

① Sec 115 BBF Miscellaneous (Assessment Procedure) ①

1) Tax rate = 10% on royalty income

2) where total income includes income by way of Royalty.

3) Assessee — Resident.

4) No deduction of expenses

5) No MAS.

6) Dedⁿ of 300000 u/s 80RRB is available.

② Sec 115 BAB

1) Domestic Manuf. Comp

2) Rate = 17.16% [15% + 10% + 4%]

3) Rate of tax on income not derived from manufacturing (or) prodⁿ of any article (or) thing

= 25.168%

Note → • No dedⁿ is allowed.

• No dedⁿ u/s 24(a) - 30% in HP.

4) Rate of tax on STCG from transfer of Capital asset on which no depⁿ is allowed

= 25.168%

5) Setup on (or) after 1.10.2019

→ No additional depⁿ.

→ No MAS.

→ 80 JJA A allowed.

③ Sec 115 BAA

→ Any domestic comp.

→ Tax = 25.168%

→ It should not be a Manuf. Comp

→ Domestic comp exercising this option shall not be allowed to set off (or) brought forward loss of Additional depⁿ.

→ No Additional depⁿ

IF SC v/s 80LA → dedⁿ v/s 80LA is allowed.

→ No MAS.

→ 80 JJA A allowed.

④ Sec 115 BA

→ New Domestic comp

→ Rate = 25% + (surcharge, if applicable)

→ ~~set~~ setup enw after 1.3.2016

→ Engaged → Manufⁿ & Prodⁿ

→ MAS applicable

Advance Tax

2) if his Liability is 10000 or more

3) No Advance tax :-

Rest all cases
↓
more than 10000

- (a) who does not have PGBP income
- (b) Resident > 60 yrs.

Installment except UYAD / UYADA

pay Advance tax

on (a) Before 15 July	- 15% of Advance	} tax	To Check Liability
15 Sep	- 45%		12%
15 Dec	- 75%		36%
15 Mar	- 100%		75%
			100%

4) UYAD / UYADA

on (a) before 15th March - 100% of Adv. tax Liability.

1) Order can be made [u/s 210] if assessee has [not] paid [advance tax].

2) Order can be made upto [last day of Feb.]

3) No appeal against order of 210.

4) If [No TDS] is deducted of [salary], Advance Tax is to be paid.

Cont. →

① Sec 234A → Interest for delay in Filing ROI

Tax as per ROI

↳ TDS

↳ Advance Tax

↳ MAS credit

→ This is attracted automatic when the conditions are met and AO is not required to give notice.

Period
[Next date after ROI due date of ROI till actual date]

② Sec 234B → Int for Non Payment / Short Payment of Advance Tax

Not applicable → If assessee paid 90% (or) more of Advance Tax

Advance Tax short paid as per ROI × 1% per month (or) part × Period (from 1st April AY till actual date)

③ Sec 234C → Interest for deferment of Advance tax installment

No int if paid 12% in 1st^o installment & 36% in 2nd —

Defered Amt × 1% per month × 3 months for all installment (Except last)
1 month for last installment

④ Sec 234D → Int on Excess Refund granted

= Excess refund is repaid with int of 0.5% pm u/s 143(1)

⑤ Sec 244A → Int on refund by dept @ 0.5% pm

Appeals & Revision

① Assessee can ^{raise claim} Additional be' claims before the appellate authority.

② The restriction to make claims by raising filling revised return is na in case of Assessing officer.

↓
This restriction is not applicable to additional claim before NA.

② sec 255 → In case of diff b'twn members of bench, the matter is decided on the basis of majority of opinion of members.

→ If members are equally divided, the matter is heard by the President of the Tribunal.

② sec 254 → power of Appellate Tribunal to pass rectification order.

→ It's in two parts

→ The first part refers to suo moto exercise of power of rectification by Appellate Tribunal

→ The second part refers to rectification on an order application filled by the assessee (or) AO.

→ If Appellate Tribunal makes suo moto rectification of order, the order is to passed within 6 months from the end of the month.

2) where appli for rectification is made by (2) assessee (or) AO within 6 months,

the appellate tribunal can pass order after expiry of 6 months from the end of month.

3) Note -> Appli for rectification can't be filled after expiry of 6 months.

4) Sec 254 -> Stay of Demand

a) AO can grant stay of demand till disposal of appeals by CIT(A).

b) If AO does not grant stay, CIT(A) can grant.

c) JAS can grant stay of demand for orders pending before it.

1) It can grant stay for 180 days.

2) JAS has to pass order u/s 254 within 180 days.

3) If JAS does not pass order and there is no mistake of assesser.

JAS can extend the period. The period extended shall not exceed 365 days.

4) JAS has to pass order u/s 254 within 365 days. -> [The AO can attach the property & make recovery]

5) If order is not passed, order of stay shall be vacated after 365 days. [Even if appeal is not heard for bench not functioning (or) due to dept seeking adjournment.]

6) High Court & SC has no power to grant stay order.

① The ITAT has to pass order within the period.

② ITAT may decide on appeal within 4 years from the end of AY.

④ Sec 251 → Powers of CIT(A) in disposing of an appeal

① Power of CIT(A) against assessment order in respect of which proceedings before settlement Commission abates :- After considering :-

① the mat. & info produced by assessee before SC

② Results of inquiry

③ Evidence recorded by settlement Comm.

④ Such other mat.

⑤ Sec 268A → Monetary Limit

① CBS is empowered to issue orders, directions to other Income tax authority fixing the monetary limit, to regulate the filling of appeal.

② where Income tax authority has not filed any appeal because of above orders in any AY,

③ the authority is not precluded from filling an appeal in respect of same assessee in any other AY.

① Appeal to CIT (A) can be made against:- ②

- ① ~~AO~~ Ass. order v/s 143(3) except order passed v/s
- ② Ass. order v/s 147 (Income Escaping Ass.) 144 (BJA)
- ③ Search order v/s 153A (search)
- ④ Rectification order v/s 154/155 (Rectification)
- ⑤ Order imposing Penalty made by AO.
- ⑥ order v/s 201/206 (CA) → Penalty & interest for JDS / JCS.
- ⑦ order of Penalty v/s 271AAB (undisclosed income during search 30% / 60%)

2) Appeal to CIT (A) by assessee / deductor

- Ⓐ against intimation of 143(i) Processing of Return
- Ⓑ Against _____ v/s 200A (JDS)
- Ⓒ _____ v/s 206CB (JCS)

Note → Appeal to be made within 30 days from the date of notice (or) order. The Comm. can accept appeal after expiry of 30 days if he is satisfied that appellant had sufficient reason for not presenting the appeal.

③ Application filled before Commissioner of IT for revision

→ Commissioner shall not revise any order v/s 264 where an appeal against order lies before CIT (A) (or) ITAT and time limit has not expired unless the assesse has waived his right of appeal.

- ① Sec 263 → the Comm. of Income Tax can issue notice to revise the order passed by the AO u/s 143.
- ② "Record" includes all records relating to any proceeding available @ the time of examination by CIT.
- ③ CIT can revise the order on the basis of valuation report that came to records subsequent to assessment.
- ④ The info, material which came into existence afterwards can be taken into consideration.
- ⑤ But, any subsequent notice on the basis of material collected u/s 133A which is unrelated & irrelevant to issues is 'not' considered as Record.

② Circumstances where appellant has to produce Additional documents :-

o Rule 46A

- o where AO has refused to admit the evidence
- o where appellant was prevented to produce the evidence by sufficient cause when called upon.
- o ~~where appellant was prevented~~ the
- o where AO has made order appealed against without giving opportunity to the appellant.

① S.C held that once an order of assess. ⑥ is reopened,

the previous assess. is held to set aside and whole proceeding starts afresh.

the doctrine of Merger applies when the subject matter of assessment & Reassessment is same.

No order of s 263 can be passed after expiry of 2 years from the end of FY when order sought to be revised was passed.

② Sec 253 (4) → Memorandum of Cross objection

the respondent can file MCOA against any order of CIT(A).

It's an independent right given and it's in addition to Right to appeal.

It should be in prescribed form & manner & must be filed within 30 days from the date of receipt of notice of appeal.

there is no fee.

③ Revision of Order

s 263 provides if any order is subject matter of appeal it can't be revised.

Power of Commissioner to revise such matter which was not decided on appeal.

⑩ Sec 264 - Revision of Order other orders

⇒ The Principal Comm. shall not revise any order where appeal against order is pending in CIT(A).

⇒ And time limit of appeal is not expired.

⇒ But, if assessee has waived his right to appeal, Commissioner can revise the order.

Appeal to IJA

① CIT can make appeal :-

- 250
- imposing penalty
- 263
- CIT v/s 12AA
- → 1 - 80G
- order of AO v/s 143(3), 147, 153A
in directors of DRP
- order v/s 10(23C)
- Penalty order v/s 271J

⇒ Department can't challenge direction of DRP.

⇒ Appeal shall be filed within 60 days of receipt of order of CIT(A).

- ① on Question of Fact, order of ITAT is final order & no appeal to HC.
- ② A writ petition can be filed to HC challenging the fact finding process of ITAT.
- ③ if writ petition is dismissed by HC, the assessee can file special leave petition in SC.

③ Rule 29 → Additional document to ITAT

• ITAT can't accept additional evidence.

Exception :-

• where the Tribunal any additional document to pass the order.

• where the Tribunal has decided the case without giving opportunity to adduce the evidence.

• ITAT during rectification proceedings can't admit additional evidence.
(254)

High Court Appeal

- ① within 120 days.
- ② in form of memorandum of appeal specifying the question of law.

Contd.

① Sec 264 → Princ. Comm has no power ①
to revise any order which has been subject
matter of appeal, even if the relief claimed
in petition is different from relief claimed in
appeal.

→ the concept of total merger applies.

But, Sec 154 → any matter has been considered
& decided on appeal, the AO may amend
the order for rectification of mistake.
→ Concept of partial merger applies in Sec 154.

② Appeal by 17 dept- can be filed before

17 AJ	—	50 L	} when <u>amt</u> exceeds
HC	—	1 Cr	
SC	—	2 Cr	