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CERTIFICATE COURSE ON INCOME TAX APPEALS & ASSESSMENTS

Today's Content – Search Assessment



SEARCH - MEANING OF

The word 'search' is not defined in the IT Act. However, in the case of Raghu Raj Pratap Singh v. Asstt. CIT [2009] 179 Taxman 73 (Allahabad), it was held as under:

“The simple meaning of the word 'search' is to explore all over in trying to find something; to examine closely; to examine for hidden articles; to scrutinize; to probe; to put to test; to

make an examination, etc., to look or hunt; a thorough examination, etc. In normal course, what the authorised officer is to do, is to find out, detect and unearth the concealed income or wealth for which purpose the warrant of authorisation has been issued.”

History of assessment in search cases

This was first introduced by the Finance Act of 1995 by inserting a Chapter XIV-B (Sections 158B to 158BH) into the Income-tax Act, effective from July 1, 1995. In this scheme, the undisclosed income was determined and computed over a block period of ten previous years. The definition of the 'block period' was revised by the Finance Act of 2001 to include six previous years.

The Finance Act of 2003 put the sunset date to this special chapter from June 1, 2003, by introducing Sections 153A, 153B, and 153C. This new procedure also required the assessee to furnish returns for the six assessment years. The Finance Act, 2017 amended Section 153A to empower the Assessing Officer to issue notice to an assessee for periods beyond 6 assessment years but not exceeding 10 assessment years provided he has evidence that the income, represented in the form of asset, escaping assessment exceeds Rs. 50 lakh.

Section 153A: Assessment in Case of Search or Requisition

This section is triggered when a search is conducted under **Section 132** or books of accounts or documents are requisitioned under **Section 132A**.

Key Provisions:

- 1. Applicability:**
 - Triggered when a search is initiated or requisition is made after 31st May 2003.
 - Assessments are reopened for the preceding **6 assessment years** before the year of the search.
- 2. Scope of Assessment:**
 - Assessing Officer (AO) can reassess income for the **6 years** immediately preceding the year of search/requisition.
 - Additionally, the year of the search (referred to as the **search year**) is assessed.
- 3. Conditions:**
 - AO must issue a notice to the taxpayer for filing returns for the six preceding years and the search year.
 - No requirement to prove that income has escaped assessment for issuing such a notice.
- 4. Time Limits:**
 - AO must complete the assessment **within 2 years** from the end of the financial year in which the search/requisition took place.
 - For pending appeals or assessments, they abate and are merged into the Section 153A assessment.
- 5. Items Assessed:**

- All incomes disclosed or undisclosed found during the search.
 - Any other income that the AO believes escaped assessment for the preceding six years.
6. **Exclusions:**
- If no incriminating material is found during the search, the AO cannot reassess income for years where assessments are already completed, as per judicial precedents (e.g., *CIT vs. Kabul Chawla*).
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Section 153C: Assessment of Income of Any Other Person

This section deals with assessments of persons other than the one being searched when **incriminating material** related to them is found during a search on another person.

Key Provisions:

1. **Applicability:**
 - Triggered when **incriminating material** related to another person is found during a search or requisition under Section 132/132A.
 - The other person is assessed under Section 153C.
2. **Conditions:**
 - The material seized or requisitioned must **belong to or relate to** another person.
 - AO of the searched person must record satisfaction that the material relates to the other person and hand over the material to the AO of the other person.
3. **Scope of Assessment:**
 - Similar to Section 153A, the preceding **6 years** and the year of the search are assessed.
4. **Procedural Aspects:**
 - AO issues notice to the other person, requiring them to file returns for the specified years.
 - Assessment/reassessment is conducted as if the search/requisition was conducted directly on the other person.
5. **Judicial Precedents:**
 - Material must be **incriminating** and must directly relate to the other person.
 - Mere reference to another person in seized documents does not automatically trigger Section 153C (e.g., *PepsiCo India Holdings Pvt. Ltd. vs. ACIT*).
6. **Time Limits:**
 - Similar to Section 153A, assessments must be completed **within 2 years** from the end of the financial year in which the search/requisition took place.

The Finance Act, 2021 abolished this regime, too and subsumed it with the reassessment provisions of Sections 147 to 151A for the search, survey or requisition initiated or conducted on or after 01-04-2021. The AO could open the assessment for up to 3 years, except when the AO has information that suggests that the income escaping assessment, represented in the form of asset, exceeds Rs. 50 lakhs. In that case, the AO could issue a notice if ten years have not elapsed from the end of the relevant assessment years.

New scheme introduced by the Finance (No. 2) Act 2024

The Finance (No. 2) Act, 2024 reintroduced the scheme of block assessment by substituting Chapter XIV-B (Sections 158B to 158BI) in cases where a search under **Section 132 or a requisition under Section 132A** has been made on or after 01-09-2024. The Assessing Officer shall proceed to assess or reassess the total income of the concerned person in accordance with the provisions of the said Chapter.

The block assessment scheme is reintroduced because the absence of a legal requirement for consolidated assessments in search cases has created a situation where only the time-barring year could be reopened annually for the searched assessee. This led to staggered search assessments, extending the search assessment process for up to ten years. To make the assessment procedure for search cases more cost-effective, efficient, and meaningful, a scheme of block assessment is reintroduced.

Brief understanding on provisions relating to enabling provisions of search assessment

Section 132: Search and Seizure

This section empowers the income tax authorities to conduct **search and seizure operations** when there is reason to believe that certain income or assets are concealed or not disclosed.

1. Conditions for Invocation of Section 132

The Director General, Director, Chief Commissioner, Commissioner, or Joint Commissioner must have **reason to believe** that:

- A person is in possession of **undisclosed income or property**.
- A person is not producing books of accounts, documents, or other evidence despite being summoned or notices issued under:
 - **Section 131 (Power to Call for Evidence)**.

- **Section 142 (Inquiry before Assessment).**
 - A person is likely to:
 - Conceal or remove books of accounts or other evidence.
 - Part with any undisclosed property to evade tax liability.
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2. Powers of Income Tax Authorities During Search

Once a search warrant is issued, authorities can:

- **Enter and Search:**
 - Premises, buildings, places, or vehicles where the undisclosed assets are suspected to be located.
 - **Seize Assets:**
 - Confiscate money, bullion, jewelry, or other valuables, as well as books of accounts or documents.
 - **Break Open Locks:**
 - If access is denied or keys are not provided.
 - **Inventory Preparation:**
 - Make a record of all assets and valuables found during the search.
 - **Examine and Question:**
 - Record statements under oath of the persons present during the search.
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3. Post-Search Proceedings

- **Seizure of Books and Assets:**
 - Any assets seized must be used to determine tax liability.
 - **Provisional Attachment:**
 - The AO can attach properties if it's necessary to protect the interest of the revenue.
 - **Retention Period:**
 - Books/documents seized can be retained for **up to 30 days** from the end of the assessment.
 - Assets like gold or money can be retained until the tax liability is discharged.
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4. Safeguards and Limitations

- **No Arbitrary Search:**
 - Searches can only be conducted based on recorded reasons to believe.
- **Rights of the Assessee:**
 - The person being searched can seek a copy of the seizure memo and inventory list.

- **No Search Without Authorization:**
 - A valid search warrant is a prerequisite.
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5. Penalties

- Concealment of income uncovered during the search attracts penalties under **Section 271AAB**.
 - Wilful evasion of taxes can also lead to prosecution under **Section 276C**.
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Section 132A: Powers to Requisition Books of Accounts, etc.

This section deals with the **requisition of books, documents, or assets** rather than direct search and seizure.

1. Conditions for Invocation of Section 132A

The Director General, Director, Chief Commissioner, or Commissioner must have **reason to believe** that:

- A person possesses money, bullion, jewelry, or other assets that represent **undisclosed income**, and these are:
 - In custody of a public officer or court.
 - Under the control of another person who is not the actual owner.
 - Such books, documents, or assets cannot be produced through a normal summons or notice under Section 131 or 142.
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2. Powers Under Section 132A

Authorities can:

- Issue a **requisition order** to obtain custody of the books, assets, or documents from:
 - A **court** or any other public authority.
 - A **third party** holding the items on behalf of the assessee.
 - Take possession of requisitioned items for further investigation and assessment.
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The new procedure of block assessment in case of search (search should be read as search/requisition) can be summarised as follows:

Block period

- ◆ Where the search takes place on or after 01-09-2024, the total income of the block period shall be assessed.
- ◆ The block period will consist of six assessment years preceding the previous year in which the search took place. Thus, if the search is conducted on 15-10-2024, the block period will consist of assessment years relevant to previous years 2023-24, 2022-23, 2021-22, 2020-21, 2019-20 and 2018-19.
- ◆ The block period will also include the period starting from the 1 April of the previous year in which the search was initiated and ending on the date of the execution of the last of the authorisations for the search.
- ◆ If any assessment or reassessment is pending during the block period, it shall abate and be considered for assessment during the block period. If the block assessment is annulled in appeal, the abated assessment shall be revived.
- ◆ The block period for the "other person" shall be the same as that for "person searched".

Total income

- ◆ The total income (other than the undisclosed income discovered in the search) of the previous year in which the search took place shall be assessed independently in accordance with the normal provisions of the Act.
- ◆ "Undisclosed income" includes any money, bullion, jewellery, or valuable items, as well as any expense or income based on any entry in the books of account or other documents or transactions, if these represent income or property that has not been or would not have been disclosed for income-tax purposes. It also covers incorrect expense claims, exemptions, deductions, or allowances for the block period.
- ◆ The income included in the block period will be the aggregate of returned income, assessed income, declared income, income determined for the current year and undisclosed income determined by the AO.
- ◆ Assessed losses/brought forward losses of the assessment year comprising in the block period shall be ignored. They may be considered in the regular assessments subsequent to block assessments.

◆ The total income for the block period shall be reduced by the returned income, assessed income, and income determined for the current year, and the remaining income shall be charged to tax under Section 113 at 60%.

Filing of return

◆ The AO may issue notice to file the return within 60 days declaring therein total income, including the undisclosed income for the block period.

◆ The return filed under Section 158BC shall be considered as a return filed under Section 139, and proceedings for assessment shall be initiated under Section 143(2). The return filed beyond the time allowed in the notice shall not be treated as a return filed under Section 139.

◆ The right to file a revised return is not available in this chapter.

Assessment

◆ Once proceedings are initiated in this chapter, no proceedings under Section 148 shall be initiated.

◆ The assessment of the block period shall be carried out in accordance with the provisions of the Act as applicable to the block period, i.e. sections 142, 143(2), 143(3), 144, 145, 145A and 145B.

◆ Section 143(1) shall not apply to the assessment under this Chapter.

◆ The procedure provided under Section 144C (DRP) shall not be applicable for the proceedings under this Chapter.

◆ The assessment for the block period shall be completed within 12 months from the end of the month in which the last of the warrant of authorisation was executed.

Interest and Penalty

◆ No interest under Sections 234A, 234B or 234C or penalty under Section 270A shall be levied or imposed upon the assessee in respect of the undisclosed income assessed or reassessed for the block period.

◆ If no return is filed in response to a notice or is filed beyond the time allowed, interest shall be levied at 1.5% of the tax on undisclosed income for every month or part of the month.

◆ The AO or CIT(A) may levy a penalty equal to 50% of the tax levied on undisclosed income. However, no penalty shall be levied if the return is filed by the person searched, tax is paid on the declared income, and no appeal is filed in respect of the income declared in the return.

Computation of the total income of the block period

Section 158BB lays down the method for computing the total income of the block period in the context of a block assessment. According to sub-section (1), the total income for the block period is computed by aggregating both disclosed and undisclosed income. However, sub-sections (5) and (6) of Section 158BB stipulate that disclosed income (excluding any losses) is deducted from the total income calculated under sub-section (1). This is because undisclosed income is taxed under Section 113 [Section 158BA(7)], while disclosed income is assessed separately under other provisions of the Act [Section 158BA(6)]. Thus, the method for computing the total undisclosed income of the block period is rather circuitous. Undisclosed income per se also can be determined and assessed. However, Section 158BB provides for deriving undisclosed income by excluding disclosed income from total income.

The total income of the block period shall be computed as follows:

<i>Particulars of income</i>	<i>Amount</i>
Total income (ignoring loss) disclosed by the assessee in the return furnished under Section 158BC for the block period pursuant to search [A]	***
<i>Add:</i> Total income (ignoring loss) declared by the assessee in the return of income filed under Section 139/Section 142(1)/Section 148 for the block period [B]	***
<i>Add: Total</i> income (ignoring loss) assessed in the hands of the assessee before the date of initiation of search for the block period during the [C]:	***
◆ Scrutiny assessment under Section 143(3)	***
◆ Best judgment assessment under Section 144	
◆ Reassessment under Section 148	
◆ Search assessment under Section 153A or Section 153C	***

Add: Total income of the current year ¹ (ignoring loss) determined based on books of accounts and other documents maintained up to the date of the last authorization for the search or requisition [D]	
Add: Undisclosed income determined by the AO based on evidence or information found during the search, requisition or proceedings [E]	***
Total income for the block period [F = A + B + C + D + E]	***
Less: Disclosed income for the block period [G = B + C + D]	(***)
Total undisclosed income for the block period [H = F - G]	***

Notes: Section 158BB(6) and Section 158BB(7) provide that:

◆ If the income declared by the assessee or assessed in the hands of the assessee is a loss, it is ignored for the purpose of calculating total income.

◆ Losses brought forward from periods before the block period or unabsorbed depreciation cannot be set off against undisclosed income but can be carried forward for set off in subsequent years.

Issues in the computation of total income

◆ Basis of total income if the return of income has not been filed

A return may not have been filed under the following circumstances:

(a) The previous year has not ended;

(b) The previous year has ended, but the due date for filing the return has not expired;

(c) The previous year has ended, the due date for filing the return has expired, but the return has not been filed.

The first case is addressed by Section 158BB(1)(iv), which states that in such instances, the total income determined will be treated as disclosed income and will be deducted when computing the total undisclosed income for the block period.

Unlike sub-section (3) of old Section 158BA, the new Section 158BB does not contain any provision to deal with the situation where the previous year has ended, but the due date for filing the return has not expired. Old Section 158BA(3) provided that where the assessee

proves to the satisfaction of the Assessing Officer that any part of income relates to an assessment year for which the due date of filing the return of income has not expired and such income is recorded on or before the date of the search or requisition in the books of account, the said income shall not be included in the block period. Therefore, in the absence of any explicit provision or any provision prohibiting the same, where an assessee files the return under Section 139(1) for such period, the income disclosed in that return may be considered as disclosed income.

For the last situation, where the previous year has ended, the due date for filing the return has expired, but the return has not been filed, the new Section 158BB does not explicitly address this case either. Under the old Section 158BB(1)(ca), the approach was that if the due date for filing the return had expired, the disclosed income was considered 'nil,' and the income disclosed in the Section 158BC return was treated as undisclosed. Therefore, in the absence of any explicit provision or any provision prohibiting the same, where an assessee files the belated or updated return under Section 139(4) or Section 139(8A), respectively, for such period, the income disclosed in that return may be considered as disclosed income. Where the return is not filed, the income relating to such assessment year shall be considered an undisclosed income.

These propositions are not free from doubt, and the authorities may take a contrary view. It is recommended that a suitable amendment be made to clarify these situations.

◆ Basis of total income if the return has been filed, and certain adjustments are made under section 143(1)

When calculating the total income for the block period, the assessed income of previous years is considered if the assessment under Sections 143(3), 144, 147, 153A, or 153C was concluded before the search initiation [Section 158BB(1)(ii)].

It is important to note that assessed tax is used to compute the total income of the block period when the assessment is made under the specified sections. However, adjustments made to total income under Section 143(1) are not considered an assessment². This raises the question of whether such adjustments to total income should be included as part of the block period's total income, either as undisclosed or disclosed income.

In the absence of specific provisions under the new chapter, it could be argued that such income would be treated as undisclosed income, except when such adjustment was made on the grounds of arithmetical errors, regardless of whether it is disclosed in the return filed under Section 158BC.

◆ Chapter VI-A deductions and exempt income

Section 158BB(6) provides that if the loss is declared in the return or assessed, it shall be ignored. Section 158BB(7) prohibits the set-off of the brought-forward losses against the undisclosed income determined in the block assessment. Chapter XIV-B is silent on the treatment of deductions under Chapter VI-A for the computation of total income or undisclosed income for the block period. According to one view, it could be implied that Chapter VI-A deductions are to be made as one is required to compute total income. The other possible view is that the chapter does not even allow the benefit of losses/depreciation, and accordingly, the intention is not to allow deduction under Chapter VI-A.

The above provision, however, would not affect an exemption provided in Chapter III or IV, that is, Sections 10, 10A, 10B, 54, 54F, etc.

Calculation of tax on block period income

Sub-section (7) of Section 158BA specifies that the total income for the block period shall be taxed at the rate prescribed in Section 113, irrespective of the previous year or years to which the income pertains.

Section 113, as amended by the Finance (No. 2) Act, 2024, prescribes a tax rate of 60% on the total income of the block period determined under Section 158BC. Additionally, the tax shall be increased by a surcharge, if any, levied by any Central Act.

◆ Surcharge on tax on block period income

The tax chargeable under Section 113 is increased by a surcharge, if any, which may be levied by any Central Act. Currently, neither the Finance Act, the Income-tax Act, nor any other Central Act specifies a surcharge for income assessed under Section 113. This is confirmed by the memorandum explaining the provisions of the Finance (No. 2) Bill, 2024.

However, a question arises: even though no specific surcharge is mentioned for income taxable under Section 113, could the surcharge rate specified for income under Section 115BBE be applied to the total income of the block period, particularly for undisclosed income?

Here, it is important to take note of Section 158BH, which provides for the applicability of other provisions of the act to block assessment. It reads as under:

"Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter."

Section 158BH starts with "Save as otherwise provided in this Chapter". It is, thus, clear that all other provisions of the Act shall apply but subject to the provisions otherwise provided in this chapter. In other words, the provisions specifically provided in the chapter of block assessment shall have an overriding effect over all other provisions of Act3. Since Section 158BA refers specifically to Section 113 for determining the tax rate on block period income, Section 115BBE does not apply in this context.

◆ No health and education cess on tax on block period income

The Health and Education Cess is charged pursuant to the power given by Sections 2(11) and 2(12) of the Finance (No. 2) Act, 2024. These provisions provide for the levy of cess on the tax computed under sub-sections (1) to (3) and sub-sections (4) to (10) of Section 2, respectively, and none of these sub-sections provides the computation of tax on the income taxable under Chapter XIV-B. Accordingly, the tax computed will not be increased by Health and Education Cess.

Time limit for completion of block assessment

Section 158BE provides that the order under Section 158BC must be passed within twelve months from the end of the month in which the last authorization for a search under Section 132 or requisition under Section 132A was executed or made. However, this limit can be extended in certain situation.

Handling of Search & Assessment of Search Cases

1. Powers and Obligations of Authorised Officer During Search

1.1 Powers of Authorised Officer

- A. To enter forcibly into the premises if required.
- B. To search each and every part of the premises.
- C. To break open lock of locker, almirah, safe, box etc. in case keys are not available.
- D. To take extreme action e.g. tear sofa, dig floor/wall etc. in case of suspicion that incriminating material is kept therein.
- E. To conduct personal search of any person present or entering the premises.
- F. To seize books of account/documents.
- G. To seize undisclosed assets including cash or jewellery.
- H. To make list of stock or other assets not being seized.
- I. To place identification marks on the books of account not being seized.
- J. To put restraint order u/s 132(3) if deemed necessary.
- K. To record statement on oath u/s 132(4).
- L. To take services of police officers or other officers of the Central Government as required.
- M. To intimate to other Government authorities in case any violation of any other statute is found.

1.2 Obligations of Authorised Officer

- A. To show search warrant before commencing search and obtain signature of the person searched on search warrant.
- B. To prepare panchnama mentioning the proceedings of search and handover a copy to the assessee.
- C. To call for two witnesses in the presence of whom whole search operation is to be carried out.
- D. Seized articles to be kept in sealed packages bearing identification mark.
- E. To get signature of the person searched and that of the witnesses on seized packages, panchnama, statement recorded and put his signature also.
- F. To permit necessary telephone calls.
- G. To call the valuer for the valuation of jewellery.
- H. To inform and report expeditiously to controlling room and higher authorities on various significant development during search.
- I. Not to confine or put undue pressure on any person.

2. Rights and Duties of Assessee During Search

2.1 Rights of assessee during search

- A. To see copy of search warrant.
- B. To see evidence of identity of officers of search team.
- C. To make personal search of the members of search party.
- D. To get medical aid, if required.
- E. To have regular meals.
- F. Right to worship as per custom.
- G. Right of the children to go to school.
- H. Nobody can be confined.
- I. Permission to leave the premises in view of the urgency of matter.
- J. Withdrawal by pardanasin women.
- K. To remain present during search proceedings or in his absence, to authorize somebody else on his behalf.
- L. Right to ensure that the facts stated by person searched during recording of statement u/s 132(4) are correctly incorporated.

2.2 Duties of Assessee during Search

- A. To allow free and unhindered ingress into the premises to the search team.
- B. To make available keys of locker, almirah, safe, boxes, etc.
- C. To facilitate operation of computer/laptop or other devices in which data is stored in electronics form.
- D. To co-operate with the search team in discharging their functions.
- E. Not to remove any article from its place without notice or knowledge of the authorized officer.
- F. Not to secret or destroy any document or evidence.
- G. To affix his signature on the recorded statement, inventories and panchnama.

3. Nature of Questions Usually Asked by the Authorised Officer During Recording of Statement in Search

- A. The identity, PAN No., sources of income of the assessee and other family members.
- B. Capacity in which the premises under search is occupied i.e. whether as owner, employee, tenant or otherwise.
- C. Names and addresses of business concerns, factory, godown, and branches, associate business entities of which assessee or his family members are proprietor, partner, director or shareholder.
- D. Investment in immovable properties with address and year of acquisition and source of acquisition.
- E. Investment in movable assets such as shares, FDRs, Bonds, jewellery, cars, expensive household items and source thereof.
- F. Particulars of Income Tax and Wealth Tax assessment.
- G. Details of cash, jewellery or other valuables lying in the house or in the bank locker, to whom the same belongs and the source thereof.

- H. Particulars of bank lockers maintained by the assessee and other family members, contents therein and the location of the keys of the locker(s).
- I. Details of bank accounts maintained with the banks with account numbers.
- J. Details of household expenses incurred, marriage or functions celebrated, educational expenses of the children and the source of withdrawal for the same.
- K. Details of books of account, including stock registers, maintained and the place where these are kept, password and software used for obtaining data kept in computer or other electronic device.
- L. Details regarding any secret chamber, locker or false sealing in the premises, if any.
- M. Details of any kind of movable assets, books of account or documents of others kept with the assessee or relating to the assessee kept with somebody else.
- N. Details of loans and advances, gifts or other credits given or taken/accepted by the assessee.
- O. Details of foreign travel and source of such expense and copy of passport.
- P. Details relating to undisclosed financial transactions carried by the assessee with respect to which authorized officer has information and the modus operandi adopted by the assessee to earn income outside the books.
- Q. To seek explanation regarding incriminating material found such as pocket diaries, loose papers containing financial transactions, duplicate set of books of account, unaccounted agreements and properties etc.
- R. Source of acquisition of assets found such as cash, jewellery, electronic gadgets, A.C., refrigerator, music system etc., stock in business in excess of the amount recorded in the books, investment in immovable properties not recorded in the books, investment made in asset in cash, loans or advances, gifts or any other credit given or taken in cash etc.
- S. Authorized officer may cause enquiry to decode the figures or financial transactions recorded by the assessee in some kind of coded form in the seized material.
- T. Enquiry is made regarding any deviation found by the authorized officer in the actual facts and evidences found during search and as stated by the assessee during his preliminary statement.

4. Contents of Surrender Letter

4.1 From the point of view of assessee

In case surrender of undisclosed income is made during the course of search and letter of surrender is submitted separately, it should normally contain the following details and under noted aspects may be taken care of:

- A. Break up of total amount of undisclosed income surrendered person-wise, entity-wise and year-wise.
- B. A paragraph mentioning that the surrender letter submitted by the assessee is in the nature of statement of the assessee u/s 132(4).

- C. To mention that the declaration is subject to no penal consequences.
- D. To mention broad manner of earning undisclosed income and to substantiate it to the extent possible.
- E. To mention that tax applicable on surrendered income shall be paid in due course of time as and when due.
- F. Surrender letter to be signed by of the person/entity making the surrender. In case a person makes declaration on behalf of other person, he should be authorized to do so.
- G. Surrender of undisclosed income to be made in the hands of the person/entities against whom search warrant has been issued.
- H. To ensure that surrender letter is given prior to the date of conclusion of search with respect to the concerned person/entity.
- I. In case declaration is made amending or improving upon any earlier declaration, this fact should be clearly mentioned.
- J. In case there is seizure of cash, assessee should state and request to treat the amount of cash seized as payment of advance tax in the hands of concerned person/entity.
- K. A line mentioning that surrender of undisclosed income is being made to buy peace and to settle the dispute.
- L. Before making surrender of undisclosed income of the earlier year, all pros and cons to be weighed properly.

4.2 From the point of view of the department

- A. To ensure that the corresponding evidences relating to undisclosed income being surrendered are available.
- B. To obtain authority letter in case, surrender is made by a person on behalf of some other person/entity.
- C. A line stating that declaration of undisclosed income is over and above normal/regular income of the assessee.
- D. A line stating that the declaration is being made willingly by the assessee without any pressure or coercion or threat.
- E. To ensure that contents of surrender are covered in the statement of the assessee recorded u/s 132(4) and such statement is recorded on oath.

5. Post Search Letters to the Authorised Officer/Assessing Officers on Various Aspects

- Request to appropriate cash seized toward advance tax.
- Application u/s 132B for release of disclosed assets if any seized along with all the relevant evidences.
- Letter requesting to give photocopies of all the documents, papers or books of account seized.
- Letter for release by person/entity not covered in the search, in case any books of account or assets belonging to them have been seized.
- Letter with complete evidences regarding disclosure of jewellery or assets in case restraint order u/s 132(3) has been passed but assets have not yet been seized.

- Letter for release of jewellery against deposit of equivalent amount of cash/furnishing of bank guarantee.
- In case of any irregularity or high handedness experienced during search, a letter explaining the actual facts to be brought to the notice of higher authorities.
- In case there is undue delay in lifting restraint order passed u/s 132(3), matter to be brought to the notice of higher authorities.
- In case any assessment/reassessment proceeding are pending before the Assessing Officer with respect to the person searched, a letter to the Assessing Officer regarding abatement of such proceedings.

6. Post Search Proceedings by the Authorised Officer

- Preparation of panchnama on completion of search.
- Lifting of restraint order passed u/s 132(3).
- To operate bank lockers and seizure of assets, if required.
- Recording of statement u/s 132(4) for seeking explaining of documents/undisclosed assets.
- To obtain break-up of surrendered income, if any.
- To collect records from different locations.
- To conduct third party inquiries/consequential survey if deemed appropriate.
- To send various reports to higher authorities.
- To prepare appraisal report.
- To prepare a suggestive questionnaire to be issued by Assessing Officer during assessment stage.
- To seek information/clarification from assessee on various issues.
- To institute prosecution in appropriate cases if deemed necessary.
- To recommend for the centralization of cases with appropriate jurisdiction.

7. Preparation Prior to Assessment Proceedings

After search and before receiving the notices for filing returns of income u/s 153A, assessee usually gets sufficient time which may be utilized for preparing himself for effective representation in assessment proceeding. For this purpose, the following points may be kept in mind:

- Filing the pending returns of income.
- Filing the objection for transfer of cases u/s 127.
- Organizing the books of account and other records relating to earlier six years properly.
- Ledgerization of transactions in case of individuals.
- Obtaining photocopies of seized documents.
- To prepare the explanation of the seized key documents.
- Filing pending returns of related persons.
- Going through the appraisal report, if possible.

- Proper accounting treatment and planning of surrendered income in the books of account.
- Payment of admitted taxes relating to the surrendered income if any.
- Filing of write to High Court, if required.

8. Desired Amendment/Clarification on Various Controversial Issues

8.1 Authorisation and conduct of search

- Presence of advocate/CA/consultant during search.
- Pressure not to be exercised by the departmental officers for surrender of undisclosed income.
- Non-seizure of jewellery even if mismatched but covered within overall quantum of jewellery disclosed.
- Opportunity to the assessee before issuing requisition u/s 132A.
- Supply of the copy of search warrant to the person searched.
- Furnishing of the copy of the statement recorded immediately/expeditiously.
- Uninterrupted business operations during search.
- Simplification of the provisions regarding authorization of search.
- Allowing photocopies of books of account seized by the authorized officer expeditiously.
- Revoking of restraint orders passed u/s 132(3) within 15-30 days instead of 60 days.
- Issue of summon u/s 131(1A) by the authorized officers to the person searched during post search enquiry.

8.2 Release of assets

- Immediate release of disclosed assets if seized during search.
- Release of seized assets against payment of cash or furnishing of bank guarantee.
- Adjustment of cash seized towards tax liability including advance tax.
- Payment of interest for delay in release of assets.

8.3 Assessment

- Recording of satisfaction by Assessing Officer of person searched as well as Assessing Officer of other person before assuming jurisdiction u/s 153C.
- No proceedings u/s 153C on the basis of seizure of disclosed assets/regular books of account of other person.
- Procedure for release of seized disclosed assets/regular books of account belonging to other person(s).
- No proceedings u/s 153C relating to the year(s) for which nothing has been seized.
- No proceedings u/s 153A relating to year(s) for which nothing has been seized.
- Prescribing the time limit for issuing notices u/s 153C.

- Rationalization of time barring assessment limit in case of proceedings u/s 153C/132A, when huge gap exists in intimation of action and conclusion of action/handing over the material.
- Nature of additions which can be made during assessment u/s 153A.
- Prescribing the time limit for issuing notices u/s 153A.

Discussion on any questions



