CHAPTER 14

INCOME TAX AUTHORITIES



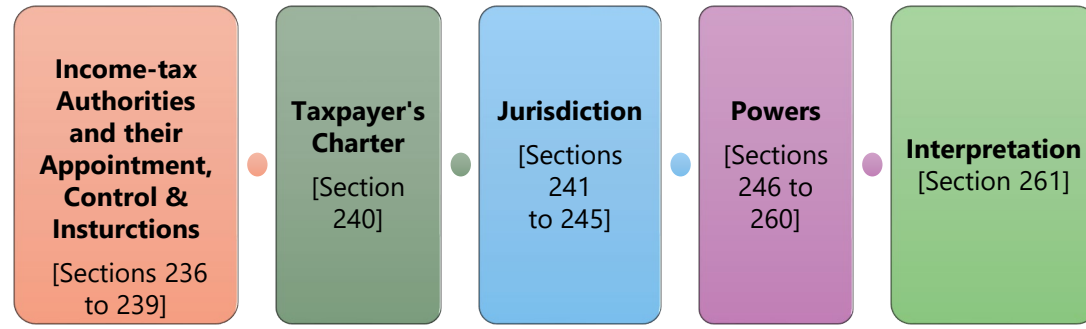
LEARNING OUTCOMES

After studying this chapter, you would be able to -

- **identify** the various income-tax authorities and comprehend the provisions of law relating to their appointment, control and jurisdiction;
- **appreciate** the powers of income-tax authorities under the Income-tax Act, 2025;
- **examine** the provisions relating to survey, search and seizure and the related powers of various income-tax authorities;
- **analyse and apply** such provisions to address related issues.

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CHAPTER OVERVIEW



14.1 INCOME TAX AUTHORITIES, APPOINTMENT AND CONTROL [SECTIONS 236 TO 239]

(I) Income-tax Authorities [Section 236]

The Income-tax Act provides for the following classes of income-tax authorities:

1. **Central Board of Direct Taxes (CBDT) or Board**-



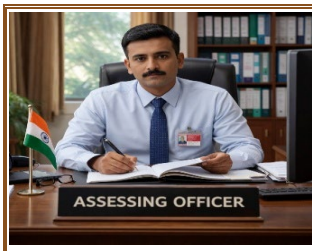
- ❖ A statutory body constituted under the Central Board of Revenue Act, 1963. It comprises of Chairman & Members.
- ❖ It functions under the Department of Revenue, Ministry of Finance.
- ❖ It is the highest executive authority, exercises control and supervision of the Income-tax Department.
- ❖ It is authorised to exercise certain powers conferred upon it by the Income-tax Act, 2025.
- ❖ The CBDT is empowered to make rules under section 533 subject to the control and prior approval of the Central Government, by notification, for carrying out the purposes of the Act.

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	Authority with the nomenclature "Director"	Authority with the nomenclature "Commissioner"
2.	**Principal Directors-General** of Income-tax (PDGIT)	**Principal Chief Commissioners** of Income-tax (PCCIT)
3.	**Directors-General** of Income-tax (DGIT)	**Chief Commissioners** of Income-tax (CCIT)
4.	**Principal Directors** of Income-tax (PDIT)	**Principal Commissioners** of Income-tax (PCIT)
5.	**Directors** of Income-tax (DIT)	**Commissioner** of Income-tax (CIT) or Commissioner of Income-tax (Appeals) [CIT(A)]
6.	**Additional Directors** of Income-tax (Add. DIT)	**Additional Commissioners** of Income-tax (Add. CIT) or Additional Commissioners of Income-tax (Appeals) [Add. CIT(A)]
7.	**Joint Directors** of Income-tax (JDIT)	**Joint Commissioners** of Income-tax (JCIT) ***or*** **Joint Commissioners** of Income-tax (Appeals)
8.	**Deputy Directors** of Income-tax (DDIT)	**Deputy Commissioners** of Income-tax (DCIT)
9.	**Assistant Directors** of Income-tax (ADIT)	**Assistant Commissioners** of Income-tax (ACIT)
10.	Income-tax Officers (ITOs)	
11.	Tax Recovery Officers (TROs)	
12.	Inspectors of Income-tax	

Note: *The Director cadre and Commissioner cadre are parallel administrative hierarchies under the Income-tax Department. Depending upon the nature of functions assigned, the Act confers corresponding powers upon authorities in either cadre.*

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As per section 2(12), **"Assessing Officer"** means

- ACIT or DCIT or ADIT or DDIT; or
- ITO who is vested with the relevant jurisdiction by virtue of directions or orders issued by CBDT u/s 241(1)/(2)/(3) or under any other provision of the Act; and
- the Add. CIT or Add. DIT or JCIT or JDIT who is directed u/s 241(5)(b) to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer.

(II) Appointment and Control of Income-tax Authorities [Sections 237 & 238]

(i) Section 237 empowers the **Central Government** to appoint such persons as it thinks fit to be income-tax authorities.



(ii) It may also authorise the Board or PDGIT/ DGIT/ PCCIT/ CCIT/ PDIT/ DIT/ PCIT/ CIT to appoint income-tax authorities below the rank of DCIT/ACIT.

(iii) An income-tax authority authorised by the CBDT may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

(iv) Section 238 authorises the CBDT to also direct, by way of notification, that any income-tax authority or authorities shall be subordinate to such other income-tax authority or authorities, as may be specified in such notification.

(III) Instruction to Subordinate Authorities [Section 239]

(i) The CBDT has been empowered under section 239 to issue orders, instructions and directions to its income-tax authorities for the proper administration of the Act.



(ii) It is obligatory for such authorities and all other persons employed in the execution of the Act to observe and follow such orders, instructions and directions of the CBDT.

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(iii) The CBDT, however, is **not empowered** to issue orders, instructions or directions in such a way as to –

(1) require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(2) interfere with the discretion of the Joint Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(iv) The CBDT may, if it considers necessary or expedient to do so, for the purpose of proper and effective management of the work of assessment and collection of revenue, issue **general or special orders** from time to time in respect of any class of incomes or class of cases.

Such orders may -

- lay down guidelines, principles or procedures to be followed by income-tax authorities in matters relating to assessment, collection of revenue or initiation of penalty proceedings; and
- where considered necessary in public interest, be **published and circulated for general information**.

Such orders shall not be prejudicial to the assessee.

Manner of publication and circulation of Board's order [Rule 147]

Where the Board considers it necessary in the public interest to publish or circulate any general or special order issued under section 239(3)(a), such order may be published or circulated in one or more of the following modes:

- publication in the **Official Gazette**;
- dispatch of copies to **Chambers of Commerce and other trade or professional associations** borne on the mailing list of the Board;
- display of copies on the **notice boards** of the offices of the Chief Commissioner, Commissioner, Joint Commissioner and Assessing Officer; or
- uploading the order on the **official website of the Income-tax Department** and circulation through the Department's **official social media handles or other digital outreach platforms**.

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(v) In appropriate cases, the CBDT may relax the operation of the following provisions by issuing general or special orders:

Section	Particulars of section
263	Filing of Return of income
270	Scrutiny Assessment of income
271	Best Judgment Assessment of income
279	Income escaping assessment
280	Issue of notice where income has escaped assessment
287	Rectification of mistake apparent on record
288	Other amendments
298	Levy of Interest and penalty in certain cases
398(3)	Interest for non-deduction of tax or non-payment of tax after deduction by such person/principal officer/company, as the case may be.
406	Payment of advance tax by the assessee of his own accord
407	Payment of advance tax by the assessee in pursuance of order of Assessing Officer.
408	Installments of advance tax and due dates
423	Interest for default in furnishing return of income
424	Interest for default in payment of advance tax
425	Interest for deferment of advance tax
427	Fee for default in furnishing of statement
428	Fee for default in furnishing return of income under section 263(1)
439	Penalty for underreporting and misreporting of income
448	Penalty for failure to deduct tax at source
449	Penalty for failure to collect tax at source

(vi) The CBDT is empowered to authorise any income-tax authority [other than the Joint Commissioner (Appeals) or Commissioner (Appeals)] by general or special order:

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- to avoid genuine hardship in any case or class of cases.
- to admit an application or claim for any exemption, deduction, refund **or any other relief under the Act**
- **after the expiry of the period specified under the Act** and dispose of the same on merits as per law.



The claim for carry forward of loss in case of late filing of a return is relatable to a claim arising under the category of "any other relief available under the Act".



Circular No. 11/2024 dated 1.10.2024

The CBDT has, vide this Circular, issued comprehensive guidelines for dealing with applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof, including the conditions for condonation and the procedure to be followed for deciding such matters.

(1) Monetary Limits: The Income-tax Authorities have vested with the powers of acceptance/rejection of such applications/claims upto certain threshold monetary limits:

Quantum of claim	Income-tax authority with whom powers of acceptance/rejection is vested
Where the claim is upto ₹ 1 crore for any one T.Y.	Principal CIT or CIT
Where the claim is above ₹ 1 crore but upto ₹ 3 crores for any one T.Y.	CCIT
Where the claim is above ₹ 3 crores for any one T.Y.	Principal CCIT

(2) Condonation of delay in verifying the return: The Commissioner of Income-tax, Central Processing Centre (CPC), Bengaluru shall be vested with the powers for acceptance/rejection of petitions under section 239(3)(b) of the Act seeking condonation of delay in verifying the return of

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income by sending the ITR-V to centralized processing Cell (CPC), Bengaluru within the prescribed time limit.

(3) Period for which application can be made: No condonation application for claim of refund/loss shall be entertained beyond five years from the end of the financial year for which such application/claim is made.

A condonation application should be disposed of within six months from the end of the month in which the application is received by the competent authority, as far as possible.

(4) Refund consequent to Court order: In a case where refund claim has arisen consequent to a Court order, the period for which any such proceedings were pending before any Court of Law shall be ignored while calculating the said period of five or six years, as the case may be, provided such condonation application is filed within six months from the end of the month in which the Court order was issued or the end of financial year, whichever is later.

(5) Application claiming additional amount of refund: A belated application for supplementary claim of refund (claim of additional amount of refund after completion of assessment for the same year) can be admitted for condonation provided other conditions as referred above are fulfilled. The powers of acceptance/rejection within the monetary limits delegated to the Principal CCIT/ CCIT/Principal CIT/CIT in case of returns claiming refund and supplementary claim of refund would be subject to the following further conditions:

(a) The income of the assessee is not assessable in the hands of any other person under any of the provisions of the Act.

(b) No interest will be admissible on belated claim of refunds.

(c) The refund has arisen as a result of excess tax deducted/collected at source and/or excess advance tax payment and/or excess payment of self-assessment tax as per the provisions of the Act.

(vii) If it is desirable to do so for avoiding genuine hardship in any case or class of cases, the CBDT is empowered to relax any requirement contained in provisions of **chapter IV** (relating to computation of total income) or **chapter VIII** (relating to deductions to be made in computing total income), where

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the assessee has failed to comply with any requirement specified for claiming deduction subject to the condition that

- the default in complying with the provisions was due to circumstances beyond the control of the assessee and
- that the requirement has been complied with before the completion of the assessment for that tax year.



CIT & Anr v. S.V. Gopala Rao & Others (2017) 396 ITR 694 (SC)

Issue: Does the CBDT have the power to amend legislative provisions through a Circular?

Decision: The CBDT does not have the power to amend legislative provisions in exercise of its powers u/s 239 of the Income-tax Act, 2025 by issuing a Circular.

(IV) Taxpayer's Charter [Section 240]

The CBDT shall adopt and declare a taxpayer's charter and issue orders, directions, instructions and guidelines to other Income tax authorities for the administration of such Charter.

Taxpayer's Charter
Income-tax department is committed to
1. **Provide fair, courteous, and reasonable treatment:** The Department shall provide prompt, courteous, and professional assistance in all dealings with the taxpayer.
2. **Treat taxpayer as honest:** The Department shall treat every taxpayer as honest unless there is a reason to believe otherwise.
3. **Provide mechanism for appeal and review:** The Department shall provide fair and impartial appeal and review mechanism.
4. **Provide complete and accurate information:** The Department shall provide accurate information for fulfilling compliance obligations under the law.
5. **Provide timely decisions:** The Department shall take decision in every income-tax proceeding within the time prescribed under law.

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6. **Collect the correct amount of tax**: The Department shall collect only the amount due as per the law.
7. **Respect privacy of taxpayer:** The Department will follow due process of law and be no more intrusive than necessary in any inquiry, examination, or enforcement action.
8. **Maintain confidentiality:** The Department shall not disclose any information provided by taxpayer to the department, unless authorized by law.
9. **Hold its authorities accountable:** The Department shall hold its authorities accountable for their actions.
10. **Choose representative:** The Department shall allow every taxpayer to choose an authorized representative of his choice.
11. **Provide mechanism to lodge complaint:** The Department shall provide mechanism for lodging a complaint and prompt disposal thereof.
12. **Provide a fair & just system:** The Department shall provide a fair and impartial system and resolve the tax issues in a time-bound manner.
13. **Publish service standards and report periodically:** The Department shall publish standards for service delivery in a periodic manner.
14. **Reduce cost of compliance:** The Department shall duly take into account the cost of compliance when **administering** tax legislation.

Income-tax department expects taxpayers to:

1. **Be honest and compliant:** Taxpayer is expected to honestly disclose full information and fulfil his **compliance** obligations.
2. **Be informed:** Taxpayer is expected to be aware of his compliance obligations under tax law and seek help of department if needed.
3. **Keep accurate records:** Taxpayer is expected to keep accurate records required as per law.
4. **Know what the representative does on his behalf:** Taxpayer is expected to know what information and submissions are made by his authorised representative.
5. **Respond in time:** Taxpayer is expected to make submissions as per tax law in timely manner.
6. **Pay in time:** Taxpayer is expected to pay amount due as per law in a timely manner.

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14.2 JURISDICTION

(I) Jurisdiction of income-tax authorities [Section 241]

Section 241 empowers the CBDT to regulate how income-tax authorities exercise their powers and functions under the Act. The Board may assign, delegate, or reassign jurisdiction based on territory, persons, income, or cases.

(i) **Income-tax authorities to exercise powers as per CBDT directions [Section 241(1)]:** Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on or assigned to, such authorities as per the directions issued by the CBDT (the Board) under the Act.

(ii) **Exercise of powers by higher income-tax authority [Section 241(2)]:** If the Board so directs, an income-tax authority higher in rank may exercise the powers and perform the functions of an authority lower in rank. Such direction shall be deemed to have been issued under section 241(1).

(iii) **Delegation of powers to subordinate authorities [Section 241(3)]:** The directions of the Board under section 241(1) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(iv) **Criteria for issue of directions [Section 241(4)]:** In issuing any directions or orders as referred in sub-section (1), (2) and (3) of section 241, the Board may have regard to the following criteria:

(a) Territorial area;

(b) Persons or classes of persons;

(c) Incomes or classes of incomes; and

(d) Cases or classes of cases.

(v) **Special authorisation by the Board [Section 241(5)]:** The CBDT may, either by way of a general or special order,

(a) authorize any PDGIT/DGIT/PDIT/DIT to perform such functions of any other income-tax authority as may be assigned to him.

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(b) empower the specified income-tax authority to issue orders in writing that the powers and functions conferred on, or assigned to, the Assessing Officer under this Act in respect of any specified area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed by an Add. CIT/ Add. DIT/ Joint CIT/ Joint DIT.

(vi) Assignment of powers of the Assessing Officer [Section 241(6)]: Where any order is made under sub-section (5)(b),

- references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to Add. CIT/ Add. DIT/ Joint CIT/ Joint DIT
- by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.

(vii) Concurrent jurisdiction [Section 241(7)]: The directions and orders referred to in sub-sections (1), (2) and (3) may, wherever considered necessary or appropriate for the proper management of work, **require two or more Assessing Officers (whether or not of the same class)** to exercise and perform, concurrently, the powers and functions in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, and –

(a) where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct; and

(b) references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(viii) Board's power for return furnishing and other compliances [Sections 241(8) & (9)]: Irrespective of anything contained in any direction or order issued under this section or section 242, the Board may issue directions (by notification) for the purpose of furnishing return of income or perform any

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other act or thing under this Act or Rules made thereunder by any persons or class of persons.

The income-tax authority responsible for exercising powers in respect of such persons or classes of persons shall be the authority specified in the notification issued by the Board. **[Section 241(9)]**

(II) Jurisdiction of Assessing Officers [Section 242]

Section 242 lays down the provisions relating to the territorial jurisdiction of the Assessing Officer, determination of questions relating to such jurisdiction, the time limit within which an assessee may challenge such jurisdiction and the powers exercisable by the Assessing Officer.

(i) **Persons in respect of whom Assessing Officer has jurisdiction:** Where an Assessing Officer has been vested with jurisdiction over any area, then within the limits of such area, he shall have jurisdiction:

(a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situated within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situated within the area; and

(b) in respect of any other person residing within the area.

(ii) **Income-tax Authorities higher in rank to determine question of Assessing Officer's jurisdiction:** Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the specified income-tax authority.

In case the question relates to an area within the jurisdiction of different specified income-tax authorities, then the question shall be determined by

(a) Specified income-tax authorities concerned; or

(b) by the Board or by such specified income-tax authority as the Board may, by notification, specify in this behalf, if they are not in agreement.

(iii) **Time limit within which the jurisdiction of the Assessing Officer can be challenged:** A person can call in question the jurisdiction of an Assessing Officer-

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S. No.	Case	Time Limit
(a)	where he has made a return under section 263(1)	- **before the expiry of one month from the date** on which he was served with a notice under section 268(1) i.e., Inquiry before assessment or 270(8) i.e., scrutiny notice or - **before the completion of the assessment**, whichever is earlier;
(b)	where he has made no such return	**before the expiry of the time allowed** - **by the notice** under section 268(1) or 280(2) for the making of the return or - by the notice under section 271(2) to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;
(c)	Where search is initiated under section 247 or books of accounts or other documents or any requisition under section 248	- **before the expiry of one month** from the date on which he was served with a notice under section 294(1)(a) i.e., block assessment or - before the completion of the assessment, whichever is earlier.

(iv) **Assessing Officer may refer matter for determination:** Where the assessee questions the jurisdiction of an Assessing Officer, then, the Assessing Officer shall, if not satisfied with the correctness of the claim refer the matter for determination **before the specified authority** as referred above before completing the assessment.

(v) **Jurisdictional Powers of Assessing Officer:** Irrespective of anything contained in section 242 or in any direction or order issued under section 241, every Assessing Officer shall have all the powers conferred under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the direction or order issued under section 241(1) or (2) or (3).

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(III) Power to transfer cases [Section 243]

Section 243 contains the provisions relating to the transfer of cases from one Assessing Officer to another. It specifies the circumstances in which such transfer may be made, the procedure to be followed before passing the transfer order and the effect of such transfer on pending proceedings.

(i) Power of specified income-tax authority to transfer cases: The specified income tax authority is authorized to transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

Transfer of case from one AO to another AO

(ii) Mutual agreement between higher authorities to transfer cases: There may be situations where the Assessing Officer(s) from whom the case is transferred and the Assessing Officer to whom the case is transferred are not subordinate to the same specified Income-tax authority and the concerned specified income-tax authorities -

Specified Income-tax Authority

For the purposes of sections 241, 242 and 243

PDGIT or DGIT or PCCIT or CCIT or PCIT or CIT

(a) **are in agreement,** then the specified income-tax authority from whose jurisdiction the case is to be transferred may pass the order.

(b) **are not in agreement,** the order transferring the case may be passed by the Board or any such specified income-tax authority as the Board may, by notification, specify in this behalf.

(iii) Opportunity of being heard before transfer of case: The order of transfer may be passed by the specified income-tax authority after giving the assessee a reasonable opportunity of being heard, wherever it is possible to do so and **after recording his reasons therefor.**

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Exception: However, if the case is transferred between Assessing Officers, where the offices of all such officers are situated in the same city or locality or place, then it is not necessary to give the assessee an opportunity of being heard.

(iv) Re-issue of notice not required: The transfer of a case may be made at any stage of the proceedings, and it is not necessary to re-issue any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

(v) Meaning of 'Case': For the purpose of section 241 and section 243, "case" in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

(IV) Change of Income-tax Authority [Section 244]

Section 244 provides for continuity of proceedings where the income-tax authority having jurisdiction is replaced by another authority. It also safeguards the assessee's right to seek reopening of earlier proceedings or rehearing before assessment.

(i) Stage from which the succeeding Income-tax authority would continue: In cases where an income-tax authority succeeds another income-tax authority, who ceases to exercise jurisdiction, then, the succeeding income-tax authority may continue the proceedings from the stage at which the proceedings was left by his predecessor.

(ii) Opportunity to be reheard: The assessee concerned may demand that before continuance of proceedings as in (i) above,

- ❖ the previous proceedings or any part thereof be reopened or
- ❖ he be reheard before passing of any assessment order against him.

(V) Faceless jurisdiction of Income-tax authorities [Section 245]

Section 245 empowers the Central Government to notify a scheme for faceless exercise of jurisdiction by income-tax authorities with a view to improving efficiency, transparency and accountability in tax administration.

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(i) Section 245(1) empowers the Central Government to make a scheme (by notification) for faceless jurisdiction of income-tax authorities for the following purposes -

(a) exercise of all or any of the powers and performance of all or any of the functions conferred on, or assigned to, income-tax authorities under this Act as referred to in 241;

(b) vesting the jurisdiction with the Assessing Officer under section 242; or

(c) exercise of power to transfer cases under section 243; or

(d) exercise of jurisdiction in case of change of incumbency under section 244,

(ii) As per section 245(2), the scheme referred herein above shall be made to impart greater efficiency, transparency and accountability by -

(a) eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases, with dynamic jurisdiction.

(iii) The Central Government, may by notification, direct that the provisions of the Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in that notification.

(iv) Every notification issued shall, as soon as may be after the notification is issued, be laid before each House of Parliament.



While section 532 confers a general power on the Central Government to frame schemes under the Act, section 245 is a specific provision relating to faceless jurisdiction of income tax authorities. Therefore, section 245 operates in addition to, and not in substitution of, the general power under section 532.

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14.3 POWERS OF INCOME TAX AUTHORITIES [SECTIONS 246 TO 261]

Powers of Income-tax Authorities [Sections 246 to 261]
• Power regarding discovery, production of evidence, etc [Section 246]
• Search and seizure [Section 247]
• Powers to requisition [Section 248]
• Reasons not to be disclosed [Section 249]
• Application of seized or requisitioned assets [Section 250]
• Copying, extraction, retention and release of books of account and documents seized or requisitioned. [Section 251]
• Power to call for information [Section 252]
• Power of survey [Section 253]
• Power to collect certain information [Section 254]
• Power to inspect registers of companies [Section 255]
• Power of certain income-tax authorities [Section 256]
• Proceedings before income-tax authorities to be judicial proceedings [Section 257]
• Disclosure of information relating to asssessees [Section 258]
• Power to call for information by prescribed income-tax authority [Section 259]
• Faceless collection of information [Section 260]
• Interpretation [Section 261]

(I) Powers regarding discovery, production of evidence etc. [Section 246]

(i) Income-tax Authorities to have same powers as vested in a Civil Court in certain matters [Section 246(1)]: The Assessing Officer, Joint CIT, Joint CIT (Appeals), CIT (Appeals), CIT or PCIT, or CCIT or PCCIT, and the Dispute

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Resolution Panel referred to in section 275(17)(a) shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, while dealing with the following matters:

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

Have powers vested in a Civil Court

(c) compelling the production of books of account and documents; and

(d) issuing commissions.

The powers aforementioned are normally those exercisable by a Court when it is trying a suit. While exercising these powers, the authorities act in a quasi-judicial capacity and ought to conform to the principles of judicial procedure.

(ii) Powers under section 246(1) to be exercised in certain cases, even if no proceeding is pending [Section 246(2)]: 246(2) empowers the following income tax authority to exercise the powers conferred under section 246(1) even when no proceedings with respect to such person or class of persons are pending:

S. No.	Income tax Authority	Purpose
(a)	Any income-tax authority (not below the rank of Assistant Commissioner of Income-tax),	for the purposes of making any inquiry or investigation in respect of an agreement referred to in section 159 i.e. an agreement entered with foreign country or specified territory for avoidance of double taxation or exchange of information
(b)	Principal Director General or Director General or Principal Director or Director or Joint Director or Assistant Director	for the purposes of making any inquiry or investigation in relation to any concealment of income, if he has reason to suspect that any income has been so concealed, or is likely to be so concealed by such person or class of persons within his jurisdiction;

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(c)	Authorised Officer referred to in section 247(1),	If he has reason to suspect that any income has been concealed or is likely to be concealed by such person or class of persons within his jurisdiction. Powers under this provision can be exercised before taking action under section 247(1)(i) to (vii) (relating to search and seizure of premises etc.) or during the course of such action.

(iii) Power to impound or retain books of account and other documents [Section 246(3) & (4)]: The income-tax authority is vested with the power to impound or retain in its custody for such period as it may think fit, any books of account or other documents produced before it in any proceeding under this Act.

The above power is available to every income-tax authority. However, in the case of the Assessing Officer and the Assistant Director, the exercise of such power is subject to the following conditions:

AO/AD can retain books or other documents for > 15 days with prior approval

(a) he must record his reasons for impounding books of account or other documents; and

(b) may retain such impounded books or documents upto 15 days (exclusive of holidays or for such further period, with prior sanction of the approving authority.

(II) Search and Seizure [Section 247]

Section 247 contains the provisions relating to search and seizure by the income-tax authorities. It lays down the circumstances in which search may be authorised, the authorities competent to authorise such search, the powers exercisable by the authorised officer and other incidental provisions relating to search and seizure.

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(i) 'Reason to believe' pre-requisite for conducting search and seizure [Section 247(1)]

Where the competent authority, in consequence of information in his possession, has reason to believe that:

(a) any person to whom[1] summons under section 246(1) or a notice under section 268(1) of this Act -

(i) was issued to produce, or cause to be produced, any books of account or other documents, or any information in electronic form or on a computer system, has omitted or failed to produce, or cause to be produced, such books of account or other documents or such information as required by such summons or notice; or

(ii) has been issued or might be issued, will not, or would not, produce or cause to be produced, any books of account or other documents, or any information in electronic form or on a computer system which will be useful for, or relevant to[2] any proceedings under this Act; or

(b) any person is in possession of any asset or information in relation to any asset and such asset represents either wholly or partly, income or property which has not been, or would not be, disclosed, for the purposes of[3] the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or this Act.

then the **approving authority** may authorise the **authorised officer** to perform search and seizure operations mentioned below in (III).

(ii) Competent Authority, Approving Authority and Authorised officer for the purpose of section 247(1)

Competent Authority	Approving Authority
• Principal Director General or the Director General; or • Principal Chief Commissioner or the Chief Commissioner; or	• Principal Director General or the Director General; or • Principal Chief Commissioner or the Chief Commissioner; or

[1] *summons under section 131(1) or a notice under section 142(1) of the Income-tax Act, 1961*
[2] any proceedings under the Income-tax Act, 1961
[3] *the Income tax Act, 1961*

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• Principal Director or the Director; or • Principal Commissioner or the Commissioner; or • Joint Director or the Additional Director; or • Joint Commissioner or the Additional Commissioner	• Principal Director or the Director; or • Principal Commissioner or the Commissioner;

The approving authority specified above may authorise "Authorised Officer" to conduct the search and seizure operations. "Authorised Officer" means –

- Joint Director or Joint Commissioner; or
- Assistant Director or Assistant Commissioner; or
- Income tax Officer,
- Joint Director or Joint Commissioner,

So authorised may authorise any Assistant Director or Assistant Commissioner or Income tax Officer .

(iii) Powers of Authorised Officer [Section 247(1)]

(A) Powers of the authorised officer during search[4]: The authorized officer is empowered to-

(i) **enter and search** any building, place, vessel, vehicle, aircraft where he has reason to suspect that such assets, books of account or other documents, or such information in electronic form or on a computer system are kept;



(ii) **require any person who is found to be in possession/control of any books of account or other documents/information** maintained in electronic form or on a computer system, to afford authorized officer with such reasonable technical and other assistance (including access code, by whatever name called) as may be necessary to enable the authorised officer to inspect such books of account or other documents or such information,

[4] *Procedure for authorisation and conduct of search are contained in Rule 148*

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(iii) **break open the locks** of any door, box, safe, almirah or other receptacle, or override the access code to any computer system for exercising the powers conferred by clause (i) where the keys thereof are, or the access to such building, place, etc., or the access code to such computer system, as the case may be, is not available

(iv) **search any person** who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, any information in electronic form, or a computer systems or asset

(v) **place marks of identification** on any books of account or other documents, or make or cause to be made extracts or copies therefrom and also from computer system;

(vi) **make a note or an inventory of any such asset**, and stock-in-trade of the business, found as a result of such search



(vii) **seize** any such books of account, other documents, computer systems or asset (other than stock-in-trade of the business), found as a result of such search.

Meaning of Important Terms [Section 261]

For the purposes of search and seizure provisions –

"Asset" includes any money, bullion, jewellery, virtual digital asset or other valuable article or thing, held in physical or virtual form. **[Section 261(b)]**

"Computer System" means computers, computer networks, computer resources, communication devices, digital or electronic data storage devices, used on stand-alone mode or part of a computer system, linked through a network, or utilised through intermediaries for information creation or processing or storage or exchange, and includes the remote server or cloud server or virtual digital space. **[Section 261(e)]**

"Virtual digital space" means an environment, area or realm, that is constructed and experienced through computer technology and not the physical, tangible world which encompasses any digital realm that allows users to interact, communicate and perform activities using computer systems, computer networks, computer resources, communication devices, cyberspace, internet,

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worldwide web and emerging technologies, using data and information in the electronic form for creation or storage or exchange and includes:

(i) email servers;

(ii) social media account;

(iii) online investment account, trading account, banking account, etc.;

(iv) any website used for storing details of ownership of any asset;

(v) remote server or cloud servers;

(vi) digital application platforms; and

(vii) any other space of similar nature.

Note: *One of the most significant changes under the Income-tax Act, 2025 is the express extension of search and seizure powers to the digital ecosystem. The authorised officer may now access information maintained in electronic form or on a computer system, require technical assistance, including access credentials, override access codes where necessary, and search assets held in both physical and virtual form. This amendment recognises the increasing use of digital platforms for maintaining financial information and strengthens the investigative powers of the income-tax authorities in the digital environment.*

(B) Power exercisable outside jurisdiction, if delay would be prejudicial to the interests of the revenue [Section 247(2)]:

If any building, place, vessel, vehicle, aircraft etc. is within the territorial jurisdiction of the PCC/CC/PC/CIT

- but such authority has no jurisdiction over the persons concerned and
- he has ***reason to believe*** that any delay in obtaining authorisation
- from the PCC/CC/PC/CIT having jurisdiction over the person

would be prejudicial to the interests of revenue then, he shall be competent to exercise powers u/s 247(1) irrespective of having no jurisdiction.

(C) Power to extend search to additional premises [Section 247(3)]: Where the PCC/CC/PC/CIT

- based on information in his possession,

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- has reason to suspect that any books of account, other documents, any information in electronic form or on a computer system, or any asset in respect of which an officer has been authorised to undertake search
- are or is kept in any building, place, vessel, vehicle or aircraft **not specified in the original authorisation**,

then such PCC/CC/PC/CIT may, irrespective of anything contained in section 241, **authorise the said officer** to exercise any of the powers specified in section 247(1)(i) to (vii) [referred in point (A)(i) to (vii) above] in respect of such building, place, vessel, vehicle or aircraft.

(D) Power with reference to valuable article or thing [Section 247(4)]:

(i) The authorised officer may serve an order

- on the owner or the person, who is in immediate possession or control of any valuable article or thing, other than stock-in-trade of the business,
- not to remove, part with or otherwise deal with it, **except with the previous permission of such authorised officer**,
- where it is not possible or practicable to take physical possession of such valuable article or thing and remove it to a safe place due to its volume, weight, or other physical characteristics or due to its being of a dangerous nature; and

Such action of the authorised officer shall be **deemed to be seizure** of such valuable article or thing under section 247(1)(vii).

(ii) the authorised officer may,

- where it is **not practicable** to seize, any books of account, other documents, asset, bank locker, bank account, or computer system, for reasons other than mentioned under para (i) above,
- serve a **prohibitory order** on the owner or the person who is in immediate possession or control thereof, not to remove, part with or otherwise deal with it except with the previous permission of such officer and such authorised officer may also take such steps as may be necessary for ensuring compliance with this clause;

Such prohibitory order shall remain in force for a period **not exceeding sixty days** from the date of the order.

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Serving of such order shall **not be deemed to be seizure** of such books of account, other documents, asset, bank locker, bank account or computer system under section 247(1).

(E) Other powers:

(i) Section 247(5) provide that the authorized officer may requisition the services of

- any police officer or any officer of Central Government or of both; or
- any person or entity as may be approved by the PCCIT/ CCIT/PDGIT/DGIT in accordance with prescribed procedure,

to assist him in carrying out the search operations and it shall be duty of every such officer or person or entity to comply with such requisition.

(ii) Section 247(6) provide that the authrorised officer may during the course of any search or seizure examine on oath:

- any person who is found to be in possession or control of any books or other documents, or asset, or any information in electronic form or on a computer system or having access to such computer system or
- any other person who is present in the premises or is being searched and -

(a) any statement made by such person, during such examination may thereafter be used in evidence in any proceeding under the Income-tax Act, 1961 or this Act;

(b) The examination of any person may be not merely in respect of any books of account or other documents or any information in electronic form or on a computer system or assets found as a result of the search but also in respect of all matters relevant for the purposes of any investigation under the Income-tax Act, 1961 or this Act.

(iv) Rebuttable Presumption [Section 247(7)]

Where any person is found to be in possession or control of any books of account or other documents, or asset, or any information in electronic form or on a

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computer system, or having access to such computer system in the course of a search, it may be presumed that:

(a) such books of account or other documents, or such information or asset or computer system belongs to such person;

(b) the contents of such books of account or other documents, or such information or computer system are true;

(c) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person;

(d) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested;

(e) that exchange of such information in electronic form, or on such computer system purported to be exchanged between any parties, is exchanged between the parties thereto.

It may be noted that this is a rebuttable presumption. On facts and with evidence the assessee may rebut the above presumption and prove that the facts are otherwise.

Relevant Cross References:

The rebuttable presumptions contained in **section 247(7)** have a wider application under the Act:

- **Section 524** extends these presumptions to **any proceeding under the Act** where books of account, documents, assets or electronic information are found during a search under section 247, a survey under section 253 or a requisition under section 248.
- **Section 489** makes these presumptions applicable in **prosecution proceedings** where such assets, books of account, documents or electronic information are tendered in evidence.

Presumption as to assets, books of account, etc. [Section 524]

(1) Where any books of account, other documents, money, bullion, jewellery, virtual digital asset or other valuable article or thing or any information in

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electronic form as defined in section 261(g) or on a computer system as defined in section 261(e) or any computer system containing the said information, is found in the possession or control of any person in the course of a search under section 247 or survey under section 253, it may, in any proceeding under this Act, be presumed—

(a) that such books of account, other documents, money, bullion, jewellery, virtual digital asset or other valuable article or thing such information or computer system belong or belongs to such person;

(b) that the contents of such books of account and other documents or such information or computer system are true;

Presumption

(c) that the signature and every other part of such books of account and other documents, which purports to be in the handwriting of any particular person, or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person;

(d) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested; and

(e) that exchange of such information in electronic form, or on such computer system purported to be exchanged between any parties, is exchanged between the parties thereto.

(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer as per section 248, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets, which had been taken into custody from the person referred to in sub-section (1)(a) or (b) or (c) of the said section, had been found in the possession or control of that person in the course of a search under section 247.

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(v) Presumption with regard to assets, books of account [Section 489]

(i) **Presumption with regard to books of account and other documents in search cases -** Section 489 provides that in case where, during the course of any search made u/s 247,

- any money, bullion, jewellery, virtual digital asset or other valuable articles or thing or any books of account or other documents or any information in electronic form or on a computer system or any computer system containing the said information has been found
- in the possession or control of any person and such assets or books of account or other documents or such information are tendered by the prosecution in evidence against such person and/or against any person who is convicted of an offence u/s 484,
- the provisions of section 247(7) shall apply, in relation to such assets, or books of account or other documents or such information.

Accordingly, it would be presumed that such books of account or other documents or assets or any information in electronic form or on a computer system belong to the person in whose control or possession they were found at the time of search and also that the contents of such books of account and other documents or information etc. are true.

(ii) **Presumption with regard to books of account and documents in case of requisition -** Similarly, in cases where any assets or books of account or other documents or any information in electronic form or on a computer system or any computer system containing the said information taken into custody

- from the possession or control of any person by the officer or authority specified in section 248(1)(a) or (b) or (c) and
- these are delivered to the requisitioning officer under section 248(2),

it would be presumed that the presumption similar to the one mentioned earlier would operate in these cases as well.

(iii) **Presumption rebuttable -** It would be for assessee to rebut the presumption wherever necessary by producing cogent and reliable evidence.

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(vi) Provisional attachment of property [Section 247(8)]

For the purpose of protecting the interests of the revenue and safeguarding recovery in search cases-

(a) the authorized officer **during the course of search or seizure** or within a period of **sixty days** from the date on which the last of the authorisations for search was executed is satisfied for **reasons to be recorded in writing**, it is necessary so to do, he may **with the prior approval** of PDGIT/ DGIT/ PDIT/ DIT, by order in writing, **attach provisionally any property belonging to the assessee**;

(b) Such **provisional attachment shall be valid for six months** from the end of the month in which the order of provisional attachment is made, and the rules in this behalf made under section 413 shall, *mutatis mutandis*, apply to such provisional attachment.

(vii) Reference to Valuation Officer or any other person or entity [Section 247(9)]

The authorised officer may, during the course of the search or seizure or within a period of 60 days from the date on which the last of the authorisations for search was executed, make a reference to:

- a Valuation Officer or
- any person registered as a valuer under section 514, or
- any person or entity registered by or under any law in force, as may be approved by PCCIT/ CCIT/ PDGIT/ DGIT in accordance with the prescribed procedure

For the following purposes:

(a) estimate the fair market value of the property in the prescribed manner[5] and

(b) submit a report of the estimate to the authorised officer or the Assessing Officer **within 60 days from the date of receipt of such reference.**

Note - *The valuation obtained under this provision assists the income-tax authorities in determining the value of the property discovered during the search and facilitates appropriate assessment and recovery proceedings.*

[5] *Manner of valuation of property is prescribed in Rule 150*

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Last of authorisation for search [Section 261(f)]

For the purpose of this section, "date on which the last of the authorisations for search was executed" means: -

(a) in the case of search, the date of conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(b) in the case of requisition under section 248, the date of actual receipt of the books of account or other documents or computer system or assets by the requisitioning officer.

(viii) Applicability of BNSS [Section 247(10)]

The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 relating to searches and seizure shall, ***as far as possible***, apply to the searches and seizures under this section.

(ix) Rules providing for procedure to be followed by Authorised Officer [Section 247(11)]

The Board may make rules in relation to any search or seizure under this section and may provide for the procedure to be followed by the authorised officer—

(a) for **obtaining ingress** into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available; and

(b) for **ensuring safe custody** of any books of account or other documents or asset, or any information in electronic form or on a computer system, or a computer system seized.

(x) Meaning of 'Proceeding' [Section 247(12)]

For the purpose of this section, the word "proceeding" means any proceeding in respect of any year, whether under the Income-tax Act, 1961, or this Act –

- which may be pending on the date on which a search is authorised under this section or
- which may have been completed on or before such date and
- includes also all proceedings under this Act which may be commenced after the date of authorisation of search in respect of any year.

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(III) Powers to requisition [Section 248]

Section 248 empowers the specified income-tax authorities to requisition books of account, other documents, information in electronic form or on a computer system, or assets that have been taken into custody by any officer or authority under any other law, where the prescribed conditions are satisfied.

(i) Requirement of "reasons to believe" for requisition of books of account [Section 248(1)]

Where the approving authority, in consequence of information in his possession, has **reason to believe** that-

(a) any person to whom a summons[6] under section 246(1), or notice under section 268(1) of this Act was issued

- to produce, or cause to be produced, any books of account or other documents, or any information in electronic form or on a computer system
- **has omitted** or **failed to produce**, or cause to be produced, such books of account or other documents, or such information as required by such summons or notice and
- the said books of account or other documents, or any computer system containing the said information have been taken into custody by any officer or authority under any other law for the time being in force; or

(b) any books of account or other documents, or any information in electronic form or on a computer system will be useful for, or relevant to, any proceeding[7] under this Act and

- 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, such books of account or other documents, or such information
- on the return of such books of account or other documents or computer system containing such information by any officer or authority by whom or by which such books of account or other documents or computer

[6] *under section 131(1) or a notice under section 142(1) of the Income-tax Act, 1961*
[7] *under the Income-tax Act, 1961*

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system containing the said information have been taken into custody under any other law for the time being in force; or

(c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of[8] this Act

- by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force

then, the approving authority may authorise any Joint DIT/ Joint CIT/ ADIT/ ACIT / ITO (referred to as the 'requisitioning officer') to require the officer or concerned authority referred in (a) to (c) above, to deliver such assets or books of account or other documents, or computer system containing such information to the requisitioning officer.

(ii) Delivery of books of accounts to the Requisition Officer [Section 248(2)]

On a requisition being made under (i) above, the officer or authority referred above, shall deliver such assets or books of account or other documents, or computer system containing such information to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(iii) Certain provisions relating to search to apply in case of requisition also [Section 248(3)]

Where any assets or books of account or other documents, or computer system containing such information have been delivered to the requisitioning officer, the provisions of sections 247(4)(b), 247(7) to (11), 250 and 251 shall, so far as may be, apply as if:

- such books of account or other documents, or computer system containing such information or assets had been seized under section 247 by the requisitioning officer and
- for the words **"the authorised officer"**, occurring in any of the sections 247(4)(b), 247(7) to (11), 250 and 251, the words "the requisitioning officer" were substituted.

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[8] *the Income-tax Act, 1961*

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(IV) Authorisation and assessment in case of search or requisition [Section 525]

Irrespective of anything contained in the Act-

(a) It shall not be necessary to issue an authorisation under section 247 or make a requisition under section 248 separately in the name of each person

(b) Where such authorisation or requisition mentions name of more than one person, the mention of names of more than one person shall not be deemed to construe that it was issued in the name of association of persons or body of individuals consisting of such persons.

(c) Irrespective of such authorisation or requisition mentioning name of more than one person, the assessment/ reassessment shall be made separately in the name of each of the persons mentioned in it.

(V) Reasons not to be disclosed [Section 249]

The need for this provision arose because the Commissioner of Income-tax (Appeals) & Benches of the Income-tax Appellate Tribunal, in the context of appeals before them, started demanding copies of "reasons to believe" in search, seizure and requisition cases, which the Income Tax Department had not been giving to them on ground of secrecy.

In view of above, section 249 provides that the reason to believe or reason to suspect, as referred to in section 247 or 248, recorded by the income-tax authority shall **not be disclosed** to any person or authority or the Appellate Tribunal.

(VI) Application of seized or requisitioned assets [Section 250]

(i) Permissible adjustment of assets seized or requisitioned [Section 250(1)]

The amount of liabilities that may be recovered out of the assets seized under section 247 or requisitioned under section 248 are shown below:

Liability	Particulars
Existing liability	Any existing liability under the Income-tax Act, 2025, the Income-tax Act, 1961 or the Black Money (Undisclosed

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	Foreign Income and Assets) and Imposition of Tax Act, 2015, in respect of which the person is in default or deemed to be in default. **However, "existing liability" does not include advance tax payable under Part C of Chapter XIX.**
Liability determined on assessment	Liability determined on - completion of the assessment or reassessment or recomputation and - the assessment of the year relevant to the tax year in which search is initiated or requisition is made, or - completion of the assessment under Part B of Chapter XVI for the block period, (including any penalty levied or interest payable in connection with such assessment), and in respect of which such person is in default or is deemed to be in default;

(ii) Manner of application of assets seized [Section 250(4), (5) & (6)]

If the assets consist solely of money or partly of money and partly of other assets, the Assessing Officer may apply the money in discharge of the liabilities mentioned above. The assessee shall be discharged of such liability to the extent of the money so applied.

Application of asset seized

The assets other than money may also be applied for the discharge of such liabilities which still remains undischarged. For this purpose, such assets shall be **deemed to be under distraint**[9], as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorisation from the PCCIT/ CCIT/ PCIT/ CIT under section 416(7) and the recovery of any liability out of such assets shall be effected in the prescribed manner.

Further, the mode of recovery of liabilities under sub-section (1) shall not preclude[10] the recovery of liabilities aforesaid by any other mode laid down in this Act.

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[9] *It means taking legal control or possession of a person's property for the purpose of recovering an amount that the person is liable to pay.*

[10] *means does not prevent the income-tax authorities from using any other recovery method available under the Income-tax Act, 2025*

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(iii) Release of remaining assets [Section 250(7)]

Any assets or the proceeds thereof remaining after adjustment of the liabilities referred to in section 250(1) shall be released to the person from whose custody the assets were seized.

(iv) Release of seized asset [Section 250(2)]

The Assessing Officer may release the assets seized as referred to in sub-section (1) or portion of such asset to the person from whose custody the assets were seized on an application made by the person concerned **within thirty days from the end of the month in which the asset was seized**, on fulfilment of the following requirements:

(a) after being satisfied on the basis of explanation furnished by such person that the nature and source of acquisition of such assets is explained;

(b) after recovering any existing liability referred to in sub-section (1) out of such assets; and

(c) after obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

Note: The assets shall be released **within 120 days from the date on which the last authorisation for search or requisition was executed. [Section 250(3)].**

(vi) Interest on excess seized assets [Section 250(8) & (9)]

The Central Government shall pay **simple interest at ½%** for every month or part of a month, for the period on the amount determined as per the following formula-

(A - B) + (C - D)

Where-

A = aggregate amount of money seized u/s 247or requisitioned u/s 248

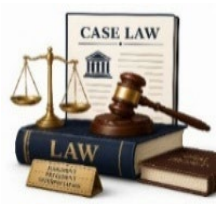
B = amount of money, if any released u/s 250(2)

C = sale proceeds of assets, if any, sold towards discharge of liability u/s 250(1)

D = aggregate amount required to meet liabilities referred to u/s 250(1).

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Period = from the date immediately following the expiry of 120 days from the date on which the last of the authorisations for search u/s 247 or requisition u/s 248 was executed to the date of completion of assessment/ reassessment/ recomputation.



Hemant Kumar Sindhi & Another v. CIT (2014) 364 ITR 555 (All)

Issue: Can the assessee's application for adjustment of tax liability on income surrendered during the search by sale of seized gold bars, be entertained where assessment has not been completed?

Analysis & Decision: Consequent to a search in the premises of the assessee, some gold bars were seized from the locker. The assessee voluntarily disclosed some income during the course of search. The assessee filed an application for sale of the gold bars and adjustment of tax liability on undisclosed income out of the sale proceeds.

Section 250(1) uses the expression "the amount of any existing liability" and "the amount of the liability determined". The words "existing liability" postulates a liability that is crystallized by adjudication; Likewise, "a liability is determined" only on completion of the assessment. Until the assessment is complete, it cannot be postulated that a liability has been crystallized.

As per section 250(2), the assessee may make an application to the Assessing Officer for release of the assets seized. However, he has to explain the nature and source of acquisition of the asset to the satisfaction of the Assessing Officer. It is not the *ipse dixit* of the assessee but the satisfaction of the Assessing Officer on the basis of the explanation tendered by the assessee which is material.

Only when the liability is determined on the completion of assessment that it would stand crystallized and in pursuance of which a demand can be raised and recovery can be initiated. Therefore, in the present case, section 250(2) would not be attracted.

(VII) Copying, Extraction, Retention and Release of Books of Account and Documents Seized or Requisitioned [Section 251]

Section 251 lays down the procedure relating to the copying, extraction, retention and release of assets and material seized under section 247 or requisitioned under section 248. It provides for handing over of such assets and material to the jurisdictional Assessing Officer where required, the right of the person concerned to make copies or

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take extracts, the period for which such assets and material may be retained, and the remedy available against extended retention.

(i) Handing over of seized or requisitioned assets and material to the jurisdictional Assessing Officer [Section 251(1)]: Where the authorised officer referred to in section 247(1) does not have jurisdiction over the person referred to in section 247(1)(a) or (b), the assets and material seized or requisitioned under sections 247(1) to 247(4) shall be handed over to the Assessing Officer having jurisdiction over such person **within 180 days** from the date on which the search is initiated under section 247 or the requisition is made under section 248.

Thereafter, the jurisdictional Assessing Officer shall exercise the powers relating to copying, extraction and retention under sub-sections (2) and (3).

(ii) Right to obtain copies or extracts of seized material [Section 251(2)]: The authorised officer shall, on an application made by the person from whose custody any material has been seized or requisitioned, permit such person, in the presence of the authorised officer or any other person authorised by him, to-

- make copies of such material; or
- take extracts therefrom,

at such place and time as may be appointed by the authorised officer.

(iii) Retention of seized or requisitioned assets and material [Section 251(3)]: The authorised officer may retain the assets and material seized or requisitioned under sections 247 or 248:

(a) up to **one month from the end of the quarter** in which the order of assessment, reassessment or recomputation is made under section 270(10), section 271, section 279 or section 294(1)(c); or

(b) beyond the above period, after-

- recording the reasons in writing; and
- obtaining the approval of the approving authority.

(iv) Restriction on retention beyond completion of proceedings [Section 251(4)]: The approving authority shall not allow retention of the seized or requisitioned assets and material beyond **thirty days from the date on which all the proceedings** under the Income-tax Act, 1961 or the Income-tax Act, 2025, in respect of the relevant years, have been completed.

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(v) Remedy against approval for prolonged retention [Section 251(5)]: Where a person legally entitled to the seized or requisitioned assets and material, objects for any reason, to the approval granted by the approving authority for retention under section 251(3)(b), he may make an application to the Board-

- stating therein the reasons for such objection; and
- requesting for the return of the seized or requisitioned assets and material.

The Board may, after giving the applicant an opportunity of being heard, pass such order as it thinks fit.

(VIII) Power to call for information [Section 252]

(i) Details of information to be furnished by different persons

The Assessing Officer, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals)] may, for the purposes of the Act, require the following person to furnish the following information -

S. No.	Person	Information to be furnished
(1)	Any person, including a banking company or any officer thereof	Requisite information or statements of account and affairs verified in such manner specified by such authority, giving such information in relation to such matters as, in the opinion of such authority, will be useful for, or relevant to, any enquiry or proceedings under this Act. **The power under this clause may also be exercised by the competent authority or the Assistant Director. [Section 252(2)]**
(2)	Firm	A return of the names and addresses of the partners of the firm and their respective shares.
(3)	Hindu undivided family	A return of the names and addresses of the manager and the members of the family.
(4)	A person whom he has	A return of the names and addresses of the

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	reason to believe to be a trustee, guardian or agent	persons for or of whom he is trustee, guardian or agent.
(5)	Any assessee	A statement of the names and addresses of all persons to whom he has paid in any tax year rent, interest, commission, royalty or brokerage, or any annuity (other than an annuity chargeable under the head **"Salaries"**) exceeding ₹ 10,000, or such higher amount as may be prescribed, together with particulars of all such payments made.
(6)	Any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange	A statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts.

(ii) Exercise of power by the Income-tax authorities [Section 252(3)]

The powers u/s 252(1)-

(a) shall not be exercised by any income tax authority below the rank of PDIT/ DIT/PCIT/ CIT, *other than* Joint DIT/ ADIT, without prior approval of PDIT/ DIT/PCIT/CIT, **where no proceeding is pending.**

(b) may be exercised by an income tax authority notified by the Board u/s 246(2)(a) [not below the rank of ACIT]:

- for the purpose of an agreement with foreign countries for double taxation relief referred to in section 159
- even if no proceedings are pending before it or any other income tax authority.

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(IX) Powers of Survey [Section 253]

Section 253 empowers the income-tax authorities to conduct survey operations for inspecting books of account, documents and information in electronic form, checking or verifying assets and stock, collecting relevant information and ensuring compliance with the provisions of the Act. Unlike a search under section 247, a survey is primarily intended for inspection, verification and information gathering. However, the income-tax authority may, subject to the prescribed conditions, impound books of account, documents or a computer system. The authority is specifically prohibited from removing any asset or stock from the place where the survey is conducted.

(i) Power to enter a place within jurisdiction and call information [Section 253(1)]

Power of survey

An income-tax authority may enter any place at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, where such place:

(a) is within the limits of the area assigned to such authority, or

(b) is occupied by any person in respect of whom such authority exercises jurisdiction, or

(c) in respect of which such authority authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,

and, upon entry into such place, may require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose-

(i) to provide the necessary technical and other assistance (including access code) to enable the inspection of such books of account or other documents

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or information in electronic form or on a computer system as the authority may require and which may be available at such place;

(ii) to provide the necessary facility to check or verify the asset, stock, which may be found therein; and

(iii) to furnish such information as such authority may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

(ii) Meaning of "place where business, profession or activity for charitable purpose is carried on" [Section 253(2)]

A place where a business or profession or activity for charitable purpose is carried on shall also include-

- any other place, whether any business or profession or activity for charitable purpose is carried on therein or not,
- in which the person carrying on the business or profession or activity for charitable purpose states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing or computer system relating to his business or profession or activity for charitable purpose are kept.

(iii) Permitted time for conduct of survey [Section 253(3)]

An income-tax authority may enter

- **any place of business or profession mentioned above -** only during the hours at which such place is open for the conduct of business or profession or activity for charitable purpose and,
- **in the case of any other place,** only after sunrise and before sunset**.**

Business place - during office hours or

In any other place - only after sunrise and before sunset

For example, if a place is open for business from 11 a.m. to 11 p.m., an income tax authority may enter at 10 p.m. for survey operations. Once validly commenced during business hours, the survey may continue even after business hours.

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(iv) Survey for verification of compliance with TDS/TCS provisions [Section 253(4)]

An income-tax authority may, for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions of Chapter XIX-B of this Act, enter-

(a) any office, or a place where business or profession or activity for charitable purpose is carried on, within the limits of the area assigned to such authority, or

(b) any such place in respect of which such authority is authorised for the purposes of this section by an income-tax authority who is assigned the area within which such place is situated or where books of account or documents, or a computer system are kept.

The income-tax authority may, for this purpose enter an office, or a place where business or profession is carried on **after sunrise and before sunset.**



Further, such income-tax authority may require the deductor or the collector or any other person who may at the time and place of survey be attending to such work,-

(a) to provide the necessary technical and other assistance (including access code) to enable the inspection of such books of account or other documents, or information in electronic form or on a computer system, as may be required and which may be available at such place; and

(b) to furnish such information as may be required in relation to such matter.

(v) Permissible and impermissible acts while conducting survey [Section 253(5)]

An income-tax authority may —

(a) **place marks of identification** on the books of account or other documents inspected by such authority and take extracts and copies therefrom or from any computer system;

(b) **record the statement of any person on oath** which may be useful for, or relevant to, any proceedings under this Act;

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(c) **impound, after recording reasons** in writing, any books of account, other documents or computer system inspected during the survey and **retain** the same-

- up to **15 days (excluding holidays)**; or
- for a period exceeding **15 days (excluding holidays)** with the prior approval of the PDGIT/DGIT/PCCIT/CCIT/PDIT/DIT/PCIT/CIT.

(d) make an inventory of any asset or stock checked or verified by such income-tax authority.

Meaning of Asset

As per section 261(b), "asset" includes any money, bullion, jewellery, virtual digital asset or other valuable article or thing, held in physical or virtual form.

(vi) Restriction on powers during TDS/TCS survey [Section 253(6)]

Where the survey is conducted solely for verifying compliance with the provisions relating to deduction or collection of tax at source under section 253(4), the income-tax authority may exercise only the powers referred to in clauses (a) and (b) of section 253(5).

Accordingly, such authority **cannot -**

- impound or retain any books of account, other documents or computer system; or
- prepare an inventory of any assets or stock.

(vii) Prohibition on removal of assets or stock [Section 253(7)]

An income-tax authority acting under this section shall not remove or cause to be removed from the place wherein it has entered, any asset or stock.

Income-tax Authority cannot remove any asset or stock.

(viii) Power to collect information and record statements in connection with any function, ceremony or event [Section 253(8)]

The income-tax authority having regard to the nature and scale of expenditure incurred, for the purposes of verifying the expenditure made by the person in

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connection with any function, ceremony or event, if it is of the **opinion** that it is necessary and expedient to do so, after such function, ceremony or event, may -

(a) require the person by whom such expenditure has been incurred or any other person who is likely to possess the information regarding such expenditure, to furnish such information which may be useful for, or relevant to, any proceeding under this Act;

(b) record the statements of the person or any other person **on oath** in this behalf; and

(c) any statement so recorded may thereafter be used as evidence in any proceeding under this Act.

(ix) Power to enforce compliance [Section 253(9)]

If a person who is required to provide facility to the income-tax authority, either refuses or evades-

- to inspect the books of account or the other documents in any form, or any computer system or
- to check or verify any cash, stock or other valuable article or thing or
- to furnish any information or
- to have his statement recorded,

the income-tax authority shall have all the powers under section 246(1) for enforcing compliance with the requirement.

(x) Prior approval for conducting survey [Section 253(10)]

The action under this section shall be taken by an income-tax authority with the prior approval of PDGIT/ DGIT/ PCCIT/ CCIT.

(xi) Meaning of 'income-tax authority' and 'proceeding' under this section [Section 253(11)]

(A) "income-tax authority" means—

(a) a PCIT/ CIT/ PDIT/ DIT/ Joint CIT/ Joint DIT/ Assistant Director/ Deputy Director/ AO/ TRO and

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(b) includes an Inspector of Income-tax, for the purposes of 253(1)(i), section 253(5)(a) and section 253(8),

who is subordinate to PDGIT/ DGIT/ PCCIT/ CCIT, as specified by the Board;

(B) "proceeding" means any proceeding under this Act in respect of any year which may be pending

- on the date on which the powers under this section are exercised or
- which may have been completed on or before such date and
- includes also all proceedings under this Act which may be commenced after such date in respect of any year.

(X) Power to collect certain information [Section 254]

Section 254 empowers specified income-tax authorities to collect information that may be useful for, or relevant to, the purposes of the Act. For this purpose, the authority may enter specified buildings or places where a business or profession is carried on and require the proprietor, employee or other person present to furnish prescribed information. Such entry is permitted only during the hours when the premises are open for the conduct of business or profession. The authority is not permitted to remove any books of account, documents, cash, stock or other valuable article or thing from the premises.

(i) Irrespective of anything contained in any provision of this Act, an income-tax authority may, for the purpose of collecting any information which may be useful for, or relevant to, the purposes of this Act, enter-

(a) any building or place situated within the limits of the area assigned to such authority; or

(b) any building or place occupied by any person in respect of whom such authority exercises jurisdiction,

where a business or profession is carried on, irrespective of whether such place is the principal place or not of the business or profession.

(ii) The income-tax authority may require any proprietor, employee or any other person who may at the time and place be attending in any manner to or

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helping in carrying on such business or profession to furnish such information as may be prescribed.

(iii) The income-tax authority **may enter** any place of business or profession referred to above **only during the hours at which such place is open for business or profession.**

(iv) Such authority **shall on no account remove or cause to be removed** from the building or place wherein he has entered any books of account or other documents or any cash or stock or other valuable article or thing.

(v) For this section, 'income-tax authority' means

- a Joint CIT/ Joint DIT/ ADIT/ AO and
- an Inspector of Income-tax who has been authorised by the Assessing Officer to exercise the power conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or any part thereof.

(vi) **Penalty under section 466 for failure to furnish the prescribed information:** Failure to furnish the prescribed information as required as per section 254 would attract penalty of upto ₹ 25,000 under section 466. Such penalty is imposable by the Joint CIT or DDIT or ADIT or AO.

(XI) Power to inspect registers of companies [Section 255]

Section 255 empowers the income-tax authorities to inspect the statutory registers maintained by companies for the purpose of carrying out proceedings under the Act.

The Assessing Officer, Assessment Unit, Verification Unit, Joint CIT or Joint CIT (Appeals) or the CIT (Appeals), or any person subordinate to such officer or authority and authorised by him in writing, may:

- inspect and if considered necessary, take copies or cause copies to taken
- of any register of members, debenture holders or mortgagees of any company or of any entry therein.

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(XII) Other powers [Sections 256 and 257]

Power of certain income-tax authorities to make enquiries [Section 256]: The PDGIT/ DGIT/ PDIT/ DIT/ PCCIT/ CCIT/ PCIT/ CIT and the Joint CIT are competent to make any enquiry under this Act and for this purpose they shall have the powers that an Assessing Officer has under this Act in relation to the making of enquiries.

Proceedings before income-tax authorities to be judicial proceedings [Section 257]: Any proceeding under this Act before an income-tax authority shall be **deemed as a judicial proceeding** within the meaning of sections 229 and 267 and for purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023.

An income-tax authority shall be deemed to be a Civil Court for the purposes of section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023, but not for the purposes of Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023.

(XIII) Disclosure of information relating to assessees [Section 258]

Section 258 provides the circumstances in which information relating to an assessee, obtained by an income-tax authority in the discharge of its functions under the Act, may be disclosed to specified authorities or other persons. It also empowers the Central Government to prohibit disclosure of information relating to specified classes of assessees.

(i) Disclosure of information to specified authorities [Section 258(1)]: The Board, or any other income-tax authority specified by it by an order in this behalf, may furnish or cause to be furnished any information received or obtained by an income-tax authority in the performance of its functions under this Act, where such information is considered necessary for enabling the recipient to perform its functions under the relevant law, to-

(a) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess or dealings in "foreign exchange" as defined in Foreign Exchange Management Act 1999.

(b) such officer, authority or body performing functions under any other law, if in the opinion of Central Government it is necessary to do so in

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public interest and specifies such officer, authority or body by notification.

(ii) Disclosure of information on application by a person [Section 258(2)]: The PCCIT/ CCIT/ PCIT/ CIT may furnish or cause to be furnished to a person, the information relating to any assessee received or obtained by an income tax authority in the performance of his functions under the Act

- on an application made by such person in prescribed form and on being satisfied that it is in the public interest to do so **and**
- the decision of the PCCIT/ CCIT/ PCIT/ CIT, in this behalf, shall be final and **not be called in question in any court of law.**

(ii) Restriction on disclosure of information relating to specified classes of assessees [Section 258(3)]: Irrespective of anything contained in sub-sections (1) and (2) or in any other law for the time being in force, the Central Government may (having regard to practices and usages, customary or any other relevant factors), by notification direct that

- no information or documents shall be furnished or produced by a public servant in respect of such matters
- relating to such class of assessees except to such authorities as may be specified in the notification.

(XIV) Prescribed income-tax authorities empowered to call for information [Section 259]

Section 259 empowers the prescribed income-tax authority to call for information for the purpose of verifying information already available with it. The information so collected may thereafter be processed and utilised in accordance with the faceless scheme notified under section 260.

(i) Power to call for information [Section 259(1)]: For verification of information in the possession of the prescribed income-tax authority,

- such authority may issue a notice requiring any person to furnish any information as may be useful for or relevant to any inquiry/ proceeding under the Act

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- in such form and manner and within such time as may be specified in the notice.

(ii) **Processing and utilisation of information [Section 259(2)]:** The prescribed income-tax authority may process and utilise such information and document received by him as per the scheme notified u/s 260.

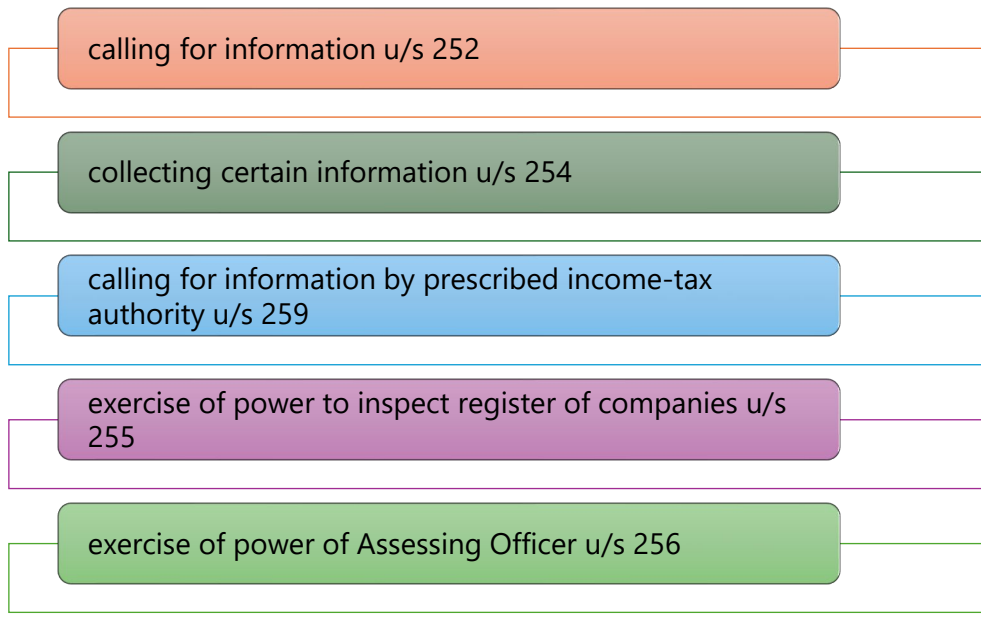
(iii) **Meaning of "proceeding" [Section 259(3)]**: The term "proceeding" shall have the same meaning as is assigned to it in section 253.

Prescribed income-tax authority [Rule 156]: For the purposes of section 259, the **prescribed income-tax authority** means an **income-tax authority not below the rank of Assistant Commissioner of Income-tax**, authorised by the CBDT for the purposes of that section.

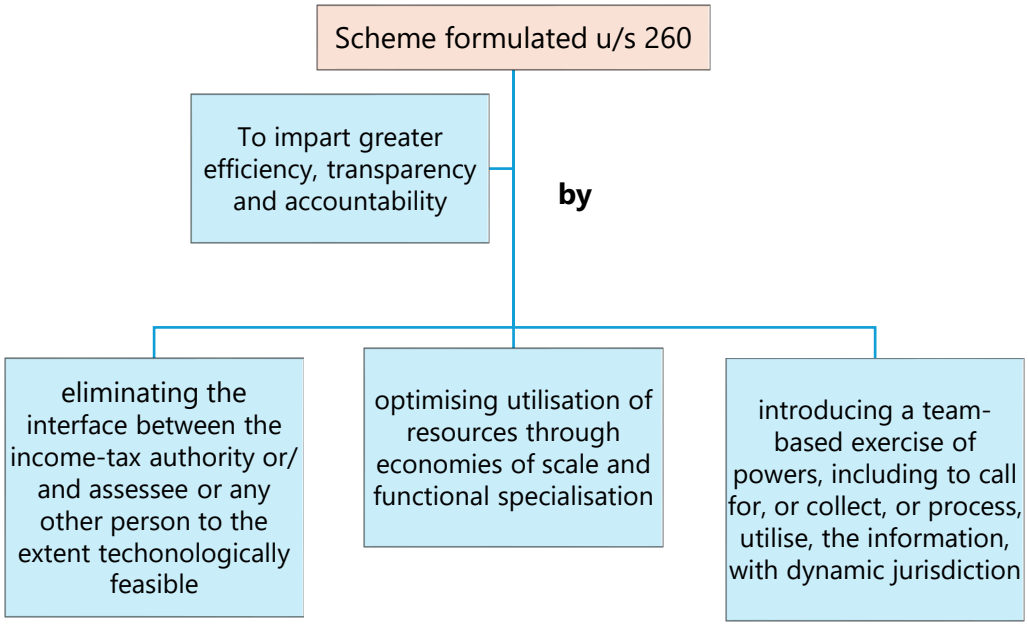
(XV) Faceless collection of information [Section 260]

(i) Section 260 provides for faceless collection of information so as to impart greater efficiency, transparency and accountability in tax administration.

(ii) Section 260 empowers the Central Government to make a scheme, by notification, for the following purposes –



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(iii) For the purpose of giving effect to the scheme, section 260(2) empowers the Central Government to direct, by notification, that any of the provisions of the Income-tax Act, 2025 would not apply or would apply with such exceptions, modifications and adaptations as specified in the notification.

(iv) Section 260(3) requires that every notification to be laid before each House of Parliament, as soon as may be after notification is issued.

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TEST YOUR KNOWLEDGE

Questions

1. *ABC Ltd. regularly files its return of income electronically. While trying to upload return of income for tax year 2026-27 on 31st October, 2027, ABC Ltd found it extremely difficult to do the same due to network problems and ultimately, became successful in making e-filing of its return only at 1 a.m. on 1st November, 2027. The return contained a claim for carry forward of business loss of ₹ 3.10 crores. This circumstance was recorded in an e-mail addressed to the competent income-tax authority on 1st November, 2027. ABC Ltd. made a request to the Principal Chief Commissioner of Income-tax (PCCIT) for condonation of delay in filing return of income.*

   Discuss whether the PCCIT has the power to condone the delay in filing the return of income and permit carry forward of loss in the given circumstance.

2. *Examine the correctness of the statement "the jurisdiction of an Assessing Officer cannot be objected to by the assessee".*

3. *The Director General of Income-tax after getting the information that Mr. Mogambo is in possession of unaccounted cash of ₹ 150 lakhs, issued orders by invoking powers vested in him as per section 246(2), for its seizure. Is the order for seizure of cash issued by the Director General of Income-tax correct? If not, does the Director General of Income-tax have any other power to seize such cash?*

4. *The premises of Ganesh were subjected to a search under section 247 of the Act. The search was authorized and the warrant was signed by the Joint Commissioner of Income-tax having jurisdiction over the assessee, consequent to information in his possession. The assessee challenged the validity of search on the ground that section 247(1) does not empower Joint Commissioner to authorise a search under the Act. Decide the correctness of the contention raised by the assessee.*

5. *Examine whether the information regarding possession of unexplained assets and income received from the Central Bureau of Investigation, a Government agency, can constitute "information" for action under section 247. Discuss.*

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6. *Cash of ₹95 lakhs was seized on 12.9.2026 in a search conducted as per section 247 of the Act. The assessee moved an application on 27.10.2026 to release such cash after explaining the sources thereof, which was turned down by the department as was not satisfied with the explanation given by the assessee. The assessee seeks your opinion on the following issues:*

   (i) Can the department withhold the explained money?

   (ii) If yes, then to what extent and upto what period?

7. *The business premises of Ram Bharose Ltd. and the residence of two of its directors at Delhi were searched under section 247 by the Joint Director of Income-tax, Delhi. The search was concluded on 9.8.2026 and following were also seized besides other papers and records:*

   (i) Papers found in the drawer of an accountant relating to Shri Krishna Ltd., Mumbai indicating details of various business transactions. However, Ram Bharose Ltd. is not having any direct or indirect connection of any nature with these transactions and Shri Krishna Ltd., Mumbai and its directors.

   (ii) Jewellery worth ₹5 lakhs from the bedroom of one of the directors, which was claimed by him to be of his married daughter.

   (iii) Papers recording certain transactions of income and expenses having direct nexus with the business of the company for the period from 16.4.2021 to date of search. It was admitted by the director that the transactions recorded in such papers have not been incorporated in the books.

   You are required to answer on the basis of aforesaid and the provisions of Act, following questions:

   (a) What action the DDI shall be taking in respect of the seized papers relating to Shri Krishna Ltd., Mumbai?

   (b) Whether the contention raised by the director as to jewellery found from his bedroom will be acceptable?

   (c) What presumption shall be drawn in respect of the papers which indicate transactions not recorded in the books?

8. *In the course of search on 25.03.2027, assets were seized. Examine the procedure laid down to deal with such seized assets under the Act.*

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Answers

1. Section 239(3)(b) empowers the CBDT to authorise any income tax authority to admit an application or claim for any exemption, deduction, refund or **any other relief under the Act** after the expiry of the period specified under the Act, to avoid genuine hardship in any case or class of cases. The claim for carry forward of loss in case of late filing of a return is relatable to a claim arising under the category of "any other relief available under the Act". Therefore, CBDT has the power to condone delay in filing of such loss return due to genuine reasons.

The facts of the case are similar to the case of *Lodhi Property Company Ltd. v. Under Secretary, (ITA-II), Department of Revenue (2010) 323 ITR 0441*, where the Delhi High Court held that the Board has the power to condone the delay in case of a return which was filed late and where a claim for carry forward of losses was made. The delay was only one day and the assessee had shown justifiable reason for the delay of one day in filing the return of income. If the delay is not condoned, it would cause genuine hardship to the assessee. Therefore, the Court held that the delay of one day in filing of the return had to be condoned.

The CBDT has, *vide* Circular No. 11/2024 dated 1.10.2024, specified the monetary limits along with following authorities to be approached for this purpose.

Quantum of claim	Concerned Income-tax Authority
Where the claim is upto ₹ 1 crore for one tax year	Principal CIT or CIT
Where the claim is above ₹ 1 crore but upto ₹ 3 crores for any one tax year	CCIT
Where the claim is above ₹ 3 crores for any one tax year	Principal CCIT

Applying the rationale of the above court ruling and the clarification given in CBDT Circular to the case on hand, the Principal CCIT has the power to condone the delay in filing the return of income of ABC Ltd. and permit carry forward of business loss of ₹ 3.10 crores, since the delay of one hour was due to a genuine and justifiable reason i.e., network problem while e-filing the return.

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2. According to section 242(4), the assessee can raise a question as to the jurisdiction of an Assessing Officer within the prescribed time limit as under:

(i) **where a return has been made** under section 263(1) then,

- within the expiry of one month from the date on which he was served with a notice under section 268(1) or section 270(8) or
- before the completion of assessment,

whichever is earlier.

(ii) **where no such return has been made,** then,

- within the expiry of time allowed by the notice under section 268(1) or section 280(2) for making of the return or
- within the time allowed in show cause notice issued under section 271(2) seeking as to why a best judgment assessment should not be made,

whichever is earlier.

(iii) where search is initiated under section 247 or books of accounts, other documents or any assets are requisitioned under section 248,

- within one month from the date on which he was served with a notice under section 294(1)(a) or
- before the completion of assessment,

whichever is earlier.

Where the assessee calls in question the jurisdiction of an Assessing Officer and the Assessing Officer is not satisfied with such claim, he shall refer the matter for determination by the specified authority i.e., PDGIT/ DGIT/ PCCIT/ CCIT/ PCIT/ CIT before the assessment is made.

Therefore, in view of the above provisions, the statement that "the jurisdiction of an Assessing Officer cannot be objected to by the assessee" is not correct and the assessee is entitled to object to the jurisdiction of the Assessing Officer, subject to the time limits prescribed under section 242.

3. The powers under section 246(2)(b) deal with power of PDGIT/DGIT/ PDIT/ DIT/ Joint DIT/ ADIT to make an inquiry or investigation in relation to

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concealment of income, if he has reason to suspect that any income has been concealed or is likely to be concealed by such person within his jurisdiction. He may exercise the powers u/s 246(1) even when there are no proceedings pending with respect to such person.

However, the powers conferred u/s 246(1) relate to powers regarding discovery and production of evidence. They do not confer the power of seizure of cash or any asset. The powers are confined to discovery and inspection, enforcing attendance, compelling the production of books of account and other documents and issuing commissions. Thus, the power of seizure of unaccounted cash is not one of the powers conferred on the Director General under section 246(2).

However, under section 247(1), the Director General has the power to authorize any Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or etc. to seize asset (other than stock in trade) found as a result of search [section 247(1)(vii)], if he has due to information in his possession, reason to believe, that any person is in possession of any asset or information and such asset represents wholly or partly income or property which has not been disclosed [section 247(1)(b)]. Therefore, the proper course open to the Director General is to exercise his power under section 247(1) and authorize the Officers concerned to enter the premises where the cash is kept by Mr. Mogambo and seize such unaccounted cash.

4. Under section 247(1), the approving authorities are empowered to authorise other income-tax authorities to conduct search and seizure operations. Where the competent authority as defined in section 261(d) i.e. PDGIT/ DGIT/ PCCIT/ CCIT/ PDIT/ DIT/ PCIT/ CIT/ Joint DIT/ Add. DIT/ Joint CIT/ Add. CIT, in consequence of information in his possession, has reason to believe, that any person to whom summons u/s 246(1)/ notice u/s 268(1) was issued and he has failed to produce books of account/ information / documents as required in the summon/ notice or he is in possession of asset/ information and such asset represents undisclosed income/ property then, Approving authority as defined in section 261(a) i.e., PDGIT/ DGIT/ PCCIT/ CCIT/ PDIT/ DIT/ PCIT/ CIT is empowered to authorise other income-tax authorities to conduct search and seizure operations as mentioned u/s 247(1). The approving authority may authorize any Joint DIT/ Joint CIT/ ADIT/ ACIT/ ITO. The Joint DIT/ Joint CIT

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so authorized may authorize ADIT/ ACIT/ ITO to conduct search and seizure operations.

Accordingly, Joint Commissioner shall be the competent authority who has (due to information in his possession), reason to believe that the assessee concerned would not produce books of account etc. or that he is in possession of asset or information and such asset represents undisclosed income or property. However, a Joint Commissioner can issue warrant of authorisation only if he has been specifically empowered to do so by the approving authority as discussed above.

5. As per section 247(1)(b), authorisation for search and seizure can take place if the authority, in consequence of information in his possession, has reason to believe that any person is in possession of any asset or information in relation to any asset representing wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Income-tax Act. In the absence of such information, a search cannot be validly authorised.

However, the existence of credible information is a condition precedent for authorising a search. Mere suspicion or unverified material is not sufficient.

The Apex Court in *UOI v Ajit Jain [2003] 260 ITR 80* has held that mere intimation by the CBI that money was found in the possession of the assessee, which according to the CBI was undisclosed, without something more, does not constitute "information" within the meaning of section 247, on the basis of which a search warrant could be issued. Consequently, the Supreme Court held that the search conducted on this basis and the assessment made pursuant to such search was **not valid.**

6. Section **250** governs the application and release of assets seized under section **247**. Section 250(2) provides that where the person concerned makes an application to the Assessing Officer, within **30 days from the end of the month in which the asset was seized,** for release of the asset and the nature and source of acquisition of the asset is explained to the satisfaction of the Assessing Officer, then, the Assessing Officer may, with the prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, release the asset after recovering the existing liability under the Income-tax Act, 2025, etc. out of such asset.

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'Existing liability', however, does not include advance tax payable. Such asset or portion thereof has to be released within 120 days from the date on which the last of the authorisations for search under section 247 was executed.

In this case, the assessee's application for release of the asset, explaining the nature and source of its acquisition, was rejected by the Department as it was not satisfied with the explanation furnished by the assessee. Accordingly, the asset, being cash in this case, may not be released, even though the application was made to the Assessing Officer within 30 days from the end of the month in which the search was conducted.

7. (a) Since the authorised officer (JDIT, Delhi) does not have jurisdiction over Shri Krishna Ltd., Mumbai, the papers seized relating to Shri Krishna Ltd. shall, in accordance with section 251(1), be handed over to the Assessing Officer having jurisdiction over Shri Krishna Ltd.

Such handing over shall be made within 180 days from the date on which the search was initiated under section 247, after which the jurisdictional Assessing Officer shall exercise the powers under section 251(2) and section 251(3).

(b) The contention raised by the Director **will not be acceptable** because as per the provisions **section 247(7)/524(1)**, where any money, bullion, jewellery, virtual digital asset, other valuable article or thing, books of account, documents, information in electronic form or computer system is found in the possession or control of a person during a search under section 247, it may be presumed that such assets or documents belong to that person.

Accordingly, the jewellery found in the bedroom of the Director shall be presumed to belong to him unless he is able to rebut the statutory presumption with satisfactory evidence.

(c) Under **section 247(7)/section 524(1)**, the following presumptions may be drawn in respect of the papers recording transactions not entered in the books of account-

- the documents belong to the person from whose possession or control they were found;

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- the contents of such documents are true;
- the signatures and handwriting appearing therein are those of the person by whom they purport to have been written or signed; and
- where the document is stamped, executed or attested, it shall be presumed to have been duly stamped, executed or attested.

Accordingly, the papers indicating transactions not recorded in the books shall be presumed to belong to Ram Bharose Ltd., and the contents thereof may be presumed to be true unless the presumption is rebutted.

8. Section 250 of the Income-tax Act, 2025 deals with the application of assets seized under section 247.

(i) **Application of seized assets:** The Assessing Officer may apply the seized or requisitioned assets towards recovery of-

- any existing liability ***(other than advance tax)*** under the Income-tax Act, 2025, the Income-tax Act, 1961 and the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in respect of which the person is in default or deemed to be in default;
- Liability determined on completion of the assessment or reassessment or recomputation and the assessment of the year relevant to the tax year in which search is initiated or requisition is made, or completion of the assessment under Part B of Chapter XVI for the block period, (including any penalty levied or interest payable in connection with such assessment), and in respect of which such person is in default or is deemed to be in default.

(ii) **Release of seized asset:** Where the person explains the nature and source of acquisition of the seized assets to the satisfaction of the Assessing Officer, the assets shall be released after adjusting the existing liability, if any.

Such release shall be made **within 120 days from the date on which the last authorisation for search under section 247 or requisition under section 248 was executed**, after obtaining the approval of the

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Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be.

(iii) Adjustment where money is seized: Where the seized assets consist wholly or partly of money, the Assessing Officer may apply such money towards the discharge of the liabilities referred to above. The assessee shall be discharged of the liability to the extent of the money so adjusted.

Where the money seized is insufficient to discharge the liability, the other seized assets may also be applied for recovery of the balance amount.

(iv) Release of remaining assets: After all liabilities have been discharged, any remaining assets or sale proceeds thereof shall be forthwith released to the person from whose custody the assets were seized

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