

TheTaxAdvisory

Tax, Compliance & Litigation Practice | Since 2017

PROFESSIONAL COURSE

Income Tax Litigation

Notices, Penalties, Prosecution, Recovery & Appeals

Income-tax Act, 1961 - Income-tax Act, 2025

LECTURE 01

Course Foundation & Master Section-Mapping

1961 Act - 2025 Act - Transition Framework

Welcome to the Course

Lecture 1 of 12 | Foundation, Mindset & The 1961-2025 Map

Arjun Mittal welcomes you to TheTaxAdvisory's flagship **Income Tax Litigation** programme. This course will teach you to think and draft like a practising litigator, not merely to memorise the sections of the Bare Act. You have already worked on ITR filing, GST, audit and compliance. Litigation is a different game altogether - here, victory depends on your command over **drafting, limitation, natural justice** and **case law**.

In this first lecture, we will cover three things:

- **Course architecture** - 12 weeks, 7 modules, what we will learn and when.
- **The Big Picture** - why the Income-tax Act, 1961 still governs the field, and how the 2025 Act will apply from 1 April 2026 onwards.
- **Master Section-Mapping** - a consolidated map of all 819 sections of the 1961 Act against the 536 sections of the 2025 Act - covering assessment, penalty, prosecution, TDS, recovery and appeals - a single reference that will become the spine of your practice.

WHY THIS LECTURE MATTERS

If a notice arrives even after 1 April 2026 but pertains to AY 2026-27 or earlier, the entire fight will be on **1961 Act** sections - 148, 148A, 270A, 143(3), 144B. However, you must also know the 2025 Act section numbers because the Department's new notices, CBDT circulars and ITAT orders will use these new sections. Without this map, you will be confused merely reading the notice. **This lecture is your Rosetta Stone.**

#	By the end of this lecture, you will be able to...
1	Explain the scope and transition framework of the Income-tax Act, 2025 - which proceedings continue under the 1961 Act, and which fall under the new Act.
2	Recall the Tax Year concept replacing the old Previous Year / Assessment Year regime.
3	Quickly map any old-Act section (e.g., 148, 270A, 246A, 220, 276C) to its 2025 Act equivalent.
4	Identify the seven litigation modules of this course and the deliverables you will master in each.
5	Spot the Top 10 high-litigation areas for FY 2026-27 - the modules where you will earn the most as a litigator.

Part A | Course Architecture

How the 12-week journey is structured

This course is structured over **12 weeks (36 hours)**, divided into 7 modules. Each module builds one core litigation skill - reply drafting, limitation tracking, penalty defence, prosecution compounding, stay applications and appeals. The final outcome of this course: you should be able to confidently handle any income tax notice (143(2), 148, 270A, 201, 220, etc.).

Week	Module	Coverage	Key Skill Gained
1	Foundation	Course intro + 1961 vs 2025 Act mapping + Tax Year concept	Section finder + transition logic
2	M1 - Assessment	143(1), 143(2), 143(3)	Scrutiny reply drafting
3	M1 - Assessment	142(1), 144 Best Judgment, 154 Rectification	Best-judgment defence
4	M1 - Assessment	144B Faceless + 144C DRP	Writ petition drafting
5	M1 - Reassessment	147 / 148 / 148A / 149 / 151 - the entire reassessment regime	148A reply + objection drafting
6	M1 - Search	132 Search / 153A / 153C / 158B-158BH Block Assessment	Block assessment strategy
7	M2 - Penalty	270A / 270AA / 271(1)(c) / 271-series	Pinpointing defence - high win-rate
8	M2 - Penalty	271AAB / 271AAC / 271AAD / 271D / 271DA / 271E (cash + s.68-69)	High-quantum penalty fights
9	M3 - Prosecution	276B / 276C / 276CC / 277 / 278 / 279 / 279A Compounding	Prosecution + compounding
10	M4 - TDS/TCS	201 / 234E / 271H / 206C + new 392/393/394	TDS default audits
11	M5 - Recovery	220(6) Stay / 226 Garnishee / 281 / 281B / Interest 234A-D	Stay applications
12	M6 - Appeals	246A CIT(A) - 253 ITAT - 260A HC - SC, 263, 264, DRC, Faceless Appeals	End-to-end appeal portfolio

PRACTICAL TIP - HOW TO STUDY THIS COURSE

1. After each lecture, pick up **2-3 sample notices** from your practice and apply the reply framework you have just learnt.
2. Build **case law cards** - for every landmark case, capture 4 points: facts, issue, ratio, practical use. (GKN Driveshafts, Calcutta Discount, Ashish Agarwal, Prem Brothers, Hindustan Steel, Reliance Petroproducts.)

3. The **drafting templates** you will receive in Module 7 - convert them to your firm's letterhead. You should be able to start client work directly after the course.

Part B | The Big Picture

Why the 1961 Act still rules, and what the 2025 Act actually changes

B.1 The Income-tax Act, 2025 - Quick Facts

Attribute	Income-tax Act, 1961 (Old)	Income-tax Act, 2025 (New)
Total Sections	819 sections	536 sections
Total Chapters	47 chapters	23 chapters
Total Schedules	14 schedules	16 schedules
Effective From	1 April 1962	1 April 2026
Key Concept	Previous Year / Assessment Year	Tax Year (single concept)
Tax Rates	Per Finance Act each year	Per Finance Act each year - unchanged
Deductions	80C, 80D, 24(b), etc.	Same in substance - only renumbered
Appellate Hierarchy	AO - CIT(A) - ITAT - HC - SC	AO - CIT(A) - ITAT - HC - SC (unchanged)
Penalty Quantum (270A)	50% / 200%	50% / 200% (unchanged)
New Tax Imposed?	-	NO (per CBDT FAQs)

CBDT'S OFFICIAL POSITION

Per incometax.gov.in (Help section, Objective and scope of the New Act): "**The Income Tax Act, 2025 does not impose any new tax.**" Slabs, rates, deductions and appellate hierarchy remain intact. The 2025 Act is fundamentally a **simplification and renumbering exercise** - English plain language, fewer cross-references, single Tax Year concept replacing AY/PY duality.

B.2 The Tax Year Concept

The old Act used two concepts - **Previous Year (PY)**, the year in which income is earned, and **Assessment Year (AY)**, the year in which assessment takes place. This duality has been a frequent source of confusion for both students and clients.

The 2025 Act introduces a single concept - **Tax Year** - which is a 12-month period within a financial year. Section 536(3) provides that any reference to 'tax year' in the new Act maps to 'previous year' under the old Act.

Period	Old Act Terminology	New Act Terminology
Year of earning income	Previous Year (PY) 2024-25	Tax Year 2024-25
Year of filing & assessment	Assessment Year (AY) 2025-26	Tax Year 2024-25 (same)
Year covered in ITR filed in July 2026	AY 2026-27 (= PY 2025-26)	Tax Year 2025-26

Period	Old Act Terminology	New Act Terminology
Year covered in ITR filed in July 2027	Would be AY 2027-28	Tax Year 2026-27 (NEW ACT)

CRITICAL TRANSITION RULE - Section 536(2)(c) and (e)

Pending proceedings continue under the 1961 Act, forever. Even if a reassessment order under Section 148 is passed in 2030, where it relates to AY 2022-23, it will be assessed under the 1961 Act.

Practical impact: **For FY 2026-27 and FY 2027-28, more than 95% of the caseload will still be governed by the 1961 Act.** Reassessment of pre-AY 2026-27 income, penalties for pre-2026 proceedings, and appeals against orders passed before April 2026 - all remain under the 1961 Act.

The new Act sections will apply only from Tax Year 2026-27 onwards - i.e., the ITR filed in July 2027.

Part C | Top 10 High-Litigation Areas FY 2026-27

Where the money is for an income tax litigator

This is why you are learning this course - in actual practice, notices arrive, clients come to you in fear, and your fees are generated by winning these battles. The highest volume of litigation in FY 2026-27 will arise from the following types of notices:

#	Litigation Area	Old Section	New Section	Why High Volume
1	Reassessment notices	148, 148A	280, 281	AIS/TIS data triggers; ■50 lakh threshold
2	Scrutiny u/s 143(2)/143(3) + 270A penalty	143(2)/(3), 270A	271, 439	ITR mismatch with 26AS/AIS
3	Faceless assessment defects	144B	273	Natural justice violations
4	Cash transaction penalties	271D, 271DA, 271E	451, 452, 454	■2 lakh cash rule strict enforcement
5	Section 68/69 + 115BBE additions	271AAC	446	78-84% effective tax burden
6	TDS defaults u/s 201(1)/(1A)	201	397	TDS code consolidation under new Act
7	Stay of demand applications	220(6)	412 (equiv.)	20% pre-deposit fights
8	CIT(A) appeals - massive backlog	246A	356	1.5+ lakh appeals pending
9	Search & block assessment	132, 158B-158BH	247, 294-301	Revived from 1.9.2024
10	Prosecution + compounding	276B, 276C, 276CC, 279A	Carried fwd	CBDT guidelines 17.10.2024

PROFESSIONAL INSIGHT

The three highest fee-yielding areas in FY 2026-27 are: (i) **148/148A reassessment defence** (typically Rs. 50,000 to Rs. 5 lakh per file, depending on the income at stake); (ii) **270A misreporting penalty** (where stakes of Rs. 5 to Rs. 50 lakh are common on 200% penalty); (iii) **Stay applications combined with ITAT appeals** (recurring fees over a 3 to 5 year engagement).

Part D | Master Section-Mapping Table

The single most important reference in this course - keep this handy in every notice you read

HOW TO USE THIS TABLE

1. When a new notice arrives, first identify the section number.
2. Look it up in this table - both regimes' equivalent sections.
3. Check the "Material change?" column - whether there is any substantive difference between the 1961 and the 2025 position.
4. Check the vintage of the notice - if issued before 1.4.2026, the 1961 Act applies; for Tax Year 2026-27 onwards, the 2025 Act applies.

D.1 Assessment, Reassessment, Search

Old (1961)	Subject	New (2025)	Material Change?
139	Return of income	263	No
142(1)	Inquiry before assessment / call for accounts	268	No
142(2A)	Special audit	268(2A) equiv.	No
143(1)	Intimation / processing	270	No
143(2)	Scrutiny notice	271	No
143(3)	Regular (scrutiny) assessment	271	No
144	Best judgment / ex-parte	272	No
144B	Faceless assessment scheme	273	Continues - DIN linkage clarified
144C	Dispute Resolution Panel (DRP)	275	Procedural timeline carved out
147	Income escaping assessment	279	Substantively same
148	Reassessment notice	280	Jurisdictional AO emphasised
148A	Procedure before issuance of notice	281	Sub-sections preserved
149	Time limits for issue of 148	282	5-yr / 3-yr limits retained
151	Sanction for issue of notice	284	Hierarchy same
153	Time limit for completion of assessment	286	18 months for search assessments
153A/B/C	Search assessment (pre-1.9.2024)	(retired)	Repealed for searches >= 1.9.2024
158B-158BH	Block assessment (post-1.9.2024)	294-301	Time limit 18 months

Old (1961)	Subject	New (2025)	Material Change?
132	Search & seizure	247	Virtual digital space added
132A	Requisition	248	No
132B	Application of seized assets	250	Approval period extended
133(6)	Power to call for information	259	No
133A	Survey	253	No
131	Discovery, summons	256	No
154	Rectification of mistake	~287	No

D.2 Penalty Provisions (Chapter XXI = Sections 439-472 in 2025 Act)

Old (1961)	Subject	New (2025)	Quantum
270A	Under-/mis-reporting of income	439	50% / 200%
270AA	Immunity from 270A penalty	440 (Form 161, was Form 68)	Eligibility unchanged
271(1)(c)	Concealment (pre-AY 2017-18 legacy)	Sunset - no new equivalent	100%-300% legacy
271(1)(b)	Failure to comply 142(1)/143(2)	442-series	Rs. 10,000 per failure
271A	Failure to keep books	441	Rs. 25,000
271AAB	Penalty in search cases (pre-1.9.24)	(legacy)	30% / 60%
271AAC	Income u/s 68-69D	446 (equiv.)	10% of 115BBE tax = effective 78-84%
271AAD	False entry in books	446 (equiv.)	100% of false entry
271B	Failure to audit u/s 44AB	449	0.5% of turnover, max Rs. 1.5 lakh
271BA	Failure to furnish 92E TP report	449 (equiv.)	Rs. 1,00,000
271D	Cash loan/deposit u/s 269SS	451	100% of loan/deposit
271DA	Cash receipt u/s 269ST	452	100% of cash
271DB	Failure u/s 269SU (digital payment)	453	Rs. 5,000 per day
271E	Cash repayment u/s 269T	454	100% of repayment
271F	Failure to furnish return (legacy)	Sunset (now 234F fee)	Rs. 5,000
271FAA	Inaccurate SFT statement	459	Rs. 50,000
271FB	Failure to furnish ITR by employer	460	Rs. 100 per day
271G	Failure to furnish TP documentation	461	2% of intl. transaction value
271H	Late TDS/TCS returns	463	Rs. 10,000 - Rs. 1,00,000
272A	General penalties	466-468	Rs. 10,000 / Rs. 500 per day
273B	Reasonable cause defence	471 (equiv.)	Bars penalty if proved
273A/AA	Waiver/reduction by PCIT	469-470	Threshold-based powers

D.3 Prosecution Provisions (Chapter XXII)

Old (1961)	Offence	Punishment	Compoundable (CBDT 17.10.24)?
275A	Contravention of 132(3) prohibitory order	RI up to 2 yrs + fine	Yes (Category B)
275B	Failure to provide e-records during search	RI up to 2 yrs + fine	Yes (Category B)
276	Removal/concealment of property	RI up to 2 yrs + fine	Yes
276B	Failure to pay TDS to CG	RI 3 mo - 7 yrs + fine	Yes - fully compoundable
276BB	Failure to pay TCS	RI 3 mo - 7 yrs + fine	Yes
276C(1)	Wilful evasion - > Rs. 25 lakh	RI 6 mo - 7 yrs + fine	Yes (base 100% of tax)
276C(1)	Wilful evasion - other cases	RI 3 mo - 2 yrs + fine	Yes
276C(2)	Wilful evasion of payment	RI 3 mo - 3 yrs + fine	Yes (50% base)
276CC	Failure to furnish ITR > Rs. 25 lakh	RI 6 mo - 7 yrs + fine	Yes - fully compoundable
276CC	Failure to furnish ITR - other	RI 3 mo - 2 yrs + fine	Yes
276D	Failure to produce books u/s 142(1)/(2A)	RI up to 1 yr + fine	Yes - reduced if produced later
277	False statement in verification	Same as 276C	Yes - quantum-linked
277A	Falsification of books	RI 3 mo - 2 yrs + fine	Yes
278	Abetment of false return (CAs/consultants)	Same as 277	Yes (liberalised 2024)
278B	Offences by companies - directors liable	Same as principal offence	-
278E	Presumption of culpable mental state	Statutory presumption - burden on accused	-
279	Prosecution at instance of PCIT/CIT	Mandatory sanction	-
279A	Compounding of offences	Per CBDT guidelines 17.10.2024	Liberalised regime

CRITICAL DEFENCE - Section 278E

"In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution."

Effect: Once the Revenue proves the act or omission (actus reus), mens rea is presumed. The burden then shifts to the accused to prove the absence of intent **beyond reasonable doubt** (not on a preponderance of probabilities). This is why, at an early stage of prosecution, you should look for situations - like the one in K.C. Builders (SC, 2004) - where the Tribunal has deleted the underlying addition. Once that happens, the prosecution collapses on its own foundation.

D.4 TDS / TCS / Recovery / Interest

Old (1961)	Subject	New (2025)	Note
201(1)	Deemed assessee in default for TDS	397	No change in trigger
201(1A)	Interest on TDS default	397	1% / 1.5% p.m.
234E	Late filing fee TDS return	427 (equiv.)	Rs. 200/day, cap = TDS amount
206C	TCS provisions and defaults	394	All TCS in single section, code-based
192	TDS on salary	392	Salary TDS in one section
193-195	TDS on non-salary (multiple sections)	393	All non-salary TDS consolidated with Nature Codes
220(1)/(2)/(6)	Demand & stay of demand	412 / 412(2) / 412(6)	No structural change
221	Penalty for default in tax payment	Recovery chapter	Up to demand amount
222	Certificate to TRO	Carried fwd	No change
226 / 226(3)	Other modes of recovery, garnishee	Carried fwd	Bank attachment, salary recovery
281	Certain transfers void	Recovery chapter (different no.)	DON'T confuse with new s.281 (= old 148A)
281B	Provisional attachment	Carried fwd	PMLA-style framework
234A	Interest for late return	423 (equiv.)	1% p.m.
234B	Interest for advance tax default	424 (equiv.)	1% p.m.
234C	Interest for deferment of advance tax	425 (equiv.)	1% p.m. (1% for last instalment)
234D	Interest on excess refund	426 (equiv.)	0.5% p.m.
234F	Fee for default in return	Retained	Rs. 1,000 / Rs. 5,000

TDS REVOLUTION UNDER THE 2025 ACT

Under the old Act, there were over 30 separate TDS sections - 192, 193, 194, 194A, 194B, 194C, 194D, 194E, 194-I, 194J, 194-IA, 194-IB, 194LA, 194Q, 194R, 194S, 195, 196A to 196D, etc.

The 2025 Act consolidates these into **just 3 sections**: **392** (salary), **393** (all non-salary TDS, with Nature Codes), and **394** (TCS, code-based).

Practical impact: Rates and thresholds remain the **same**. However, notices will now refer to Section 393 along with a Nature Code - you must remember the code-to-old-section mapping. Forms have also changed - **Form 15CA / 15CB have been replaced by Forms 145 and 146** from FY 2026-27 onwards.

D.5 Appeals, Revision & ADR (Chapter XX of 2025 Act = Sections 356-379)

Old (1961)	Subject	New (2025)	Limitation
246A	Appealable orders - CIT(A) / JCIT(A)	356	30 days
248	Appeal denying liability to deduct tax	357	30 days
249	Form & limitation	358	30 days
250	Procedure in appeal	359	-
251	Powers of CIT(A) - confirm/reduce/enhance/annul	360	-
252	ITAT constitution	361	-
253	Appeals to ITAT	362	2 months (post 1.10.2024)
254	Orders of ITAT	363	-
255	Procedure of ITAT (Single Member <= Rs. 50 lakh)	364	-
260A	Appeal to High Court (substantial Q of law)	365	120 days
261	Appeal to Supreme Court	367	Per SC Rules
263	Revision by PCIT (prejudicial to revenue)	377	2 yrs from end of FY of order
264	Revision in favour of assessee	378	1 year
158A / 158AB	Pendency-of-identical-question mechanism	375 / 376	-
245MA	Dispute Resolution Committee (DRC)	379	1 month (Form 34BC)
144C(1)	DRP - Eligible Assessee draft order	275	30 days; DRP gives directions in 9 months

CBDT'S OFFICIAL CONFIRMATION ON APPEALS

Per CBDT FAQ on the new Act:

"No, there is no structural change in the appellate hierarchy under the Income-tax Act, 2025. The architecture of appellate remedies remains intact and continues in the same sequential manner: Assessing Officer - JCIT(A)/CIT(A) - ITAT - High Court - Supreme Court. The powers of appellate authorities have remained materially unchanged. The procedural framework also remains unchanged. The limitation period for filing appeal in Income-tax Act, 2025 as against Income-tax Act, 1961 has remained unchanged."

Practical takeaway: Form 35 (CIT-A), Form 36 (ITAT), Form 35A (DRP), Form 34BC (DRC) - the procedure and the limitation remain unchanged. Only the section number has changed.

Part E | Critical Limitation Calendar

The dates that decide whether you win or lose - memorise these

In litigation, **limitation** is both the first and the last line of defence. If the AO has issued a notice after the limitation period, that notice is **bad in law** - you do not even need to go into the merits. This table will be the first check on every file you handle.

#	Action	Limitation Period	Old Section	New Section
1	Issue 143(2) scrutiny notice	3 months from end of FY of return filing	143(2)	271
2	Complete 143(3) assessment	12 months from end of AY	153	286
3	Issue 148 notice - escaped income < Rs. 50 lakh	3 years 3 months from end of AY	149	282
4	Issue 148 notice - escaped income >= Rs. 50 lakh	5 years 3 months from end of AY	149	282
5	Reply to 148A(b) SCN	7-30 days (as specified in notice)	148A	281
6	Pass 148A(d) order	Within 1 month from end of month of reply	148A(d)	281(3)
7	Pay tax on s.156 demand notice	30 days	220(1)	412(1) eq.
8	Interest on delayed tax	1% p.m. from 31st day	220(2)	412(2) eq.
9	Filing 270AA immunity application	1 month from receipt of order	270AA	440
10	Filing appeal to CIT(A)	30 days	246A/249	356/358
11	Filing appeal to ITAT	2 months from end of month of order	253	362
12	Filing appeal to High Court	120 days	260A	365
13	Rectification application	4 years from end of FY of order	154	~287
14	Section 263 revision by PCIT	2 years from end of FY of order	263	377
15	Section 264 revision (assessee's request)	1 year	264	378
16	Rectification of ITAT order	6 months from end of month of order	254(2)	363
17	ITAT stay - max duration	365 days (with 20% deposit / security)	254(2A)	363 eq.
18	Compounding application (no surcharge)	Within 12 months of complaint	279(2)	Carried fwd

#	Action	Limitation Period	Old Section	New Section
19	Provisional attachment u/s 281B	6 months, extendable to 2 years	281B	Carried fwd
20	Order u/s 201(1) treating TDS default	7 years from end of FY of payment	201(3)	397

GOLDEN RULE OF LIMITATION

"Take your limitation stand in the very first reply. Raising it later can amount to waiver."

Although jurisdictional defects can be raised at any stage (per *Kiran Singh v. Chaman Paswan*, SC), best practice is to **state the limitation objection in your first reply** - whether to the 148A(b) SCN or to the 142(1) / 143(2) notice. Reason: if the AO has been asked to address the limitation point, the record is clear when the matter goes up in appeal. Raising limitation late may invite a "calculated stand" argument from the Department.

Part F | 5 Foundational Case Laws

The cases you must know cold from Day 1

In income tax litigation, 95% of all defences are built on 5 foundational cases. These are your **scriptures**. Memorise the facts, the issue, the ratio and the practical use of each one.

CASE #1: GKN Driveshafts (India) Ltd. v. ITO

Citation: (2003) 259 ITR 19 (SC) | Bench: Quadri J. & Pasayat J.

Ratio: Once a notice u/s 148 is received, the assessee must file return under protest and demand reasons recorded. AO must furnish reasons; assessee files objections; AO must dispose objections by **speaking order** before proceeding to assessment.

***Verbatim:** "On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the assessing officer is bound to dispose of the same by passing a speaking Order before proceeding with the assessment."*

Practical use: Every reassessment defence - demand reasons, file objections, push for speaking order. Missed speaking order = ground for quashing.

CASE #2: Calcutta Discount Co. Ltd. v. ITO

Citation: (1961) 41 ITR 191 (SC) | AIR 1961 SC 372

Ratio: Assessee's duty under reassessment provisions is limited to disclosing **primary facts**. Drawing inferences from those facts is the AO's job. Reopening on the basis of 'change of opinion' or because AO failed to draw inferences earlier is bad in law.

***Verbatim:** "Before the Income-tax Officer could issue a notice [for reassessment], two conditions precedent must co-exist, namely, that he must have reason to believe (i) that income had been under-assessed and (ii) that such under-assessment was due to non-disclosure of material facts."*

Practical use: Foundational defence in every 148 reply where issue was already on record - "primary facts disclosed; legal inference is AO's duty".

CASE #3: Union of India v. Ashish Agarwal

Citation: (2022) 444 ITR 1 (SC) | 2022 SCC OnLine SC 543

Ratio: All s.148 notices issued under **pre-amended regime between 1.4.2021 and 30.6.2021** (approx. 90,000 notices) deemed to be 148A(b) SCNs. SC used Article 142 powers to save them. AO directed to furnish material within 30 days; assessee 2 weeks to reply.

***Verbatim:** "The respective impugned section 148 notices issued to the respective assessees... shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and treated to be show-cause notices in terms of section 148A(b)."*

Practical use: Reference point for all post-1.4.2021 reassessment litigation. Later refined in *Rajeev Bansal* (2024) on 'surviving time' under TOLA.

CASE #4: CIT v. Reliance Petroproducts (P) Ltd.

Citation: (2010) 322 ITR 158 (SC)

Ratio: Wrong claim of deduction **does not** amount to furnishing inaccurate particulars / concealment. Mere disallowance of a claim does not justify penalty.

***Verbatim:** "A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. Such claim made in the Return cannot amount to the inaccurate particulars."*

Practical use: Foundational penalty defence - applies to old s.271(1)(c) and new s.270A. Where disallowance is on legal interpretation, no penalty.

CASE #5: Hindustan Steel Ltd. v. State of Orissa

Citation: (1972) 83 ITR 26 (SC)

Ratio: Penalty is **not to be imposed** for technical or venial breach of law. Bona fide belief that no liability exists is reasonable cause. Penalty proceedings are quasi-criminal - discretion must be exercised judicially.

***Verbatim:** "An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation."*

Practical use: Master defence for every penalty - 270A, 271-series, 271D/DA/E. Combined with s.273B reasonable cause plea, deletes most penalties at first appeal.

Part G | Legal Terminology Glossary

Key terms every income tax litigator must know

Income tax litigation is filled with Latin maxims, statutory terms of art, and procedural expressions that recur in every order, reply and appeal. This glossary captures the essentials you will encounter from Day 1.

Term	Meaning in Income Tax Litigation
Actus reus	The wrongful act or omission - the physical element of an offence (e.g., failure to deduct TDS).
Mens rea	The guilty mental state - intention or knowledge accompanying the act. Presumed under s.278E.
Audi alteram partem	Latin: "Hear the other side." The foundational rule of natural justice.
Speaking order	An order containing reasons for the conclusion reached. Required under s.148A(d) and after GKN Driveshafts.
Reasons to believe	The jurisdictional threshold for issuing notices under s.132 / 148 / pre-2021. Must be objective, not subjective.
Change of opinion	Reopening based on the same material the AO already considered - barred by Kelvinator of India (SC, 2010).
Primary facts	Facts the assessee is duty-bound to disclose. Drawing legal inferences is the AO's job (Calcutta Discount).
Best judgment assessment	Assessment made on the AO's discretion under s.144 where the assessee fails to cooperate.
Faceless assessment	Assessment conducted under s.144B through the National Faceless Assessment Centre, without face-to-face interaction.
Show cause notice (SCN)	A notice giving the assessee an opportunity to explain why an adverse action should not be taken.
Limitation	The statutory time period within which a notice may be issued or proceeding completed. Goes to jurisdiction.
Sanction	Prior approval of a specified authority (PCIT / CCIT, etc.) required for issuing certain notices, including s.148.
Borrowed satisfaction	AO acting on someone else's satisfaction (e.g., investigation wing) without independent application of mind - bad in law.
Tangible material	Fresh, specific evidence required to reopen an assessment - not the same material already on record.
Stay of demand	An order restraining recovery of the tax demand pending appeal, granted under s.220(6).
Pre-deposit	Partial payment of disputed tax required before stay or appeal is entertained.
Garnishee proceedings	Recovery from a third party (typically the bank or employer) who holds money for the assessee, under s.226(3).
Compounding	Settlement of a criminal prosecution on payment of a compounding fee under s.279(2).

Term	Meaning in Income Tax Litigation
Immunity (s.270AA)	Statutory protection from penalty u/s 270A and prosecution u/s 276C/276CC, on satisfaction of conditions.
Revision	The power of a higher authority (PCIT under s.263 or s.264) to modify an order.
Wilful evasion	Deliberate, intentional avoidance of tax liability - the foundation of prosecution under s.276C.
Under-reporting	Difference between assessed and reported / processed income, attracting 50% penalty under s.270A(2).
Misreporting	Specific aggravated under-reporting under one of the six clauses of s.270A(9), attracting 200% penalty.
Unexplained credit (s.68)	A credit in books of account where the assessee fails to satisfactorily explain its nature and source.
Block period	The 6-year period preceding the financial year of search (plus part period) covered by block assessment u/s 158B.
Tax Year	The new unified 12-month period under the 2025 Act, replacing the PY/AY duality.
Substantial question of law	The threshold for appeal to the High Court under s.260A - a debatable legal issue, not a question of fact.
DIN	Document Identification Number - a unique number that must be quoted on every CBDT/Department communication.

Part H | Self-Assessment Quiz

Test your retention before moving to Lecture 2

Q1. Section 148 of the 1961 Act maps to which section of the 2025 Act?

Answer: Section **280**. (Section 148A maps to s.281.)

Q2. Post Finance (No. 2) Act 2024, what is the outer time limit for issuing a Section 148 notice where escaped income is Rs. 75 lakh?

Answer: **5 years 3 months** from end of relevant AY (Section 149 / new s.282).

Q3. What is the penalty quantum for misreporting of income under Section 270A?

Answer: **200% of tax payable** on under-reported income arising from misreporting (s.270A(9)).

Q4. Name the foundational SC case requiring AO to dispose of objections by speaking order before reassessment.

Answer: **GKN Driveshafts (India) Ltd. v. ITO**, (2003) 259 ITR 19 (SC).

Q5. Section 263 (revision by PCIT) requires which two conditions to be satisfied simultaneously?

Answer: Order must be **(i) erroneous AND (ii) prejudicial to interests of revenue** - Malabar Industrial (SC, 2000).

Q6. Under the 2025 Act, all non-salary TDS sections (193-195) are consolidated into which single new section?

Answer: **Section 393** with Nature Codes identifying transaction type.

Q7. What is the limitation for filing an appeal to ITAT, effective from 1 October 2024?

Answer: **2 months from end of month** in which order is communicated (s.253 / new s.362).

Q8. Form for 270AA immunity application under old Act vs new Act?

Answer: Old: **Form 68**. New: **Form 161**.

Q9. Block assessment under Section 158B-158BH applies to searches initiated from which date?

Answer: **1 September 2024 onwards**. Pre-1.9.2024 searches continue under s.153A/153C.

Q10. Per CBDT and 24Law analysis, is the 20% pre-deposit under CBDT OM dated 31.7.2017 a mandatory precondition for stay of demand?

Answer: **NO**. Delhi HC in *NASSCOM v. DCIT (Exemption)* (2024) held 20% is not inviolable; AO must exercise discretion u/s 220(6) considering prima facie case, hardship, balance of convenience. Reaffirmed in *Clearmedi Healthcare* (22.12.2025).

Part I | Key Takeaways

The 8 commandments before Lecture 2

- 01** The 1961 Act and the 2025 Act will **coexist** for at least 5 to 7 years. Pre-AY 2026-27 matters remain under the 1961 Act forever (Section 536(2)(c)/(e)). From Tax Year 2026-27 onwards, the new Act applies.
- 02** **The 2025 Act is mostly renumbering** - no new tax, no rate change, no deduction removal, no change in the appellate hierarchy. Master the mapping; you already know the substance.
- 03** **Five sections drive 80% of all litigation:** 148 / 148A (reassessment), 143(3) (scrutiny), 270A (penalty), 220(6) (stay of demand) and 246A / 253 (appeals). This is your bread and butter.
- 04** **Limitation is your first defence.** Every notice begins with a date check. Keep the Limitation Calendar (Part E) on your desktop wallpaper.
- 05** Memorise the **five foundational cases** word-for-word (GKN Driveshafts, Calcutta Discount, Ashish Agarwal, Reliance Petroproducts, Hindustan Steel). Eighty per cent of all defences flow from these.
- 06** **Defects in faceless assessment** (no SCN-cum-DAO, no personal hearing, reply ignored) - go directly in writ to the High Court. The Bharat Aluminium and Sanjay Aggarwal line is strong.
- 07** **File the 270AA immunity application within 1 month** - the single highest-ROI procedural step. Form 68 (old Act) / Form 161 (new Act). File it before considering whether to appeal.
- 08** **Compounding under Section 279A** has been liberalised by the CBDT guidelines of 17 October 2024 - even 276B (TDS), 276CC (failure to file return) and 278 (abetment by professionals) are fully compoundable. Always offer this to the client as an alternative to trial.

Coming Up Next | Lecture 2 Preview

LECTURE 02 - SCRUTINY UNDER SECTIONS 143(1), 143(2), 143(3)

In the next lecture, we begin with the actual handling of notices. Topics covered:

1. **Section 143(1)** - CPC intimation, adjustments and rectification under Section 154.
2. **Section 143(2)** - the 3-month limitation, CASS, and the distinction between Limited, Complete and Compulsory Scrutiny.
3. **Section 143(3)** - building the scrutiny reply, the evidence framework, and anticipating Section 68 / 69 additions.

4. **Drafting workshop** - a live reply to a sample 143(2) notice involving a cash deposit issue.

Preparation: Bring 1 or 2 sample 143(2) notices from your practice - we will draft the reply live in class.

Closing Note from Arjun Mittal

Learning litigation is not a six-month exercise - it is a lifelong practice. But if you follow these **12 weeks** seriously, practise your drafting, memorise the case laws, and analyse one notice from your practice every day, by the end of 12 weeks you will be able to handle any income tax notice without fear.

"Never fear a notice. First check limitation, then natural justice, then the merits. Eighty per cent of notices fall on one of these three grounds alone."

- See you in Lecture 2.