

### **Computation of undisclosed income of the block period.**

**158BB.** (1) The undisclosed income of the block period shall be the aggregate of the total income of the previous years falling within the block period computed, in accordance with the provisions of this Act, on the basis of evidence found as a result of search or requisition of books of account or other documents and such other materials or information as are available with the Assessing Officer and relatable to such evidence, as reduced by the aggregate of the total income, or as the case may be, as increased by the aggregate of the losses of such previous years, determined,—

- (a) where assessments under section 143 or section 144 or section 147 have been concluded prior to the date of commencement of the search or the date of requisition, on the basis of such assessments;
- (b) where returns of income have been filed under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 but assessments have not been made till the date of search or requisition, on the basis of the income disclosed in such returns;
- (c) where the due date for filing a return of income has expired, but no return of income has been filed,—
  - (A) on the basis of entries as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition where such entries result in computation of loss for any previous year falling in the block period; or
  - (B) on the basis of entries as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition where such income does not exceed the maximum amount not chargeable to tax for any previous year falling in the block period;
- (ca) where the due date for filing a return of income has expired, but no return of income has been filed, as *nil*, in cases not falling under clause (c);
- (d) where the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 has not expired, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition relating to such previous years;
- (e) where any order of settlement has been made under sub-section (4) of section 245D, on the basis of such order;
- (f) where an assessment of undisclosed income had been made earlier under clause (c) of section 158BC, on the basis of such assessment.

*Explanation.*—For the purposes of determination of undisclosed income,—

- (a) the total income or loss of each previous year shall, for the purpose of aggregation, be taken as the total income or loss computed in accordance with the provisions of this Act without giving effect to set off of brought forward

losses under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32:

**Provided** that in computing deductions under Chapter VI-A for the purposes of the said aggregation, effect shall be given to set off of brought forward losses under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32;

- (b) of a firm, returned income and total income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called to any partner not being a working partner :

**Provided** that undisclosed income of the firm so determined shall not be chargeable to tax in the hands of the partners, whether on allocation or on account of enhancement;

- (c) assessment under section 143 includes determination of income under sub-section (1) or sub-section (1B) of section 143.

(2) In computing the undisclosed income of the block period, the provisions of sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to “financial year” in those sections shall be construed as references to the relevant previous year falling in the block period including the previous year ending with the date of search or of the requisition.

(3) The burden of proving to the satisfaction of the Assessing Officer that any undisclosed income had already been disclosed in any return of income filed by the assessee before the commencement of search or of the requisition, as the case may be, shall be on the assessee.

(4) For the purpose of assessment under this Chapter, losses brought forward from the previous year under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter, but may be carried forward for being set off in the regular assessments.