

Update on
Section 269ST
Inserted by the Finance Act, 2017
{w.e.f. 1.4.2017, i.e. FY 2017-18 (AY 2018-19)}

Mode of undertaking transactions

1. The Finance Act, 2017 has inserted a **new section 269ST** in Chapter XXB of the Income Tax Act, 1961. The said Chapter titles “**Requirement as to mode of acceptance, payment or repayment in certain cases to counteract evasion of tax**”. This section has been inserted *w.e.f.* 1.4.2017 and, therefore, applicable on the **transactions** made during the FY 2017-18, which is relevant for AY 2018-19.
2. The title of the Chapter, i.e. the ‘Chapter Heading’ “**Requirement as to mode of acceptance, payment or repayment in certain cases to counteract evasion of tax**” clears the legislative intent, which is “**counteraction of evasion of tax**”.
3. **Chapter XXB** comprises following sections:
 - Section 269SS
 - Section 269ST
 - Section 269T
 - Section 269TT
4. All the above sections **refrain** money transactions otherwise than by -
 - an account payee cheque **or**
 - an account payee bank draft **or**
 - use of electronic clearing system through a bank account.
5. The **section 269ST** reads as follows:

“ **269ST**. No person shall **receive** an amount of two lakh rupees *{three lakh rupees or more was proposed in the Bill}* or more—

- (a) in aggregate from a person in a day; **or**
- (b) in respect of a single transaction; **or**
- (c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall **not** apply to —

- (i) any receipt by —
 - (a) Government;
 - (b) any banking company, post office savings bank or co-operative bank;

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- (ii) transactions of the nature referred to in section 269SS;
- (iii) such other persons or class of persons or receipts, which the **Central Government** may, by **notification** in the Official Gazette, specify.

Explanation.— For the purposes of this section,—

- (a) “banking company” shall have the same meaning as assigned to it in clause (i) of the *Explanation* to section 269SS;
- (b) “co-operative bank” shall have the same meaning as assigned to it in clause (ii) of the *Explanation* to section 269SS’.

6. To enforce the compliance of the provisions of section 269ST the Finance Act, 2017 has also **inserted** a new **penalty section 271DA** in Chapter XX1 of the Income Tax Act, 1961, which titles “**penalties imposable**”.
7. The **section 271DA** reads as follows:

Penalty for failure to comply with provisions of section 269ST

“271DA. (1) If a person **receives any sum** in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt:

Provided that no penalty shall be imposable if such person **proves** that there were **good and sufficient reasons** for the contravention.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner”.

8. The **Memorandum** to the Finance Bill, 2017 explains the aforesaid provisions as follows:

Restriction on cash transactions

In India, the quantum of domestic black money is huge which adversely affects the revenue of the Government creating a resource crunch for its various welfare programmes. **Black money** is generally **transacted in cash** and large amount of unaccounted wealth is **stored and used** in form of **cash**.

In order to achieve the mission of the Government to move towards a **less cash economy** to **reduce generation and circulation** of black money, it is proposed to insert section 269ST in the Act to provide that no **person** shall receive an amount of two lakh rupees {originally proposed in the Bill three lakh rupees} or more,—

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- (a) in aggregate from **a person** in **a** day;
- (b) in respect of **a** single **transaction**; **or**
- (c) in respect of **transactions** relating to **one** event **or** occasion from **a person**,

otherwise than by an account payee cheque **or** account payee bank draft **or** use of electronic clearing system through a bank account.

It is further proposed to provide that the said restriction **shall not apply** to Government, any banking company, post office savings bank **or** co-operative bank. Further, it is proposed that such other persons **or** class of persons **or** receipts may be notified by the Central Government, for reasons to be recorded in writing, on whom the proposed restriction on cash transactions shall not apply. **Transactions** of the nature referred to in section 269SS are proposed to be excluded from the scope of the said section.

It is also proposed to insert new **section 271DA** in the Act to provide for levy of penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST.

The penalty is proposed to be a sum equal to the amount of **such receipt**. The said penalty shall however not be levied if the person **proves** that there were **good and sufficient** reasons for such contravention.

It is also proposed that any such penalty shall be levied by the Joint Commissioner.

It is also proposed to consequentially amend the provisions of **section 206C** to **omit** the provision relating to tax collection at source at the rate of one per cent. of sale consideration on cash sale of jewellery exceeding five lakh rupees.

These amendments will take effect from 1st April, 2017.”

Comments

Section 269ST

1. While introducing the proposal to **insert section 269ST**, Hon’ble Minister of Finance, in para 162 of his **Budget Speech** said that –

*“The Special Investigation Team (SIT) set up by the Government **for black money** has suggested that **no transaction** above Rs. 3 Lakh should be permitted **in cash**. The Government has decided to accept this proposal, suitable amendment to the Income-tax Act is proposed in the Finance Bill for enforcing this decision.”*
2. With this back ground **section 269ST** was introduced, which has become law w.e.f. 1.4.2017 on passing of the Finance Bill.

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3. In the budget speech expression “**no transaction**” has been used with reference to “**black money**” and “**cash**”. “**No**” is a ‘word’ as well as a ‘complete sentence’. The suggestion of the SIT was that in order to eradicate black money “**no**” **transaction** above Rs. 3 Lakh should be allowed to be made in cash.
4. “**Transaction**” is not defined in Income Tax Act, 1961 {hereinafter referred to as the Act}. Therefore, its meaning can be gathered from dictionaries and business dictionaries.
 - **Generally:** an agreement, a contract, any exchange, booking, reservation, transfer of cash or property that occurs between two or more persons or parties is a transaction.
 - In relation to **accounting: event** that effects a change in the asset, liability or net worth is a transaction.
 - In relation to **banking: an activity** that effect a bank account **and** performed by an account holder **or** it his request **or** instruction is a transaction, *e.g.* –
 - deposit of cash;
 - deposit of instruments representing money, *viz* cheque, bank draft, refund voucher *etc.*;
 - withdrawal of cash;
 - transfer of money in any manner and for any purpose, *etc.*;
 - In relation to **commerce:** exchange of goods or services between a buyer and seller, transfer of goods or services for consideration in money or otherwise, transfer or exchange of rights, transfer of title which may or may not accompany by transfer or possessing of the property *etc.*
5. Finance Act, 2005 had introduced ‘**Banking Cash Transaction Tax**’ as an anti tax evasion measure, which came into effect *w.e.f.* 1.6.2005. Under this Act “**transactions**” of withdrawal of cash by any mode from any account other than SB account, withdrawal by self cheques, withdrawal by bearer cheque, withdrawal of cash on encashment of one or more term deposits (whether on maturity or otherwise) and also availing LD by cash if any are covered.
6. Therefore, **transactions with banks** are also covered by the provisions of section 269ST-
 - within the expression “**receipt** by a person from a person an amount of Rs. 2 Lakh or more in aggregate in a day, because Bank or a banking company is included in the definition of “person” in terms of section 2(31) of the Act;
 - within the expression “**receipt** by a person from a person an amount of Rs. 2 Lakh or more in aggregate **in respect a single transaction**, because the withdrawal of cash from bank is a **transaction**;

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7. Before dwelling upon the provisions of section 269ST it may be relevant to analyse the **memorandum** explain the provision.
8. The **memorandum** clarifies that –
- in India, the quantum of **domestic black money** is huge which adversely affects the revenue of the Government creating a resource crunch for its various welfare programmes.
 - **Black money** is generally **transacted in cash** and large amount of **unaccounted wealth** is **stored and used** in form of **cash**.
 - In order to achieve the **mission** of the Government to **move** towards a **less cash economy** to **reduce generation and circulation** of **black money**, it is proposed to insert section 269ST in the Act to provide that **no person** shall **receive** an amount of two lakh rupees *{originally proposed in the Bill three lakh rupees}* **or** more,—
 - (a) in aggregate from **a person in a day**;
 - (b) in respect of **a single transaction; or**
 - (c) in respect of **transactions** relating to **one event or occasion** from **a person, otherwise than** by an account payee cheque **or** account payee bank draft **or** use of electronic clearing system through a bank account.
9. Accordingly, **section 269ST** provides that -
- **no person**
 - **shall**
 - **receive**
 - an amount
 - of two lakh rupees *{three lakh rupees or more was proposed in the Bill}* **or** more —
 - in aggregate **from a person in a day; or**
 - in respect of **a single transaction; or**
 - in respect of **transactions** relating to **one event or occasion** from **a person, otherwise than by** –
 - an account payee cheque **or**
 - an account payee bank draft **or**
 - use of electronic clearing system through a bank account

Clause (a) – Rs. 2 Lakh or more in aggregate from a person in a day

10. In the memorandum **as well as** in section 269ST it is provided that **no person** shall **receive** an amount of Rs. 2 Lakh or more in aggregate from **a person in a day otherwise than by** –
- an account payee cheque **or**
 - an account payee bank draft **or**
 - use of electronic clearing system through a bank account

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11. Therefore, section 269ST refrain every person from **receiving** from a person Rs. 2 Lakh or more in aggregate in **a day**.
12. At both the places word **“person”** has been used in **singular form**. At one place it is used after the word **“every”**, and at other place it is used after the **letter/word “a”**.
13. Here, **“person”** means a person, whether **or** not such person is an “assessee” in terms of section 2(7) of the Act. As per the definition of **“assessee”** u/s 2(7) of the Act, all assessees are persons but persons are not assessee. Therefore, the provisions of section 269ST are applicable to all persons who receive sum of Rs. 2 Lakh in cash **or** otherwise than by the specified modes in single transaction **or** in aggregate in a day.
14. It may be pertinent to note that section 269ST just refrain from accepting cash **or** otherwise than by the specified mode. It does not empower the Revenue to make any addition or to take any adverse inference.
15. **But, section 271DA** provides penalty in case of violation, which shall be discussed in the later part.
16. **“Person”** is not defined in section 269ST.
17. However, **“person”** is defined in section 2(31) of the Act, as follows:

“person” includes —

- (i) an individual,
- (ii) a Hindu undivided family,
- (iii) a company,
- (iv) a firm,
- (v) an association of persons **or** a body of individuals, whether incorporated **or** not,
- (vi) a local authority, and
- (vii) every artificial juridical person, not falling within any of the preceding sub-clauses.

Explanation.— For the purposes of this clause, an association of persons **or** a body of individuals **or** a local authority **or** an artificial juridical person shall be deemed to be a person, whether **or** not such person **or** body **or** authority **or** juridical person was formed **or** established **or** incorporated with the object of deriving income, profits or gains;

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18. As per **section 2(23) "firm"** includes Limited Liability Partnership (**LLP**).
19. As per **section 2(17) "company"** means —
- (i) any **Indian company, or**
 - (ii) any **body corporate** incorporated —
 - o by **or**
 - o under
the laws of a **country outside India, or**
i.e. a foreign company
 - (iii) any institution, association or body which is or was assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 (11 of 1922), or which is or was assessable or was assessed under this Act as a company for any assessment year commencing on or before the 1st day of April, 1970, **or**
 - (iv) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Board to be a company :
Provided that such institution, association or body shall be deemed to be a company only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration;
20. As per **section 2(26) "Indian Company"** means
- **a company** formed and registered under the Companies Act, 1956 (1 of 1956), **and includes** —
 - o a **company** formed and registered **under any law** relating to companies formerly in force in any part of India (other than the State of Jammu and Kashmir and the Union territories specified in sub-clause (iii) of this clause) ;
 - o a **corporation** established by **or** under a -
 - Central Act,
 - State Act **or**
 - Provincial Act ;
 - o any –
 - institution,
 - association **or**
 - body
which is **declared by the Board to be a company under clause (17)** ;
 - o in the case of the **State of Jammu and Kashmir**, a **company** formed and registered under any law for the time being in force in that State;

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o in the case of any of the **Union territories** of -

- Dadra and Nagar Haveli,
- Goa,
- Daman and Diu, **and**
- Pondicherry,

a **company** formed and registered under any law for the time being in force in that Union territory :

Provided that the registered or, as the case may be, principal office of the –

- company,
- corporation,
- institution,
- association **or**
- body

in all cases is in India ;

21. **Association of Persons or Body of Individuals:** When persons combine together to carry on a joint enterprise and they do not constitute partnership under the ambit of law, they are assessable as an association of persons. Receiving income jointly is not the only feature of an association of persons. There must be common purpose, and common action to achieve common purpose i.e. to earn income. An AOP. can have firms, companies, associations and individuals as its members. Co-operative societies, MARKFED, NAFED *etc.* are the examples of such persons.
22. **Body of individuals (BOI):** cannot have non-individuals as its members. Only natural human beings can be members of a body of individuals. Whether a particular group is AOP or BOI is a question of fact to be decided in each case separately.
23. **Local Authority:** Municipality, Panchayat, Cantonment Board, Port Trust *etc.* are called local authorities.
24. **Artificial Juridical Person:** A public corporation established under special Act of legislature and a body having juristic personality of its own are known to be Artificial Juridical Persons. Universities are an important example of this category.
25. **Therefore,** any individual, HUF, firm, LLP, Indian company, Foreign company, Corporation established under any Central, State or Provincial Act, Domestic company, Government company, AOP, BOI, Local Authority, Artificial Judicial Person, Society, Co-operative Society, Group Housing Society, Trust, Municipality, Panchayat, Cantonment Board, Port Trust, Universities *etc.* **who receives** an amount of Rs. 2 Lakh or more in aggregate **in a day** from **any such person**, such transaction shall be attracted by the provisions of section 269ST.

Exceptions

26. However, the **proviso** to section 269ST provides that the provisions of this section **shall not apply** to —
- any **receipt by**
 - Government;
 - any -
 - banking company,
 - post office savings bank **or**
 - co-operative bank;
27. It means that the Government, any banking company, any post office bank and any co-operative bank can receive such amount in cash without being covered by the provisions of section 269ST.
28. When the Government, banking company, post office bank and co-operative bank are excluded, it means that **if they were not excluded**, they would have also been attracted to the provisions of section 269ST, being **“person”** as defined in section 2(31) of the Act.
29. Government, banking company, post office bank and co-operative bank have been excluded at the **receiving end and not** at the **payers end**. It means that if they pay and on the other hand any other person receives, then such person shall be exposed to the provisions of section 269ST.
30. The **other exception** are the **transactions** of the **nature** referred to in **section 269SS**;
31. It means that any transaction which are covered by the provisions of **section 269SS**, shall be **excluded** from the provisions of section 269ST. This is because these **transactions** suffer by the lower threshold of Rs. 20,000/-.
32. **Section 269SS** covers any –
- loan **or**
 - deposit **or**
 - any specified sum, ,
of Rs. 20000/- or more:
33. Section 269SS **does not apply** to loan, deposit or any specified sum taken or accepted **from**:
- (a) the Government;
 - (b) any banking company,

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- (c) any post office savings bank;
 - (d) co-operative bank;
 - (e) any corporation established by a Central, State or Provincial Act;
 - (f) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);
 - (g) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:
34. Since loan, deposit or any specified sum taken or accepted from the above mentioned entities are **excluded** from the scope of section 269SS, therefore, if an amount aggregating Rs. 2 Lakh or more is received from any of them in a day, such receipt shall be attracted by the provisions of section 269ST.
35. Section 269SS **also excludes** loan, deposit or specified sum received by any person having agricultural income from other person having agricultural and neither of them has any income chargeable to tax under this Act. Therefore, if an amount aggregating Rs. 2 Lakh or more is received by such person from any such person in a day, such receipt shall also be attracted by the provisions of section 269ST.
36. **Central Government** **may**, by **notification** in the Official Gazette, specify such other -
- **persons or**
 - **class of persons or**
 - **receipts**
- to which the provisions of section 269ST shall not apply.
37. The **Central Government** may provide exception in respect of **persons** who may be allowed to receive cash aggregating Rs. 200000/- or more in violation of above mentioned three circumstances.
38. The **Central Government** may also provide exception in respect of **class of persons** who may be allowed to receive cash aggregating Rs. 200000/- or more in violation of above mentioned three circumstances.
39. The **Central Government** may also provide exception in respect of **receipts** with respect to which a person may be allowed to receive cash aggregating Rs. 200000/- or more in violation of above mentioned three circumstances.

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40. **“Government”** is not defined in the Income Tax Act, 1961. However, as per the provisions of **section 3(23)** of the **General Clauses Act, 1897**, in all Central Acts and Regulations made after the commencement of the General Clause Act, unless there is anything repugnant in the subject or context,- **“Government” or “the Government”** shall include both the **Central Government and any State Government**.
41. As per **section 3(7)** of the General Clauses Act, 1897, **“Central Act”** means an “Act of Parliament”.
42. As per **section 3(8)(b)** of the General Clauses Act, 1897 **“Central Government”** means the “President”.
43. As per **section 3(60)(c)** of the General Clauses Act, 1897 **“State Government”** means -
 - in a State, the Governor, **and**
 - in a Union Territory, the Central Government.
44. One of the controversial situation has been under discussion since the enforcement of section 269ST of the Act *w.e.f.* 1.4.2017, *i.e*

“whether withdrawal of cash from any bank account equal to or more than Rs. 2 Lakh at one time or in aggregate in a day is also refrained under the provisions of section 269ST?”.

45. **Clause (iii)** of the **proviso** to section 269ST empowers the **Central Government** to provide any concession from the applicability of section 269ST by way of notification. As per the definition of “Central Government” means the “President”. As per **Article 53** of Constitution of India the executive power of the Union are vested in the President and are exercised by him either directly or through officers subordinate to him in accordance with the Constitution. Further, as per **Article 77** of the Constitution, all executive actions of the Government of India are expressed to be taken in the name of the President. Further, as per **Article 74** of the Constitution there has to be a Council of Ministers with the Prime Minister at the head to aid and advise the President who, in exercise of his functions, act in accordance with such advice. Accordingly, the Ministry of Finance is a part of the constitutional parliamentary infrastructure, who advises the President on matters relating to finance. The Ministry of Finance has several departments, and one of which is the ‘Department of Revenue’, which is responsible for the administration and regulation of ‘collection of Central taxes’, including Income-tax. Accordingly, the Department of Revenue has issued a notification under **Clause (iii)** of the **proviso** to section 269ST, which is as follows:

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46. In this regards the Department of Revenue, Ministry of Finance of Government of India has issued a Notification No. 28/2017, F.No.370142/10/2017-TPL dated 5th April, 2017 as follows:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
New Delhi, the 5th April, 2017

NOTIFICATION

S.O. 1057(E).- In exercise of the powers conferred by **clause (iii)** of the **proviso** to **section 269ST** of the Income-tax Act, 1961 (43 of 1961), the Central Government **hereby notifies** that the provision of section 269ST **shall not apply to receipt by any person from an entity** referred to in sub-clause (b) of clause (i) of the proviso to section 269ST.

2. The notification shall be deemed to have come into force with effect from **1st day of April, 2017.**

47. It means that the Central Government has relaxed the rigour of section 269ST by using its powers through the Department of Revenue under clause **(iii)** of the **proviso** to section 269ST by allowing **any person** to receive an amount of two lakh rupees **or** more –
- in aggregate in a day **from any entity** referred to in clause **(i)(b)** of **its proviso** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account;
 - in respect of a single transaction **with any entity** referred to in clause **(i)(b)** of **its proviso** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account;
48. The **entities** are as follows:
- any banking company,
 - post office savings bank **or**
 - co-operative bank.
49. As per **Explanation (a)** to section 269ST **“banking company”** shall have the same meaning as assigned to it in clause (i) of the **Explanation** to section 269SS;
50. As per **Explanation (i)** to section 269SS **“banking company”** means a company to which the provisions of the Banking Regulation Act, 1949 (10 of 1949) applies **and** includes **any bank or banking institution** referred to in section 51 of that Act;

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51. As per *Explanation (a)* to section 269ST “**co-operative bank**” shall have the same meaning as assigned to it in clause (ii) of the *Explanation* to section 269SS’.
52. As per *Explanation (ii)* to section 269SS “**co-operative bank**” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949).
53. **It means that w.e.f. 1.4.2017 any person can withdraw any sum of money in a day even or in respect of any transaction in cash from the above mentioned entities i.e. banks and no penalty can be levied u/s 271DA.**

Section 271DA

Penalty for failure to comply with provisions of section 269ST

“271DA. (1) If **a person receives** any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of **such receipt**:

Provided that **no** penalty shall be imposable **if** such person **proves** that there were **good and sufficient reasons** for the contravention.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner.”

54. Section 271DA provides penalty for contravention of the provisions of section 269ST.
55. The quantum of penalty is equal to the amount of receipt of any amount in contravention of the provisions of section 269ST.
56. The penalty shall be imposed u/s 271DA only by a jurisdictional ‘Joint Commissioner’.
57. It is the settled law that penalty is not automatic. In consonance with the ‘**principle of natural justice**’, **section 274(1)** provides that no order imposing a penalty under Chapter XXI shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard.
58. Further, proviso to section 271DA provides that no penalty shall be imposable if –
 - such person **proves** that there **were** –
 - goods **or**
 - sufficient
 - **reasons**
 - for the contravention.

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59. **'Proves'** means to lead evidence with explanation. Furnishing of explanation only would not suffice as when we speak of 'prove', **proof** is required to be furnished.
60. **'Proof'** is required to be furnished with regards to the **reasons** for such contravention.
61. It need to be noticed that **there may be more than one reason** or several reasons for making such contravention, because the word "reason" has been used in plural as '**reasons**', which is preceded by the verb '**were**'.
62. Such **reasons** must be **goods and sufficient**. It means that the reasons must be **genuine and compelling**.
- word "**good**" signifies to "genuine".
 - word "**sufficient**" signifies to "compelling."
63. Since the combination of section 269ST and 271DA have been brought to the statute books in order to achieve the mission of the Government to move towards a **less cash economy** to **reduce** -
- **generation and**
 - **circulation**
- of black money
therefore, if any transaction is carried out in contravention of section 269ST **and** the person proves that because of the 'transaction' neither there is any scope for generation of black money nor any scope for circulation of black money, in my view, penalty may not be imposed.
64. There are three obligations on a person u/s 269ST, and if he contravenes any of these **four** he shall expose himself to the penalty of equal amount u/s 271DA. The obligations are as follows:
- **not to receive an amount of Rs. 2 Lakh or more** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account **in a day; or**
 - **not to receive an amount of Rs. 2 Lakh or more** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account **in respect of a single transaction; or**
 - **not to receive an amount of Rs. 2 Lakh or more** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account **in respect of transactions relating to one event from a person; or**

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- **not to receive an amount of Rs. 2 Lakh or more** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account **in respect of transactions relating to one occasion from a person,**
65. **First obligation** refrain a person from receiving the amount in contravention **in a day**.
- This obligation relates to receipt of such sum from **a person in a day**.
 - The receipt may be payment of consideration for sale of goods or services. Therefore, if in **a day** multiple invoices are raised on **a person** and the aggregate consideration received in **a day** is Rs. 2 Lakh or more, section 269ST shall be attracted.
 - Receipt of **gift**, whether **or** not covered by **section 56(2)** of the Act, shall also be covered by section 269ST if aggregate amount of receipt of gift from **a person in a day** is Rs. 2 Lakh or more.
66. **Second obligation** refrain a person from receiving the amount **in respect of a single transaction**.
- This obligation relates to a single transaction.
 - The transaction may be relating to -
 - sale of goods;
 - sale of services;
 - receipt of **gift**, whether **or** not covered by **section 56(2)** of the Act.
 - The transaction of acceptance of loan or deposit is excluded as the same is covered by **section 269SS**.
 - The transaction of acceptance of repayment of loan or deposit, though not excluded from the ambit of section 269ST, will be covered by **section 269T** and shall be exposed to penalty u/s 271E. However, in such case the penalty u/s 271E is leviable on the person who makes the repayment. But such repayment shall be a receipt in the hands of the person who will accept the repayment, therefore, if the amount in aggregate in a day is Rs. 2 Lakh or more or in a single repayment is Rs. 2 Lakh or more, such transaction of repayment shall be covered u/s 269ST and may be exposed to penalty u/s 271DA.
67. If goods or services are sold under a **single invoice** for value of Rs. 2 Lakh or more **and** payments is received in cash **or** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account, sections 269ST and 271DA **shall** be attracted.

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68. If goods or services are sold under a **single invoice** for value of Rs. 2 Lakh or more **and** payments is received in cash **or** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account, sections 269ST and 271DA **shall** be attracted **even if** in a day the amount received is less than Rs. 2 Lakh but the aggregate amount received in respect of such transaction is Rs. 2 Lakh or more.
69. If goods or services are sold under **multiple invoices** for aggregate value of Rs. 2 Lakh or more **and** payments is received in cash **or** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account, sections 269ST and 271DA **may** be attracted if name and addresses of the buyers are not mentioned on the respective invoices because u/s 271DA the onus is on the person who receive the amount to **prove, i.e. to lead evidence that the amounts were received from different persons or from more than one person.**
70. However, if keeping in the view the nature of business goods or services are sold under **multiple invoices** for aggregate value of Rs. 2 Lakh or more **and** payments is received in cash **or** otherwise than by an account payee cheque **or** an account payee bank draft **or** use of electronic clearing system through a bank account, sections 269ST and 271DA **may not** be attracted **even if** name and addresses of the buyers are **not** mentioned on the respective invoices because u/s 271DA the **nature of business may be good and sufficient reasons itself.**
71. **Third obligation** refrain a person from receiving the amount **in respect of transactions relating to one event from a person.**
- This obligation relates to –
 - one **or** more transactions
 - relating to one **event**
 - receipt of the amount in contravention **from one person** relating to such **event comprising** one or more transactions.
 - It means that there may be more than one transactions relating to one event.
 - It means that the recipient may receive the amount of Rs. 2 Lakh or more from more than one person in respect of one event.
72. **Fourth obligation** refrain a person from receiving the amount **in respect of transactions relating to one occasion from a person.**
- This obligation relates to –
 - one or more transactions
 - relating to one **occasion**
 - receipt of the amount in contravention from one person relating to such **occasion** relating to one or more transactions.

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- It means that there may be more than one transactions relating to **one occasion**.
- It means that the recipient may receive the amount of Rs. 2 Lakh or more from more than one person in respect of **one occasion**.

73. **Event and occasion** are **synonymous**. The other synonymous are –

- function;
- celebration;
- meeting;
- competition;
- tournament;
- contest;
- festival celebration;
- party;
- fate;
- gala;
- get-together;
- seminar *etc.*

Section 206C(1D) & (1E)

*{Omission of sub-section (1D) and (1E) of section 206C
by the Finance Act, 2017 w.e.f. 1.4.2017}*

74. Consequent to the **insertion** of **section 269ST**, the Finance Act, 2017 has **omitted sub-section (1D) and sub-section (1E)** of **section 206C** relating to TCS @ 1% on the amount of cash sale of bullion, jewellery, any goods or services. Before **omission** the said sub-sections reads as follows:

(1D) *Every person, being a seller, who receives any amount in cash as consideration for sale of bullion or jewellery or any other goods (other than bullion or jewellery) or providing any service, shall, at the time of receipt of such amount in cash, collect from the buyer, a sum equal to one per cent of sale consideration as income-tax, if such consideration,—*

- (i) *for bullion, exceeds two hundred thousand rupees; **or***
- (ii) *for jewellery, exceeds five hundred thousand rupees; **or***
- (iii) *for any goods, other than those referred to in clause (i) and (ii), or any service, exceeds two hundred thousand rupees.*

Provided that no tax shall be collected at source under this sub-section on any amount on which tax has been deducted by the payer under Chapter XVII-B.

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(1E) Nothing contained in sub-section (1D) in relation to sale of any goods (other than bullion or jewellery) or providing any service shall apply to such class of buyers who fulfill such conditions, as may be prescribed.”;

75. The above sub-sections have been **omitted** for the reason that when as per the provisions of section 269ST no person can received an Rs. 2 Lakh or more in cash in respect of a single transaction, therefore, these sub-sections have lost their relevance.

Disclaimer

This document has been prepared for academic use only, to understand the scope and implications of the provisions of the newly inserted section 269ST of the Income Tax Act, 1961 and to share the same with the fellow professionals and all concerned. Though every effort has been made to avoid errors or omissions in this document yet any error or omission may creep in. Therefore, it is notified that I shall not be responsible for any damage or loss to any one, of any kind, in any manner there from. I shall also not be liable or responsible for any loss or damage to any one in any matter due to difference of opinion or interpretation in respect of the text. On the contrary it is suggested that to avoid any doubt the user should cross check the correct law and the contents with the published / notified / Gazetted materials including the referred amended section and the relevant Acts.

Conceived and prepared by
CA. Rajiv Kumar Jain
Member of ICAI
5269, Ajit Mansion,
Shradhanand Marg,
Delhi-110006

Phone : 23214596 Mobile : 9810288997
E’mail ID : rajivkjain0608@gmail.com

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