

Appearance by authorised representative.

288. (1) Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being—

- (i) a person related to the assessee in any manner, or a person regularly employed by the assessee; or
- (ii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or
- (iii) any legal practitioner who is entitled to practise in any civil court in India; or
- (iv) an accountant; or
- (v) any person who has passed any accountancy examination recognised in this behalf by the Board; or
- (vi) any person who has acquired such educational qualifications as the Board may prescribe for this purpose; or
- (via) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee; or
- (vii) any other person who, immediately before the commencement of this Act, was an income-tax practitioner within the meaning of clause (iv) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), and was actually practising as such.

¹[Explanation.—In this section, "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include [except for the purposes of representing the assessee under sub-section (1)]—

- (a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 (18 of 2013); or
- (b) in any other case,—
 - (i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;
 - (ii) in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;

¹ Substituted with effect from June 1, 2015

- (iii) in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;
- (iv) any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);
- (v) an officer or employee of the assessee;
- (vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;
- (vii) an individual who, or his relative or partner—
 - (i) is holding any security of, or interest in, the assessee:
Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;
 - (ii) is indebted to the assessee:
Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;
 - (iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:
Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;
- (viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;
- (ix) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.]

(3) [***]

(4) No person—

(a) who has been dismissed or removed from Government service after the 1st day of April, 1938; or

(b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, other than a penalty imposed on him under clause (ii) of sub-section (1) of section 271; or

²[(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud,

shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in clause (a), for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine in the case of a person referred to in clause (b), for the period during which the insolvency continues in the case of a person referred to in clause (c), and for a period of ten years from the date of conviction in the case of person referred to in clause (d).]

(5) If any person—

² Substituted with effect from June 1, 2015

- (a) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be;
 - (b) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1).
- (6) Any order or direction under clause (b) of sub-section (4) or clause (b) of sub-section (5) shall be subject to the following conditions, namely :—
- (a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;
 - (b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and
 - (c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.
- (7) A person disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), shall be disqualified to represent an assessee under sub-section (1).
- ³ [Explanation.—For the purposes of this section, "relative" in relation to an individual, means—
- (a) spouse of the individual;
 - (b) brother or sister of the individual;
 - (c) brother or sister of the spouse of the individual;
 - (d) any lineal ascendant or descendant of the individual;
 - (e) any lineal ascendant or descendant of the spouse of the individual;
 - (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);
 - (g) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.]

³ Inserted with effect from June 1, 2015