



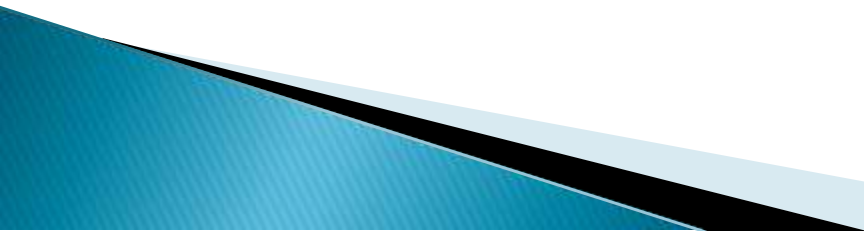
**Search assessment u/s 153A &
153C inclusive of Submissions
along with reply**

- ▶ SECONDARY PARAMETER AFTER RESPONSE FROM ASSESSEE THROUGH ROI
 - ▶ SECONDARY PARAMETER AFTER ISSUANCE OF NOTICE U/S 153A or 153C READ WITH 142(1) ONLY
 - ▶ SECONDARY PARAMETER AFTER SEARCH HAS BEEN INITIATED IN THE ASSESSEE'S PREMISES OR IN OTHER PREMISES WHERE ANY DOCUMENTS BELONGS TO THE ASSESSEE WERE IMPOUNDED THEREFROM
 - ▶ REPETITION AFTER ISSUANCE OF NOTICE U/S 148 AND U/S 142(1) FOR FRESH ASSESSMENT PROCEEDINGS
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SECTIONS OF ASSESSMENTS

Section 140A	Self Assessment
Section 142(1)	Enquiry before Assessment
Section 143(1)(a)	Summery Assessment before communicating Assessee
Section 143(3)	Scrutiny Assessment
Section 144	Best Judgment Assessment
Section 147	Reassessment after opening
Section 153A	Search Assessment
Section 153C	Assessment on Survey related to Search operation
Section 154	Rectification on Assessment
Section 155	Amendment

- ▶ **KEY FEATUERS:**
 - ▶ CHILD SECTION BEFORE INITIATION
 - ▶ BECOME DOMINANT SECTION AFTER INITIATION
 - ▶ ABSOLUTELY PROCEDURAL SECTION
 - ▶ WIDE SCOPE OF ACTIVITIES IN THE ASSESSMENT PROCEEDINGS
 - ▶ CAN BE ACTIVE SEVERAL TIMES FOR THE ASSESSMENT
 - ▶ LOT OF LITIGATIONS FACED BY THE DEPARTMENT
 - ▶ NO RECTIFICATION IS ALLOWED BOTH IN THE HANDS OF THE ASSESSEE AS WELL AS DEPARTMENT
- 

- ▶ **TIME LIMIT FOR ISSUANCE OF NOTICE:**
 - ▶ WITHIN TWENTY ONE MONTHS FROM THE END OF THE F.Y. IN WHICH THE RETURN HAS BEEN FILLED,
 - ▶ **PERIOD:SIX COMPLETE YEARS PRIOR TO THE RELEVANT YEAR OF THE SEARCH**
 - ▶ ISSUANCE OF REPETITIVE NOTICE CAN BE ALLOWED BUT WITHIN THE TIME LIMIT
 - ▶ TIME LIMIT CAN NOT BE EXTENDED BY THE A.O. EVEN BY THE CHIEF CIT SAVE AND EXCEPT BY THE COMPETENT AUTHORITY UNDER CBDT
 - ▶ NOTICE CAN BE ISSUED WITHIN THE ASSESSMENT PERIOD
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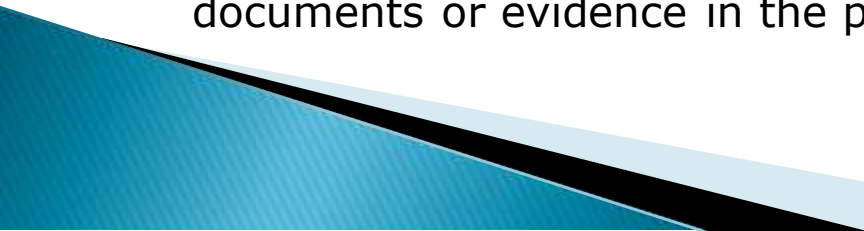
- ▶ **132.** (1) Where the Director of Inspection or the Commissioner, in consequence of information in his possession, has reason to believe that—
- ▶ (a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922) or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account, or other documents as required by such summons or notice, or
- ▶ (b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922) or under this Act, or
- ▶ (c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922) or this Act (hereinafter in this section referred to as the undisclosed income or property),

- ▶ Rules 112, 1124, 112B, 112C and 112D of the Income Tax Rules, 1962 lay down the detailed procedure to be followed while These Rules, conducting a search, making seizures and dealing with the seized assets Besides, we have wisdom of the judgment.

- ▶ To meet the ends of justice and fair play, the person searched has certain rights including those listed in the Ground Rules and Citizens' Charter. They are listed hereinafter with reference to different stages of search.

- ▶ At the time of commencement of search
- ▶ a. Before the commencement of the search, to see the Warrant of Authorisation and to ensure that it is duly signed and sealed. However, there is no right to have a copy of it;

- ▶ b. Identity and search of search party
- ▶ i. To verify identity of each member of the search party. All the members of a search party are supposed to carry their identity cards. In case of doubt, it is advisable to note down the serial number of their identity cards.

- ▶ iii. The authorised officer would normally not accede to the request and wait indefinitely as search can be kept in abeyance only for a reasonable time. Thereafter, he may proceed with the search in the presence of the witnesses.
 - ▶ iv. It would, however, be in the interest of fair play, natural justice and even the revenue, if full opportunity is allowed to the person searched to attend the search.
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- ▶ ii. Besides, his right to satisfy the correctness of the search warrant, he can also require the authorised officer to show his identity with reference to the identity card which is normally issued to every officer or Income Tax Inspector of the department.
 - ▶ iii. Such a safeguard is necessary, unless the occupant is already familiar with the officials. There have been daring instances of daylight robbery on pretence of tax raid. The exemplary illustration of such victimisation is the case of big jewellers merchants, renowned jewellers of Mumbai, despite the fact that they were habituated to face frequent searches from Customs authorities, Gold Control authorities etc.
 - ▶ iv. To have personal search of all the members of the search party officers before they start the search. In fact, the search officers are expected to offer themselves for the search lest they are accused of planting some documents or evidence in the premises;
- 

- ▶ c. To demand presence of two or more respectable and independent residents of the locality as witnesses (also called, "Panchas");
- ▶ d. To withdraw, in a case where the building, etc. is in the occupation of a woman, who according to custom, does not appear in public i.e. a pardanashin lady, and
- ▶ e. Right to worship He is entitled to observance of his worship at the time at which he is normally expected to do.

- ▶ **During the Search proceedings**

- ▶ a. To remain present during search - Rule 112(8)
- ▶ b. While real occupant away from the premises
 - ▶ i. This assumes importance because the search is carried out without any prior notice.
 - ▶ ii. The person present in the building may, if he is not the real owner, request the authorised officer to wait for some time for enabling him to inform the real owner about the search. If the real owner is in a position to be present, the authorised officer may be informed accordingly.


- ▶ c. To have his children permitted to go to school, after examination of bags;
- ▶ d. To have meals etc. at the normal times;
- ▶ e. To demand the presence of an Authorised Representative at the time of the search. However, the absence of the Authorised Representative would not prevent the search party from proceeding with the search;
- ▶ f. To demand the presence of technical persons like a valuer,
- ▶ Right to be absent
- ▶ The person searched is entitled to attend to his normal business, profession etc. but this is circumscribed by the fact that the assessee has to be present during the course of search for furnishing information or replying to questions regarding the acquisition of the articles or the evidences of the books of account found during the course of the search. But the refusal to permit the assessee to leave the premises has been the subject of a major criticism in the following decisions.

- ▶ LR. Gupta v. UOI [1992] 194 ITR 32/[1991] 59 Taxman 305 (Del.)
 - ▶ H.L. Sibal v. CIT [1975] 101 ITR 112 (P&H)

 - ▶ ii. "Since the Income Tax Department does not have the power to arrest and the ground rules authorised on the floor of the Parliament in 1987 specifically lay down the Income Tax authority shall have no power to arrest, the general practice of the search party, preventing an assessee whose premises are searched from leaving the building to attend to his work must be discontinued. After the person has made the statement required he should be allowed to leave" – The Chelliah Committee, Final Report, Para 10–79(C) 197 ITR (St.) 134

 - ▶ iii. The proposal in the Finance Bill, 1992 providing for the assessee not leaving the premises till the search is over, has been dropped;

 - ▶ h. To call medical practitioner, if required; and

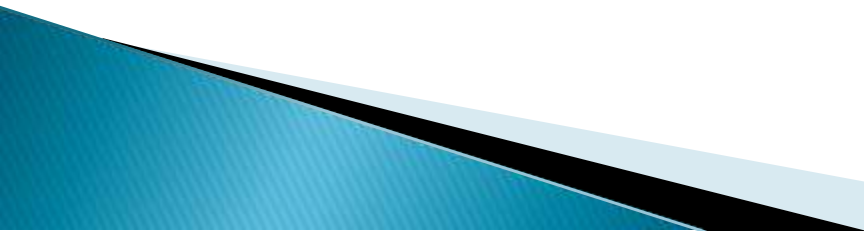
 - ▶ i. To demand that a woman should be searched by another woman with strict regard to decency.
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- ▶ **During the course of the statement on Oath**


- ▶ a. To insist that he will subject himself to the examination (by way of statement on oath) by the search party only after taking proper rest in a case where the search has continued for long hours, say till the early hours of the next day;
- ▶ b. To note the proceedings, questions and answers at the time of the recording of a statement;
- ▶ c. Every person who is examined under section 132(4) has a right to ensure that the facts so stated by him have been recorded correctly; and
- ▶ d To object to the irregularity in the conduct of the search, if any, and to record such objections in writing.


- ▶ **Drawing of Panchnama**


- ▶ a. To ensure that the list of articles seized mentions the respective places from where they were found;


- ▶ b. To inspect the seals placed on various packages when sealed in course of search and subsequently each time when reopened and sealed;
 - ▶ c. To place his own seals on the packages containing seized assets
 - ▶ d. To remain present along with 2 witnesses each time when the seals are proposed to be broken;
 - ▶ e. To object in a case where books of account, documents, assets, etc. are brought from other places to the place being searched with a view to enable seizure thereof and to record such fact in his statement. This is important because only the documents, valuables etc. found from the seized premises, enjoy the various presumption contained in section 132(4A) of the Act.;
 - ▶ f. To have a copy of the Panchnama together with all the Annexures including a list of all items seized/not seized; and
 - ▶ g. Reference may be made to Case Studies.
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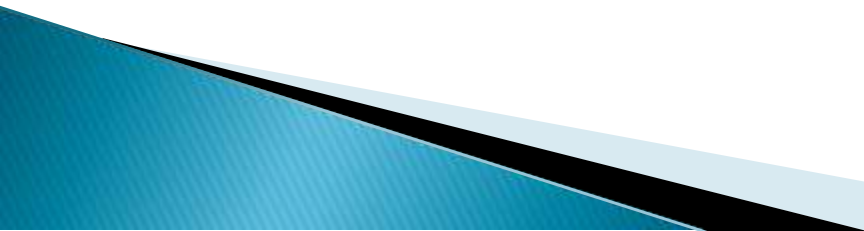
▶ **Post Search Occurrence**

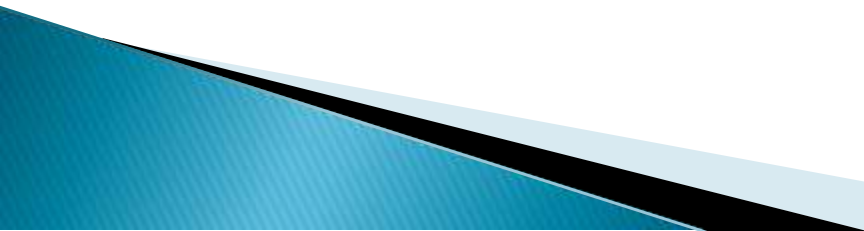
- ▶ a. To have inspection of the seized books of account etc. or to take extracts therefrom or copy thereof;
 - ▶ b. To have a copy of any statement that is used against him by the department;
 - ▶ c. To make an application objecting to the approval given under section 132(8) of the Act by the Commissioner of Income Tax for retention of books and documents
 - ▶ d. To have recalled the prohibitory order or restraint order under section 132(3) when wrongly issued.
 - ▶ e. To get back the disclosed assets which could not have been seized;
 - ▶ f. To file writ petitions challenging the validity of the search on the ground of misuse of powers or malice or collateral purpose;
 - ▶ g. To have refund with interest on the amount by which aggregate of money retained under section 132 and the proceeds, if any, of the assets sold towards discharge of any existing liability, exceeds the actual tax liability; and
 - ▶ h. Reference may be made to Case Studies.
- 


- ▶ **Obligations of the person searched**
 - ▶ Rights of the search party culminates into obligation of the person searched. They are narrated herein below.
 - ▶
 - ▶ **Sign the warrant**
 - ▶ To see the warrant of authorisation and put signature on the same.
- 

- ▶ TIME LIMIT FOR THE COMPLETION OF ASSESSMENT:
 - ▶ U/S 153A,153C ETC
 - ▶ AS PER NORMAL PROVISIONS OF THE RESPECTIVE ACT WITHIN TWENTY ONE MONTHS FROM THE END OF THE F.Y. WHEN SEARCH OCCURED
 - ▶ CONCLUSIVE PROVISIONS
- 


- ▶ SHOWCAUSE NOTICE IS COMPULSORY BEFORE COMPLETION OF THE ASSESSMENT WITH ADDITIONS
 - ▶ DRAFT ASSESSMENT ORDER MAY BE ISSUED TO THE ASSESSEE
 - ▶ APPROVAL OF THE ADDITIONAL COMMISSIONER OR JOINT COMMISSIONER IS REQUIRED
 - ▶ ATTORNEY SHOULD BE ENROLLED AND REGISTERED FOR THE ACT OF COMPETENCY AND DULY REGISTERED IN THE PORTAL
 - ▶ RIGHT TO ACCESS THE VIDEO CONFERENCE PRIOR TO THE COMPLETION OF ASSESSMENT
- 

- ▶ An argument is “a claim or proposition put forward along with reasons or evidence supporting it.” It is “an attempt to support a conclusion by giving reasons for it.”
 - ▶ The word “argument” is often used to refer to a heated dispute, a quarrel, or a shouting-match. But the term argument essentially refers to “a set of propositions, or statements, which are designed to convince a reader or listener of a claim, or conclusion, and which include at least one reason (premise) for accepting the conclusion
 - ▶ In short, an argument is a collection of statements. It should have a conclusion the argument attempts to establish. The others in the collection are called the premises, which are supposed to lead to convince that the conclusion is true.
- 

- ▶ **Self Guidelines for handling issues on preparation of written arguments and also its applications thereof**
 - ▶ Writing of an arguments is one of the most important parts of the exclusion challenge process. Getting a clear, concise and persuasive set of arguments written down will make it easier to put a case forward in the hearing and allow the authority time to review and understand your position before they make their decision.
 - ▶ Putting together your best case starts with identifying the legal issues.
 - ▶ Going through the set of the subject matter will help the person arguing the matter to do that by asking you a series of questions about the exclusion, and will provide you with Suggested Wording documents, which provide a proposed wording for arguments covering a range of circumstances to fit your case.
 - ▶ Alternatively, if you don't want to use this resource to identify the issues, and already know which Suggested Wording documents you wish to use,
- 

- ▶ Clearly explains the events as the art of arguments of the person describes them;
 - ▶ Highlights where the point of disagreements arises in the events;
 - ▶ Refers all the evidences that supports the family's version of events;
 - ▶ Does not discuss legal questions such as whether the tests in the guidance are met. This will confuse matters. Your submissions will be most effective if you set out the background first, and then go on to discuss your legal arguments
- 


- ▶ Narration should be very concise and specific
 - ▶ Presentation should be well defined
 - ▶ Analysis
 - ▶ Explanation
 - ▶ Impounded documents to be linked with the accounts
 - ▶ Reconciliation of stock and inventory as per books in comparison to the quantity found


 - ▶ Reconciliation of Gold and Jewelleries and precious stones
 - ▶ Reconciliation of Cash physically found in comparison to the books
 - ▶ Reconciliation of Bank accounts
- 


▶ Impounded Documents:

▶ Page wise explanations are required

▶ Identification No.	Description	Pages	Related entries in the books of Accounts	whether Disclosed or Not
▶				
▶				

- ▶ Identify the issue
 - ▶ Narrate the statement of Facts
 - ▶ Weightage of Grounds
 - ▶ Question of Facts
 - ▶ Question of Law
 - ▶ Any existence of General Law
 - ▶ Evidences in a nutshell
 - ▶ Similar issue in any other case
 - ▶ Existence of any difference of opinion and at which situation
- 

- ▶ Digestive case laws on similar occasion
 - ▶ Digestive laws in relation with the Rules and specially with the intension of the Parliament
- 

- ▶ Situational Parameter
 - ▶ How and when reference can be drawn up
 - ▶ Stressing on the grounds
 - ▶ ABC analysis of the Subject matter of the Assessment
 - ▶ Arrest the weak point of the Respondent prior to the stages of the arguments
 - ▶ Conclusion
- 

▶ The Deputy/Assistant Commissioner of Income Tax
20/12/2020

Date:

▶ National e-Assessment Centre
▶ ReAC -1 Delhi

▶ Sub: Submission in respect ofbearing PAN: against your notice vide no. ITBA/AST/F/142(1)/2020-21/10286284081(1) relating to the Assessment Year 2018-19

▶ Sir,

▶ With reference to your query I am sending the same as per your Annexure.

▶ Details of Registered Office and Principal place of business along with details of branch office(s)/Godown(s) with complete address, telephone no., FAX No., e-mail or web site address, etc.

▶ Name of the registered Office: Janata Fish Centre and Janata Enterprise
▶ Address Haroa,24-Paraganas(N),PIN- 743425

▶ Godown: Janata Fish Centre and Janata Enterprise
▶ Haroa,24-Paraganas(N),PIN- 743425

▶ Telephone No. 7407821343

▶ FAX No. NIL

▶ Email id: taxationindia2010@gmail.com

▶ At present no website has been executed by your assessee.

▶ Details of Bank Accounts

▶

Name of the Bank	Branch	Type of Account	A/c No.	Operated by
▶ Canara Bank	Overseas branch	Current	1856201555602	Proprietor
▶ Bank of Baroda	Bangur	Current	40140200000187	-DO-
▶ Bank of Baroda	Bangur	Overdraft	40140400000060	-DO-
▶ United Bank of India	Haroa	Overdraft	0179210030110	-DO-
▶ Axis Bank	Naihati	Savings	021010100606400	-DO-

▶ Major debit and credit entries attached in Annexure – A, Since the balance as appearing in bank Book and as appearing in bank statement are exactly same where the entire transaction made during the year duly reflected in the bank statement the Reconciliation statement does not at all required.

▶

- ▶ Detailed note on business activities carried on during the previous year clearly indicating the modus operandi of the business , details of other regulatory/tax compliance required in running the business
- ▶
- ▶ Mr. Akmal Ahmed being the proprietor of M/s Janata Fish Centre and M/s Janata Enterprise having its registered office situated at Haroa, 24-Paraganas (N) - 743425 is engaged in the business of trading of raw prawn. Both the concerns under the name and style M/s Janata Fish Centre as well as M/s Janata Enterprise are duly enrolled in the registrar of the Haroa Gram panchayat as a supplier of raw prawn both in the nature of live and dead prawn in the wholesale trade. No other licensing authority is enacted to control the operation of your assessee's business. No indirect tax is levied either at the stage of production or at the stage of sales thereon. The business was established in the calendar year of 2001 and since date It is continuing its operation till the calendar year 2020. The concern is procuring raw live prawn and on different occasion after development to the extent of certain stage of growth it is being sold in the wholesale trade otherwise due to the demand in response to the market the concern is selling directly the same to the buyer.
- ▶

▶ **In respect of new loans obtained/squared up/and/or repaid during the previous year**

▶ To be send within this week.

▶ **Details of Sundry Creditors (and/or advance received) as under**

Name of the Party with address		Opening	Debit	Credit
Closing	Nature	Balance		
balance	of liability			
	Annexure - B attached			

▶ No credit balance exists more than three years

▶ **Statement showing addition/deletion of Block of Assets**

Date of	Nature of Assets	Amount	Depreciation	
Purchases			Rs.	Rs.

▶ No addition and deletion during the year.

▶ During the year no question of fresh Excise Duty and Sales tax included within the cost of assets. However no interest or exchange fluctuation balance is included therein.

▶

▶ **Quantitative and value-wise details of opening stock/Inventory and closing stock/Inventory,**

▶ To be send within the week

▶ **Method of valuation and documentary support of such valuation**

▶ **Details of Sundry Debtors (such as name and address amount outstanding.**

Name of the Party with address	Opening balance Rs.	Debit Rs.	Credit Rs.	Closing balance Rs.
▶ Magnum Export ▶ 16, Mangoe Lane Kolkata ▶ 700001 ▶ 14,32,88,962		28,17,22,383	102,16,57,915	116,00,91,336
▶ Meega Moda (P) Ltd. ▶ 33A J.N Road, Kolkata - 700071 ▶ 16,29,612		----- 16,17,18,612		16,00,89,000
▶ Das Enterprise ▶ Howrah Amta Road, Howrah -711403 ▶ (-) 9,32,113		----- 2,11,007		11,43,120
▶ No balance exists more than three years.				

▶ **Details of Other operating Revenue or Other Income credited to Profit & Loss A/c**

▶

▶ Rent	Rs.1,70,860/-
▶ Savings bank interest	Rs.649/-
▶ Interest on other Deposit	Rs.9,018/-
▶ Other miscellaneous Income	Rs.72,425/-
▶ Total	Rs.2,52,952/-

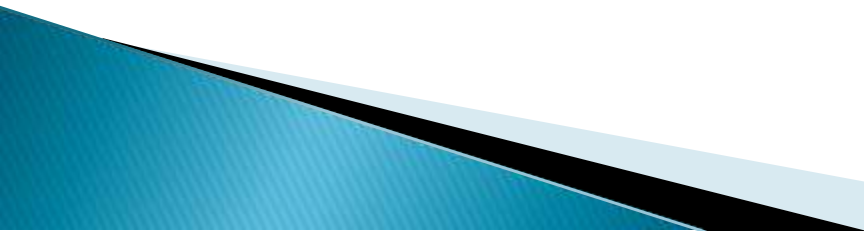
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▶ **Month wise and Party wise (with address thereof) details of all major expenses exceeding Rs. 1,00,000/- debited under each head of the Profit & Loss A/c along with comparative analysis of previous year's figure**

▶

▶ To be send within the week

- ▶ **Furnish details of Annual return of TDS along with copy of challan for payment made to the Govt. Accounts. Also indicate whether any interest U/s 201(1A) is included in the said payment on delayed deposit of TDS. If any payments are made without deduction of tax at source or TDS made but not deposited within the prescribed time limit and explanation why the same will not be disallowed within the meaning of section 40(a)(ia) of the Act.**
- ▶
- ▶ No TDS is applicable during the F.Y. 2017-18 Hence TDS Return is not been filled.
- ▶ **Working of inadmissible expenses U/s 14A read with Rule 8D with an explanation why such expenses will not be disallowed**
- ▶
- ▶ No question arises on account of inadmissibility U/s 14A
- ▶ **Detailed note on payments made to sister concern/related parties/partners and justification for the same with reference to section 40A(2)(b) of the I.T. Act, 1961**
- ▶
- ▶ To be send within a week

- ▶ **Details of any issue agitated in appeal**
 - ▶
 - ▶ Appeal is pending for the A.Y. 2017-18 in respect of one alleged addition derived by the L'd A.O. based on difference in opening balance of under debtors amounting Rs. 4,90,00,000/-
 - ▶ **Details of Survey/Search action by the Income Tax department, if any taken on your group cases**
 - ▶
 - ▶ No such Search U/s 132 or or survey U/s 133A of the Act made to your assessee's premises till date.
 - ▶ **Details of sales and purchases made during the year with name and address of the parties along with copy of ledger and copy of sample bills.**
 - ▶
- 

- ▶ Details of Income Tax Assessment of previous three years with copy of assessment orders if any additions are made and status of appeals
- ▶
- ▶ In respect of assessment for the last three preceding years the Assessment Year 2015-16 and 2016-17 have not been done U/s 143(3) read with U/s 147 or 153A or any other law.
- ▶ However the addition made in the assessment U/s 143(3) of the Act for the A.Y. 2017-18 are in three folds.
- ▶ Making some alleged addition on account of profit of Rs.5,79,990/- based on additional deposit in Bank Account of Rs.7,94,50,585/-
- ▶
- ▶ Proportionate interest on overdraft disallowed
Rs.3,01,855/-
- ▶
- ▶ Difference in opening balance in respect of Sundry Debtors
Rs.4,90,00,000/-
- ▶
- ▶ Total Addition
Rs.4,98,81,845/-
- ▶
- ▶ Order Separately attached in Annexure

- ▶
- ▶ **Details of all deductions claimed with all documentary evidences**
- ▶ U/s 80C on a/c of payment of LIC Premium
Rs.1,50,000/-

- ▶ U/s 80D on a/c of payment of Mediclaim
Rs.25,000/-

- ▶ Total deduction claimed
Rs.1,75,000/-

- ▶
- ▶ **Separate Trading Account, P/L Account and Balance Sheet for each separate business activities**
- ▶ The trading and profit and loss A/c is prepared in consideration of the whole Income and expenses thereon and the same is duly prepared in combined nature. Since the only product raw prawn is dealing with the assessee the separation of accounts does not arise save and except Cash and Bank book for the respective units.