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**Income Tax Act 1961 s 140 – Return by whom to be verified**

The return under section 115WD or section 139 shall be verified-

(a) in the case of an **individual**,—

(i) by the individual himself;

(ii) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other reason, it is not possible for the individual to verify the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person verifying the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;

(b) in the case of a **Hindu undivided family**, by the *Karta*, and, where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member<sup>1</sup> of such family;

(c) in the case of a **company**, by the managing director thereof, or where for any unavoidable reason such managing director is not able to verify the return, or where there is no

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<sup>1</sup> **Adult member:** If the Hindu undivided family has no major members as its *Karta*, a return may validly be signed by the eldest minor member of the family who manages the affairs of the family, as held in *Sridhar Udai Narayan v CIT* (1962) 45 ITR 577 (All).

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managing director, by any director thereof or any other person², as may be prescribed for this purpose:

Provided that where the company is not resident in India, the return may be verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(a) where the company is being wound up, whether under the orders of a court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be verified by the liquidator referred to in sub-section (1) of section 178;

(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be verified by the principal officer thereof; or

(c) where in respect of a company, an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the return shall be verified by the insolvency professional appointed by such Adjudicating Authority.³

Explanation.—For the purposes of this clause the expressions “insolvency professional” and “Adjudicating Authority” shall

² **Any other person:** Where a return of income of a company was signed by a **company secretary** although it was supposed to be signed by managing director or in the absence of managing director by any director, such a return would not be treated as invalid if in spite of the defect return is in substance and effect in conformity with or according to interest and purpose of Act. Such defect can be cured by virtue of section 139(5), as held in Prime Securities Ltd v. ACIT (2009) 182 Taxman 221 (Bom).

³ See IT Rule 12AA

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have the respective meanings assigned to them in clause (18) of section 3 and clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(cc) in the case of a **firm**, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to verified the return, or where there is no managing partner as such, by any partner thereof, not being a minor;

(cd) in the case of a **limited liability partnership**, by the designated partner thereof, or where for any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such, by any partner thereof or any other person, as may be prescribed for this purpose;⁴

(d) in the case of a **local authority**, by the principal officer thereof;

(dd) in the case of a **political party** referred to in sub-section (4B) of section 139, by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);

(e) in the case of **any other association**, by any member of the association or the principal officer thereof; and

(f) in the case of **any other person**, by that person or by some person competent to act on his behalf.

Verification of return⁵

⁴ In the case of a limited liability partnership against which proceeding under Insolvency and Bankruptcy Code 2016 has been initiated then by the interim resolution professional. See IT Rule 12AA.

⁵ Ahuja Compendium 2022 v 2 p 1814

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Prior to 1.10.2014 there was a requirement of signature on the return. **Signature** required physical contact between the person and the document as held in Comm IT v Keshab Chandra Mandal (1950) 18 ITR 569 (SC). The General Clauses Act 1881 even accepts the **thumb impression**, as one of the modes of signing, valid and binding, as held in CIT v Kanhaiya Lal and Sons (2005) 273 ITR 425 (All).

But implementing the common law rule of *qui facit per alium facit per se* (what a man can do himself can equally be well be done by his duly authorized agent) section 140 of the Income tax Act 1961 allowed specific persons acting as agents to sign the return.

With the rise of online activity, however, the signature has given way to online verification. Literally, verification is a formal declaration made under oath whereby one swears to the truth of the statements in the document. Section 140 of the Income Tax Act 1961 now requires that the return under section 115 WD or 139 shall be verified.

A return which is not signed or verified is not a defective return but an invalid return and therefore, it is **no return** in the eyes of law as held in CIT v Krishan Lal Goyal (1984) 148 ITR 283 (P&H). Even a notice issued under section 143(2) in response to an unsigned and unverified return **does not validate** such invalid return, as held in Electrical Instrument Company v CIT (2001) 250 ITR 734 (Del). Return signed and verified not by the assessee but by a **person not properly authorized** or empowered is an invalid return and thus *void abinitio*, as held in Behari Lal Chatterji V CIT (1934) 2 ITR 377 (All). Even such glaring inherent **defect could not be cured** in spite of deeming effect of section 292B and the Assessing Officer cannot make an

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assessment on an invalid return, as held in CIT v Harjinder Kaur
(2009) 180 Taxman 23 (P&H).

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