

## Summons under Income Tax Act:

1. Power of summons under Income Tax: Section 131 of Income-tax Act (IT Act) empowers IT authorities to issue summons. The section specifies the authorities who can issue summons. These authorities enjoy the powers that are vested in a court under Code of Civil Procedure (CPC) when trying a suit.

2. Powers under section 131 are specific and limited, only to the matters relating to

i. Discovery and inspection

ii. Enforcing attendance of any person, including any officer of a banking company and examining him on oath

iii. Compelling production of books of account and other documents

iv. Issuing commissions

4. The authorities who can issue summons are: Assessing Officer, Deputy Commissioner (Appeals), Joint Commissioner, including Joint Commissioner (Appeals), Commissioner, including Commissioner (Appeals), Principal Commissioner, Chief Commissioner or Principal Chief Commissioner.

5. Content of summons:

Order XVI, Rule 5 of CPC states that the summons must specify with reasonable clarity, the date, time, place etc. Similarly, in case personal attendance is required, it must be clearly mentioned so. Hon'ble High Court of Calcutta in *Dwijendra Lal Brahmachari Vs New Central Jute Mills Co. Ltd* 112 ITR 568 Cal. has held that the information/documents sought in the summons must be relevant to the proceedings before the authority issuing summons.

6. Personal attendance:

When personal attendance is required, it must be ensured that the same is addressed to proper person as mentioned in section 282(2) of the IT Act; it must not be addressed to a non-living person.

#### 7. Presence of lawyer/CA:

Hon'ble High Court of Bombay has held in Abdul Rajak Haji Mohammed Vs UOI 26 Taxman 234 Bom that mere presence of lawyer cannot be objected to, though he cannot participate in the interrogation.