

Income Tax Act 1961 s 271AAB - Penalty where search has been initiated

(1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of July, 2012, but before the date on which the Taxation Laws (Second Amendment) Bill, 2016, receives the assent of the President] the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

(a) a sum computed at the rate of ten per cent of the undisclosed income of the specified previous year, if such assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

(iii) on or before the specified date—

(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and

(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;

(b) a sum computed at the rate of twenty per cent of the undisclosed income of the specified previous year, if such assessee—

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**(i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income; and**

**(ii) on or before the specified date—**

**(A) declares such income in the return of income furnished for the specified previous year; and**

**(B) pays the tax, together with interest, if any, in respect of the undisclosed income;**

**(c) a sum computed at the rate of sixty per cent of the undisclosed income of the specified previous year, if it is not covered by the provisions of clauses (a) and (b).**

**(1A) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the date on which the Taxation Laws (Second Amendment) Bill, 2016, receives the assent of the**

**President, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—**

**(a) a sum computed at the rate of thirty per cent. of the undisclosed income of the specified previous year, if the assessee—**

**(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;**

**(ii) substantiates the manner in which the undisclosed income was derived; and**

**(iii) on or before the specified date—**

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**(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and**

**(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;**

**(b) a sum computed at the rate of sixty per cent. of the undisclosed income of the specified previous year, if it is not covered under the provisions of clause (a).**

**(2) No penalty under the provisions of section 270A or clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in subsection (1) or sub-section (1A).**

**(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.**

**Explanation.— For the purposes of this section,—**

**(a) “specified date” means the due date of furnishing of return of income under sub-section (1) of section 139 or the date on which the period specified in the notice issued under section 153A for furnishing of return of income expires, as the case may be;**

**(b) “specified previous year” means the previous year—**

**(i) which has ended before the date of search, but the date of furnishing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the date of search; or**

**(ii) in which search was conducted;**

**(c) “undisclosed income” means—**

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**(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—**

**(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or**

**(B) otherwise not been disclosed to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner before the date of search; or**

**(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted.**

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