



## RETIREMENT OF PARTNERS - PART II



### REVALUATION OF ASSETS AND LIABILITIES

At the time of retirement of a partner the assets and liabilities of the firm are revalued and Revaluation Account is prepared in the same way as in case of admission of a partner. This is done to adjust the changes in value of assets and liabilities at the time of retirement/death of a partner. Any profit or loss due to revaluation is divided amongst all the partners including retiring/deceased in their existing profit sharing ratio. Following journal entries are made for this purpose:

**(i) For increase in value of assets:**

Assets A/c	Dr.	[Individually]
To Revaluation A/c		
(Increase in the value of assets)		

**(ii) For decrease in value of assets:**

Revaluation A/c	Dr.	
To Assets A/c		[Individually]
(Decrease in the value of asset)		

**(iii) For increase in value of Liabilities:**

Revaluation A/c	Dr.	
To Liabilities A/c		[Individually]
(Increase in the value of liabilities)		



**(iv) For decrease in value of Liabilities:**

Liabilities A/c	Dr.	[Individually]
To Revaluation A/c		
(Decrease in the value of liabilities)		

Revaluation account is prepared to record the change in the value of assets or liabilities. It will reveal profit or loss on revaluation. This profit or loss is divided amongst all partners including the retiring/deceased partner in existing profit sharing ratio.

**(v) For Profit on Revaluation:**

Revaluation A/c	Dr.	[Individually]
To Partner's Capital A/c		
(Profit on revaluation divided amongst all partners in their existing profit sharing ratio)		

**[v] For loss on Revaluation:**

Partner's Capital A/c	Dr.	[Individually]
To Revaluation A/c		
(Loss on revaluation borne by all partners in their existing profit sharing ratio)		

**Example**

Mudit, Mohit and Sonu are partners sharing profit in the ratio 3: 2: 1. Mudit retires from the partnership. In order to settle his claim, the following revaluation of assets and liabilities was agreed upon:

- (i) The value of Machinery is increased by ₹25,000.
- (ii) The value of Investment is increased by ₹2,000.
- (iii) A provision for outstanding bill standing in the books at ₹1,000 is now not required.
- (iv) The value of Land and Building is decreased by ₹12,000.

Give journal entries and prepare Revaluation account.

**Answer:**

Journal		Dr.	Cr.	
Date	Particulars	L.F.	Amount (₹)	Amount (₹)
	Machinery A/c	Dr.	25,000	



## CMA Students Newsletter (For Intermediate Students)

Vol.19B: November 15, 2015

Investments A/c	Dr.		2,000	
Provision for Outstanding Bill A/c	Dr.		1,000	
To Revaluation A/c				28,000
(Increase in value of Assets i.e. Machinery and investment and reduction in provision)				
Revaluation A/c	Dr.		12,000	
To Land and Building A/c				12,000
(Decrease in value of assets)				
Revaluation A/c	Dr.		16,000	
To Mudit's Capital A/c				8,000
To Mohit's Capital A/c				5,333
To Sonu's Capital A/c				2,667
(Profit on revaluation credited to all partners capital A/c in old profit sharing ratio i.e. 3 : 2 : 1)				

Dr.		Revaluation Account		Cr.	
Particulars	Amount (₹)	Particulars	Amount (₹)		
To, Land and Building A/c	12,000	By, Machinery A/c	25,000		
To, Profit transferred to :		By, Investment A/c	2,000		
- Mudit Capital	8,000	By, Prov. for Outstanding Bill	1,000		
- Mohit Capital	5,333				
- Sonu Capital	<u>2,667</u>				
	16,000				
	<b>28,000</b>				
				<b>28,000</b>	

### Treatment of accumulated reserves and undistributed profit

All the balances of Accumulated Reserves, funds and undistributed amount of Profit or Loss appearing in the balance sheet of the firm on the date of retirement/death is distributed amongst all partners including retiring/deceased partner in their old profit sharing ratio, The following entries are made:

#### (i) For distribution of undistributed profit and reserve:

Reserves A/c	Dr
Profit & Loss A/c (Profit)	Dr.
To Partners' Capital A/c	

**[individually]**

(Reserves and Profit & Loss (Profit) transferred to all partners capitals A/c in existing profit sharing ratio)



**(ii) For distribution of undistributed loss :**

Partners' Capital A/c **Dr.** **[Individually]**  
    To Profit & Loss A/c (Loss)  
(Profit & Loss (loss) transferred to all partners Capitals A/c in old profit sharing ratio)

**SETTLEMENT OF RETIRING PARTNER'S CLAIM**

The amount due to the retiring partner is paid according to the terms of partnership agreement. The retiring partners' claim consists of

- (a) The credit balance of Capital Account;
- (b) His/her share in the Goodwill of the firm;
- (c) His/her share in the Revaluation Profit;
- (d) His/her share in General Reserve and Accumulated Profit;
- (f) Interest on Capital

But, the following deductions are made from his/her Capital Account on account of:

- (a) His/her share in the Revaluation loss;
- (b) His/her Drawings and Interest on Drawings up to the date of retirement
- (c) His/her share of any accumulated losses
- (d) Loan taken from the firm.

The total amount so calculated is the claim of the retiring partner. He/she is interested in receiving the amount at the earliest. Total payment may be made immediately after his/her retirement. However, the resources of the firm may not be adequate to make the payment to the retiring partner in lumpsum. The firm makes payment to retiring partner in instalments.

**(i) Payment in Lump Sum**

Retiring partners' claim is paid either out of the funds available with the firm or out of funds brought in by the remaining partners. The following journal entry is made for disposal of-the amount payable to the retiring partner:

**On payment of cash in lump sum:**

Retiring Partner's Capital A/c **Dr.**  
    To Cash/Bank A/c  
(Amount paid to the retiring partner)



**Example**

Om, Jai and Jagdish are partners sharing profit in the ratio of 3 : 2 : 1. Their balance sheet as on December 31st 2014 is as under:

Balance Sheet as on 31.12.2014

Liabilities	Amount (₹)	Assets	Amount (₹)
Creditors	80,000	Building	1,80,000
Bills Payable	26,000	Plant	1,40,000
General Reserve		Motor Car	40,000
Capital:	24,000	Stock	1,00,000
- Om	1,60,000	Debtors	63,000
- Jai	1,20,000	Less: Provision	3,000
- Jagdish	<u>1,20,000</u>	Cash at Bank	10,000
	4,00,000		
	5,30,000		5,30,000

Jai retires on that date on the following terms:

(a) The Goodwill of the firm is valued at ₹60,000.

(b) Stock and Building to be appreciated by 10%.

(c) Plant is depreciated by 10%

(d) Provision for Bad debts is increased upto ₹5,000.

(e) Jai's share of goodwill adjusted through remaining partners' capital account,

The amount due to Jai is paid out of the fund brought in by Om and Jagdish for that purpose in their new profit sharing ratio. Jai is paid full amount.

Prepare Revaluation Account and Partner's Capital account.

**Answer:**

It is assumed that Om and Jagdish gaining ratio remains 3 : 1.

(a) Gaining ratio = 3 : 1.

$$\text{Om gets} = 2/6 \times 3/4 = 1/4$$

$$\text{Om's new share} = 3/6 + 1/4 = 3/4$$

$$\text{Jagdish gets} = 2/6 \times 1/4 = 1/12$$

$$\text{Jagdish's new share} = 1/6 + 1/12 = 3/12 = 1/4$$

$$\text{New profit sharing ratio between Om and Jagdish is } 3/4 : 1/4 = 3 : 1.$$

(b) Jai's Share of goodwill

$$60,000 \times 2/6 = 20,000$$



Adjusted through the remaining partners' capital account:

Om Capital A/c	Dr.		15,000
Jagdish Capital A/c	Dr.		5,000
		To Jai Capital A/c	20,000

(Jai's share of goodwill debited to remaining partners' capital Account)

Dr.	Revaluation Account		Cr.	
	Particulars	Amount (₹)	Particulars	Amount (₹)
	To, Prov for Bad debts A/c	2,000	By, Stock A/c	10,000
	To, Palnt A/c	14,000	By, Building A/c	18,000
	To, Profit transferred to :			
	- OM	8,000		
	- Jai	5,333		
	- Jagdish	<u>2,667</u>		
		<b>28,000</b>		<b>28,000</b>

Dr.	Capital Account			Cr.				
	Particulars	Om (₹)	Jai (₹)	Jagdish (₹)	Particulars	Om (₹)	Jai (₹)	Jagdish (₹)
	To, Capital A/c	15,000	-	5,000	By, Balance b/d	1,60,000	1,20,000	1,20,000
	To, Bank A/c	-	1,52,000	-	By, General Reserve	12,000	8,000	4,000
	To, Balance c/d	2,77,000	-	1,59,000	By, Revaluation (profit)	6,000	4,000	2,000
					By, Om Capital	-	15,000	-
					By, Jagdish Capital	-	5,000	-
					By, Bank A/c	1,14,000	-	38,000
		<b>2,92,000</b>	<b>1,52,000</b>	<b>1,64,000</b>		<b>2,92,000</b>	<b>1,52,000</b>	<b>1,64,000</b>

### (ii) Payment in instalments

In this case the amount due to retiring partner is paid in instalments. Usually, some amount is paid immediately on retirement and the balance is transferred to his loan account. This loan is paid in one or more instalments. The loan amount carries some interest. In the absence of any agreement the rule under Section 37 of the Indian Partnership Act 1932 applies.

According to this rule, if the amount due to him is not paid immediately on his retirement, he can claim interest @ 6% p.a. on the amount due.



An instalment consists of two parts:

- (i) Principal Amount of instalment due to retiring partner.
- (ii) Interest at an agreed rate.

Interest due on loan amount is credited to retiring partners' loan account. Instalment inclusive of interest then is paid to the retiring partner as per schedule agreed upon.

**(i) On part payment in cash and balance transferred to his/her loan account:**

Retiring Partner's Capital A/c	Dr.
To Cash/Bank A/c	
To Retiring Partner's Loan A/c	

(Part payment made and balance transferred to loan Account)

**(ii) Total amount due transferred to loan Account:**

Retiring Partner's Capital A/c	Dr.
To Retiring Partner's Loan A/c	

(Total amount due transferred to loan A/c)

**(iii) For interest due**

Interest on loan A/c	Dr.
To Retiring Partners' Loan A/c	

(Interest due on loan)

**(iv) For payment of instalment**

Retiring Partners' Loan A/c	Dr.
To Cash/Bank A/c	

(Instalment inclusive of interest paid)

**Example:**

**Taking the figures of the previous illustration, assuming that he is paid 40% of the amount due immediately and the balance in three equal yearly instalments. The interest payable is 12% p.a.**

**Answer:**

The amount due to Jai	=	₹ 1,52,000
Amount paid immediately	=	₹1,52,000 × 40/100
	=	₹ 60,800
Amount of three equal instalments	=	₹ 1,52,000 – ₹ 60,800 × 3



$$\begin{aligned} &= ₹ 91,200 \div 3 = ₹ 30,400 \\ \text{1st Instalment at the end of 1st Year} &= ₹ 30,400 + ₹ 10,944 \\ &= ₹ 41,344 \\ \text{Interest @ 12\% pa.} &= ₹ 91,200 \times 12/100 \\ &= ₹ 10,944 \\ \text{2nd Instalment at the end of 2nd Year} &= ₹ 30,400 + ₹ 7,296 \\ &= ₹ 37,344 \\ \text{Interest @ 12\% pa.} &= ₹ 60,800 \times 12/100 \\ &= ₹ 7,296 \\ \text{3rd Instalment at the end of 3rd Year} &= ₹ 30,400 + ₹ 3,648 \\ &= ₹ 34,048 \\ \text{Interest @ 12\% pa.} &= ₹ 30,400 \times 12/100 \\ &= ₹ 3,648 \end{aligned}$$

## HOW TO VALUE INVENTORIES? (AS - 2)



### Inventory:

- It is held for sale in the ordinary course of business
- It is used in the process of production of such sale



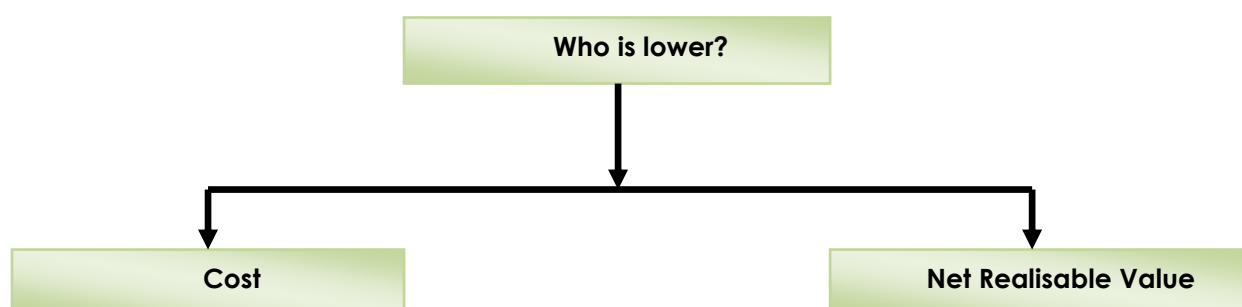


- It can be in the form of materials or supplies that are to be consumed in production or in rendering of services.
- It does not include machinery.
- It includes spares which can be used only in connection with an item of fixed assets and whose use is irregular, such machinery spares are accounted for in accordance with AS -10 (Accounting for Fixed Assets).
- Machinery spares, that are not specific to a particular item of fixed asset but can be used generally for various items of fixed assets, should be treated as inventories for the purpose of AS-2 and should be charged to the statement of profit and loss as and when issued for consumption.
- However, the machinery spares of the following types should be capitalised being of the nature of capital spares/insurance spares—
  - ✓ Machinery spares which are specific to a particular item of fixed asset and
  - ✓ Their use is expected to be irregular.
- The total cost of such capital spares/ insurance spares should be allocated on a systematic basis over a period not exceeding the useful life of the principal item, ie., the fixed asset to which they relate. When the related fixed asset is either discarded or sold, the written down value less disposal value, if any, of the capital spares/insurance spares should be written off.
- Any stand-by equipment is a separate fixed asset in its own right and should be depreciated like any other fixed asset.

**AS – 2 is not applicable in the following cases:**

- W-I-P arising under construction contract including directly related to service contract
- W-I-P arising in ordinary course of business for service providers
- Financial instruments held as stock-in-trade
- Producer's inventories like livestock, agricultural and forest products, mineral oil

**How to compute the value of Inventories?**





**Inventories should be valued at lower of cost and net realisable value.**

**Steps in valuation of inventories**

- Determination of **cost** of inventories.
- Determination of **net realisable value** of inventories.
- **Comparison** between the cost and net realisable value.

**Cost of Inventories**

**Cost includes —**

- A. Cost of purchase
- B. Cost of conversion
- C. Other costs (incurred in bringing the inventories to their present location and condition)

**A. Cost of Purchase —**

- ✓ Purchase price
- ✓ Duties and Taxes
- ✓ Freight inward
- ✓ Other expenditures directly attributable to the acquisition.

**Less:**

- ✓ Duties and taxes recoverable by enterprises from taxing authorities
- ✓ Trade discount
- ✓ Rebate
- ✓ Duty drawback
- ✓ Other similar items.

**B. Cost of conversion —**

**It consists —**

- ✓ Cost directly related to the units (ie. Direct Labour, Direct Material, Direct Expenses)
- ✓ **Plus** Systematic Allocation of fixed and variable production overheads that are incurred in converting material into finished goods.

**Some Important points**

- ✓ Allocation of fixed production overhead is done on the basis of normal capacity.
- ✓ In the periods of abnormally high production, the amount of fixed production overheads allocated to each unit of production is decreased so that inventories are not measured above cost.
- ✓ Allocation of variable production overhead is done on the basis of actual production.



- ✓ **In case of joint-products**, When the cost of conversion of each product is not separately identifiable, total cost of conversion is allocated between the products on the rational and consistent basis .
- ✓ **In case of by-product**, if by-products, scrap or waste materials are not of material value, they are measured at net realisable value, then net realisable value is deducted from cost of conversion. Net cost of conversion is distributed among the main products.

### Example:

XYZ Ltd. manufacture computers, during the year ended 31 st March, 2015 the company manufactured 1,100 computers, it has the policy of valuing finished stock of goods at a standard cost of ₹1.8 lakhs per computer.

The details of the cost are as under :

	(₹ in Lakhs)
Raw material consumed	800
Direct Labour	500
Variable production overheads	300
Fixed production overheads (Including interest of ₹ 200)	580

Compute the value of cost per computer for the purpose of closing stock.

### Answer:

As per AS-2 finished stock of goods should be valued on the basis of absorption costing. While absorbing fixed production overheads the normal production capacity is considered.

	(₹ in lakhs)
Materials	800
Direct Labour	500
Variable production overheads	300
Fixed production overheads	580
Less: Interest	<u>200</u> <u>380</u>
Total Cost	<u>1,980</u>
Number of computers produced 1,100 (Assumed to be normal production)	
Cost per computer 1,980/1,100	= ₹ 1.80 lakhs

**Other costs** are the costs which are incurred in bringing the inventories to their present location and condition.

### Cost of Inventories does not include —

- Abnormal amounts of wasted materials, labour, other production costs
- Storage cost
- Administrative overhead
- Selling and distribution cost
- Interest and borrowing cost. However, if AS-16 allows such cost to be included it, can form part of the cost.



**Example:**

In a production process, normal waste is 5% of input. 10,000 MT of input were put in process resulting in a wastage of 600 MT. Cost per MT of input is ₹ 1,000. The entire quantity of waste is on stock at the year end. If waste has Nil realisable value. How to treat abnormal loss at the time of valuation of inventories?

**Answer:**

As AS-2, abnormal amounts of waste materials, labour or other production costs are excluded from cost of inventories and such costs are recognized as expenses in the period in which they are incurred. In this case, normal waste is 500MT and abnormal waste is 100MT. The cost of 500MT will be included in determining the cost of inventories (finished goods) at the year-end.

**Net Realisable Value:**

- ✓ Estimated selling price in ordinary course of business, **less**
- ✓ Estimated cost of completion and estimated cost necessary to make the sale.

Net realisable value is estimated on the basis of most reliable evidence at the time of valuation. It also takes into account the purpose for which the inventory is held.

**Example:**

The company deals in three products A,B and C, which are neither similar nor interchangeable. At the time of closing of its account for the year ended 2014-15 the historical cost and net realizable values of the items of closing stock are determined as below:

Items	Historical Cost (₹ in lakhs)	Net Realisable Value (₹ in lakhs)
A	40	28
B	32	32
C	16	24
	88	84

**What will be the value of closing stock?**

**Answer:**

Value of closing stock is as follows —

Items	(₹ in lakhs)
A	28
B	32
C	16
	76



## **RIGHT TO INFORMATION ACT, 2005**



### **POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS, APPEAL AND PENALTIES**

#### **(Sec 18) Powers and functions of Information Commissions:—**

1. Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—
  - (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
  - (b) who has been refused access to any information requested under this Act;
  - (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
  - (d) who has been required to pay an amount of fee which he or she considers unreasonable;
  - (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
  - (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.
2. Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.



3. The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—
  - (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
  - (b) requiring the discovery and inspection of documents;
  - (c) receiving evidence on affidavit;
  - (d) requisitioning any public record or copies thereof from any court or office;
  - (e) issuing summons for examination of witnesses or documents; and
  - (f) any other matter which may be prescribed.
4. Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

### **(Sec 19) Appeal**

1. Any person, who does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may, within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer, as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

2. Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
3. A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:



Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

4. If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.
5. In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.
6. An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.
7. The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.
8. In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—
  - (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—
    - (i) by providing access to information, if so requested, in a particular form;
    - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
    - (iii) by publishing certain information or categories of information;
    - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
    - (v) by enhancing the provision of training on the right to information for its officials;
    - (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
  - (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
  - (c) impose any of the penalties provided under this Act;
  - (d) reject the application.
9. The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.
10. The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.



## ASSESSMENT PROCEDURE

### 1. OBLIGATION TO FILE RETURN (PERSON U/S 140)

- (a) Every Company and Firm should Return of Income or Loss.
- (b) Individual/HUF/AOP/BOI/AJP to file Return if Total Income before 10AA/10BA, Chapter VIA is > Basic Exemption Limit.
- (c) R&OR who is not covered above, has any asset outside India or signing authority in any account located outside India.
- (d) Trust or Institution where Total Income before exemption u/s 11 or 12 exceeds basic exemption limit [Sec.139(4A)]
- (e) Political parties where Total Income before Sec.13A Exemption exceeds Basic Exemption [Sec.139(4B)]
- (f) Specified Persons [Sec.139(4C)] if Total Income before Sec.10 Exemption exceeds max amount not chargeable to tax
- Scientific Research Association claiming exemption u/s 10(21).
  - New Agency claiming exemption u/s 10(22B).
  - Professional Association or Institution claiming exemption u/s 10(23A).
  - Khadi & Village Industries Development Institution whose income is exempt u/s 10(23B).
  - Approved Education Institution or Hospital claiming exemption u/s 10(23C).
  - Trade Union claiming exemption u/s 10(24)
  - Specified Income of Body or Authority or Board or Trust or Commission u/s 10(46).
  - Notified Infrastructure Debt Fund u/s 10(47).
  - Mutual Fund referred to in Sec.10(23D)
  - Securitization Trust referred to in Sec.10(23DA)
  - Venture Capital Company (or) Venture Capital Fund referred to in Sec.10(23FB).
- (g) Every University, College or Other Institution u/s 35(1)(ii)/(iii), who are not required to file Return of Income or Loss under any other provision of Sec.139 [Sec.139(4D)].
- (h) Business Trust, which is not required to file Return of Income or Loss under any other provision of Sec.139. Business Trust is required to file its Return of Income or Loss in every previous year. [Sec.139(4E)]

### 2. LIMITATION OF TIME

Section	Situation	Time Limit
139(1)	Voluntary / Regular Return of Income (a) Company	30 <sup>th</sup> September of Relevant Assessment Year (RAY)
	(b) Any person other than Company <ul style="list-style-type: none"><li>• Subject to audit under IT / any other law + Working Partner of Firm.</li></ul>	30 <sup>th</sup> September of RAY





	<ul style="list-style-type: none"> <li>• Not subject to Audit</li> </ul> (c) Assessee who is required to furnish a Report u/s 92E	31 <sup>st</sup> July of RAY 30 <sup>th</sup> November of RAY
<b>139(3)</b>	Loss Return- to c/fd loss u/s 72, 73, 74, 74A	Due Date u/s 139(1)
<b>139(4)</b>	Belated Return of Income	Before completion of assessment or within 1 year from end of RAY, whichever falls earlier.
<b>139(5)</b>	Revised Return of Income	Before completion of assessment or within 1 year from end of RAY, whichever falls earlier.
<b>139(9)</b>	Defective Return rectification	Within 15 days of receipt of notice from AO, or such time as extended by him.

### 3. DIFFERENT TYPES OF RETURN

Sec.	Nature	Situation	Points to Remember
<b>139(1)</b>	<b>Voluntary Return</b>	Obligation to file Return, as per Point 1 above.	Refer Due Dates for filing Return under Point 2 above.
<b>139(3)</b>	<b>Loss Return</b>	Assessee has incurred loss and wants to carry forward u/s 72, 73, 74 and 74A	This Return mandatory only for c/fd of current year loss, and not for prior year losses. Not applicable for carry forward of losses u/s 71B, 32(2), 35(4), 36(1)(ix).
<b>139(4)</b>	<b>Belated Return</b>	Assessee fails to furnish or file the return within time limit u/s 139(1) or time limit given in the notice u/s 142(1)	<ul style="list-style-type: none"> <li>• Loss cannot be c/fd.</li> <li>• It cannot be revised.</li> <li>• Liable for interest u/s 234A.</li> <li>• Return filed after end of RAY, liable for 271F penalty ₹5,000.</li> </ul>
<b>139(5)</b>	<b>Revised Return</b>	Filed Return within the date u/s 139(1) or u/s 142(1), and in that return any error omission/ wrong statement	<ul style="list-style-type: none"> <li>• Loss Return can be revised.</li> <li>• Belated Return cannot be revised.</li> <li>• Return can be Revised, after receipt of intimation u/s 143(1) or notice u/s 143(2), but within time limit.</li> </ul>



<b>139(9)</b>	<b>Defective Return</b>	<ol style="list-style-type: none"> <li><b>1.</b> All Annexure / Statements / Columns not filled in.</li> <li><b>2.</b> Self-Assessment Tax along with Interest not paid on or before the date of furnishing return.</li> <li><b>3.</b> General / Specific / Other details not enclosed.</li> </ol>	<ul style="list-style-type: none"> <li>• AO shall intimate to the Assessee, the defect in the Return, and give him an opportunity to rectify the defect.</li> <li>• If not rectified, the Return is to be treated as Invalid Return.</li> <li>• If Rectification is done before completion of assessment, AO can condone the delay.</li> </ul>
---------------	-------------------------	--	--

**Note:**

General Details	Specific Details		Other Details	
	Books of A/c Maintained	No books of Accounts	All Assesseees	Business Assesseees
<ul style="list-style-type: none"> <li>• Computation Statement</li> <li>• Audit Report u/s 44AB</li> <li>• Proof of Tax Payment</li> <li>• Proof of Deposit</li> <li>• Audited Financial Statement</li> <li>• Other Audit Report</li> </ul>	<ul style="list-style-type: none"> <li>• Financial Statements</li> <li>• Capital Accounts and Personal Accounts of Owner /Partner / Member</li> </ul>	<ul style="list-style-type: none"> <li>• Statement of Turnover &amp; Income</li> <li>• Statement of Current Assets and Liabilities</li> </ul>	<ul style="list-style-type: none"> <li>• Exempt Incomes,</li> <li>• Assets belonging to the Assessee, of prescribed nature and value,</li> <li>• Bank Accounts,</li> <li>• Credit Cards,</li> <li>• Expenditure incurred by the Assessee under prescribed heads above prescribed limits,</li> <li>• Such other outgoings as may be prescribed.</li> </ul>	<ul style="list-style-type: none"> <li>• Audit Report u/s 44AB, if applicable.</li> <li>• Copy of Report and Proof of furnishing the Report, if furnished earlier to filing Return.</li> <li>• Location and Style of the Principal Place of Business and Branches.</li> <li>• Names and Addresses of the Partners / Members in case of Firm / AOP / BOI, and</li> <li>• Extent of Share of all such Partners / Members in the PGBP.</li> </ul>

**4. RETURN FORMS**

1. Individuals - Salary, Interest, Family Pension and no other Income	Form ITR-1 (SAHAJ)
2. Individuals & HUFs - Any Income except Business income	Form ITR-2
3. Individuals & HUFs - Partners except proprietary & Presumptive Business	Form ITR-3
4. Individuals & HUFs - Income from Presumptive Business [u/s 44AD / 44AE]	Form ITR-4S (SUGAM)
5. Individuals & HUFs - Proprietary Business	Form ITR-4
6. Firms / AOP / BOI	Form ITR-5
7. Companies (other than Company claiming exemption u/s 11)	Form ITR-6
8. Persons required to file Return u/s 139(4A),139(4B),139(4C) & 139(4D)	Form ITR-7
9. Acknowledgement for Filing Income Tax Return	Form ITR V



## 5. PERSONS EXEMPTED FROM FILING RETURN OF INCOME [SEC.139(1C)]

Individual whose Total Income does not exceed ₹5 Lakhs, and consists of only Income under the head - (a) "Salaries", and (b) "Income from Other Sources", by way of interest from a Savings Account in a bank, not exceeding ₹10,000.

### Conditions:

- Reported PAN to Employer,
- Reported Interest Income to Employer and Employer has deducted the tax thereon,
- Received TDS Certificate in Form 16 from the Employer,
- Discharge the total tax liability for the assessment year through TDS and deposit to the Central Government,
- No claim of refund** of taxes due to him for the income of the assessment year, and
- Received Salary from only one employer for the assessment year.

## 6. CONSEQUENCES OF NON- FILING RETURN

- 234A Interest,
- No Carry forward of losses,
- No Right to revise,
- Penalty u/s 271F,
- Best Judgement Assessment,
- Prosecution u/s 276CC,
- Withdrawal of exemption for specified assesses.

## 7. TAX RETURN PREPARES (TRP) [SEC. 139B]

**Definitions:** (a) **TRP** refers to any Individual authorized u/s 139B, excludes CA's, Legal Practitioners, Officers of the Assessee Banker or Employees of Specified Class(es) of Persons, (b) **Specified Class(es) of Persons** refers to Persons required to furnish ROI, excludes Companies, & persons whose accounts are audited u/s 44AB or under any other law.

**Duty of TRP:** Every TRP shall assist the persons furnishing ROI as specified in the scheme and affix his signature on return.

**Structure of TRP Scheme:** (a) Manner and period of authorising TRPs, (b) Educational and other qualifications required, training and other conditions to act as TRP, (c) Code of Conduct for TRPs, (d) Duties & Obligations of TRPs, (e) Withdrawal of authorization, (f) Any other matter which is required to be, specified by the Scheme for the purposes of S.139B.



**8. STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT - SEC.285BA  
(W.E.F. 01.04.2015)**

<b>Person required to file [Sec.285BA (1)]</b>	
(a) an Assessee, or	(g) Collector referred to in Sec.3(g) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, or
(b) Prescribed Person in the case of an Office of Government, or	(h) Recognised Stock Exchange referred to in Sec.2(f) of the Securities Contracts (Regulation) Act, 1956, or
(c) Local Authority or other Public Body or Association, or	(i) Officer of RBI, constituted u/s 3 of the RBI Act, 1934, or
(d) Registrar or Sub-Registrar appointed u/s 6 of the Registration Act, 1908, or	(j) Depository referred to in Sec.2(l)(e) of the Depositories Act, 1996, or
(e) Registering Authority empowered to Register Motor Vehicles under Chapter IV of the Motor Vehicles Act, 1988, or	(k) a Prescribed Reporting Financial Institution.
(f) Post Master General as referred in Sec.2(j) of the Indian Post Office Act, 1898, or	
<b>Responsibility: The above persons are responsible for -</b>	
(a) registering, or, maintaining Books of Account or other document containing a record of any Specified Financial Transaction or any Reportable Account as prescribed,	
(b) furnishing a Statement in respect of that Financial Transaction or Reportable Account.	
<b>Specified Financial Transaction [Sec.285BA(3)]</b>	
(a) transaction of purchase, sale or exchange of goods or property or right or interest in a property, or	
(b) transaction for rendering any service, or	
(c) transaction under a works contract, or	
(d) transaction by way of an investment made or an expenditure incurred, or	
(e) transaction for taking or accepting any loan or deposit, which may be prescribed	

**9. POWERS OF IT AUTHORITIES/DEPT**

1. Powers of Discovery, Production of Evidence, etc. [Sec.131]
2. Powers to call for information [Sec. 133]
3. Powers of Survey [Sec. 133A]
4. Powers to collect certain information [Sec.133B]
5. Power to Verify information. [Sec.133C]
6. Powers to inspect Registers of Companies [Sec. 134]
7. Powers to disclose information [Sec. 138]
8. Powers of Inquiry before Assessment [Sec. 142(1)]
9. Powers to direct Audit of Accounts [Sec. 142(2A)]
10. Powers of Reference to Valuation Officer [Sec.142A]



**Important case Decisions**

1. **Cash in Bank** is conceptually different from Cash on Hand, and it was not permissible for the Department to convert assets to cash and thereafter impound it. KCC Software Ltd vs. DIT 298 ITR 1 (SC)
2. **Survey by TDS Authorities:** TDS Authorities are empowered to conduct survey to matters relevant to TDS only. [Reckitt & Coleman India Ltd 251 ITR 306 (SC)]
3. **Power u/s 133A:** Sec.133A does not empower any ITO to examine any person on oath, so statement recorded u/s 133A has no evidentiary value and any admission made based on such statement cannot be made as a basis for addition. CIT vs S. Khader Khan Son (SC) 25 Taxmann.com 413
4. **Seizure contrary to provisions:** Even though the Department seized the books and documents during the survey operations in contrary to provisions of the law, the Department would be entitled to use such books and documents. However SC directed the photocopies of such records to be provided to Assessee for his purposes. [ITO vs. U K Mahapatra & Co and Ors (SC) 308 ITR 133]
5. **Special Audit:** Principles of natural justice are to be adopted while issuing a direction for Special Audit u/s 142(2A). Sahara India (Firm) vs CIT 300 ITR 403 (SC)
6. **Special Audit:** A direction issued u/s 142(2A) of the IT Act, 1961 for Special Audit of accounts of the Assessee is not administrative in nature, it is quasi—judicial. So, the Assessee shall be given reasonable opportunity of being heard before an order for such audit. Rajesh Kumar & Others 287 ITR 91 (SC)
7. **Special Audit:** If the Assessee was heard, it could have explained to the Assessing Authority that there was no complexity in its accounts and therefore separate audit was not necessary. Therefore, before passing an order u/s 142(2A), the Assessee was entitled to be heard. Muthoottu Mini Kuries 266 ITR 213 (Ker)
8. **Special Audit:** The complexity of accounts of the Assessee is to be determined not only by the books of accounts, but even by other documents which are available during the course of an assessment and at any stage subsequent thereto may become available to the Assessing Officer. Rajesh Kumar Prop. Surya Trading 275 ITR 641 (Del.)
9. **Special Audit:** Direction for Special Audit on the basis of the nature and complexity of accounts is valid u/s 142(2A). Living Media Ltd 255 ITR 268
10. **Special Audit Refused by CA:** Refusal by a Chartered Accountant to conduct audit u/s 142(2A) cannot lead to Best Judgment Assessment. Swadeshi Polytex Ltd 144 ITR 171 (SC)
11. **Information found in return need not be disclosed under RTI Act unless in public interest:** Information contained in the Return of Income are personal information, the disclosure of which has no relationship to any public activity or public interest. Disclosure of such details would amount to unwarranted invasion of privacy of that individual.[In Girish Ramchandra Deshpande (2013) 351 ITR 472 (SC)]
12. **Information u/s 133(6) from Banks:** With the prior approval of DIT / CIT, the A.O. may collect information from Banking Company or any other Department, even if no assessment is pending. [Kathiroor Service Cooperative Bank Ltd. vs. CIT (CIB) 2013 (SC)], [Ketchery Service Co-op. Bank Ltd 263 ITR 161 (Ker.)]
13. **Existence of PE :**Where in course of survey carried out at premises of Indian subsidiary of assessee, a non-resident company, Assessing Officer found that said subsidiary formed assessee's PE in India, Assessing Officer was justified in initiating reassessment proceedings in case of assessee [LG Electronics Inc. vs ADIT [2014] 48 taxmann.com 130 (Alla) HC].
14. Where the accounts including the documents, records and other material before the AO did make the issues for his decision complex requiring a special audit, contention of the assessee that the books of account were



not called for and examined by the AO could not be accepted [AT & T Communication Services India (P) Ltd. vs. CIT-I(2014)(DEL)]

**10. VARIOUS TYPES OF ASSESSMENT**

Particulars	Summary Assessment or Intimation	Regular / Scrutiny Assessment	Best Judgment Assessment	Income Escaping Assessment	Protective Assessment	Search Assessment
<b>Section</b>	<b>143(1)</b>	<b>143(3)</b>	<b>144</b>	<b>147</b>	<b>143(3) or 144 as per Court Order</b>	<b>153A</b>
<b>Return of Income filed under Section</b>	139 or 142(1)	139 or 142 (1)	<ul style="list-style-type: none"> <li>No return filed u/s 139 or 142(1), or</li> <li>Not complied with notice u/s 142(1) / 143(2) / 142(2A), or</li> <li>Situation u/s 145(3)</li> </ul>	Return filed for notice u/s 148.	139 or 142(1)	139 or 142(1) / 153A
<b>Issue of Notice</b>	No Notice.	Notice to be issued u/s 142(2)	Show Cause Notice u/s 144	Notice u/s 148	u/s 143(2) or 144	u/s 153 only
<b>Time Limit for Issue of Notice</b>	Not applicable	Notice shall be served within 12 Months from the end of the month, in which return of income is filed.	Within reasonable time before completion of assessment.	Notice to be issued within specified years from end of RAY. <ul style="list-style-type: none"> <li>4 years, for any Income escaped assessment.</li> <li>6 years, if the Income escaped assessment &gt; Rs. 1,00,000</li> <li>16 years, if Income escaped in relation to any Asset located outside India.</li> </ul>	Within reasonable time before assessment	Within reasonable time before assessment.
<b>Time Limit for completion of assessment</b>	One year from the end of the FY in which return of income is filed.	24 months from the end of the Relevant AY.	24 months from the end of the relevant AY.	12 months from the end of FY in which notice u/s 148 served.	Within time limit u/s 143(3)	24 months from the end of FY in which last search has made, or books received u/s 132A.

**Common Points for all the above types of assessment:**

- **Mistakes in AO Order:** Rectification possible u/s 154 within 4 years from the end of the financial year in which the above order was passed.
- **Remedy to Dept. for Concealment of Income:** u/s 147 or Revision Order by Commissioner u/s 263.
- **Remedy to Assessee:** Appeal u/s 246A or Revision u/s 264.



**Important case Decisions**  
**Summary Assessment / Scrutiny Assessment / Best Judgment Assessment**

- 1. Intimation u/s 143(1)** is not an order, and hence Assessee can file revised return within the prescribed time, even after such intimation. [S R Koshti 276 ITR 165 (Guj)]
- Assessing Officer need not record reasons for taking up the case for scrutiny while issuing notice u/s 143(2). However, the selection of case must be in accordance with CBDT directions. [Shyam Sundar Gupta 276 ITR 592 (MP)]
- 3. Sec 143(2):** It is not open to the Department to issue intimation u/s 143(l) (a) after notice of Regular Assessment is issued u/s 143(2). [Gujarat Electricity Board 260 ITR 84 (SC)]
- 4. Best Judgment:** In cases of Best Judgment Assessment, the action of the AO may involve a certain amount of guesswork. For this action of the AO, the Assessee himself is to be blamed, as he did not submit proper books of accounts. [Kachawala Gems, Jaipur vs. JCIT 206 CTR 585 (SC)]
- 5. Best Judgment not vitiated by error of law:** In spite of service of notice by AO, neither any return was submitted nor any cause shown, the best judgment assessment of the AO cannot be said to be vitiated by any error of law. [Alok Todi vs. CIT (Cal.)]
- 6. Substance of transaction to be taken into account:** In the absence of any material to pronounce on genuineness of transaction, mere fact that what had been purchased had been leased out to Vendor or that Vendor had undertaken to pay Hire Charges on behalf of Assessee, per se, cannot lead to a conclusion that transaction is a sham one. [CIT vs High Energy Batteries (India) Ltd (Mad.)]
- 7. Method of Accounting:** An Assessee is free to arrange his affairs and choose a method of accounting as per his choice and the Revenue cannot insist on changing the same method until it arrives at findings that such a method distorts profits in a particular year. [Bilahari Investment (P) Ltd 299 ITR 1 (SC)]
- 8. Valuation of Closing Stock:** Closing Stock is to be valued of the lower of Cost or Market Price. Goods can be written down below cost only if there is an anticipated or actual loss. If the fall in price will reduce merely prospective profit, the Stock should not be valued below cost. [CIT vs Hindustan Zinc Ltd 291 ITR (SC) 391]
- 9. Rejection of Stock Valuation by AO:** Rejection of accounts maintained by the Assessee for wrong valuation of Closing Stock by Assessing Officer is legally valid. [Sanjeev Woollen Mills 279 ITR 434 (SC)]
- It is not permissible for the AO to adopt different methods of valuation of Excise Duty Paid Raw Material when purchased and the Unconsumed Raw Material on hand at the end of the year. Therefore, he could not adopt the 'Gross Method' at the time of purchase of Duty Paid Raw Material and the 'Net Method' of valuation at the time of valuation of stock on hand. [Indo Nippon Chemicals Co Ltd 182 CTR 291 (SC)]
- 11. Sec.80—IA Workings by AO:** Where Assessee had not maintained a separate account for manufacturing as a part of Industrial Undertaking, AO is justified in working out Manufacturing Account giving a bifurcation for the purpose of Sec.80-IA. [Arisudana Spinning Mills Ltd vs CIT (SC)]
- 12. Non Production of Evidence:** Where Assessee had not disclosed names of persons to whom jewellery had been sold and also no evidence had been furnished by Assessee to establish that cash deposited in its Bank Account was in lieu of sales made of Jewellery, addition made to Assessee's Income on account of unverifiable sales is justified. [Zaveri Diamonds vs. CIT 25 Taxmann.com 552 (SC)]
- 13. Valid transaction should not be doubted:** Where there was an agreement in form of Offer & Acceptance for sale of Assets, and existence of such assets could not be doubted, the said Sale & its Lease back should not be rejected for the purpose allowing depreciation. [The First Leasing Co of India Ltd [2013] 356 ITR 128 (Mad)].



- 14. Prosecution u/s 276CC:** For Sec.276CC to get attracted, there should be a willful delay in filing of Return and not merely of the failure to file Return in time. [Union of India vs. Bhavecha Machinery and Others 320 ITR 263 (MP)]
- 15. Invalidation of Assessment proceedings:** Technical pleas of mistakes / defects / omissions in notices / summons do not invalidate Assessment Proceedings when no confusion or prejudice is caused by mistakes / defects / omissions. [CIT vs Jagat Novel Exhibitors 18 Taxmann 138 (Del.)]
- 16. Interest:** Where amount retained u/s 132 exceeds amounts required to meet liability u/s 132B(i)(i), the Department is liable to pay Simple Interest on expiry of 6 months from date of Order passed u/s 132(5) to date of regular assessment or re-assessment. [Chironjilal Sharma (HUF) vs. Union of India (2014) 41 taxmann.com 274 (SC)]

### **Important case Decisions Income Escaping Assessment**

- 17. Sec.147:** There should be failure on the part of the assessee to disclose material facts in the return filed by him. In the absence of any failure on the part of the Assessee to disclose fully and truly all material facts, the re-opening of assessments beyond the period of four years is not sustainable. [Grindwell Norton Ltd 276 ITR 673 (Bom.)]
- 18. Sec.147:** In case assessment u/s 143(3) is already made and there is no failure on the part of the assessee to file the returns or disclose fully or truly all the material facts, Sec.147 cannot be invoked after 4 Assessment Years. [Haryana Acrylic Manufacturing Co. vs. CIT (Del) 308 ITR 38]
- 19. Recording of Reasons:** At the stage of issuing notice, it is not necessary to have established facts of escapement of income, but what is necessary is that there is relevant material on which a reasonable person could have formed requisite belief. Conclusive Proof was not germane at this stage, but formation of belief must be on the base or foundation or platform of prudence which a reasonable person is required to apply. [Sarthak Securities Co. Pvt. Ltd vs. ITO (2010) (Del.)]
- 20. Objection of Assessee should be considered first:** The AO is first required to decide the objection of the Assessee filed u/s 148 and serve a copy of the order to the Assessee, and after giving some reasonable time to the assessee for challenging his order, it is open to him to pass an Assessment Order. When the above is not followed, the order of objection and assessment order passed under the Act shall be quashed. [General Motors India Pvt Ltd vs. CIT]
- 21.** Notice for re-assessment on the basis that conditions for allowance for Bad Debts claimed by the Assessee were not fulfilled is valid. [ACIT vs Rajesh Javeri Stock Brokers (P) Ltd 291 ITR (SC) 500]
- 22. Failure to disclose material facts:** Failure to disclose material facts necessary for assessment - re-assessment justified. [Central India Electric Supply Co. 247 ITR 54 (SC)]
- 23.** Assessment Order against deceased person without giving notice to Legal Representative is invalid. [Smt. Sudha Prasad [2003] TIOL 114 (Ranchi)]
- 24. Notice u/s 148 to be issued for each AY separately:** Each assessment year is to be taken as an independent unit of assessment and the provisions of the Act would apply separately. [Mohd. Ayub (2012) 346 ITR 30 (All)]
- 25.** Service of notice is a pre-condition for making an order of assessment. [R K Upadhyya vs Shana Bhai P Patel 166 ITR 163]
- 26. Vague Notice:** Second Notice issued u/s 148 on the basis of a vague notice u/s 154 is not maintainable. [ACIT vs Shreyas Gramin Bank 25 Taxmann.com 282 (SC)]





- 27. Assessee is entitled to seek reason for notice u/s 148 :** The Assessee is entitled to seek the reason for issue of notice u/s 148 and the Assessing Officer is bound to furnish such reasons. The Assessee is entitled to file objection to the Assessing Officer and the Assessing Officer is bound to dispose-off the same, by passing an order in writing. [GKN Driveshafts (India) Ltd & Others 259 ITR 19 (SC)], [Samsung India Electronics 362 ITR 460]
- 28. Issue of Notice - When Complete?:** Merely signing notices cannot be equated with issuance of notice as contemplated u/s 149. Date of Issue would be date on which same is handed over for service to Proper Officer. [Kaubhai M Patel (HUF) vs. Hiren Bhatt & His Successors to Office (2011) (Guj.)]
- On plain reading of Sec.149, it is apparent that the maximum time limit for issuance of notice u/s 148 is 6 years from the end of the Relevant Assessment Year. In the instant case, notice was dated 31.03.2010 and the said notice were sent for booking to the Speed Post Centre on 07.04.2010. Hence the date of issuance of the said notice would be 07.04.2010 and not 31.03.2010. Thus, the notice is barred by limitation.
- 29. S.148 - Limitation applies for every notice u/s 148:** Writ Petition against notice on grounds that no reason had been recorded or disclosed u/s 148, and that Assessee had already received a notice earlier and submitted a Return in response to it and that second notice was barred by time - Dismissal of Writ Petition by High Court was not valid. [Communicator of Chicalim 247 ITR 271 (SC)]
- 30. No Notice if other proceedings are pending:** Notice u/s 148 cannot be issued till the assessment proceedings pending on the basis of Return already filed are not terminated. [Trustees of H.E.H The Nizams Supplemental Family Trust 242 ITR 381 (SC)]
- 31. Scope of Sec.147:** The purpose or objective of re-opening an assessment is only to bring to tax income escaping assessment and not to give further relief to the Assessee. Therefore u/s 147, the original total income should not be allowed to come down. [Sun Engg. Works P Ltd 198 ITR 297 Chettinad Corpn. Pvt Ltd 200 ITR 320]
- 32.** Re-opening of assessment based on conjunctures is in gross abuse of law, and same is liable to be quashed. [German Remedies Ltd]
- 33.** The opinion of the audit party on a particular statutory provision is not a valid information for initiating re-assessment proceedings. [Juhi Metal Works 263 ITR 287 (All.)]
- 34. Opinions of District Valuation Officer:** Opinions of District Valuation Officer cannot be basis for re-opening assessment. [ACIT vs. Dhariya Construction Company 328 ITR 515 (SC)]
- 35.** Mere Change in Opinion will not entitle the AO to initiate re-assessment proceedings. Re-assessment notice cannot be issued after years where there is no failure on the part of the Assessee to disclose fully and truly all facts necessary for assessment. [Foramer France 264 ITR 566 (SC)]
- 36. Change in Opinion:** Return of Income is processed without any scrutiny u/s 143(1), there can be no change of opinion and re-assessment proceedings can be validly initiated. In case an issue or query is raised and answered by the Assessee in original assessment proceedings but thereafter the A.O does not make any addition in the Assessment Order, such cases will be hit by principle of change of opinion and re-assessment proceedings will be invalid. [Usha International Ltd 348 ITR 485 (2012) (Del)], [Innovative Foods Ltd 37 Taxmann 463 (2013) (Ker)]
- 37. Change in Opinion:** Where Assessing Officer in Assessment order failed to express any opinion accepting genuineness of donations received by Assessee, Reassessment Notice issued u/s 148 on basis of prima facie enquiry that donation given by Donor to Assessee was in nature of accommodation entries and fictitious as donor had no financial capacity to give such donation, it would not be said that said notice was given on basis of change of opinion. [Fateh Chand Charitable Trust (All) 36 Taxmann 67(2013)]
- 38. Enquiry on Concluded Matters:** The power of AO to reconsider the material and evidence at the time of re-



assessment cannot be untrammelled but should be laced with reasonable restrictions. The Assessing Officer cannot make fishing inquiry on concluded matters. [Amrinder Singh Dhiman 269 ITR 378 (P&H)]

- 39. Second Thought on Same Material:** Assessee-Company claimed deduction u/s 80-IA which was allowed by AO after considering Assessee's reply to detailed questionnaire. However, later on AO issued notice u/s 147 on ground that Assessee was a Contractor or Supplier of Irrigation Products, and could not be called a Developer of any new infrastructural facility so as to be eligible for deduction u/s 80-IA. This is a case of second thought on same material, hence notice is not valid. [ACIT vs Parixit Industries (P) Ltd 25 Taxmann.com 301 (SC)]
- 40. Change in Decision:** Subsequent reversal of legal position by judgment of Supreme Court does not authorise Department to re-open assessment, which stood closed on basis of law as it stood at relevant time. [DCIT vs Simplex Concrete Piles (India) Ltd 25 Taxmann.com 283 (SC)]
- 41. Retrospective Amendment:** Where a Company was assessed u/s 143(3), Sec.147 cannot be invoked merely by reason of a retrospective amendment to Sec. 115JB. Sun Investment (P.) Ltd vs ACIT 18 Taxmann 218 (2012)(Del.)
- 42. Report along with Return:** U/s 148, while disposing of objections of Assessee, AO stated that Assessee had filed only sketchy details in its Return filed in Electronic Form. This is not a valid reason as relevant provisions u/s 139C and 139D expressly make it clear that no document or report can be filed with Return of Income in Electronic Form. Filing of Document or Report is possible only if a notice is issued u/s 143(2), which was not done in instant case. [Indivest Pte Ltd, Singapore vs ADIT (2012) (Bom) 19 Taxmann 216]
- 43. Applicability of Exln 3 to Sec.147:** Exln. 3 to Sec.147 is applicable only in the event that the opinion formed in the notice has been found correct and the proceeding in the respect of the said income was not dropped u/s 152(2). [ACIT vs Major Deepak Mehta (Chh.)
- Exln. 3 to Sec.147:** The AO may assess or re-assess the income in respect of any issue which has escaped assessment which has come to his notice subsequently in the course of the proceedings u/s 147, even if reasons for such issue have not been included in the reasons recorded u/s 148(2).
- 44. Change in Opinion:** Where in the Return, Assessee had fully disclosed details of Stock and Shares, but later on revenue reopened assessment on the ground that loss incurred was a Speculative Loss, the same being change of opinion, hence re-opening was not proper. [ACIT vs ICICI Securities Primary Dealership Ltd (SC)]
- 45. Sec.156 Notice Demand:** Service of Notice of Demand u/s 156 is mandatory before initiating recovery proceedings and constitutes the foundation of subsequent recovery proceedings. [Sri Mohan Wahi 248 ITR 799 (SC)]
- 46.** In absence of reasons recorded to suggest that Income that escaped assessment is ₹ 1,00,000 or more, reassessment notice given after 4 Years from the end of Assessment Order is not valid. [Mahesh Kumar Gupta vs. CIT (2013) (ALL)]

### **Important case Decisions Search Assessment**

- 47. Block Assessment:** Provisions of Sec. 127 apply to Block Assessment cases also. [Mohammed Salim vs CIT 300 ITR 302 (SC)]
- 48. Search pre—requisite for Block Assessment:** A valid search is pre-requisite for invoking the provisions relating to Block Assessment. Mere intimation by the CBI did not constitute information. [UOI vs Ajit Jain (SC) 260 ITR 80]

**Contrary View:** There is no requirement under provisions of the Act that, Block Assessment proceedings



u/s 158BD can be initiated only in pursuance of legal and valid Search proceedings u/s 132 [Gunjan Girishbhai Mehta vs. DIT (Investigation) [2014] 49 taxmann 69 (Guj) HC]

- 49. S. 132(I) not based on pretence:** The words "has reason to believe" in Sec. 132(1) postulate belief and existence of reasons for that belief. The belief must be held in good faith, it cannot be merely pretence. [Dr Pratap Singh vs Director of Enforcement 155 ITR 166 (SC), Lakhmani Mewal Das 103 ITR 437 (SC)]
- 50. S.132 pre-requisites:** If the conditions for exercise of the power u/s 132 are not satisfied, the proceeding is liable to be quashed. [Seth Bros and others 74 ITR 836 (SC)]
- 51. Impounding of Assets after conversion:** Cash in Bank is conceptually different from Cash on Hand, and it was not permissible for the Department to convert assets to cash and thereafter impound it. [KCC Software Ltd vs DIT 298 ITR 1 (SC)]
- 52. Proceedings which had become final cannot be abated:** Regular assessment proceedings which had become final cannot be abated and restored to AO in case of Block Assessment u/s 153A. [CIT vs Smt. Shaila Agarwal (All.)]
- 53. Invalid Search:** Subsequent event cannot make good the deficiency found at the time of initiation of search. Incriminating documents found during search cannot validate an Invalid Search. When search is illegal, seized assets shall be returned. [Dr. Mrs Anita Sahai 266 ITR 597 (All.)]
- 54. No Power to Arrest:** U/s 132, no power has been conferred on the Authorised Officer to arrest the person who is found or suspected to be in possession of any document or money, etc. that represents partly or wholly income or property not disclosed. [K Choyi vs Syed Abdulla Bafakky Thangal & Others 123 ITR 435 (SC)]
- 55. Condition for retention of books**  
The following two conditions must be fulfilled before extended retention of books become permissible in law.  
**Reasons in writing must be recorded** by the Authorised Officer or the concerned ITO seeking the CIT's approval, and Obtaining of the CIT's approval for such extended retention. [Oriental Rubber Works 145 ITR 477 (SC)]
- 56. 3 conditions for initiating proceedings u/s 153C**  
(a) Satisfaction must be recorded by the AO that any Undisclosed Income belongs to any person, other than the person with respect to whom search was made u/s 132,  
(b) The books of account or other documents or assets seized or requisitioned had been handed over to the Assessing Officer having jurisdiction over such other person,  
(c) The Assessing Officer has proceeded u/s 153A against such other person. [Manish Maheswari vs ACIT 289 ITR 341 (SC)]
- 57. Undisclosed income of any other person:** Assessing Officer can record his satisfaction for issuing notice u/s 158BD in case of person other than searched person even after completion of Block Assessment in case of searched person, [CIT vs. Calcutta Knitwears(2014)43 taxmann.com 446 (SC)]

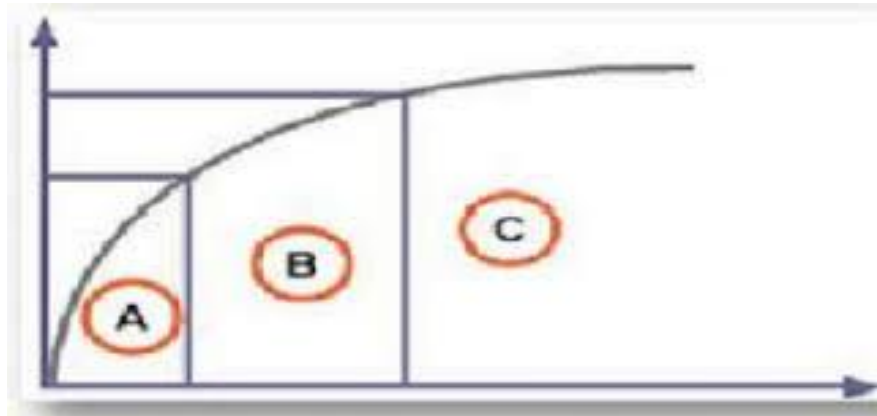
#### **Protective Assessment**

- 58.** Protective Assessment is valid to protect the interest of the revenue. [Lalji Haridas 43 ITR 387 (SC)]
- 59.** Protective Assessment does not invalidate other assessment. [Bachulal Kapoor 60 ITR 74 (SC)]

## ABC Analysis

### ABC analysis

In a manufacturing organization, thousand of materials are used for producing different products. All the materials are not of equal economic importance. Some are high-valued items and some are low-valued items.

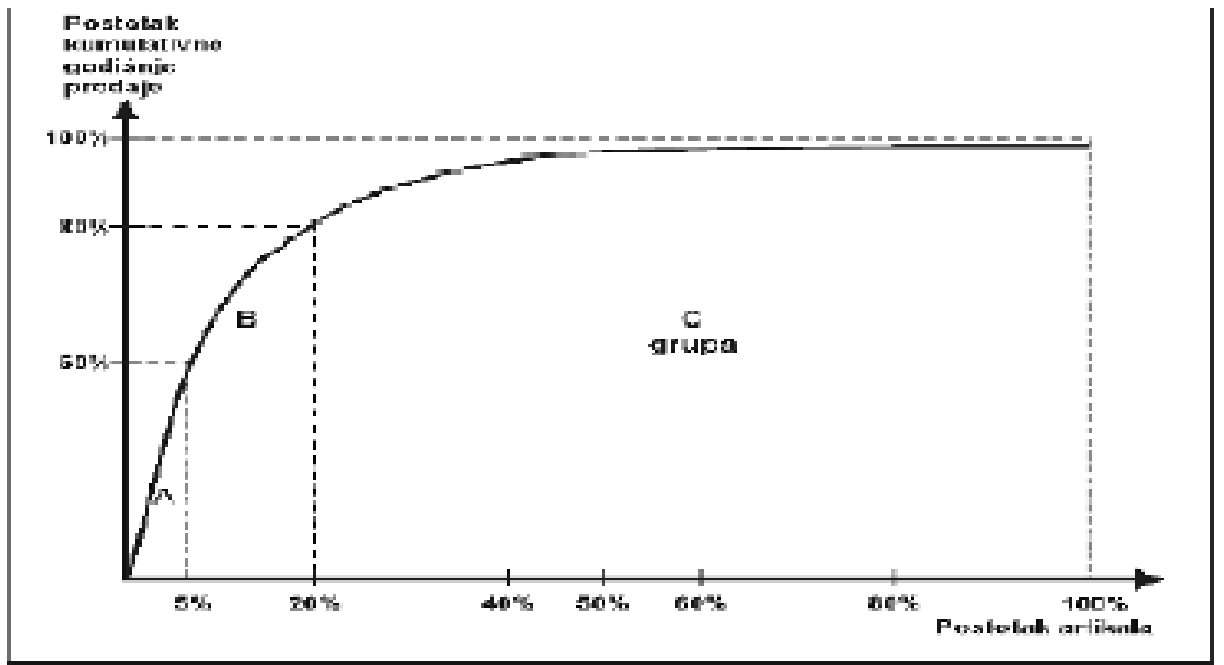


- ABC analysis is an **inventory categorization method** which consists in dividing items into three categories (A, B, C):
  - A being the most valuable items,
  - C being the least valuable ones.
- This method aims to draw managers' attention on the critical few (A-items) not on the trivial many (C-items).

The ABC approach states that a company should rate items from A to C, basing its ratings on the following rules:

- **A-items** are goods which annual consumption value is the highest; the top 70-80% of the annual consumption value of the company typically accounts for only 10-20% of total inventory items.
- **B-items** are the interclass items, with a medium consumption value; those 15-25% of annual consumption value typically accounts for 30% of total inventory items.
- **C-items** are, on the contrary, items with the lowest consumption value; the lower 5% of the annual consumption value typically accounts for 50% of total inventory items.

### The ABC analysis



- The annual consumption value is calculated with the formula:

$$\text{(Annual demand)} \times \text{(item cost per unit)}$$

- Through this categorization, the supply manager can identify inventory hot spots, and separate them from the rest of the items, especially those that are numerous but not that profitable.

#### Steps for the classification of items:

1. Find out the unit cost and the usage of each material over a given period;
2. Multiply the unit cost by the estimated annual usage to obtain the net value;
3. List out all the items and arrange them in the descending value (Annual Value);
4. Accumulate value and add up number of items and calculate percentage on total inventory in value and in number;
5. Draw a curve of percentage items and percentage value;
6. Mark off from the curve the rational limits of A, B and C categories.



## CMA Students Newsletter (For Intermediate Students)

Vol.19B: November 15, 2015

	Percentage of items	Percentage value of annual usage	
Class A items	About 20%	About 80%	Close day to day control
Class B items	About 30%	About 15%	Regular review
Class C items	About 50%	About 5%	Infrequent review

### Example:1

Item number	101	102	103	104	105	106	107	108	109	110
Unit cost	5	11	15	8	7	16	20	4	9	12
Annual demand	48000	2000	300	800	4800	1200	18000	300	5000	500

	Percentage of items	Percentage value of annual usage	
Class A items	About 20%	About 80%	Close day to day control
Class B items	About 30%	About 15%	Regular review
Class C items	About 50%	About 5%	Infrequent review

### Calculate the total spending per year

Item number	Unit cost	Annual demand	Total cost per year
101	5	48,000	240,000
102	11	2,000	22,000
103	15	300	4,500
104	8	800	6,400



## CMA Students Newsletter (For Intermediate Students)

Vol.19B: November 15, 2015

105	7	4,800	33,600
106	16	1,200	19,200
107	20	18,000	360,000
108	4	300	1,200
109	9	5,000	45,000
110	12	500	6,000
Total usage			737,900

Total cost per year: Unit cost \* annual demand

### Calculate the usage of item in total usage

Item number	Unit cost	Annual demand	Total cost per year	Usage as a % of total usage
101	5	48,000	240,000	32.5%
102	11	2,000	22,000	3%
103	15	300	4,500	0.6%
104	8	800	6,400	0.9%
105	7	4,800	33,600	4.6%
106	16	1,200	19,200	2.6%
107	20	18,000	360,000	48.8%
108	4	300	1,200	0.2%
109	9	5,000	45,000	6.1%
110	12	500	6,000	0.8%
Total usage			737,900	100%

Usage as a % of total usage = usage of item/total usage



**Sort the items by usage**

Item number	Cumulative % of items	Unit cost	Annual demand	Total cost per year	Usage as a % of total usage	Cumulative % of total
107	10%	20	18,000	360,000	48.8%	48.8%
101	20%	5	48,000	240,000	32.5%	81.3%
109	30%	9	5,000	45,000	6.1%	87.4%
105	40%	7	4,800	33,600	4.6%	92%
102	50%	11	2,000	22,000	3.0%	95%
106	60%	16	1,200	19,200	2.6%	97.6%
104	70%	8	800	6,400	0.9%	98.5%
110	80%	12	500	6,000	0.8%	99.3%
103	90%	15	300	4,500	0.6%	99.9%
108	100%	4	300	1,200	0.2%	100%
Total usage				737,900	100%	

**Results of calculation**

Category	Items	Percentage of items	Percentage usage (%)	Action
Class A	107, 101	20%	81.3%	Close control
Class B	109, 105, 102, 106	40%	16.3%	Regular review
Class C	104, 110, 103, 108	40%	2.5%	Infrequent review





## EFFECT ON CENVAT CREDIT: REMOVAL OF INPUTS & CAPITAL GOODS AS SUCH

- **100% credit to be paid:** As per provisions of Rule 3(5) of CENVAT Credit Rules, 2004, when inputs or capital goods, on which CENVAT credit has been taken, are removed as such from the factory or premises of the provider of output service, the manufacturer of the final products or provider of output service, as the case may be, shall pay an amount equal to the credit availed in respect of such inputs or capital goods.
- **Payment of Cenvat not required when inputs/capital goods removed for provision of output service:** Payment of amount equal to Cenvat shall not be required to be made where any inputs or capital goods are removed outside the premises of the provider of output service for providing the output service.
- **Payment of Cenvat not required when inputs removed for providing free warranty:** Payment of amount equal to Cenvat shall not be required to be made where any inputs are removed outside the factory for providing free warranty for final products.

- **Payment of Cenvat not required for Job Work:**

<b>Purpose</b>	Input Goods (as such or partially processed) are sent to a Job Worker for further processing, testing, repair, re-conditioning, etc.
<b>Condition</b>	<ol style="list-style-type: none"><li>1. Receipt within 180 Days: Goods should be received back within 180 days from the day on which they were sent to the job worker. The period can be extended for a further period of 180 days by permission from Jurisdictional Deputy Commissioner or Assistant Commissioner in case of capital goods. No time limit for bringing back the capital goods, when Capital Goods are removed for provision of services.</li><li>2. Consequence of Non-Receipt: If input goods/ capital goods are not received within 180 days, the Service Provider should pay an amount equal to the CENVAT Credit claimed.</li><li>3. CENVAT Credit: The amount so paid can be availed back on receipt of the goods.</li></ol>

- **Payment of Cenvat not required for Removal of Consumables:** If Jigs, Fixtures, Moulds and dies are sent by the manufacturer of final products (a) to another manufacturer for further production or (b) to a job worker for the production of goods according to his specifications, CENVAT Credit on them need not be reversed as they are in the nature of consumables. Hence, such goods need be returned back within 180 days.
- **Eligibility as Cenvat credit of the Amount:** As per Rule 3(6), the amount paid as aforesaid shall be eligible as Cenvat credit in the hands of the buyer of such inputs/capital goods, as if it was a duty paid by the person who removed such goods.



## CMA Students Newsletter (For Intermediate Students)

Vol.19B: November 15, 2015

- **Monthly payment:** The amount payable under Rule 3(5) shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5<sup>th</sup> of the following month except for the month of March, where such payment shall be made on or before the 31<sup>st</sup> March.
- **Recovery:** If the manufacturer of goods or the provider of output service fails to pay the amount payable under Rule 3(5) it shall be recovered, in the manner as provided in Rule 14, for recovery of CENVAT credit wrongly taken and utilised.

**Illustration 1:** ABC Ltd., Kolkata purchased plastic granules valued ₹ 1,12,360 (inclusive of central excise ₹ 12,360) for manufacture of plastic moulded chairs. It availed CENVAT credit of excise duty of ₹ 12,360 paid on the said inputs. It subsequently cleared the said inputs as such from the factory in the following manner -

(a) Sales to A Ltd. (purchase price: ₹ 15,000)	₹ 30,000
(b) Sales to B Ltd. (purchase price: ₹ 12,000)	₹ 12,000
(c) Clearance to ABC Ltd.'s own factory at Mumbai (purchase price: ₹ 60,000)	Free of cost

ABC Ltd. wants to calculate the excise duty payable by it on the above clearances.

**Solution:** Rule 3(5) of the CENVAT Credit Rules, 2004, when inputs are removed as such from the factory, the amount of duty payable shall be equivalent to the credit availed in respect of such inputs. The sale price has no bearing on the duty payable if the inputs are cleared as such from the factory.

Computation of excise duty payable by ABC Ltd.:

(a) Excise duty payable on sales to A Ltd. [₹ 15,000 x ₹ 12,360 ÷ ₹ 1,00,000]	₹ 1,854
(b) Excise duty payable on sales to B Ltd. [₹ 12,000 x ₹ 12,360 ÷ ₹ 1,00,000]	₹ 1,483
(c) Excise duty payable on clearance to own factory at Mumbai [₹ 60,000 x ₹ 12,360 ÷ ₹ 1,00,000]	₹ 7,416

- **Removal of Capital Goods after usage:** When Capital Goods are cleared after use, the CENVAT Credit availed on such goods as reduced by the prescribed percentage per quarter shall be reversed. The prescribed % is as follows:

**a) For Computer and Computer Peripherals: [Notification No.12/2013 dt. 27.09.2013]:**

Year	1	2	3	4
<b>% per Quarter</b>	10%	8%	5%	1%

**b) For other Capital Goods: 2.5% per quarter per year —**

<b>Amount of Credit to be reversed</b>	CENVAT availed at the time of receipt of Capital Goods. Less: % of CENVAT Credit per quarter (or part thereof) from the date of taking credit (as above)
--	---



**Note:**

- (a) If the amount of duty calculated on Transaction Value is more than the amount as calculated as above, then the duty calculated on the Transaction Value shall be reversed.
- (b) Hence the amount to be reversed = Amount calculated as per above points or Transaction Value x ED rate whichever is higher. (Note: EC and SHEC shall not apply as this is a levy under CENVAT Rules and not under Central Excise Act.)

**Illustration 2:** A Ltd. purchased capital goods for ₹ 20,00,000 plus excise duty @ 12.36% on 1-4-2014. Cenvat credit was taken in accordance with Cenvat Credit Rules, 2004. The said capital goods are removed after use on 12-04-2015 at a transaction value of ₹ 18,00,000 Compute the amount of Cenvat credit to be reversed.

**Solution:** In the above case the provisions of Rule 3(5A) of Cenvat Credit Rules, 2004 shall be applicable. The manufacturer shall be required to pay higher of the following amounts:

- (a) Amount of Cenvat credit taken (-) 2.5% per quarter or part thereof of use i.e. ₹ 2,47,200 - 2.5% x 5 quarters of ₹ 2,47,200 = ₹ 2,16,300; or
- (b) Excise duty payable on transaction value i.e. 12.36% of ₹ 18,00,000 = ₹ 2,22,480.

Thus, the company will be required to pay ₹ 2,22,480.

- **Removal of capital goods as waste and scrap [Rule 3(5A)(b)]:** If the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal to the duty leviable on transaction value.
  - (a) As per Rule 3(6), the amount paid above shall be eligible as Cenvat credit in the hands of the buyer of such capital goods, as if it was a duty paid by the person who removed such goods.
  - (b) The amount payable under Rule 3(5A) shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5<sup>th</sup> of the following month except for the month of March, where such payment shall be made on or before the 31<sup>st</sup> March.
  - (c) If the manufacturer of goods or the provider of output service fails to pay the amount payable under Rule 3(5A) it shall be recovered, in the manner as provided in Rule 14, for recovery of CENVAT credit wrongly taken and utilised.

**Illustration 3:** A Ltd. purchased capital goods for ₹ 20,00,000 plus excise duty @ 12.36% on 1-4-2014. Cenvat credit was taken in accordance with Cenvat Credit Rules, 2004. The said capital goods are removed as waste and scrap at a transaction value of ₹ 50,000 on 12-4-2020. Compute the amount of Cenvat credit to be reversed.

**Solution:** The manufacturer shall be required to pay an excise duty payable on transaction value i.e. ₹ 50,000 x 12.36% = ₹ 6,180.