



RAMA UNIVERSITY

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FACULTY OF COMMERCE AND MANAGEMENT

COURSE: B.COM VI SEM.

SUBJECT: Corporate Tax Planning

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LECTURE: 35

NAME OF FACULTY: DR. PALASH BAIRAGI

LECTURE-35



PENALTIES AND PROSECUTIONS

PENALTIES

Updated with Amendment made vide Finance Act, 2019 and applicable for A.Y. 2021-22 and Onwards:

Section	Nature of default	Penalty leviable
(1)	(2)	(3)
140A(3)	Failure to pay wholly or partly—	Such amount as Assessing Officer may impose but not exceeding tax in arrears
	(a) self-assessment tax, or	
	(b) interest and fee, or	
	(c) both	
	under section 140A(1)	
158BFA(2)	Determination of undisclosed income of block period	Minimum : 100 per cent of tax leviable in respect of undisclosed income
		Maximum : 300 per cent of tax leviable in respect of undisclosed income.
221(1)	Default in making payment of tax	Such amount as Assessing Officer may impose but not exceeding amount of tax in arrears
234E	Failure to file statement within time prescribed in section 200(3) or in proviso to section 206C(3)	Rs. 200 for every day during which failure continues but not exceeding tax deductible/collectible
234F	Default in furnishing return of income within time prescribed in section 139(1)	a) Rs. 5000 if return is furnished on or before 31 December

		<p>of assessment year.</p> <p>b) Rs. 10,000 in any other case</p> <p>Note: if total income of the person does not exceeds Rs. 5 lakh then fee payable shall be Rs. 1000</p>
234G	Fee for default in submission of statement/certificate prescribed under section 35/ Section 80G	Rs. 200 per day
270A(1)	Under-reporting and misreporting of income	<p>A sum equal to 50% of the amount of tax payable on under-reported income.</p> <p>However, if under-reported income is in consequence of any misreporting thereof by any person, the penalty shall be equal to 200% of the amount of tax payable on under-reported income</p>
271(1)(b)	Failure to comply with a notice under section 115WD(2)/115WE(2)/142(1) or section 143(2) or failure to comply with a direction under section 142(2A)	<p>Fixed at Rs. 10,000 for each failure.</p> <p>Note:- However, the above penalty shall not be levied to and in relation to any assessment for the A.Y commencing on or after the 1st day of April, 2017.</p>
271(1)(c)	Concealment of particulars of income or fringe benefits or furnishing of inaccurate particulars of income or fringe benefits	<p>Minimum : 100 per cent</p> <p>Maximum : 300 per cent of tax sought to</p>

		be evaded in addition to tax payable
		Note:
		<p>‘Amount of tax sought to be evaded’ shall be aggregate of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of MAT or AMT. However, if an amount of concealed income is considered both under the general provisions and provisions of MAT or AMT, such amount shall not be considered in computing tax sought to be evaded under provisions of MAT or AMT. Further, where provisions of MAT or AMT are not applicable, the computation of tax sought to be evaded under the provisions of MAT or AMT shall be ignored.</p>
		Note:- However, the above penalty shall not be levied to and in relation to any assessment for the

		A.Y commencing on or after the 1st day of April, 2017.
271(4)	Distribution of profits by registered firm otherwise than in accordance with partnership deed and as a result of which partner has returned income below the real income	Not exceeding 150 per cent of difference between tax on partner's income assessed and tax on income returned, in addition to tax payable
		Note:- However, the above penalty shall not be levied to and in relation to any assessment for the A.Y commencing on or after the 1st day of April, 2017.
271A	Failure to keep, maintain, or retain books of account, documents, etc., as required under section 44AA	Rs. 25,000
271AA(1)	(1) Failure to keep and maintain information and documents required by section 92D(1) or 92D(2)	2% of value of each international transaction/or specified domestic transaction entered into
	(2) Failure to report such transaction	
	(3) Maintaining or furnishing incorrect information or document	
271AA(2)	Failure to furnish information and document as required under Section 92D(4)	Rs. 5,00,000/-
271AAA	Where search has been initiated before 1-7-2012 and undisclosed income found	10% of undisclosed income
271AAB(1)	Where search has been initiated on or after 1-7-2012 but before 15-12-2016 and undisclosed income found	(a) 10% of undisclosed income of the specified previous year if assessee admits the

		<p>undisclosed income; substantiates the manner in which it was derived; and on or before the specified date pays the tax, together with interest thereon and furnishes the return of income for the specified previous year declaring such undisclosed income</p>
		<p>(b) 20% of undisclosed income of the specified previous year if assessee does not admit the undisclosed income, and on or before the specified date declare such income in the return of income furnished for the specified previous year and pays the tax, together with interest thereon;</p>
		<p>(c) 60% of undisclosed income of the specified previous year if it is not covered by (a) or (b) above</p>
<p>271AAB(1A)</p>	<p>Where search has been initiated on or after 15-12-2016 and undisclosed income found</p>	<p>(a) 30% of undisclosed income of the specified previous year if assessee admits the</p>

		undisclosed income; substantiates the manner in which it was derived; and on or before the specified date pays the tax, together with interest thereon and furnishes the return of income for the specified previous year declaring such undisclosed income (b) 60% of undisclosed income of the specified previous year in any other case.
271AAC	Income determined by Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year. [if such income is not included by assessee in his return or tax in accordance with section 115BBE has not been paid]	10% of tax payable under section 115BBE.
271AAD	Penalty, if during any proceedings under the Act, it is found that in the books of accounts maintained by assessee, there is: a) A false entry; or b) Any entry relevant for computation of total income of such person has been omitted to evade tax liability.	100% of such false entries or omitted entry.
271B	Failure to get accounts audited or furnish a report of audit as required under section 44AB	One-half per cent of total sales, turnover or gross receipts, etc., or Rs. 1,50,000, which-ever is less
271BA	Failure to furnish a report from an accountant as required by section 92E	Rs. 1,00,000
271BB	Failure to subscribe any amount to units issued under scheme referred to in section 88A(1)	20 per cent of such amount

271C	Failure to deduct tax at source, wholly or partly, under sections 192 to 196D (Chapter XVII-B) or failure to pay wholly or partly tax u/s 115-O(2) or second proviso to section 194B	Amount equal to tax not deducted or paid
271CA	Failure to collect tax at source as required under Chapter XVII-BB	Amount equal to tax not collected
271D	Taking or accepting any loan or deposit or specified sum in contravention of the provisions of Section 269SS. “Specified sum” means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.	Amount equal to loan or deposit or specified sum so taken or accepted
271DA	Receiving an amount of Rs. 2 lakh or more from a person in a day [section 269ST]	Amount equal to such receipt
271DB	Failure to provide facility for accepting payment through prescribed electronic modes of payment as referred to in section 269SU	Rs. 5,000 rupees for every day of default
271E	Repayment of any loan or deposit or specified advance otherwise than in accordance with provision of Section 269T. “Specified advance” means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not transfer takes place.	Amount equal to loan or deposit or specified advance so repaid
271F	Failure to furnish return as required by section 139(1) or by its provisos before the end of the relevant assessment year	Rs. 5,000 Note: Applicable upto the Assessment year 2017-18
271FA1	Failure to furnish an annual information return as required under section 285BA(1)2	Rs. 500 per day of default
271FAA	Furnishing of inaccurate information in statement of financial transaction or reportable account	Rs. 50,000
	Failure to furnish annual information return within the period specified in notice u/s 285BA(5)	Rs. 1,000 per day of default
271FAB	Section 9A provides that fund management activity carried out by an eligible offshore investment fund through an eligible fund manager acting on behalf of such fund shall not constitute	Rs. 5,00,000

	<p>business connection in India (subject to certain conditions). The provision requires that eligible investment fund shall furnish within 90 days from the end of the financial year a statement, in respect of its activities in a financial year, in the prescribed form containing information relating to fulfilment of specified conditions and such other information or documents as may be prescribed. Penalty to be levied if investment fund failed to comply with the requirement.</p>	
271FB	Failure by an employer to furnish the return of fringe benefits as required under section 115WD(1)	Rs. 100 for every day of default
271G (Refer Note-3)	Failure to furnish any information or document as required by section 92D(3)	2% of the value of the international transaction/specified domestic transaction for each failure
271GA	<p>Section 285A provides for reporting by an Indian concern if following two conditions are satisfied:</p> <p>a) Shares or interest in a foreign company or entity derive substantial value, directly or indirectly, from assets located in India; and</p> <p>b) Such foreign company or entity holds such assets in India through or in such Indian concern.</p> <p>In this case, the Indian entity shall furnish the prescribed information for the purpose of determination of any income accruing or arising in India under Section 9(1)(i). In case of any failure, the Indian concern shall be liable to pay penalty.</p>	<p>Penalty shall be:</p> <p>a) a sum equal to 2% of value of transaction in respect of which such failure has taken place, if such transaction had effect of, directly or indirectly, transferring right of management or control in relation to the Indian concern;</p> <p>b) a sum of Rs. 5,000 in any other case.</p>
271GB(1)	Failure to furnish report under section 286(2)	Rs. 5,000 per day upto 30 days and Rs. 15,000 per day beyond 30 days
271GB(2)	Failure to produce the information and documents within the period allowed under section 271GB(6)	Rs. 5,000 for every day during which the failure continues.

271GB(3)	Failure to furnish report or failure to produce information/documents under section 286 even after serving order under section 271GB(1) or 271GB(2)	Rs. 50,000 for every day for which such failure continues beginning from the date of serving such order.
271GB(4)	Failure to inform about inaccuracy in report furnish under section 286(2) Or furnishing of inaccurate information or document in response to notice issued under section 286(6).	Rs. 5,00,000
271H (Refer Note-4)	Failure to deliver/cause to be delivered a statement within the time prescribed in section 200(3) or the proviso to section 206C(3), or furnishes incorrect information in the statement	W.e.f. 1-10-2014 Assessing Officer may direct payment of penalty. Penalty shall not be less than Rs. 10,000 but may extend to Rs. 1,00,000
271K	Penalty of default in submission of statement/certificate prescribed under section 35/Section 80G	Rs. 10,000 to Rs. 1 lakh
271-I	As per section 195(6) of the Act, any person responsible for paying to a non-resident or to a foreign company, any sum (whether or not chargeable to tax), shall furnish the information relating to such payment in Form 15CA and 15CB. Penalty shall be levied in case of any failure.	Rs. 1,00,000
271J	Furnished incorrect information in any report or certificate by an accountant or a merchant banker or a registered valuer	Rs. 10,000 for each incorrect report or certificate
272A(1)	Refusal or failure to :	Rs. 10,000 for each failure/default
	(a) answer questions	
	(b) sign statement	
	(c) attend to give evidence or produce books of account, etc., in compliance with summons under section 131(1)	

	(d) comply with notice u/s 142(1), 143(2) or failure to comply with direction issued u/s 142(2A).	
272A(2)	Failure to :	
	(a) furnish requisite information in respect of securities as required under section 94(6) ;	Rs. 10,000 for each failure/default. (In respect of penalty for failure, in relation to a declaration mentioned in section 197A, a certificate as required by section 203 and returns u/s s 206 and 206C and statements under Section 200(2A) or section 200(3) or proviso to section 206C(3) or section 206C(3A), penalty shall not exceed amount of tax deductible or collectible)
	(b) give notice of discontinuance of business or profession as required under section 176(3) ;	
	(c) furnish in due time returns, statements or certificates, deliver de-claration, allow inspection, etc., under sections 133, 134, 139(4A), 139(4C), 192(2C), 197A, 203, 206, 206C, 206C(1A) and 285B;	
	(d) deduct and pay tax under section 226(2)	
	(e) file a copy of the prescribed statement within the time specified in section 200(3) or the proviso to section 206C(3) (up to 1-7-2012)	
	(f) file the prescribed statement within the time specified in section 206A(1)	
	(g) Failure to deliver or cause to be delivered a statement under Section 200(2A) or Section 206C(3A) within prescribed time. With effect from June 1, 2015, it is mandatory for an office of the Government, paying TDS or TCS, as the case may be, without production of a challan, to deliver a statement in the prescribed form and manner to the prescribed authority.	
272AA(1)	Failure to comply with section 133B	Not exceeding Rs. 1,000
272B	Failure to comply with provisions relating to PAN or Aadhaar as referred to in section 139A/139A(5)(c)/(5A)/(5C)	Rs. 10,000 for each default
272BB(1)	Failure to comply with section 203A	Rs. 10,000 for each failure/default
272BB(1A)	Quoting false tax deduction account number/tax collection account number/tax deduction and collection account number in	Rs. 10,000

challans/certificates/statements/documents referred to in section 203A(2)

OFFENCES AND PROSECUTIONS

Section	Nature of default	Punishment (rigorous imprisonment)	Fine
(1)	(2)	(3)	(4)
275A	Contravention of order made under section 132(1) (Second Proviso) or 132(3) in case of search and seizure	Up to 2 years	No limit
275B	Failure to afford necessary facility to authorised officer to inspect books of account or other documents as required under section 132(1)(iib)	Up to 2 years	No limit
276	Removal, concealment, transfer or delivery of property to thwart tax recovery	Up to 2 years	No limit
276A	Failure to comply with provisions of section 178(1) and (3) re : company in liquidation	6 months to 2 years	—
276AB	Failure to comply with provisions of sections 269UC, 269UE and 269UL re : purchase of properties by Government (Refer Note-5)	6 months to 2 years	No limit
276B	Failure to pay to credit of Central Government (i) tax deducted at source under Chapter XVII-B (non-cognizable offence under section 279A), or (ii) tax payable u/s 115-O(2) or second proviso to section 194B	3 months to 7 years	No limit
276BB	Failure to pay the tax collected under the provisions of section 206C	3 months to 7 years	No limit
276C(1)	Wilful attempt to evade tax, penalty or interest or under-reporting of Income (non-cognizable offence under section 279A)—		
	(a) where tax sought to be evaded exceeds Rs. 1 lakh (Rs. 25 lakh w.e.f. 1-7-2012)	6 months to 7 years	No limit
	(b) in other cases	3 months to 3	No limit

		years (2 years w.e.f. 1-7-2012)	
276C(2)	Wilful attempt to evade payment of any tax, penalty or interest (non-cognizable offence under section 279A)	3 months to 3 years (2 years w.e.f. 1-7-2012)	No limit
276CC	Wilful failure to furnish returns of fringe benefits under section 115WD/115WH or return of income under section 139(1) or in response to notice under section 142(1)(i) or section 148 or section 153A (non-cognizable offence under section 279A)—		
	(a) where tax sought to be evaded exceeds Rs. 1 lakh (Rs. 25 lakh w.e.f. 1-7-2012)	6 months to 7 years	No limit
	(b) in other cases Note : *** A person shall not be liable to be prosecuted under this section if he furnishes the return before expiry of assessment year or the tax payable by such person, not being a company, as reduced by the advance tax self-assessment tax paid before expiry of the assessment year, TDS and TCS, does not exceed Rs. 10,000.	3 months to 3 years (2 years w.e.f. 1-7-2012)	No limit
276CCC	Wilful failure to furnish in due time return of total income required to be furnished by notice u/s 158BC(a)	3 months to 3 years	No limit
276D (Refer Note-6)	Wilful failure to produce accounts and documents under section 142(1) or to comply with a notice under section 142(2A)	Up to 1 year	(Refer Note-7) Rs. 4 to Rs. 10 for every day of default
277	False statement in verification or delivery of false account, etc. (non-cognizable offence under section 279A)		
	(a) where tax sought to be evaded exceeds Rs. 1 lakh (Rs. 25 lakh w.e.f. 1-7-2012)	6 months to 7 years	No limit
	(b) in other cases	3 months to 3 years (2 years w.e.f. 1-7-2012)	No limit

277A	Falsification of books of account or document, etc., to enable any other person to evade any tax, penalty or interest chargeable/leviable under the Act	3 months to 3 years (2 years w.e.f. 1-7-2012)	No limit
278	Abetment of false return, account, statement or declaration relating to any income or fringe benefits chargeable to tax (non-cognizable offence under section 279A)		
	(a) where tax, penalty or interest sought to be evaded exceeds Rs. 1 lakh (Rs. 25 lakh w.e.f. 1-7-2012)	6 months to 7 years	No limit
	(b) in other cases	3 months to 3 years (2 years w.e.f. 1-7-2012)	No limit
278A	Second and subsequent offences under section 276B, 276C(1), 276CC, 277 or 278	6 months to 7 years	No limit
280(1)	Disclosure of particulars by public servants in contravention of section 138(2) [Prosecution to be instituted with previous sanction of Central Government under section 280(2)]	Up to 6 months (simple/rigorous)	No limit