Module 4 · Penalties and Prosecutions P15 · topics 4.1–4.4

SM pp. 233–253 (exercise 254). **A penalty MCQ in every paper** (often two) — "how much is the penalty u/s …"; one long question in J23 (Q4(a) under-reported income + s.270AA immunity, 9 marks) and the J23 Q8(a) case (s.68 → 115BBE + 271AAC). Expected ~4 marks.

Paper	What was asked	Marks
Jun'23	Q4(a) which additions are under-reported income; immunity u/s 270AA · Q8(a) loan by cheque taxed u/s 68: tax + penalty · MCQs: prosecution for TCS not paid (276BB); appeal against a 270A order	9 + 8 + 4
Dec'23	MCQs: accommodation entry — 271AAD on both firms · 271BA (no 92E report) · 115BBE tax on unexplained jewellery	6
Jun'24	MCQ: 271AA — 2% of the undocumented international transactions	2
Dec'24	MCQs: 270A misreporting (200% of tax) · 271BA amount	4
Jun'25	MCQs: 270A in a reassessment (firm) · trust's late return (272A(2)(e) per day)	4
Dec'25 · Jun'26	MCQ: 271AAD false purchase entry though income is a loss · MCQ: 271G (2%) for not furnishing TP documents	2 · 2
ICMAI	MQP / PTP MCQ (v): 271A (₹25,000) · MQP MCQ (vii): 269SS and a primary agricultural credit society (see M8) · postal MCQ (ix): SDT information (2%)	–

4.1 Penalty table — the amounts MCQs ask

Sec.	Default	Penalty
221(1) · 140A(3)	tax / interest / demand (or self-assessment tax) not paid in time	as the AO decides, up to the tax in arrears
270A	under-reporting · misreporting of income	**50%** of tax on under-reported income · **200%** if misreported
271A	books not kept as per s.44AA (MQP / PTP MCQ)	**₹25,000**
271AA(1) · 271AA(2)	no information / documents kept for an international transaction or SDT, or not reported (J24 MCQ) · master file u/s 92D(4) not furnished	**2% of the value of each transaction** · ₹5,00,000
271AAC	income u/s 68, 69, 69A–69D in the assessed income	**10% of the tax u/s 115BBE**; nil if returned and the tax paid by the end of the PY
271AAD	false entry (forged documents, invoice without supply, invoice of a non-existent person) or omitted entry, to evade tax — also on **any other person** who causes it	**aggregate amount of the false / omitted entry**
271AAE	trust / institution gives unreasonable benefit to a related person (13(1)(c))	100% of the income applied (first time); 200% thereafter
271B	no tax audit u/s 44AB	½% of turnover / gross receipts, maximum ₹1,50,000
271BA	no accountant's report u/s 92E (D23, D24 MCQs)	**₹1,00,000**
271C · 271CA	TDS not deducted (or 115-O, 194B, 194R, 194S, 194BA tax not paid) · TCS not collected	amount not deducted / paid / collected
271D · 271E	loan / deposit / specified sum taken (269SS) · repaid (269T) otherwise than by account-payee cheque / e-mode	**amount taken / repaid** (not if reasonable cause)
271DA · 271DB	cash receipt in breach of 269ST · no e-payment facility (269SU)	amount received · ₹5,000 per day
271FA	statement of financial transaction (285BA(1)) late	₹500 a day; ₹1,000 a day after the notice period
271FAA · 271FAB	inaccurate SFT · s.9A(5) fund information not furnished	₹50,000 (+ ₹5,000 per inaccurate account) · ₹5,00,000
271G	TP information / documents not furnished when asked u/s 92D(3) (J26 MCQ)	**2% of the value of the transaction**

271GA	s.285A (indirect transfer) information not furnished	2% of the transaction if it transfers management or control; else ₹5,00,000
271GB	country-by-country report u/s 286(2) not furnished	₹5,000 a day (first month), ₹15,000 a day beyond, ₹50,000 a day after the penalty order; inaccurate report ₹5,00,000
271GC · 271H	s.285 statement late · TDS / TCS statement not filed or inaccurate	₹1,000 a day up to 3 months, else ₹1,00,000 · ₹10,000 to ₹1,00,000 (nil if filed within 1 month after paying tax, fee 234E and interest)
271-I · 271J · 271K	195(6) information · wrong report by accountant / merchant banker / valuer · 35(1A) / 80G(5) statements	₹1,00,000 · ₹10,000 per report · ₹10,000 to ₹1,00,000
272A(1)	not answering, not signing, ignoring summons u/s 131(1), notices u/s 142(1) / 143(2), direction 142(2A)	₹10,000 for each default
272A(2)	notices 94(6), returns u/s 139(4A)/(4C) (J25 MCQ: trust), 133, 206, 206C, 197A, certificates 203 / 206C …	**₹500 a day** (for TDS / TCS items capped at the tax)
272B · 272BB · 272BBB	PAN rules (s.139A) · TAN not quoted · 206CA	₹10,000 each

[SM 233–238]

JUN'26 SUPPLEMENTARY · PENALTIES

- Penalties u/s 271C, 271CA, 271D, 271DA, 271DB, 271E are now levied by the **Assessing Officer** (not the JCIT), with JCIT approval above the s.274(2) limits. [Supp J26 p.26]
- s.271AAB does not apply to searches initiated on or after 1st September 2024; **s.271BB omitted** (the SM's reasonable-cause list still shows it). [Supp J26 p.28]

4.2 s.270A — under-reporting and misreporting

UNDER-REPORTED IF (270A(2))

- assessed income > income determined u/s 143(1)(a);
- no return (or first return u/s 148): assessed income > basic exemption;
- reassessed income > income assessed in the preceding order;
- the same three tests for **deemed total income u/s 115JB / 115JC**;
- assessment reduces a loss or turns it into income. [SM 239–240]

NOT UNDER-REPORTED (270A(6))

a. **bona fide explanation** with all material facts;
b. **estimate by the AO** where accounts are correct and complete but the method does not show the income;
c. **estimate by the assessee**: he estimated a lower addition, included it, and disclosed all facts;
d. **ALP addition** where 92D documents were kept, the transaction declared and facts disclosed;
e. undisclosed income in a **block assessment**. [SM 242]

MISREPORTING = 200% (270A(9))

misrepresentation or suppression of facts · investments not recorded · **expenditure not substantiated by evidence** · false entry · receipt not recorded · international transaction / SDT not reported. [SM 242]

AMOUNT OF UNDER-REPORTED INCOME (270A(3))

Case	Under-reported income
First assessment, return filed	assessed income − income u/s 143(1)(a)
No return / first return u/s 148	company, firm, local authority: assessed income · others: assessed income − basic exemption
Reassessment	reassessed − income in the preceding order
MAT / AMT	(A − B) + (C − D); an amount added under both is not reduced again in D
Loss	income / loss assessed − loss claimed

s.270A(4): a receipt / deposit explained as coming out of an earlier year's addition (no penalty then) is under-reported income of that earlier year. [SM 240–241]

TAX ON UNDER-REPORTED INCOME (270A(10))

- no return / first return u/s 148 → tax on (under-reported income + basic exemption) as if total income;
- 143(1)(a) or preceding order shows a loss → tax on under-reported income as if total income;
- otherwise → tax on (under-reported + earlier income) − tax on earlier income. [SM 243]

No double penalty on the same addition (270A(11)); order in writing; penalty only by the authority that made the addition — Tribunal cannot levy (*Shadiram Balmukund*); proceedings start before the assessment / appeal / revision order is complete. [SM 239, SM 243]

PROBLEMS BOX · PENALTY u/s 270A (J23 Q4(a); D24, J25 MCQs; SM Illustrations 1–4)

WORKED PATTERN 1 · SM ILLUSTRATION 1 (FA 2025 SLABS) — RE-WORKED BY SCRIPT

Case	143(1)(a)	Assessed	Tax diff.	50%
Individual	16,00,000	20,00,000	83,200	41,600
Firm	17,00,000	20,00,000	93,600	46,800
Firm (loss)	(8,00,000)	20,00,000	8,73,600	4,36,800
Individual (loss)	(19,00,000)	(3,00,000)	1,24,800	62,400
Individual, no return	N.A.	18,00,000	1,66,400	83,200

Loss cases: tax on the under-reported income (₹28,00,000; ₹16,00,000) as if total income. No return: tax on ₹18,00,000 (under-reported + basic exemption). [SM 243]

⚠ SM ILLUSTRATION 1 SLIPS

Firm, no return, ₹8,00,000 assessed: tax ₹2,49,600 → 50% = **₹1,24,800** (SM prints ₹1,19,600). Individual, no return: under-reported income = ₹18,00,000 − ₹4,00,000 basic exemption = **₹14,00,000** (SM column prints 18,00,000; its own footnote says "as reduced by basic exemption").

STEPS

1. Sort each addition: excluded (270A(6)) → under-reported → misreported (270A(9)).
2. Under-reported income by the 270A(3) case.
3. Tax on it by the 270A(10) case (with SC + cess).
4. Penalty 50% (under-reported) or 200% (misreported) of that tax — never of income or interest.

WORKED PATTERN 2 · SM ILLUSTRATION 3 (MAT COMPANY) — RE-WORKED BY SCRIPT

A − B: total income 1,20,00,000 − 80,00,000	40,00,000
C − D: book profit 2,10,00,000 − 2,00,00,000	10,00,000
Under-reported income	**50,00,000**
(P − Q): 40,06,080 − 24,96,000	15,10,080
(R − S): 35,05,320 − 33,38,400	1,66,920
Tax on under-reported income T	**16,77,000**
Penalty: minimum 50% · maximum 200%	8,38,500 · 33,54,000

Illustration 4: ₹3,00,000 added under both → D becomes 2,03,00,000 → under-reported ₹47,00,000, T ₹16,26,924, penalty ₹8,13,462 to ₹32,53,848. [SM 244–245]

MCQ SUMS (ANSWERS FROM SM RULES)

- D24 (vii): addition ₹12 lakhs, tax ₹3,12,000, misreporting → 200% = **₹6,24,000** (interest ignored).
- J25 (v): firm, reassessed; misreported ₹20 lakhs over ₹12 lakhs assessed → tax 6,24,000 × 200% = **₹12,48,000**.
- J24 (xiv): 271AA on the undocumented ₹5 crore × 2% = **₹10,00,000**. D25 (v): 271AAD = false entry **₹5,00,000** even though income is a loss. D23 (vi): M & Co 200% of tax on the addition **plus** 271AAD ₹7,00,000; P & Co (who caused it) ₹7,00,000.

PRACTISE THESE

J23 Q4(a), Q8(a) · MCQs J23 (x), (xii) · D23 (iii), (vi), (xiv) · J24 (xiv) · D24 (vii), (xiv) · J25 (iii), (v) · D25 (v) · J26 (v) · MQP / PTP MCQ (v) · postal MCQ (ix) · SM Illus. 1–4 · SM exercise MCQs 1–5 = MCQ bank Q18–Q22; bank Q131, Q148, Q158 · **ICMAI workbook Ch 3 illustrations 1–3** (270A normal / MAT; 269SS / 269T).

4.4 Prosecution (rigorous imprisonment)

Sec.	Offence	Term
275A · 275B · 276	breach of a search restraint order · not giving access to electronic records (132(1)(iib)) · removing / concealing property to defeat recovery	up to 2 years + fine
276A	liquidator's default u/s 178	up to 2 years; no fresh prosecution from 1st April 2023
276B · 276BB	TDS (and 115-O / 194B / 194R / 194S / 194BA tax) not paid · **TCS not paid** (J23 MCQ)	**3 months to 7 years** + fine; none if paid by the due date of the quarterly statement
276C(1)	wilful attempt to evade tax, penalty, interest, or under-reporting	evaded > **₹25,00,000**: 6 months to 7 years · otherwise 3 months to 2 years (+ fine)
276C(2)	wilful attempt to evade payment	3 months to 3 years + fine
276CC	wilful failure to file the return (139(1), 142(1), 148) — only if tax payable (non-company, net of prepaid taxes) exceeds **₹10,000** and not filed within the AY / as an updated return	same as 276C(1)

276CCC · 276D	block-return notice 158BC ignored · books not produced u/s 142(1) / no special audit 142(2A) (SM MCQ 1)	3 months to 3 years · up to 1 year + fine
277 · 278	false statement in a verification · abetting a false return / statement	> ₹25,00,000: 6 months to 7 years · otherwise 3 months to 2 years
277A	false entry to help another person evade (proof of actual evasion not needed)	3 months to 2 years + fine
278A	second offence u/s 276B, 276BB, 276C(1), 276CC, 277, 278	6 months to 7 years for every offence + fine
278B · 278C · 280	company (incl. firm, AOP / BOI) + persons in charge — company fined only · Karta for an HUF · public servant disclosing information	— · — · up to 6 months + fine

Court: not below a first-class (presidency) magistrate (s.292). Reasonable cause excuses 276A, 276B, 276BB (s.278AA). Sanction of the PCIT / CIT / CIT(A) needed (s.279); no 276C / 277 prosecution for a year whose 270A penalty was waived or reduced u/s 273A (279(1A)). [SM 250–252]

JUN'26 SUPPLEMENTARY · s.276BB

No prosecution for TCS paid to the credit of the Central Government on or before the due date of the quarterly TCS statement (proviso to 206C(3)). [Supp J26 p.27]

J23 Q4(a) · WHICH ADDITIONS ARE UNDER-REPORTED (ICMAI ANSWER)

Addition	Treatment
(i) AO's estimated disallowance ₹2 lakh (facts disclosed)	not under-reported — estimate (270A(6))
(ii) assessee's own estimate of scrap enhanced by the AO ₹3 lakh	not under-reported — 270A(6)(c)
(iii) expenditure whose nature he could not explain ₹1,20,000	**under-reported**
(iv) TPO's ALP addition ₹25 lakhs, 92D documents kept, transaction declared	not under-reported — 270A(6)(d)
(v) depreciation at a higher rate disallowed ₹6 lakh	**under-reported**

Under-reported total (our sum): ₹7,20,000. (iii) could also be read as misreporting — "claim of expenditure not substantiated by any evidence" (270A(9)(c)); say so in one line.

IMMUNITY u/s 270AA (J23 Q4(a), second half)

- Conditions: tax and interest per the order u/s 143(3) / 147 **paid within the demand-notice period**; **no appeal** filed. [SM 245]
- Apply in **Form 68 within 1 month** from the end of the month the order is received; AO grants immunity from 270A penalty and 276C / 276CC prosecution after the appeal period — **not where the penalty was initiated for misreporting**. [SM 245]
- AO's order within **3 months** from the end of the month of the application (after a hearing); final; then no appeal / 264 revision against the assessment. [SM 245] [Supp J26 p.27]

⚠ ICMAI J23 ANSWER IS OUT OF DATE

The J23 suggested answer says the AO decides within "one month". The Jun'26 supplementary extended it to **3 months** (the SM already shows 3). Write 3 months.

4.3 · WAIVER, IMMUNITY, PROCEDURE

- **s.273A(1)** — PCIT / CIT may reduce or waive the 270A penalty (suo motu or otherwise) if, before detection, the person voluntarily disclosed in good faith, co-operated, and paid / arranged the tax and interest. Income > **₹5,00,000** needs the PCCIT / CCIT / PDGIT / DGIT's approval. Only **once in a lifetime**. [SM 246]
- **s.273A(4)** — on application only: reduce / waive any penalty, or stay / compound recovery, for **genuine hardship** + co-operation; above **₹1,00,000** needs the PCCIT / CCIT's consent; order within **12 months** from the end of the month of the application. Hardship must exist at petition and at order (Circular 784). [SM 246–247]
- 273A(4) relief does not bar later relief; 273A(1) relief bars both. Orders are final. [SM 247]
- **s.273AA / 273AB** — immunity from penalty / prosecution after a settlement application (245C) abates (245HA); decided within 12 months; withdrawn if conditions broken or facts concealed. [SM 247, SM 252–253]
- **s.273B** — no penalty under 271A, 271AA, 271B, 271BA, 271C, 271CA, 271D, 271E, 271FA–271K, 272A(1)(c)/(d), 272A(2), 272AA, 272B, 272BB, 272BBB if there was **reasonable cause**. [SM 248]
- The reasonable-cause list does not include 270A, 271AAC or 271AAD.
- **s.274** — hearing first; JCIT approval if the penalty exceeds **₹10,000** (ITO) or **₹20,000** (AC / DC). Faceless penalty scheme (prosecution too, s.279). [SM 248]
- **s.275** — no penalty order after **6 months from the end of the quarter** in which the proceedings are completed / the appeal order reaches the PCIT / CIT / the revision order is passed / the penalty notice is issued. [SM 248] [Supp J26 p.27]
- A penalty order is separate: appeal to CIT(A), then ITAT; or 264 / 154 petitions. [SM 239]
- J23 MCQ (xii): 270A order passed by the Commissioner → appeal to the ITAT u/s 253.

R Revision sheet · Module 4

NUMBERS TO KNOW COLD

270A under / mis	50% / 200% of tax
271A books	₹25,000
271AA · 271G	2% of transaction value
271AA(2) · 271FAB · 271GA (other)	₹5,00,000
271AAC	10% of 115BBE tax
271AAD · 271D / 271E · 271DA	amount of the entry / loan / receipt
271B	½% of turnover, max ₹1,50,000
271BA · 271-I	₹1,00,000
271H	₹10,000 to ₹1,00,000
272A(1) · 272B · 272BB	₹10,000
272A(2)	₹500 per day
JCIT approval (274)	> ₹10,000 ITO · > ₹20,000 AC / DC
270AA	apply 1 month · order 3 months
275 time limit	6 months from end of quarter
273A(1) · 273A(4)	₹5 lakh · ₹1 lakh approval; 12 months
276B / 276BB	3 months to 7 years
276C / 276CC / 277 / 278	> ₹25 lakh: 6 months to 7 years; else 3 months to 2 years

⚠ NOT IN THE SM · s.115BBE RATE

The SM gives 271AAC (10% of tax u/s 115BBE) but not the 115BBE rate. The papers use **60% + 25% surcharge + 4% cess = 78%**: D23 MCQ (iii) jewellery ₹22,60,000 × 78% = **₹17,62,800**. J23 Q8(a) (our working): ₹20 lakhs taxed u/s 68 → tax ₹15,60,000; 271AAC = **₹1,56,000**; no deduction or set-off against it.

⚠ SM SLIPS

Exercise MCQ 3 says "271AD" — read **271AAD**. s.273B list still names 271BB (omitted, Jun'26 supplementary).

SM EXERCISE MCQs (KEY AS PRINTED)

1. Prosecution for not producing books demanded u/s **142(1)**.
2. PAN default → **272B**.
3. False / omitted entry → **sum equal to the entry**.
4. 273A(1) waiver above **₹5,00,000** needs approval.
5. Relief powers: 273A and **273AA**. [SM 254]

MEMORY HOOKS

- **"Half for hiding a little, double for lying"** — 50% under-reported, 200% misreported, always of the tax.
- "Two percent for TP papers" — 271AA keep, 271G furnish; 92E report = flat ₹1 lakh.
- "25 lakh splits the jail term" — above: 6 months to 7 years; below: 3 months to 2 years.

Fixed penalties

- 271A 25k · 271BA 1L · 272A 10k

270A

- 50% / 200% of tax · 270A(6) exclusions

Percent penalties

- 271AA / 271G 2% · 271B ½%

MODULE 4
~4 marks · MCQ every paper

Relief

- 270AA · 273A · 273AA · 273B

Amount penalties

- 271AAD · 271D / E · 271C

Prosecution

- 276B 3m–7y · 276C 25 lakh split