



INCOME TAX SETTLEMENT COMMISSION

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**MINISTRY OF FINANCE
DEPARTMENT OF REVENUE**

OBJECTIVES OF THE INCOME TAX SETTLEMENT COMMISSION

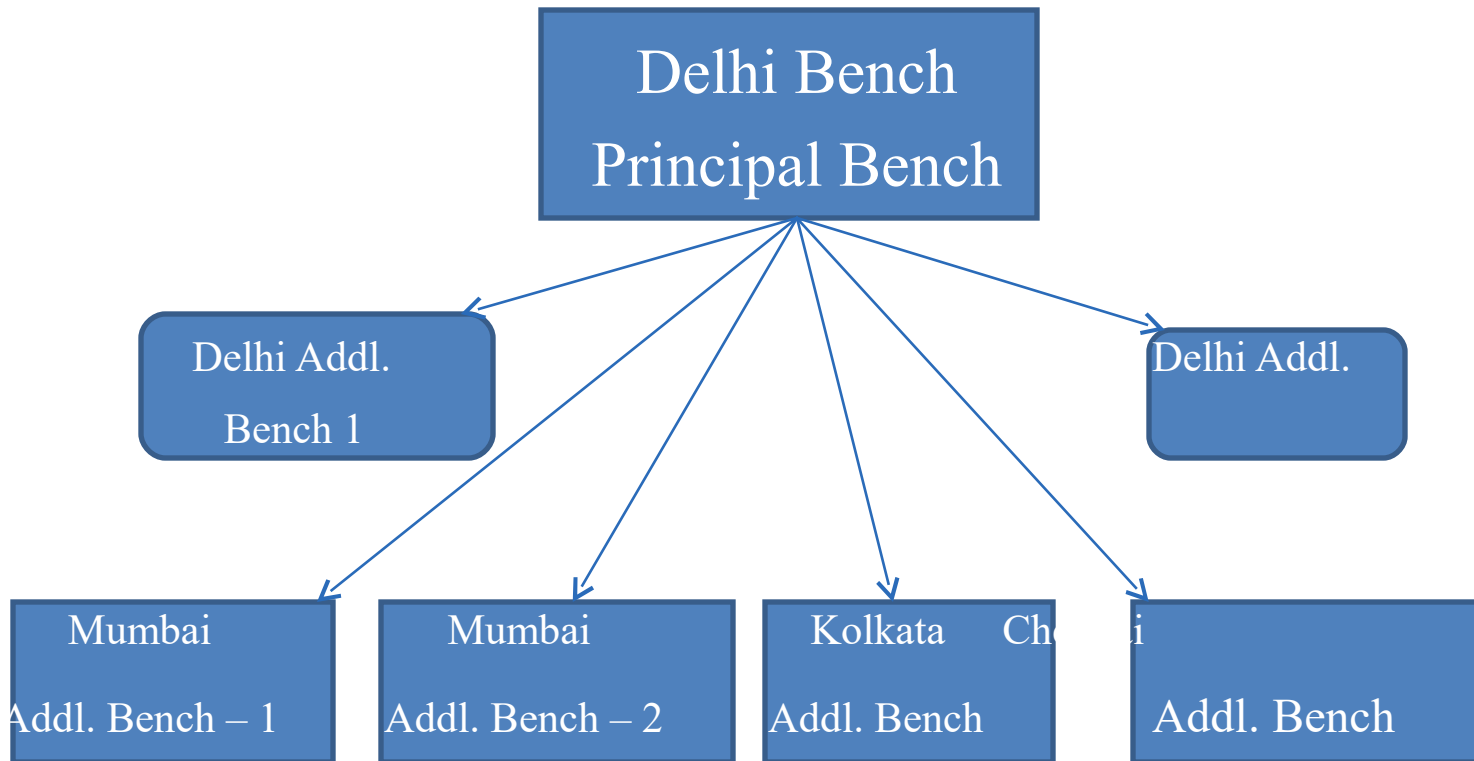
The Commission was constituted in the year 1976 as per the recommendations of the Direct Taxes Enquiry Committee (Wanchoo Committee) as an *alternative dispute resolution mechanism* with the following objectives:

- ❖ To provide a machinery for defaulting tax payers to come clean through compromise and settlement
- ❖ To offer speedy settlement of disputes
- ❖ To reduce litigation by providing finality of proceedings
- ❖ To resolve controversies in complicated cases
- ❖ To ensure speedy collection of taxes at low cost

- ❖ Chapter XIX-A (Sec 245A to 245L) of the Income Tax Act,1961

ORGANIZATIONAL STRUCTURE

INCOME TAX SETTLEMENT COMMISSION



Special Bench : - Chairman may constitute Special Bench as and when required {Sec. 245BA(5A)}.

ADDITIONAL BENCH

**VICE
CHAIRMAN &
2 MEMBERS**

DIRECTOR (INV.)

↓
**ADDL. DIRECTOR
(INV.)**

↓
**ENQUIRY OFFICERS +
STENOGRAPHERS**

SECRETARY

↓
**ADMINISTRATIVE
OFFICER**

↓
**SUPERINTENDENT +
STAFF MEMBERS**

TERRITORIAL JURISDICTION

S. No.	Name of the Bench	States/Union Territories/Cities
1.	Principal Bench, New Delhi	<p>a. Delhi and all States, Union Territories and Cities other than those mentioned in S.No. 2,3,4,5,6 and 7 below.</p> <p>b. Madhya Pradesh except the Assessing Officers under the Jurisdiction of Principal Commissioner/Commissioner of Income Tax (Central), Bhopal with headquarters in the State of Chhattisgarh.</p>
2.	Additional Bench-I , New Delhi	<p>a. Punjab, Haryana, Union Territory of Chandigarh and</p> <p>b. Cases within the Jurisdiction of Principal Commissioner /Commissioner of Income Tax (Central), Delhi-1</p>
3.	Additional Bench-II, New Delhi	<p>a. Rajasthan, Uttar Pradesh and Uttarakhand, Himachal Pradesh and Jammu & Kashmir, and</p> <p>b. Cases within the Jurisdiction of Principal Commissioner /Commissioners of Income Tax, Delhi-1,2,3,4,5,6,7,8,9,10,11,12,13, 14,15,16,17,18,19,20,21,22,23 and 24.</p>
4.	Additional Bench-I, Mumbai	<p>a. Mumbai (other than Principal Commissioners/ Commissioners of Income Tax Mumbai 9,10,11,12,13,14,15,27,28,29,30,31,32,33,34 and 35,</p> <p>b. Principal Commissioners/ Commissioners of Income Tax (Central), Mumbai-2&3 and Commissioners of Income Tax (International Taxation)- 1,2,3 and 4, Mumbai)</p> <p>c. Pune.</p> <p>d. Goa, Daman and Diu</p>

TERRITORIAL JURISDICTION

S. No.	Name of the Bench	States/Union Territories/Cities
5.	Additional Bench-II, Mumbai	<ul style="list-style-type: none"> a. Principal Commissioners/ Commissioners of Income Tax, Mumbai 9,10,11,12,13,14,15,27,28,29,30,31,32,33,34 and 35. b. Principal Commissioners/ Commissioners of Income Tax (Central)- 2&3, Mumbai. c. Commissioners of Income Tax (International Taxation)- 1,2,3 and 4, Mumbai. d. Gujarat e. Maharashtra (Other than Mumbai and Pune)
6.	Additional Bench, Kolkata	<ul style="list-style-type: none"> a. Bihar, Meghalaya, Orissa, West Bengal, Chhattisgarh, Jharkhand, Andaman Nicobar Islands, Manipur, Assam, Tripura, Sikkim, Mizoram, Nagaland & Arunachal Pradesh. b. Assessing Officers under the Jurisdiction of Principal Commissioners/ Commissioners of Income Tax (Central), Bhopal with headquarters in the State of Chhattisgarh . c. c. Assessing Officers under the Jurisdiction of Principal Commissioners/ Commissioners of Income Tax (Central), Hyderabad with headquarters in the State of Orissa.
7.	Additional Bench, Chennai	Andhra Pradesh, Telangana, Karnataka, Kerala, Tamil Nadu, Pondicherry, Lakshadweep & Minicoy Islands. Andhra Pradesh (excluding Assessing Officers under the jurisdiction of Pr. Commissioner/Commissioner of Income Tax (Central) Hyderabad with Headquarters in the State of Orissa.)

WHO CAN APPROACH THE COMMISSION(Sec 245

C)

❖ Any tax payer (Resident or Non-Resident) can approach the Commission if:

(A) i. His assessment for any Assessment Year/Years is not yet finalized by Assessing Officer OR [Sec 245 A (b)]

ii. His assessment for any Assessment Year is re-opened u/s 147 or is to be made afresh u/s 254, 263 or 264 or where notice u/s. 148 is issued for one Assessment Year and income has also escaped in other Assessment Years for which *notices u/s. 148 has not been issued but such notice could have been issued* AND

(B) He has not disclosed his income truly and fully before the Assessing Officer and is now willing to disclose the same before the Commission truly and fully alongwith the manner of deriving of such income AND [Sec 245 C(1)]

- (C) The quantum of additional income disclosed is such that**
- i. In respect of main search case, additional tax payment (excluding interest) before the Commission is more than Rs. 50 lakh. [Sec 245 C(1) Proviso (i)]**
 - ii. In other cases, additional tax payment (excluding interest) is more than Rs. 10 lakh. [Sec 245 C(1) Proviso (ii)]**
- ❖ An application may involve one or more Assessment Years. The aforesaid limits are applicable to tax liability arising on the basis of the application and not to each Assessment year separately.**
- ❖ In respect of consequential Wealth Tax cases there is no limit of minimum additional tax payment.**

PROCEDURE FOR FILING **APPLICATION**

❖ **The Commission follows a very simple and easy procedure:**

- i) Application is to be filed in Form 34B**
- ii) Fee for filing application is Rs. 500 only**
- iii) Intimation of filing application before ITSC to be given in Form 34BA to the Assessing Officer. Proof of intimation to be submitted to the Commission.**
- iv) Proof of payment of additional tax (including interest) in respect of additional income disclosed before the Commission.**
- v) Statement of Facts (SOF) in support of the claim that true and full disclosure of income and the manner of deriving of such income has been made.**

STAGES FOR DISPOSAL OF APPLICATION

I. 245D(1) Stage:

- ❖ **Within 7 days of receipt of application, the Commission will issue notice to applicant fixing date to explain why application should be allowed to be proceeded with.**
- ❖ **After hearing the applicant, order u/s. 245D(1) is passed within 14 days from the date of receipt of the application either allowing or rejecting the application.**
- ❖ **If no order u/s. 245D(1) is passed within the specified period, it is deemed to have been allowed to be proceeded with.**

- ❖ **The additional tax payable in case of application relating to only one previous year:-**
 - i) If no return filed then tax to be calculated on the income disclosed in the application**
 - ii) If return filed then tax to be calculated on the aggregate of the total income returned and the income disclosed in the application as if the aggregate were the total income and the amount of tax calculated as reduced by the amount of tax calculated on the returned income.** [See 245 C1(B) + 1(C)]

- ❖ **In case of application relating to more than one previous year:-**
 - i) The additional tax payable in respect of income disclosed for each of the years will be first calculated as per Sec. 245 C 1(B) and (1C).**
 - ii) Aggregate of the amount arrived at for each of the years shall be the additional amount of income-tax payable in respect of income disclosed in the application.** [See 245 C(1D)]

H. 245 D(2B)/(2C) STAGE:

- ❖ **Letter is issued to the concerned Pr. CIT within 30 days of receipt of the application, for report to be submitted within 30 days. The report of Pr. CIT is as per Rule 6 of the Settlement Commission Procedure Rules, 1997.**
- ❖ **Within 15 days of receipt of the report, after giving an opportunity to the applicant, order u/s. 245D(2C) is passed declaring the application as invalid or not invalid.**
- ❖ **If no report from the Pr. CIT is received no order U/s 245 D(2C) is required to be passed.**
- ❖ **Thereafter Pr.CIT is directed to submit within 45 days, a report as per Rule 9 of the SCP Rules. If no report submitted within 45 days then the Commission may proceed to hear the case without the report.**
- ❖ **The applicant may furnish comments on Pr. CIT's report within 15 days of receipt of copy of the Report. (Rule 9A of SCP Rules)**

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III. 245D(3) STAGE:

- ❖ **The Commission may call for the records from the Pr. CIT.**
- ❖ **The Commission may direct the Pr. CIT to make further enquiry or investigation and submit report within 90 days.**

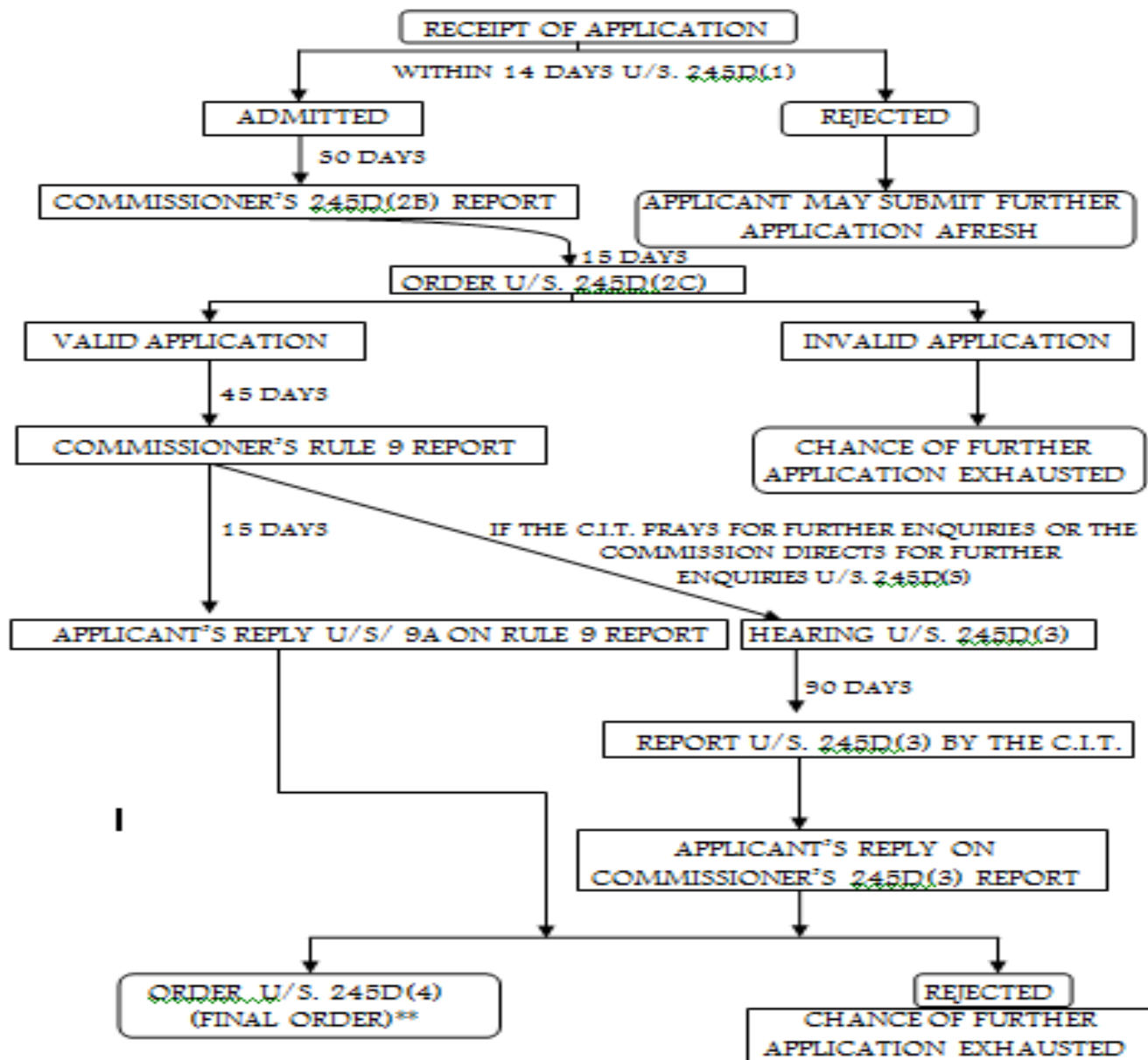
IV. 245D(4) STAGE:

- ❖ **After giving opportunity to be heard to both the parties and after examining further evidence**
- ❖ **Order u/s. 245D(4) to be passed within 18 months from the end of the month in which application was made.**
- ❖ **Terms of Settlement including any demand by way of tax, penalty or interest, the manner in which it is to be paid shall be provided.**

[Sec 245 D(6)]

- ❖ **Any order passed U/s. 245D(4) may be rectified if there is any mistake apparent from the record, within 6 months from the end of the month in which order was passed. [Sec 245 D(6B)]**

FLOW CHART OF PROCESSES OF SETTLEMENT COMMISSION



** WITHIN 15 MONTHS FROM THE END OF THE MONTH OF THE APPLICATION.

POWERS OF SETTLEMENT COMMISSION

- ❖ **From the date of filing of application, Settlement Commission has exclusive jurisdiction to exercise the powers and perform the functions of an Income Tax Authority.** [Sec 245 F(2)]

- ❖ **If applicant has co-operated with the Settlement Commission in the proceedings and disclosed true and full income, the Commission *may grant immunity from penalty and prosecution under Income Tax Act.*** [Sec 245 H(1)]

- ❖ **However, the immunity not be granted if any proceedings for prosecution have been initiated by the Deptt. prior to the application.**

- ❖ **The immunity granted can be withdrawn in the following cases :**
 - i) **if the applicant fails to pay the sum specified in the 245D(4) order within due date or if fails to comply with the conditions as specified therein.** [Sec 245 H(1A)]

 - ii) **if the said applicant had concealed any material information or had submitted any false evidence before the Commission.** [Sec 245 H(2)]

FINALITY OF PROCEEDINGS

- ❖ **Every order of Settlement shall be conclusive as to the matters stated therein and no matter covered by such order can be challenged under any other law in force**
- ❖ **Matter covered by the Settlement Commission's order cannot be reopened in any proceeding under the Income Tax Act or under any other law for the time being in force. [Sec 245 I]**
- ❖ **Proceedings before the Settlement Commission shall be deemed to be a judicial proceeding. [Sec 245 L]**

ORDERS

- ❖ **The only ground upon which interference can be made in the order of the Commission is if the order is contrary to the provisions and such contravention prejudices the appellant. The Court is concerned with the legality of procedure followed and not with the validity of the order.**
- ❖ **The judicial review is concerned not with the decision but with the decision-making process.**
- ❖ **Even if the interpretation placed by the Commission on a particular document is not correct, it would not be a ground for interference, since a wrong interpretation of a document cannot be said to be a violation of provisions of the Income Tax Act.**
- ❖ **So far as the findings of fact recorded by the Commission or question of facts are concerned,
the same is not open for examination either by the High Court or by the Supreme Court.**
- ❖ **The provision for settlement under Chapter XIX-A is in the nature of statutory arbitration.
Hence, the power of review may not be exercised on the ground that the decision is erroneous
on merits.**

COURT ROOM PROCEDURE

- ❖ **The Court should be addressed as “Your Honour” or “the Court” or “the Commission” or “Sir”**
- ❖ **All documents intended for the Court or the witness should be in 7 copies and handed over to the bench clerk who, in turn, will pass them on after due acknowledgment.**
- ❖ **The applicant, the AR the DR and the AO should speak only when so indicated by the Bench. They must stand up and face the Bench, they should not converse among themselves or with the opposing party or exchange any evidence such as documents.**
- ❖ **Use of unparliamentary or abusive language or slangs in the Court is prohibited.**

COURT ROOM PROCEDURE

- ❖ **Dress regulation for the AR and the DR, officer of the Commission and other person appearing before the Commission shall be as under.**
 - i) Advocates - as prescribed under the Bar Council of India Rules.**
 - ii) Chartered Accountants - as recommended by the Council of Institute of Chartered Accountant of India (ICA)**
 - iii) Other AR of the applicant (other than relative or regular employee of the applicant)
, DR and officers of the Commission-**
 - (a) In the case of male , a suit with a tie or coat and trouser with a tie or buttoned-up coat over a pant or national dress, i.e., a long buttoned-up coat on dhoti or churdier pajama. The color of the coat shall preferably be of dark shade:**
 - (b) In the case of female, coat shall be of dark shade, preferably, black over white or any other sober colored saree or over any other formal dress.**
- ❖ **The Court may direct any person to leave Court, if due Courtroom procedure is not followed by that person.**

FORM NO. 34B

Application for Settlement of cases

In the Settlement Commission

(See section 245C of the Income-tax Act, 1961

atBench

And rules 44C and 44C of the Income-tax Rules, 1962)

Settlement Application

No.20.....20.....

PART A PERSONAL INFORMATION	Name		PAN											
	Flat / Door / Block No.		Name of Premises / Building / Village		Status (Tick) <input checked="" type="checkbox"/>									
	Road / Street / Post Office		Area / Locality		(i) Individual <input type="checkbox"/>									
	Town / City / District		State		Pin Code		(ii) Hindu undivided family <input type="checkbox"/>							
	E-mail Address		STD code and Phone Number ()		(iii) Company <input type="checkbox"/>									
						(iv) Firm <input type="checkbox"/>								
						(v) Co-operative Society <input type="checkbox"/>								
						(vi) Local Authority <input type="checkbox"/>								
						(vii) Association of persons / Body of individuals not covered by (v) or (vi) <input type="checkbox"/>								
PART B ASSESSMENT JURISDICTION AND FILING STATUS	<ol style="list-style-type: none"> Designation of Assessing Officer (Ward / Circle) The Commissioner having jurisdiction over the applicant Assessment year(s) in connection with which the application for settlement is made and the date of filing the return 													
PART C PARTICULARS OF INCOME DISCLOSED AND PAYMENT OF ADDITIONAL TAX AND INTEREST	<ol style="list-style-type: none"> The date from which the proceedings(s) are pending. (Assessment year wise) Particulars of the issues to be settled, nature and circumstances of the case. (Assessment year wise) Full and true disclosure of income which has not been disclosed before the Assessing Officer. (Assessment Year wise) The additional amount of income-tax payable on income referred to in (3). (Assessment year wise) Interest payable. (Assessment year wise) Total of (5) and (6) Date of payment of tax and interest referred to in (7) 													

1. Substituted by the IT (Ninth Amdt.) Rules, 2007, w.e.f. 7-8-2007. Earlier Form No. 34B was amended by the IT (Seventh Amdt.) Rules, 1988, w.e.f. 17-8-1988 and by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984.

Verification

I, son / daughter / wife of do hereby solemnly declare that to the best of my knowledge and belief, what is stated above and in the Annexure [including the statement(s) and documents accompanying such Annexure] is correct and complete. I further declare that I am making this application in my capacity as [write your designation] and that I am competent to make this application and to verify it. I also certify that the proceedings for which this application is being made is not covered by the proviso to clause (b) of section 245A of the Income-tax Act.

Verified today the day of

Place		Signature of applicant	
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Annexure

STATEMENT CONTAINING PARTICULARS REFERRED TO IN PART C, ITEM 3 OF THE APPLICATION UNDER SECTION 245C(1) OF THE INCOME-TAX ACT, 1961

1.	Amount income which has not been disclosed before the Assessing Officer (same as in Part C, item 3 of the application)	
2.	Additional amount of income-tax payable on the said income	
3.	Interest payable	
4.	Full and true statement of facts regarding the issues to be settled, including the terms of settlement sought for by the applicant. (Assessment year wise)	
5.	The manner in which the income referred to item No. 1 has been derived. (Assessment year wise)	
Place	Date	Signature of Applicant

FORM NO. 34BA

Intimation to the Assessing Officer of
 Having made an application to the
 Settlement commission

(See section 245C of the Income-tax Act, 1961
 Rule 44C of the Income-tax Rules, 1962)

For office use only
 Receipt No. Date

 Seal and Signature of
 Receiving Official

PART A PERSONAL INFORMATION	NAME		PAN [][][][][][][][][][]
	Flat / Door/ Block No.	Name of Premises/Building/Village	Status (Tick) i) Individual ii) Hindu Undivided family iii) Company iv) Firm v) Co-operative Society vi) Local Authority vii) Association of persons/Body of individuals not covered by (v) or (vi)
	Road / Street/ Post Office	Area / Locality	
	Town / City / District	State Pin Code [][][][][][][][][]	
	E-mail Address	STD code and Phone Number	
PART B ASSESSMENT JURISDICTION AND FILING STATUS	1. Designation of Assessing Officer (Ward/Circle) 2. The Commissioner having jurisdiction over the applicant 3. Assessment year (s) in connection with which the application for settlement is made and the date of filing the return		

Certificate

I,, son/daughter/wife of do hereby certify that I have made today and application in Form No. 34B under sub-section (1) of section 245C of the Income-Tax Act with above mentioned particulars to the Settlement Commission at Bench by post/hand vide Receipt No.....[write receipt No. in case application has been made by hand in my capacity as [write your designation]

Place	Date	Signature of applicant
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THANK YOU