



271AAD : Penalty for false entry, etc., in books of account.

Bare Act Summary

(1) Without prejudice to any other provisions of this Act, if during any proceeding under this Act, it is found that in the books of account maintained by any person there is-

(i) a *false entry*; or

(ii) an *omission of any entry* which is relevant for computation of total income of such person, to *evade tax liability*,

the Assessing Officer may direct that such person shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

(2) Without prejudice to the provisions of sub-section (1), the Assessing Officer may direct *that any other person*, who causes the person referred to in sub-section (1) in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section, shall pay by way of *penalty a sum equal to the aggregate amount of such false or omitted entry*.



Meaning of 'False Entry' as per section 271AAD

For the purposes of this section, “false entry” includes use or intention to use-

- (a) **Forged or falsified documents** such as a false invoice or, in general, a false piece of documentary evidence; or
- (b) **invoice** in respect of supply or receipt of goods or services or both issued by the person or any other person **without actual supply or receipt of such goods or services or both**; or
- (c) **Invoice in** respect of supply or receipt of goods or services or both to or **from a person who does not exist.**

Rationale behind introduction as per Memorandum of Finance Bill 2020 :penalty for fake invoice.

In the recent past after the launch of Goods & Services Tax (GST), several cases of fraudulent input tax credit (ITC) claim have been caught by the GST authorities. In these cases, fake invoices are obtained by suppliers registered under GST to fraudulently claim ITC and reduce their GST liability. These invoices are found to be issued by racketeers who do not actually carry on

any business or profession. They only issue invoices without actually supplying



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any goods or services. The GST shown to have been charged on such invoices is neither paid nor is intended to be paid. Such fraudulent arrangements deserve to be dealt with harsher provisions under the Act. Therefore, it is proposed to introduce a new provision in the Act to provide for a levy of penalty on a person, if it is found during any proceeding under the Act that in the books of accounts maintained by him there is a

- (i) false entry or
- (ii) any entry relevant for computation of total income of such person has been omitted to evade tax liability.

The penalty payable by such person shall be equal to the aggregate amount of false entries or omitted entry. It is also proposed to provide that any other person, who causes in any manner a person to make or cause to make a false entry or omits or causes to omit any entry, shall also pay by way of penalty a sum which is equal to the aggregate amount of such false entries or omitted entry. The false entry is proposed to include use or intention to use –

- (a) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or
- (b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or
- (c) invoice in respect of supply or receipt of goods or services or both to or from a person who do not exist.

Clause as per Finance Act 2020

Clause 98 of the Bill 2020 seeks to insert a new section 271AAD in the Income-tax Act relating to penalty for false or omission of entry in books of account. It is proposed to insert a new section 271AAD, under which penalty shall be levied on



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a person who is required to maintain books of account, if it is found that the books contain a false entry or that any entry has been omitted which is relevant for the computation of his total income. Such person shall be liable to pay by way of penalty a sum equal to the aggregate amount of such false and omitted entries. Penalty shall also be levied on any other person who causes the person required to maintain books of account to make or causes to make any false entry or omit or cause to omit any entry in books of account. The false entries shall include use or intention to use forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods; or invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

Penalty under section 271AAD can be levied in addition to Penalty under other sections

As per sub section (1) of section 271AAD of the act “Without prejudice to any other provisions of this Act” which means that the Penalty under section 271AAD can be levied in addition to other sections of penalty. Thus, if there is any fake invoice or false entry in the books of Account the penalty under



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section 271AAD can be levied in addition to the other penal provisions. Also the penalty under section 271AAD will not only be levied on the person who is being assessed but on all the persons who are involved in such misstatements of facts.

For Example: If during the assessment proceedings of assessee it is found that some other person has caused him to make false entry or caused him to omit the entry the assessing officer is authorised to penalise the other person in addition to the assessee with a aggregate amount of such false entries or omitted entries.

Sum of Penalty that will be levied

Section 271AAD enables assessing officer to impose penalty amounting to 100% of the aggregate amount of false entry and/or omitted entry in the books of Accounts. The Assessing officer can levy penalty on the person who has made false entry and/or omitted entry and also on every other person separately who has caused assessee to make such false entry or omitted entry. Thus, section 271AAD gives abundant power to assessing officer if during any proceedings under the Income Tax Act to initiate penal provision if it is found that the assessee has made false entry or omits to disclose any relevant entry with a view to evade tax.

For Example if the during the assessment proceedings it is found that the assessee had made 10 false entries and omits 5 entries in the books of accounts then the amount of penalty will be the aggregate amount of 15 entries.



Summary of Provision of Section 271AAD

Section 271AAD	Penalty imposed on Whom	Amount of Penalty	Conditions for imposing Penalty
Sub section (1) of Section 271AAD	Imposes Penalty on Assessee	100% of Amount of False Entry or omission	i) False entry in the books of account. ii) Omission of Relevant Entry to evade Tax
Sub Section (2) of Section 271AAD	Imposes Penalty on any other Person Who causes Person in sub Section (1)	100% of Amount of False Entry or omission	i) Causes in any manner to make a false Entry ii) Omits or causes to omit any Entry

Conclusion

The Objective behind introduction of this section is to curb malpractices post GST implementation and to reduce the cases of false input tax credit. Though the provisions of this section are draconian and harsh as it enables assessing officer to impose penalty on more than one person for a single mis-reported transaction but it is a welcome move if it is not utilised by the revenue authorities arbitrarily.