

CHAPTER XIX

REFUNDS

Refunds.

237. If any person satisfies the Assessing Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

Person entitled to claim refund in certain special cases.

238. (1) Where the income of one person is included under any provision of this Act in the total income of any other person, the latter alone shall be entitled to a refund under this Chapter in respect of such income.

(1A) Where the value of fringe benefits provided or deemed to have been provided by one employer is included under any provisions of Chapter XII-H in the value of fringe benefits provided or deemed to have been provided by any other employer, the latter alone shall be entitled to a refund under this Chapter in respect of such fringe benefits.

(2) Where through death, incapacity, insolvency, liquidation or other cause, a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

Form of claim for refund and limitation.

239. ⁷⁴(1) Every claim for refund under this Chapter shall be made in the prescribed form and verified in the prescribed manner.

(2) No such claim shall be allowed, unless it is made within the period specified hereunder, namely :—

- (a) where the claim is in respect of income which is assessable for any assessment year commencing on or before the 1st day of April, 1967, four years from the last day of such assessment year;
- (b) where the claim is in respect of income which is assessable for the assessment year commencing on the first day of April, 1968, three years from the last day of the assessment year;
- (c) where the claim is in respect of income which is assessable for any other assessment year, one year from the last day of such assessment year;
- (d) where the claim is in respect of fringe benefits which are assessable for any assessment year commencing on or after the first day of April, 2006, one year from the last day of such assessment year.

Section - 240, Income-tax Act, 1961-2018

Refund on appeal, etc.

240. Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Assessing Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf:

Provided that where, by the order aforesaid,—

- (a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;
- (b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.

Section - 241, Income-tax Act, 1961-2018

Power to withhold refund in certain cases.

241. [Omitted by the Finance Act, 2001, w.e.f. 1-6-2001.]

Section - 241A, Income-tax Act, 1961-2018

⁷⁵**[Withholding of refund in certain cases.**

241A. For every assessment year commencing on or after the 1st day of April, 2017, where refund of any amount becomes due to the assessee under the provisions of sub-section (1) of [section 143](#) and the Assessing Officer is of the opinion, having regard to the fact that a notice has been issued under sub-section (2) of [section 143](#) in respect of such return, that the grant of the refund is likely to adversely affect the revenue, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, as the case may be, withhold the refund up to the date on which the assessment is made.]

Section - 242, Income-tax Act, 1961-2018

Correctness of assessment not to be questioned.

242. In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same, and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

Section - 243, Income-tax Act, 1961-2018

⁷⁶**Interest on delayed refunds.**

243. (1) If the Assessing Officer does not grant the refund,—

- (a) in any case where the total income of the assessee does not consist solely of income from interest on securities or dividends, within three months from the end of the month in which the total income is determined under this Act, and
- (b) in any other case, within three months from the end of the month in which the claim for refund is made under this Chapter,

the Central Government shall pay the assessee simple interest at fifteen per cent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of three months aforesaid to the date of the order granting the refund.

Explanation.—If the delay in granting the refund within the period of three months aforesaid is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision shall be final.

(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.

Section - 244, Income-tax Act, 1961-2018

Interest on refund where no claim is needed.

⁷⁷**244.** (1) Where a refund is due to the assessee in pursuance of an order referred to in [section 240](#) and the Assessing Officer does not grant the refund within a period of three months from the end of the month in which such order is passed, the Central Government shall pay to the assessee simple interest at fifteen per cent per annum on the amount of refund due from the date immediately following the expiry of the period of three months aforesaid to the date on which the refund is granted.

(1A) Where the whole or any part of the refund referred to in sub-section (1) is due to the assessee, as a result of any amount having been paid by him after the 31st day of March, 1975, in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (1) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted :

Provided that where the amount so found to be in excess was paid in instalments, such interest shall be payable on the amount of each such instalment or any part of such instalment, which was in excess, from the date on which such instalment was paid to the date on which the refund is granted :

Provided further that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding :

Provided also that where any interest is payable to an assessee under this sub-section, no interest under sub-section (1) shall be payable to him in respect of the amount so found to be in excess.

(2) Where a refund is withheld under the provisions of [section 241](#), the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due

as a result of the appeal or further proceeding for the period commencing after the expiry of three months from the end of the month in which the order referred to in [section 241](#) is passed to the date the refund is granted.

(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment years.

Section - 244A, Income-tax Act, 1961-2018

Interest on refunds.

244A. (1) Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely :—

⁷⁸[(a) where the refund is out of any tax collected at source under [section 206C](#) or paid by way of advance tax or treated as paid under [section 199](#), during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period,—

(i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under sub-section (1) of [section 139](#); or

(ii) from the date of furnishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (i);

(aa) where the refund is out of any tax paid under [section 140A](#), such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period, from the date of furnishing of return of income or payment of tax, whichever is later, to the date on which the refund is granted:

Provided that no interest under clause (a) or clause (aa) shall be payable, if the amount of refund is less than ten per cent of the tax as determined under sub-section (1) of [section 143](#) or on regular assessment;]

(b) in any other case, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, "date of payment of tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under [section 156](#) is paid in excess of such demand.

⁷⁹[(1A) In a case where a refund arises as a result of giving effect to an order under [section 250](#) or [section 254](#) or [section 260](#) or [section 262](#) or [section 263](#) or [section 264](#), wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1), an additional interest on such amount of refund calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of [section 153](#) to the date on which the refund is granted.]

⁸⁰[(1B) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B, such deductor shall be

entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one-half per cent for every month or part of a month comprised in the period, from the date on which—

- (a) claim for refund is made in the prescribed form; or
- (b) tax is paid, where refund arises on account of giving effect to an order under [section 250](#) or [section 254](#) or [section 260](#) or [section 262](#),

to the date on which the refund is granted.]

(2) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee ⁸⁰[or the deductor, as the case may be,] whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable ^{80a}[under sub-section (1) or (1A)] ⁸⁰[or (1B)], and where any question arises as to the period to be excluded, it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final.

(3) Where, as a result of an order under sub-section (3) of [section 115WE](#) or [section 115WF](#) or [section 115WG](#) or sub-section (3) of [section 143](#) or [section 144](#) or [section 147](#) or [section 154](#) or [section 155](#) or [section 250](#) or [section 254](#) or [section 260](#) or [section 262](#) or [section 263](#) or [section 264](#) or an order of the Settlement Commission under sub-section (4) of [section 245D](#), the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under [section 156](#) and the provisions of this Act shall apply accordingly.

(4) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years :

Provided that in respect of assessment of fringe benefits, the provisions of this sub-section shall have effect as if for the figures "1989", the figures "2006" had been substituted.

Section - 245, Income-tax Act, 1961-2018

Set off of refunds against tax remaining payable.

245. Where under any of the provisions of this Act, a refund is found to be due to any person, the Assessing Officer, Deputy Commissioner (Appeals), Commissioner (Appeals) or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.

Section - 245A, Income-tax Act, 1961-2018

CHAPTER XIX-A

SETTLEMENT OF CASES

Definitions.

245A. In this Chapter, unless the context otherwise requires,—

- (a) "Bench" means a Bench of the Settlement Commission;
- (b) "case" means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of [section 245C](#) is made.

Explanation.—For the purposes of this clause—

- (i) a proceeding for assessment or reassessment or recomputation under [section 147](#) shall be deemed to have commenced—
 - (a) from the date on which a notice under [section 148](#) is issued for any assessment year;
 - (b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under [section 148](#) has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under [section 139](#) or in response to a notice under [section 142](#);
 - (ii) [***]
 - (iii) a proceeding for making fresh assessment in pursuance of an order under [section 254](#) or [section 263](#) or [section 264](#), setting aside or cancelling an assessment shall be deemed to have commenced from the date on which such order, setting aside or cancelling an assessment was passed;
 - (iiia) a proceeding for assessment or reassessment for any of the assessment years, referred to in clause (b) of sub-section (1) of [section 153A](#) in case of a person referred to in [section 153A](#) or [section 153C](#), shall be deemed to have commenced on the date of issue of notice initiating such proceeding and concluded on the date on which the assessment is made;
 - (iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iiia)*, shall be deemed to have commenced from the date on which the return of income for that assessment year is furnished under [section 139](#) or in response to a notice served under [section 142](#) and concluded on the date on which the assessment is made; or on the expiry of ⁸¹[the time specified for making assessment under sub-section (1) of [section 153](#)], in case where no assessment is made;
- (c) "Chairman" means the Chairman of the Settlement Commission;
 - (d) "income-tax authority" means an income-tax authority specified in [section 116](#);
 - (e) "Member" means a Member of the Settlement Commission, and includes the Chairman and a Vice-Chairman;
 - (f) "Settlement Commission" means the Income-tax Settlement Commission constituted under [section 245B](#);
 - (g) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission and includes a Member who is senior amongst the Members of a Bench.

Income-tax Settlement Commission.

245B. (1) The Central Government shall constitute a Commission to be called the Income-tax Settlement Commission for the settlement of cases under this Chapter.

(2) The Settlement Commission shall consist of a Chairman and as many Vice-Chairmen and other members as the Central Government thinks fit and shall function within the Department of the Central Government dealing with direct taxes.

(2A) [***]

(3) The Chairman, Vice-Chairman and other members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and, experience in, problems relating to direct taxes and business accounts:

Provided that, where a member of the Board is appointed as the Chairman, Vice-Chairman or as a member of the Settlement Commission, he shall cease to be a member of the Board.

Jurisdiction and powers of Settlement Commission.

245BA. (1) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of the Settlement Commission may be exercised by Benches thereof.

(2) Subject to the other provisions of this section, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of two other Members.

(3) The Bench for which the Chairman is the Presiding Officer shall be the principal Bench and the other Benches shall be known as additional Benches.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the Chairman may authorise the Vice-Chairman or other Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, other Member of another Bench.

(5) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person be the Presiding Officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the Presiding Officer or in the office of one or the other Members of the Bench, the remaining two persons may function as the Bench and if the Presiding Officer of the Bench is not one of the remaining two persons, the senior among the remaining persons shall act as the Presiding Officer of the Bench :

Provided that if at any stage of the hearing of any such case or matter, it appears to the Presiding Officer that the case or matter is of such a nature that it ought to be heard of by a Bench consisting of three Members, the case or matter may be referred by the Presiding Officer of such Bench to the Chairman for transfer to such Bench as the Chairman may deem fit.

(5A) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a Special Bench consisting of more than three Members.

(6) Subject to the other provisions of this Chapter, the places at which the principal Bench and the additional Benches shall ordinarily sit shall be such as the Central Government may, by

notification in the Official Gazette, specify and the Special Bench shall sit at a place to be fixed by the Chairman.

Section - 245BB, Income-tax Act, 1961-2018

Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances.

245BB. (1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

Section - 245BC, Income-tax Act, 1961-2018

Power of Chairman to transfer cases from one Bench to another.

245BC. On the application of the assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and after notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.

Section - 245BD, Income-tax Act, 1961-2018

Decision to be by majority.

245BD. If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.

Section - 245C, Income-tax Act, 1961-2018

Application for settlement of cases.

⁸²**245C.** (1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer, the manner in which

such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided :

Provided that no such application shall be made unless,—

(i) in a case where proceedings for assessment or reassessment for any of the assessment years referred to in clause (b) of sub-section (1) of [section 153A](#) or clause (b) of sub-section (1) of [section 153B](#) in case of a person referred to in [section 153A](#) or [section 153C](#) have been initiated, the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees,

(ia) in a case where—

(A) the applicant is related to the person referred to in clause (i) who has filed an application (hereafter in this sub-section referred to as "specified person"); and

(B) the proceedings for assessment or re-assessment for any of the assessment years referred to in clause (b) of sub-section (1) of [section 153A](#) or clause (b) of sub-section (1) of [section 153B](#) in case of the applicant, being a person referred to in [section 153A](#) or [section 153C](#), have been initiated,

the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,

(ii) in any other case, the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,

and such tax and the interest thereon, which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.

Explanation.—For the purposes of clause (ia),—

(a) the applicant, in relation to the specified person referred to in clause (ia), means,—

(i) where the specified person is an individual, any relative of the specified person;

(ii) where the specified person is a company, firm, association of persons or Hindu undivided family, any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;

(iii) any individual who has a substantial interest in the business or profession of the specified person, or any relative of such individual;

(iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the specified person or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member;

(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the specified person; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(vi) any person who carries on a business or profession,—

(A) where the specified person being an individual, or any relative of such specified person, has a substantial interest in the business or profession of that person; or

(B) where the specified person being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person;

(b) a person shall be deemed to have a substantial interest in a business or profession, if—

(A) in a case where the business or profession is carried on by a company, such person is, on the date of search, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power; and

(B) in any other case, such person is, on the date of search, beneficially entitled to not less than twenty per cent of the profits of such business or profession.

(1A) For the purposes of sub-section (1) of this section, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the income disclosed in the application relates to only one previous year,—

(i) if the applicant has not furnished a return in respect of the total income of that year, then, tax shall be calculated on the income disclosed in the application as if such income were the total income;

(ii) if the applicant has furnished a return in respect of the total income of that year, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income.

(1C) The additional amount of income-tax payable in respect of the income disclosed in the application relating to the previous year referred to in sub-section (1B) shall be,—

(a) in a case referred to in clause (i) of that sub-section, the amount of tax calculated under that clause;

(b) in a case referred to in clause (ii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the total income returned for that year;

(c) [***].

(1D) Where the income disclosed in the application relates to more than one previous year, the additional amount of income-tax payable in respect of the income disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of income-tax payable in respect of the income disclosed in the application.

(1E) [***]

(2) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

(4) An assessee shall, on the date on which he makes an application under sub-section (1) to the Settlement Commission, also intimate the Assessing Officer in the prescribed manner⁸³ of having made such application to the said Commission.

Procedure on receipt of an application under [section 245C](#).⁸⁴

245D. (1) On receipt of an application under [section 245C](#), the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

Provided that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(1A) [*Omitted by the Finance (No. 2) Act, 1991, w.e.f. 27-9-1991.*]

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Principal Commissioner or Commissioner.

(2A) Where an application was made under [section 245C](#) before the 1st day of June, 2007, but an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional tax on the income disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

Explanation.—In respect of the applications referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (1).

(2B) The Settlement Commission shall,—

- (i) in respect of an application which is allowed to be proceeded with under sub-section (1), within thirty days from the date on which the application was made; or
- (ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007,

call for a report from the Principal Commissioner or Commissioner, and the Principal Commissioner or Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(2C) Where a report of the Principal Commissioner or Commissioner called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Principal Commissioner or Commissioner:

Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further that where the Principal Commissioner or Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Principal Commissioner or Commissioner.

(2D) Where an application was made under sub-section (1) of [section 245C](#) before the 1st day of June, 2007 and an order under the provisions of sub-section (1) of this section, as they stood

immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional tax on the income disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.

(3) The Settlement Commission, in respect of—

- (i) an application which has not been declared invalid under sub-section (2C); or
- (ii) an application referred to in sub-section (2D) which has been allowed to be further proceeded with under that sub-section,

may call for the records from the Principal Commissioner or Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Principal Commissioner or Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Principal Commissioner or Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

Provided that where the Principal Commissioner or Commissioner does not furnish the report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

(4) After examination of the records and the report of the Principal Commissioner or Commissioner, if any, received under—

- (i) sub-section (2B) or sub-section (3), or
- (ii) the provisions of sub-section (1) as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the Principal Commissioner or Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Principal Commissioner or Commissioner.

(4A) The Settlement Commission shall pass an order under sub-section (4),—

- (i) in respect of an application referred to in sub-section (2A) or sub-section (2D), on or before the 31st day of March, 2008;
- (ii) in respect of an application made on or after the 1st day of June, 2007 but before the 1st day of June, 2010, within twelve months from the end of the month in which the application was made;
- (iii) in respect of an application made on or after the 1st day of June, 2010, within eighteen months from the end of the month in which the application was made.

(5) Subject to the provisions of [section 245BA](#), the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (4) and, in relation to the passing of such order, the provisions of [section 245BD](#) shall apply.

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at one and one-fourth per cent for every month or part of a month on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.

(6B) The Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4)—

(a) at any time within a period of six months from the end of the month in which the order was passed; or

(b) at any time within the period of six months from the end of the month in which an application for rectification has been made by the Principal Commissioner or the Commissioner or the applicant, as the case may be:

Provided that no application for rectification shall be made by the Principal Commissioner or the Commissioner or the applicant after the expiry of six months from the end of the month in which an order under sub-section (4) is passed by the Settlement Commission:

Provided further that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Principal Commissioner or Commissioner of its intention to do so and has allowed the applicant and the Principal Commissioner or Commissioner an opportunity of being heard.

(7) Where a settlement becomes void as provided under sub-section (6), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the income-tax authority concerned, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement became void.

(8) For the removal of doubts, it is hereby declared that nothing contained in [section 153](#) shall apply to any order passed under sub-section (4) or to any order of assessment, reassessment or recomputation required to be made by the Assessing Officer in pursuance of any directions contained in such order passed by the Settlement Commission and nothing contained in the proviso to sub-section (1) of [section 186](#) shall apply to the cancellation of the registration of a firm required to be made in pursuance of any such directions as aforesaid.

Section - 245DD, Income-tax Act, 1961-2018

Power of Settlement Commission to order provisional attachment to protect revenue.

245DD. (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it

is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner provided in the Second Schedule :

Provided that where a provisional attachment made under [section 281B](#) is pending immediately before an application is made under [section 245C](#), an order under this sub-section shall continue such provisional attachment up to the period up to which an order made under [section 281B](#) would have continued if such application had not been made :

Provided further that where the Settlement Commission passes an order under this sub-section after the expiry of the period referred to in the preceding proviso, the provisions of sub-section (2) shall apply to such order as if the said order had originally been passed by the Settlement Commission.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1) :

Provided that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit.

Section - 245E, Income-tax Act, 1961-2018

Power of Settlement Commission to reopen completed proceedings.

245E. If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act by any income-tax authority before the application under [section 245C](#) was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also :

Provided that no proceeding shall be reopened by the Settlement Commission under this section if the period between the end of the assessment year to which such a proceeding relates and the date of application for settlement under [section 245C](#) exceeds nine years :

Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under [section 245C](#) is made on or after the 1st day of June, 2007.

Section - 245F, Income-tax Act, 1961-2018

Powers and procedure of Settlement Commission.

245F. (1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in an income-tax authority under this Act.

(2) Where an application made under [section 245C](#) has been allowed to be proceeded with under [section 245D](#), the Settlement Commission shall, until an order is passed under sub-section (4) of [section 245D](#), have, subject to the provisions of sub-section (3) of that section, exclusive jurisdiction to exercise the powers and perform the functions of an income-tax authority under this Act in relation to the case :

Provided that where an application has been made under [section 245C](#) on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

Provided further that where—

- (i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of [section 245D](#); or
- (ii) an application is not allowed to be proceeded with under sub-section (2A) of [section 245D](#), or, as the case may be, is declared invalid under sub-section (2C) of that section; or
- (iii) an application is not allowed to be further proceeded with under sub-section (2D) of [section 245D](#),

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction upto the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.

(3) Notwithstanding anything contained in sub-section (2) and in the absence of any express direction to the contrary by the Settlement Commission, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment in relation to the matters before the Settlement Commission.

(4) For the removal of doubt, it is hereby declared that, in the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

(5) [***]

(6) [***]

(7) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

Section - 245G, Income-tax Act, 1961-2018

Inspection, etc., of reports.

245G. ⁸⁵No person shall be entitled to inspect, or obtain copies of, any reports made by any income-tax authority to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee :

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Section - 245H, Income-tax Act, 1961-2018

Power of Settlement Commission to grant immunity from prosecution and penalty.

245H. (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under [section 245C](#) has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose for the reasons to be recorded in writing, immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force and also (either wholly or in part) from the imposition of any penalty under this Act, with respect to the case covered by the settlement :

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under [section 245C](#) :

Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code (45 of 1860) or under any Central Act other than this Act and the Wealth-tax Act, 1957 (27 of 1957) to a person who makes an application under [section 245C](#) on or after the 1st day of June, 2007.

(1A) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of settlement passed under sub-section (4) of section 245D within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

Section - 245HA, Income-tax Act, 1961-2018

Abatement of proceeding before Settlement Commission.

245HA. (1) Where—

- (i) an application made under [section 245C](#) on or after the 1st day of June, 2007 has been rejected under sub-section (1) of [section 245D](#); or
- (ii) an application made under [section 245C](#) has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of [section 245D](#); or
- (iii) an application made under [section 245C](#) has been declared as invalid under sub-section (2C) of [section 245D](#); or
- (iiia) in respect of any application made under [section 245C](#), an order under sub-section (4) of [section 245D](#) has been passed not providing for the terms of settlement; or

- (iv) in respect of any other application made under [section 245C](#), an order under sub-section (4) of [section 245D](#) has not been passed within the time or period specified under sub-section (4A) of [section 245D](#),

the proceedings before the Settlement Commission shall abate on the specified date.

Explanation.—For the purposes of this sub-section, "specified date" means—

- (a) in respect of an application referred to in clause (i), the day on which the application was rejected;
- (b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;
- (c) in respect of an application referred to in clause (iii), the last day of the month in which the application was declared invalid;
- (ca) in respect of an application referred to clause (iiia), the day on which the order under sub-section (4) of [section 245D](#) was passed not providing for the terms of settlement;
- (d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of [section 245D](#) expires.

(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under [section 245C](#) had been made.

(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other income-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other income-tax authority or held or recorded by him in the course of the proceedings before him.

(4) For the purposes of the time-limit under sections [149](#), [153](#), [153B](#), [154](#), [155](#), [158BE](#) and [231](#) and for the purposes of payment of interest under [section 243](#) or [244](#) or, as the case may be, [section 244A](#), for making the assessment or reassessment under sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under [section 245C](#) and ending with "specified date" referred to in sub-section (1) shall be excluded; and where the assessee is a firm, for the purposes of the time-limit for cancellation of registration of the firm under sub-section (1) of [section 186](#), the period aforesaid shall, likewise, be excluded.

Section - 245HAA, Income-tax Act, 1961-2018

Credit for tax paid in case of abatement of proceedings.

245HAA. Where an application made under [section 245C](#) on or after the 1st day of June, 2007, is rejected under sub-section (1) of [section 245D](#), or any other application made under [section 245C](#) is not allowed to be proceeded with under sub-section (2A) of [section 245D](#) or is declared invalid under sub-section (2C) of [section 245D](#) or has not been allowed to be further proceeded with under sub-section (2D) of [section 245D](#) or an order under sub-section (4) of [section 245D](#) has not been passed within the time or period specified under sub-section (4A) of [section 245D](#), the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.

Order of settlement to be conclusive.

245-I. Every order of settlement passed under sub-section (4) of [section 245D](#) shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

Recovery of sums due under order of settlement.

245J. Any sum specified in an order of settlement passed under sub-section (4) of [section 245D](#) may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of Chapter XVII, by the Assessing Officer having jurisdiction over the person who made the application for settlement under [section 245C](#).

Bar on subsequent application for settlement.

245K. (1) Where—

- (i) an order of settlement passed under sub-section (4) of [section 245D](#) provides for the imposition of a penalty on the person who made the application under [section 245C](#) for settlement, on the ground of concealment of particulars of his income; or
- (ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case; or
- (iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, he or any person related to such person (herein referred to as related person) shall not be entitled to apply for settlement under [section 245C](#) in relation to any other matter.

(2) Where a person has made an application under [section 245C](#) on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of [section 245D](#), such person or any related person shall not be subsequently entitled] to make an application under [section 245C](#).

Explanation.—For the purposes of this section, "related person" with respect to a person means,—

- (i) where such person is an individual, any company in which such person holds more than fifty per cent of the shares or voting rights at any time, or any firm or association of persons or body of individuals in which such person is entitled to more than fifty per cent of the profits at any time, or any Hindu undivided family in which such person is a *karta*;

- (ii) where such person is a company, any individual who held more than fifty per cent of the shares or voting rights in such company at any time before the date of application before the Settlement Commission by such person;
- (iii) where such person is a firm or association of persons or body of individuals, any individual who was entitled to more than fifty per cent of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person;
- (iv) where such person is a Hindu undivided family, the *karta* of that Hindu undivided family.

Section - 245L, Income-tax Act, 1961-2018

Proceedings before Settlement Commission to be judicial proceedings.

245L. Any proceeding under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860).

Section - 245M, Income-tax Act, 1961-2018

Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.

245M. [*Omitted by the Finance Act, 1987, w.e.f. 1-6-1987.*]

Section - 245N, Income-tax Act, 1961-2018

**CHAPTER XIX-B
ADVANCE RULINGS**

Definitions.

245N. In this Chapter, unless the context otherwise requires,—

(a) "advance ruling" means—

- (i) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or[†]
 - (ii) a determination by the Authority in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or^{*}
 - (iia) a determination by the Authority in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant;
- and such determination shall include the determination of any question of law or of fact specified in the application;

- (iii) a determination or decision by the Authority in respect of an issue relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application;
- (iv) a determination or decision by the Authority whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter X-A or not:

Provided that where an advance ruling has been pronounced, before the date on which the Finance Act, 2003 receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause (ii) of this clause as it stood immediately before such date, such ruling shall be binding on the persons specified in [section 245S](#);

⁸⁶[(b) "applicant" means—

(A) any person who—

(I) is a non-resident referred to in sub-clause (i) of clause (a); or

(II) is a resident referred to in sub-clause (ii) of clause (a); or

(III) is a resident referred to in sub-clause (iia) of clause (a) falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify; or

(IV) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf; or

(V) is referred to in sub-clause (iv) of clause (a),

and makes an application under sub-section (1) of [section 245Q](#);

(B) an applicant as defined in clause (c) of section 28E of the Customs Act, 1962 (52 of 1962);

(C) an applicant as defined in clause (c) of section 23A of the Central Excise Act, 1944 (1 of 1944);

(D) an applicant as defined in clause (b) of section 96A of the Finance Act, 1994 (32 of 1994);]

(c) "application" means an application made to the Authority under sub-section (1) of [section 245Q](#);

(d) "Authority" means the Authority for Advance Rulings constituted under [section 245-Q](#);

(e) "Chairman" means the Chairman of the Authority;

(f) "Member" means a Member of the Authority and includes the Chairman and Vice-chairman;

(g) "Vice-chairman" means the Vice-chairman of the Authority.

Authority for Advance Rulings.

245-O. (1) The Central Government shall constitute an Authority for giving advance rulings, to be known as "Authority for Advance Rulings":

⁸⁷[**Provided** that the Authority shall cease to act as an Authority for Advance Rulings for the purposes of Chapter V of the Customs Act, 1962 (52 of 1962) on and from the date of appointment of the Customs Authority for Advance Rulings under section 28EA of that Act.]

⁸⁷[(1A) On and from the date of appointment of the Customs Authority for Advance Rulings referred to in the proviso to sub-section (1), the Authority shall act as an Appellate Authority, for the purpose of Chapter V of the Customs Act, 1962 (52 of 1962):

Provided that the Authority shall not admit any appeal against any ruling or order passed earlier by it in the capacity of the Authority for Advance Rulings in relation to any matter under Chapter V of the Customs Act, 1962 (52 of 1962) after the date of such appointment of the Customs Authority for Advance Rulings.]

(2) The Authority shall consist of a Chairman and such number of Vice-chairmen, revenue Members and law Members as the Central Government may, by notification, appoint.

(3) A person shall be qualified for appointment as—

(a) Chairman, who has been a Judge of the Supreme Court ⁸⁸[or the Chief Justice of a High Court or for at least seven years a Judge of a High Court];

(b) Vice-chairman, who has been Judge of a High Court;

⁸⁹[(c) a revenue Member—

(i) from the Indian Revenue Service, who is, or is qualified to be, a Member of the Board; or

(ii) from the Indian Customs and Central Excise Service, who is, or is qualified to be, a Member of the Central Board of Excise and Customs,

on the date of occurrence of vacancy;]

(d) a law Member from the Indian Legal Service, who is, or is qualified to be, an Additional Secretary to the Government of India ⁹⁰[on the date of occurrence of vacancy].

(4) The terms and conditions of service and the salaries and allowances payable to the Members shall be such as may be prescribed.

(5) The Central Government shall provide to the Authority with such officers and employees, as may be necessary, for the efficient discharge of the functions of the Authority under this Act.

(6) The powers and functions of the Authority may be discharged by its Benches as may be constituted by the Chairman from amongst the Members thereof.

⁹¹[(6A) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the senior-most Vice-chairman shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(6B) In case the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Vice-Chairman shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.]

(7) A Bench shall consist of the Chairman or the Vice-chairman and one revenue Member and one law Member:

⁹²**Provided** that where the Authority is dealing with an application seeking advance ruling in any matter relating to this Act, the revenue Member of the Bench shall be such Member as referred to in sub-clause (i) of clause (c) of sub-section (3).]

(8) The Authority shall be located in the National Capital Territory of Delhi and its Benches shall be located at such places as the Central Government may, by notification specify.

Section - 245-OA, Income-tax Act, 1961-2018

⁹³**Qualifications, terms and conditions of service of Chairman, Vice-Chairman and Member.**

245-OA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Authority appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman, Vice-Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

Section - 245P, Income-tax Act, 1961-2018

Vacancies, etc., not to invalidate proceedings.

245P. No proceeding before, or pronouncement of advance ruling by, the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

Section - 245Q, Income-tax Act, 1961-2018

Application for advance ruling.

245Q. (1) An applicant desirous of obtaining an advance ruling under this Chapter ⁹⁴⁹⁵[*or under Chapter V of the Customs Act, 1962 (52 of 1962)*] or under Chapter IIIA of the Central Excise Act, 1944 (1 of 1944) or under Chapter VA of the Finance Act, 1994 (32 of 1994)] may make an application in such form and in such manner as may be prescribed⁹⁶, stating the question on which the advance ruling is sought.

(2) The application shall be made in quadruplicate and be accompanied by a fee of ten thousand rupees or such fee as may be prescribed⁹⁷ in this behalf, whichever is higher.

(3) An applicant may withdraw an application within thirty days from the date of the application.

Procedure on receipt of application.

245R. (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Principal Commissioner or Commissioner and, if necessary, call upon him to furnish the relevant records :

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Principal Commissioner or Commissioner.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application :

Provided that the Authority shall not allow the application where the question raised in the application,—

- (i) is already pending before any income-tax authority or Appellate Tribunal [except in the case of a resident applicant falling in sub-clause (iii) of clause (b) of [section 245N](#)] or any court;
- (ii) involves determination of fair market value of any property;
- (iii) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax [except in the case of a resident applicant falling in sub-clause (iii) of clause (b) of [section 245N](#) or in the case of an applicant falling in sub-clause (iiia) of clause (b) of [section 245N](#)]:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Principal Commissioner or Commissioner.

(4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.—For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (2) of [section 288](#), as if the applicant were an assessee.

(6) The Authority shall pronounce its advance ruling in writing within six months of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner⁹⁸ shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement.

Section - 245RR, Income-tax Act, 1961-2018

Appellate authority not to proceed in certain cases.

245RR. No income-tax authority or the Appellate Tribunal shall proceed to decide any issue in respect to which an application has been made by an applicant, being a resident, under sub-section (1) of [section 245Q](#).

Section - 245S, Income-tax Act, 1961-2018

Applicability of advance ruling.

245S. (1) The advance ruling pronounced by the Authority under [section 245R](#) shall be binding only—

- (a) on the applicant who had sought it;
- (b) in respect of the transaction in relation to which the ruling had been sought; and
- (c) on the Principal Commissioner or Commissioner, and the income-tax authorities subordinate to him, in respect of the applicant and the said transaction.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

Section - 245T, Income-tax Act, 1961-2018

Advance ruling to be void in certain circumstances.

245T. (1) Where the Authority finds, on a representation made to it by the Principal Commissioner or Commissioner or otherwise, that an advance ruling pronounced by it under sub-section (6) of [section 245R](#) has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Principal Commissioner or Commissioner.

Section - 245U, Income-tax Act, 1961-2018

Powers of the Authority.

245U. (1) The Authority shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) as are referred to in section 131 of this Act.

(2) The Authority shall be deemed to be a civil court for the purposes of [section 195](#), but not for the purposes of Chapter XXVI, of the Code of Criminal Procedure, 1973 (2 of 1974) and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

Procedure of Authority.

245V. The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.