

## INCOME-TAX ACT, 2025

### A: Procedure for assessment

#### **Section 274 - Reference to Principal Commissioner or Commissioner in certain cases.**

(1) The Assessing Officer may make a reference to the Principal Commissioner or Commissioner at any stage of the assessment or reassessment proceedings before him, if, having regard to the material and evidence available with him, he considers that it is necessary to—

- (a) declare an arrangement as an impermissible avoidance arrangement; and
- (b) determine the consequence of such an arrangement within the meaning of Chapter XI.

(2) The Principal Commissioner or Commissioner shall, on receipt of a reference under sub-section (1), if he is of the opinion that the provisions of Chapter XI are required to be invoked,—

- (a) issue a notice to the assessee, setting out the reasons and basis of such opinion, for submitting objections, if any; and
- (b) provide an opportunity of being heard to the assessee within such period, not exceeding sixty days, as specified in the said notice.

(3) If the assessee fails to furnish any objection to the notice within the time specified in such notice issued under sub-section (2), the Principal Commissioner or Commissioner shall issue such directions as he deems fit in respect of declaration of the arrangement to be an impermissible avoidance arrangement.

(4) In case the assessee objects to the proposed action, and the Principal Commissioner or Commissioner, after hearing the assessee in the matter, is not satisfied with the explanation of the assessee, then, he shall make a reference in the matter to the Approving Panel for the purpose of declaration of the arrangement as an impermissible avoidance arrangement.

(5) If the Principal Commissioner or Commissioner is satisfied, after having heard the assessee that the provisions of Chapter XI are not to be invoked, he shall by an order in writing, communicate the same to the Assessing Officer with a copy to the assessee.

(6) The Approving Panel, on receipt of a reference from the Principal Commissioner or Commissioner under sub-section (4), shall—

- (a) issue such directions, as it deems fit, in respect of the declaration of the arrangement as an impermissible avoidance arrangement as per the provisions of Chapter XI; and
- (b) specify the tax year or years to which such declaration of an arrangement as an impermissible avoidance arrangement shall apply.

(7) No direction under sub-section (6) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interests of the revenue, as the case may be.

(8) The Approving Panel may, before issuing any direction under sub-section (6),—

- (a) if it is of the opinion that any further inquiry in the matter is necessary, direct the Principal Commissioner or Commissioner to make such inquiry or cause the inquiry to be made by any other income-tax authority and furnish a report containing the result of such inquiry to it; or
- (b) call for and examine such records relating to the matter as it deems fit; or

(c) require the assessee to furnish such documents and evidence as it may direct.

(9) If the members of the Approving Panel differ in opinion on any point, such point shall be decided according to the opinion of the majority of the members.

(10) The Assessing Officer, on receipt of directions of the Principal Commissioner or Commissioner under sub-section (3) or of the Approving Panel under sub-section (6), shall proceed to complete the proceedings referred to in sub-section (1) as per such directions and the provisions of Chapter XI.

(11) If any direction issued under sub-section (6) specifies that declaration of the arrangement as impermissible avoidance arrangement is applicable for any tax year other than the tax year to which the proceedings referred to in sub-section (1) pertains, then,—

(a) the Assessing Officer while completing any assessment or reassessment proceedings relevant to such other tax year shall do so as per such directions and the provisions of Chapter XI; and

(b) it shall not be necessary for him to seek fresh direction on the issue for such other tax year.

(12) No order of assessment or reassessment shall be passed by the Assessing Officer without the prior approval of the Principal Commissioner or Commissioner, if any tax consequences have been determined in the order under the provisions of Chapter XI.

(13) The Approving Panel shall, subject to sub-sections (14) and (15), issue directions under sub-section (6) within six months from the end of the month in which the reference under sub-section (4) was received.

(14) In computing the period referred to in sub-section (13), the following shall be excluded:—

(a) the period commencing from the date on which the Approving Panel first directs the Principal Commissioner or Commissioner for getting the inquiries conducted through the authority competent under an agreement referred to in section 159 and ending with the date on which the information so requested is last received by the Approving Panel or one year, whichever is less;

(b) the period commencing on the date on which the proceeding of the Approving Panel is stayed by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the Approving Panel.

(15) If immediately after the exclusion of the period as per sub-section (14), the remaining period available to the Approving Panel for issue of directions is less than sixty days, such remaining period shall be extended to sixty days and the period of six months mentioned in sub-section (13) shall be deemed to have been extended accordingly.

(16) The directions issued by the Approving Panel under sub-section (6) shall be binding on—

(a) the assessee; and

(b) the Principal Commissioner or Commissioner and the income-tax authorities subordinate to him.

(17) No appeal under the Act shall lie against directions issued by the Approving Panel under sub-section (6), irrespective of anything contained in any other provision of the Act.

(18) The Central Government shall, for the purposes of this section, constitute one or more Approving Panels as may be necessary and each panel shall consist of three members including a Chairperson.

(19) The Chairperson of the Approving Panel shall be a person who is or has been a judge of a High Court, and—

(a) one member shall be a member of Indian Revenue Service not below the rank of Principal Chief Commissioner or Chief Commissioner of Income-tax; and

(b) one member shall be an academic or scholar having special knowledge of matters, such as direct taxes, business accounts and international trade practices.

(20) The term of the Approving Panel shall ordinarily be for one year and may be extended from time to time up to three years.

(21) The Chairperson and members of the Approving Panel shall meet, as and when required, to consider the references made to the panel and shall be paid such remuneration as may be prescribed.

(22) In addition to the powers conferred on the Approving Panel under this section, the powers which are vested in the Board for Advance Rulings under section 387 shall apply *mutatis mutandis* to the Approving Panel.

(23) The Board shall provide to the Approving Panel such officials as may be necessary for the efficient exercise of powers and discharge of functions of the Approving Panel under this Act.

(24) The Board may make rules for the purposes of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references received under sub-section (4).