

Insertion of new sections 245HA and 245HAA.	<p>60. After section 245H of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2007, namely:—</p>	
Abatement of proceeding before Settlement Commission.	<p>“245HA. (1) Where—</p> <p>(i) an application made under section 245C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 245D; or</p> <p>(ii) an application made under section 245C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of section 245D; or</p> <p>(iii) an application made under section 245C has been declared as invalid under sub-section (2C) of section 245D; or</p> <p>(iv) in respect of any other application made under section 245C, an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D,</p> <p>the proceedings before the Settlement Commission shall abate on the specified date.</p> <p><i>Explanation.</i>—For the purposes of this sub-section, “specified date” means—</p> <p>(a) in respect of an application referred to in clause (i), the day on which the application was rejected;</p> <p>(b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;</p> <p>(c) in respect of an application referred to in clause (iii), the last day of the month in which the application was declared invalid;</p> <p>(d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of section 245D expires.</p> <p>(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made.</p> <p>(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other income-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other income-tax authority or held or recorded by him in the course of the proceedings before him.</p> <p>(4) For the purposes of the time-limit under sections 149, 153, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or reassessment under sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 245C and ending with “specified date” referred to in sub-section (1) shall be excluded; and where the assessee is a firm, for the purposes of the time-limit for cancellation of registration of the firm under sub-section (1) of section 186, the period aforesaid shall, likewise, be excluded.</p>	5 10 15 20 25 30 35
Credit for tax paid in case of abatement of proceedings.	<p>245HAA. Where an application made under section 245C on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D, or any other application made under section 245C is not allowed to be proceeded with under sub-section (2A) of section 245D or is declared invalid under sub-section (2C) of section 245D or has not been allowed to be further proceeded with under sub-section (2D) of section 245D or an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.”.</p>	40 45
Substitution of new section for section 245K.	<p>61. For section 245K of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:—</p>	
Bar on subsequent application for settlement.	<p>“245K. (1) Where—</p> <p>(i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or</p> <p>(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a</p>	50

case, such person is convicted of any offence under Chapter XXII in relation to that case; or

(iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

5 then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter.

(2) Where a person has made an application under section 245C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 245D, such person shall not be subsequently entitled to make an application under section 245C.”

10 **62.** In section 246A of the Income-tax Act, with effect from the 1st day of June, 2007,— Amendment of section 246A.

(a) in sub-section (1), -

(i) after clause (ha), the following clause shall be inserted, namely:—

“(hb) an order made under sub-section (6A) of section 206C;”;

(ii) in clause (j), in sub-clause (B), after the word, figures and letter “section 271A,”, the word, figures and letters “section 271AAA,” shall be inserted;

15 (b) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) Every appeal filed by an assessee in default against an order under sub-section (6A) of section 206C on or after the 1st day of April, 2007 but before the 1st day of June, 2007 shall be deemed to have been filed under this section.”.

20 **63.** For section 248 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:— Substitution of new section for section 248.

“248. Where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.”. Appeal by person denying liability to deduct tax in certain cases.

64. In section 249 of the Income-tax Act, in sub-section (2), for clause (a), the following clause shall be substituted with effect from the 1st day of June, 2007, namely:— Amendment of section 249.

“(a) where the appeal is under section 248, the date of payment of the tax, or”.

30 **65.** In section 253 of the Income-tax Act, in sub-section (1), in clause (c), for the words, figures and letters “under section 12AA”, the words, figures, letters and brackets “under section 12AA or under clause (vi) of sub-section (5) of section 80G” shall be substituted with effect from the 1st day of June, 2007. Amendment of section 253.

66. In section 254 of the Income-tax Act, in sub-section (2A), for the provisos, the following provisos shall be substituted with effect from the 1st day of June, 2007, namely:— Amendment of section 254.

35 “Provided that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under sub-section (1) of section 253, for a period not exceeding one hundred and eighty days from the date of such order and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order:

40 Provided further that where such appeal is not so disposed of within the said period of stay as specified in the order of stay, the Appellate Tribunal may, on an application made in this behalf by the assessee and on being satisfied that the delay in disposing of the appeal is not attributable to the assessee, extend the period of stay, or pass an order of stay for a further period or periods as it thinks fit; so, however, that the aggregate of the period originally allowed and the period or periods so extended or allowed shall not, in any case, exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed:

45 Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, the order of stay shall stand vacated after the expiry of such period or periods.”.

50 **67.** In section 271 of the Income-tax Act, in sub-section (1),— Amendment of section 271.

(i) in *Explanation 4*, in clause (b), for the words “means the tax on the total income assessed;”, the words and figures “means the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self assessment tax paid before the issue of

notice under section 148;" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2003;

(ii) in *Explanation 5*, in the opening portion, for the words and figures "search under section 132", the words, figures and letters "search initiated under section 132 before the 1st day of June, 2007" shall be substituted with effect from the 1st day of June, 2007; 5

(iii) after *Explanation 5*, the following *Explanation* shall be inserted with effect from the 1st day of June, 2007, namely:—

"*Explanation 5A*.—Where in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of,—

(i) any money, bullion, jewellery or other valuable article or thing (hereinafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or 10

(ii) any income based on any entry in any books of account or other documents or transactions and claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year, 15

which has ended before the date of the search and the due date for filing the return of income for such year has expired and the assessee has not filed the return, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income." 20

Insertion of new section 271AAA.

68. In the Income-tax Act, after section 271AA, the following section shall be inserted, namely:—

Penalty where search has been initiated.

'271AAA. (1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of June, 2007, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year. 25

(2) Nothing contained in sub-section (1) shall apply if the assessee,—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived; 30

(ii) substantiates the manner in which the undisclosed income was derived; and

(iii) pays the tax, together with interest, if any, in respect of the undisclosed income.

(3) No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1).

(4) The provisions of sections 274 and 275 shall, so far as may be, apply in relation to the penalty referred to in this section. 35

Explanation.—For the purposes of this section,—

(a) "undisclosed income" means—

(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has- 40

(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or

(B) otherwise not been disclosed to the Chief Commissioner or Commissioner before the date of the search; or 45

(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted; 50

(b) "specified previous year" means the previous year—

(i) which has ended before the date of search, but the date of filing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search

and the assessee has not furnished the return of income for the previous year before the said date; or

(ii) in which search was conducted.’.

5 **69.** After section 292B of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

Insertion of new section 292C.

“292C. Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may, in any proceeding under this Act, be presumed—

Presumption as to assets, books of account, etc.

10 (i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii) that the contents of such books of account and other documents are true; and

15 (iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person’s handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.”.

20 **70.** In section 295 of the Income-tax Act, in sub-section (2), after clause (eeb), the following clauses shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of June, 2006, namely:—

Amendment of section 295.

“(eeba) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 139C;

25 (eebb) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 139D;”.

30 **71.** In section 296 of the Income-tax Act, with effect from the 1st day of June, 2007, for the words, brackets, figures and letter “every notification issued under sub-clause (iv) of clause (23C) of section 10”, the words, figures, letters and brackets “every notification issued before the 1st day of June, 2007 under sub-clause (iv) of clause (23C) of section 10” shall be substituted.

Amendment of section 296.

72. In the Second Schedule to the Income-tax Act, with effect from the 1st day of April, 2008,—

Amendment of Second Schedule.

35 (a) in rule 60, in sub-rule (1), in clause (a), for the words “fifteen per cent. per annum”, the words “one and one-fourth per cent. for every month or part of a month” shall be substituted;

(b) in rule 68A, in sub-rule (3), for the words “six per cent. per annum”, the words “one-half per cent. for every month or part of a month” shall be substituted.

73. In the Fourth Schedule to the Income-tax Act, in Part A,—

Amendment of Fourth Schedule.

(i) in rule 3, in sub-rule (1),—

40 (a) in the proviso, for the figures, letters and words “31st day of March, 2007”, the figures, letters and words “31st day of March, 2008” shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:—

45 “Provided further that nothing contained in the first proviso shall apply to the provident fund of an establishment in respect of which a notification has been issued by the Central Government under sub-section (2) of section 16 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952.”;

19 of 1952.

(ii) in rule 4, for clause (ea), the following clause shall be substituted, namely:—

50 “(ea) the fund shall be a fund of an establishment to which the provisions of sub-section (3) of section 1 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 apply or of an establishment which has been notified by the Central Provident Fund Commissioner under sub-section (4) of section 1 of the said Act, and such establishment shall obtain exemption under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section;”.

19 of 1952.