mob : +91-9711107317 | Office : +91-11-43561815 | paras@parasdawar.com