

(B) such person offers an explanation which he is ¹[not able to substantiate and fails to prove that such explanation is *bona fide* and that all the facts relating to the same and material to the computation of his total income have been disclosed by him,]

then, the amount added or disallowed in computing the total income of such person as a result thereof shall, for the purposes of clause (c) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed.

²*

*

*

*

*

Explanation 2.—Where the source of any receipt, deposit, outgoing or investment in any assessment year is claimed by any person to be an amount which had been added in computing the income or deducted in computing the loss in the assessment of such person for any earlier assessment year or years but in respect of which no penalty under clause (iii) of this sub-section had been levied, that part of the amount so added or deducted in such earlier assessment year immediately preceding the year in which the receipt, deposit, outgoing or investment appears (such earlier assessment year hereafter in this *Explanation* referred to as the first preceding year) which is sufficient to cover the amount represented by such receipt, deposit or outgoing or value of such investment (such amount or value hereafter in this *Explanation* referred to as the utilised amount) shall be treated as the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the first preceding year; and where the amount so added or deducted in the first preceding year is not sufficient to cover the utilised amount, that part of the amount so added or deducted in the year immediately preceding the first preceding year which is sufficient to cover such part of the utilised amount as is not so covered shall be treated to be the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the year immediately preceding the first preceding year and so on, until the entire utilised amount is covered by the amounts so added or deducted in such earlier assessment years.

³[*Explanation 3.*—Where any person ⁴**** fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the period aforesaid, no notice has been issued to him under clause (i) of sub-section (1) of section 142 or section 148 and the Assessing Officer or the ⁵*** Commissioner (Appeals) is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.]

⁶[*Explanation 4.*—For the purposes of clause (iii) of this sub-section,—

(a) the amount of tax sought to be evaded shall be determined in accordance with the following formula—

$$(A - B) + (C - D)$$

where,

A = amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115Jb or section 115JC (herein called general provisions);

1. Subs. by Act 46 of 1986, s. 19, for “not able to substantiate,” (w.e.f. 10-9-1986).

2. The proviso omitted by s. 19, *ibid.* (w.e.f. 10-9-1986).

3. Subs. by Act 3 of 1989, s. 50, for the *Explanation* (w.e.f. 1-4-1989). Earlier *Explanation 3* amended by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

4. The words “who has not previously been assessed under this Act,” omitted by Act 20 of 2002, s. 101 (w.e.f. 1-4-2003).

5. The words “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998).

6. Subs. by Act 20 of 2015, s. 70, for *Explanation 4* (w.e.f. 1-4-2016).

B = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished;

C = amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished:

Provided that where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D :

Provided further that in a case where the provisions contained in section 115JB or section 115JC are not applicable, the item $(C - D)$ in the formula shall be ignored;

(b) where in any case the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the formula specified in clause (a) with the modification that the amount to be determined for item $(A - B)$ in that formula shall be the amount of tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income;

(c) where in any case to which *Explanation 3* applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.]]

¹[*Explanation 5*.—Where in the course of a ²[search initiated under section 132 before the 1st day of June, 2007], the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

(a) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date, such income has not been declared therein ; or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income, ³[unless,—

(1) such income is, or the transactions resulting in such income are recorded,—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date,

1. Ins. by Act 67 of 1984, s. 48 (w.e.f. 1-10-1984).

2. Subs. by Act 22 of 2007, s.76, for “search under section 132” (w.e.f. 1-6-2007).

3. Subs. by Act 46 of 1986, s. 19, for certain words (w.e.f. 10-9-1986).

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the ¹[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner] before the said date ; or]

(2) he, in the course of the search, makes a statement under sub-section (4) of section 132 that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control, has been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of time specified in ⁴*** sub-section (1) of section 139, and also specifies in the statement the manner in which such income has been derived and pays the tax, together with interest, if any, in respect of such income.]

⁵[*Explanation 5A*.—Where, in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of—

(i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income for any previous year; or

(ii) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year,

which has ended before the date of search and,—

(a) where the return of income for such previous year has been furnished before the said date but such income has not been declared therein; or

(b) the due date for filing the return of income for such previous year has expired but the assessee has not filed the return,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.]

⁶[*Explanation 6*.—Where any adjustment is made in the income or loss declared in the return under the proviso to clause (a) of sub-section (1) of section 143 and additional tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustment so made.]

⁷[*Explanation 7*.—Where in the case of an assessee who has entered into an ⁸[international transaction or specified domestic transaction] defined in section 92B, any amount is added or disallowed in computing the total income under sub-section (4) of section 92C, then, the amount so added or disallowed shall, for the purposes of clause (c) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed or inaccurate particulars have been furnished, unless the assessee proves to the satisfaction of the Assessing Officer or the Commissioner (Appeals) ⁹[or the ³[Principal Commissioner or Commissioner]] that the price charged or paid in such transaction was computed in accordance with the provisions contained in section 92C and in the manner prescribed under that section, in good faith and with due diligence.]

1. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

4. The words, brackets and letters “clause (a) or clause (b) of” omitted by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989).

5. Subs. by Act 33 of 2009, s. 74, for “*Explanation 5A*” (w.r.e.f. 1-6-2007). Earlier it was inserted by Act 22 of 2007, s. 76 (w.e.f. 1-6-2007).

6. Ins. by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989).

7. Ins. by Act 14 of 2001, s. 86 (w.e.f. 1-4-2002).

8. Subs. by Act 23 of 2012, s. 97, for the words “International transaction” (w.e.f. 1-4-2013).

9. Ins. by Act 20 of 2002, s. 101 (w.e.f. 1-6-2002).

¹[(1A) Where any penalty is imposable by virtue of *Explanation 2* to sub-section (1), proceedings for the imposition of such penalty may be initiated notwithstanding that any proceedings under this Act in the course of which such penalty proceedings could have been initiated under sub-section (1) have been completed.]

²[(1B) Where any amount is added or disallowed in computing the total income or loss of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under clause (c) of sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under the said clause (c).]

(2) When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under ³[clause (b) of section 183,] then notwithstanding anything contained in the other provisions of this Act, the penalty imposable under sub-section (1) shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.

⁴* * * *

(4) If the ⁵[Assessing Officer] or the ⁶[*** Commissioner (Appeals)] in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership on the basis of which the firm has been registered under this Act, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the tax, if any, payable by him, pay by way of penalty a sum not exceeding one and a half times the amount of tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

⁷* * * *

⁸[(5) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989) shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

⁹[(6) Any reference in this section to the income shall be construed as a reference to the income or fringe benefits, as the case may be, and the provisions of this section shall, as far as may be, apply in relation to any assessment in respect of fringe benefits also.]

¹⁰[(7) The provisions of this section shall not apply to and in relation to any assessment for the assessment year commencing on or after the 1st day of April, 2017.]

1. Ins. by Act 41 of 1975, s. 61 (w.e.f. 1-4-1976).

2. Ins. by Act 18 of 2008, s. 52 (w.e.f. 1-4-1989).

3. Now Section 183 omitted by Act 18 of 1992, s. 65 (1-4-1993).

4. Sub-section (3) omitted by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989). Earlier it was amended by Act 41 of 1975, s. 61 (w.e.f. 1-4-1976).

5. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).

6. The words and brackets "Deputy Commissioner (Appeals) or, as the case may be, the" omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Earlier "Deputy Commissioner (Appeals)" was substituted for "Appellate Assistant Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets "or, as the case may be, the Commissioner (Appeals)" were inserted by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

7. Sub-sections (4A) and (4B) omitted by Act 41 of 1975, s. 61 (w.e.f. 1-10-1975). Earlier the said sub-sections was inserted by Act 1 of 1965, s. 3 (w.e.f. 12-3-1965) and later on sub-section (4A) was substituted by Act 42 of 1970, s. 48 (w.e.f. 1-4-1971).]

8. Ins. by Act 3 of 1989, s. 50 (w.e.f. 1-4-1989).

9. Ins. by Act 18 of 2005, s. 58 (w.e.f. 1-4-2006).

10. Ins. by Act 28 of 2016, s. 100 (w.e.f. 1-4-2017).

¹[**271A. Failure to keep, maintain or retain books of account, documents, etc.**—Without prejudice to the provisions of ²[section 270A or] section 271, if any person ^{3***} fails to keep and maintain any such books of account and other documents as required by section 44AA or the rules made thereunder, in respect of any previous year or to retain such books of account and other documents for the period specified in the said rules, the ⁴[Assessing Officer] or the ⁵[*** Commissioner (Appeals)] may direct that such person shall pay, by way of penalty, ⁶[a sum of twenty-five thousand rupees].]

⁷[**271AA. Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.**—⁸[(I)] Without prejudice to the provisions of ⁹[section 270A or] section 271 or section 271BA, if any person in respect of an ¹⁰[international transaction or specified domestic transaction],—

(i) fails to keep and maintain any such information and document as required by sub-section (I) or sub-section (2) of section 92D;

(ii) fails to report such transaction which he is required to do so; or

(iii) maintains or furnishes an incorrect information or document,

the Assessing Officer or Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of each ¹⁰[international transaction or specified domestic transaction] entered into by such person.]

⁹[(2) If any person fails to furnish the information and the document as required under sub-section (4) of section 92D, the prescribed income-tax authority referred to in the said sub-section may direct that such person shall pay, by way of penalty, a sum of five hundred thousand rupees.]

¹¹[**271AAA. Penalty where search has been initiated.**—(I) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of June, 2007 ¹²[but before the 1st day of July, 2012], the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year.

1. Ins. by Act 41 of 1975, s. 62 (w.e.f. 1-4-1976).

2. Ins. by Act 28 of 2016, s. 101 (w.e.f. 1-4-2017).

3. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 20 (w.e.f. 10-9-1986).

4. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

5. The words and brackets “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). which was substituted as “Deputy Commissioner (Appeals)” for “Appellate Assistant Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets “or the Commissioner (Appeals)” were inserted after “Appellate Assistant Commissioner” by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 1-4-1977).

6. Subs. by Act 14 of 2001, s. 87, for “a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees” (w.e.f. 1-6-2001).

7. Subs. by Act 23 of 2012, s. 98, for section 271AA (w.e.f. 1-7-2012).

8. Section 271AA renumbered as sub-section (I) thereof by Act 28 of 2016, s. 102 (w.e.f. 1-4-2017).

9. Ins. by s. 102, *ibid.* (w.e.f. 1-4-2017).

10. Subs. by Act 23 of 2012, s. 99, for “international transaction” (w.e.f. 1-4-2013).

11. Ins. by Act 22 of 2007, s. 77 (w.e.f. 1-4-2007).

12. Ins. by Act 23 of 2012, s. 100 (w.e.f. 1-4-2012).

(2) Nothing contained in sub-section (1) shall apply if the assessee,—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

(iii) pays the tax, together with interest, if any, in respect of the undisclosed income.

(3) No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1).

(4) The provisions of sections 274 and 275 shall, so far as may be, apply in relation to the penalty referred to in this section.

Explanation.—For the purposes of this section,—

(a) “undisclosed income” means—

(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—

(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or

(B) otherwise not been disclosed to the ¹[Principal Chief Commissioner or Chief Commissioner] or ²[Principal Commissioner or Commissioner] before the date of search; or

(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted;

(b) “specified previous year” means the previous year—

(i) which has ended before the date of search, but the date of filing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the said date; or

(ii) in which search was conducted.]

1. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

2. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

¹[**271AAB. Penalty where search has been initiated.**—(1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of July, 2012 ²[but before the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President], the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

(a) a sum computed at the rate of ten per cent of the undisclosed income of the specified previous year, if such assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

(iii) on or before the specified date—

(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and

(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;

(b) a sum computed at the rate of twenty per cent of the undisclosed income of the specified previous year, if such assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income; and

(ii) on or before the specified date—

(A) declares such income in the return of income furnished for the specified previous year; and

(B) pays the tax, together with interest, if any, in respect of the undisclosed income;

(c) a sum ³[computed at the rate of sixty per cent.] of the undisclosed income of the specified previous year, if it is not covered by the provisions of clauses (a) and (b).

²[(1A) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

(a) a sum computed at the rate of thirty per cent of the undisclosed income of the specified previous year, if the assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

1. Ins. by Act 23 of 2012, s. 101 (w.e.f. 1-7-2012).

2. Ins. by Act 48 of 2016, s. 3 (w.e.f. 15-12-2016).

3. Subs. by Act 28 of 2016, s. 103, for “which shall not be less than thirty per cent. but which shall not exceed ninety per cent.” (w.e.f. 1-4-2017).

(iii) on or before the specified date—

(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and

(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;

(b) a sum computed at the rate of sixty per cent of the undisclosed income of the specified previous year, if it is not covered under the provisions of clause (a).]

(2) No penalty under the provisions of ¹[section 270A or] clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1) ²[or sub-section (1A)].

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.

Explanation.—For the purposes of this section,—

(a) “specified date” means the due date of furnishing of return of income under sub-section (1) of section 139 or the date on which the period specified in the notice issued under section 153A for furnishing of return of income expires, as the case may be;

(b) “specified previous year” means the previous year—

(i) which has ended before the date of search, but the date of furnishing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the date of search; or

(ii) in which search was conducted;

(c) “undisclosed income” means—

(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—

(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or

(B) otherwise not been disclosed to the ³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner] before the date of search; or

(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted.]

1. Ins. by Act 28 of 2016, s. 103 (w.e.f. 1-4-2017).

2. Ins. by Act 48 of 2016, s. 3 (w.e.f. 15-12-2016).

3. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

¹**[271AAC. Penalty in respect of certain income.]**—(1) The Assessing Officer may, notwithstanding anything contained in this Act other than the provisions of section 271AAB, direct that, in a case where the income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year, the assessee shall pay by way of penalty, in addition to tax payable under section 115BBE, a sum computed at the rate of ten per cent of the tax payable under clause (i) of sub-section (1) of section 115BBE:

Provided that no penalty shall be levied in respect of income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D to the extent such income has been included by the assessee in the return of income furnished under section 139 and the tax in accordance with the provisions of clause (i) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year.

(2) No penalty under the provisions of section 270A shall be imposed upon the assessee in respect of the income referred to in sub-section (1).

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.]

²**[271B. Failure to get accounts audited.]**—If any person fails ³*** to get his accounts audited in respect of any previous year or years relevant to an assessment year or ⁴[furnish a report of such audit as required under section 44AB], the ⁵[Assessing Officer] may direct that such person shall pay, by way of penalty, a sum equal to one-half per cent of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such previous year or years or a sum of ⁶[one hundred fifty thousand rupees], whichever is less.]

⁷**[271BA. Penalty for failure to furnish report under section 92E.]**—If any person fails to furnish a report from an accountant as required by section 92E, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one hundred thousand rupees.]

⁸**[271BB. Failure to subscribe to the eligible issue of capital.]**—Whoever fails to subscribe any amount of subscription to the units issued under any scheme referred to in sub-section (1) of section 88A* to the eligible issue of capital under that sub-section within the period of six months specified therein, may be directed by the ⁹[Joint Commissioner] to pay, by way of penalty, a sum equal to twenty per cent of such amount.]

1. Ins. by Act 48 of 2016, s. 4 (w.e.f. 1-4-2017).

2. Ins. by Act 21 of 1984, s. 30 (w.e.f. 1-4-1985).

3. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 21 (w.e.f. 10-9-1986).

4. Subs. by Act 22 of 1995, s. 48, for “obtain a report of such audit as required under section 44AB or furnish the said report along with the return of his income filed under sub-section (1) of section 139, or along with the return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142” (w.e.f. 1-7-1995). Earlier certain words were inserted by Act 26 of 1988, s. 45 (w.e.f. 1-4-1989).

5. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

6. Subs. by Act 14 of 2010, s. 50, for “one hundred thousand rupees” (w.e.f. 1-4-2011).

7. Ins. by Act 14 of 2001, s. 89 (w.e.f. 1-4-2002).

8. Ins. by Act 12 of 1990, s. 43 (w.e.f. 1-4-1990).

* Section 88A omitted by Act 33 of 1996, s. 35 (w.e.f. 1-4-1994).

9. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioner” (w.e.f. 1-10-1998).

¹[**271C. Penalty for failure to deduct tax at source.**—²[(I)] If any person fails to—

(a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or

(b) pay the whole or any part of the tax as required by or under—

(i) sub-section (2) of section 115-O; or

(ii) the second proviso to section 194B,

then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid.]

⁴[(2) Any penalty imposable under sub-section (I) shall be imposed by the ⁵[Joint Commissioner].]

⁶[**271CA. Penalty for failure to collect tax at source.**— (I) If any person fails to collect the whole or any part of the tax as required by or under the provisions of Chapter XVII-BB, then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to collect as aforesaid.

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

271D. Penalty for failure to comply with the provisions of section 269SS.—⁷[(I)] If a person takes or accepts any loan or deposit ⁸[or specified sum] in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit ⁸[or specified sum] so taken or accepted.

⁹[(2) Any penalty imposable under sub-section (I) shall be imposed by the ⁵[Joint Commissioner].]

¹⁰[**271DA. Penalty for failure to comply with provisions of section 269ST.**—(I) 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 (I) shall be imposed by the Joint Commissioner.]

271E. Penalty for failure to comply with the provisions of section 269T.—¹¹[(I)] If a person repays any ¹²[loan or deposit] ¹³[or specified advance] referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the ¹²[loan or deposit] ¹³[or specified advance] so repaid.]

¹⁴[(2) Any penalty imposable under sub-section (I) shall be imposed by the ⁵[Joint Commissioner].]

1. Ins. by Act 4 of 1988, s. 108, (w.e.f. 1-4-1989).

2. Subs. by Act 26 of 1997, s. 53, for sub-section (I), (w.e.f. 1-6-1997). Earlier it was amended by Act 12 of 1990, s. 44 (w.e.f. 1-4-1990).

3. Section 271C renumbered as sub-section (I) thereof by Act 12 of 1990, s. 44 (w.e.f. 1-4-1990).

4. Ins. by s. 44, *ibid* (w.e.f. 1-4-1990).

5. Subs. by Act 21 of 1998, s. 3, for “Deputy Commissioner” (w.e.f. 1-10-1998).

6. Ins. by Act 21 of 2006, s. 52 (w.e.f. 1-4-2007).

7. Section 271D renumbered as sub-section (I) thereof by Act 12 of 1990, s. 45 (w.e.f. 1-4-1990).

8. Ins. by Act 20 of 2015, s. 71 (w.e.f. 1-6-2015).

9. Ins. by Act 12 of 1990, s. 45 (w.e.f. 1-4-1990).

10. Ins. by Act 7 of 2017, s. 85 (w.e.f. 1-4-2017).

11. Section 271E renumbered as sub-section (I) thereof by Act 12 of 1990, s. 46 (w.e.f. 1-4-1990).

12. Subs. by Act 32 of 2003, s. 95, for “Deposit” (w.e.f. 1-6-2003).

13. Ins. by Act 20 of 2015, s. 72 (w.e.f. 1-6-2015).

14. Ins. by 12 of 1990, s. 46 (w.e.f. 1-4-1990).

¹[**271F. Penalty for failure to furnish return of income.**—If a person who is required to furnish a return of his income, as required under sub-section (1) of section 139 or by the provisos to that sub-section, fails to furnish such return before the end of the relevant assessment year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of five thousand rupees.]

²[Provided that nothing contained in this section shall apply to and in relation to the return of income required to be furnished for any assessment year commencing on or after the 1st day of April, 2018.]

³[**271FA. Penalty for failure to furnish** ⁴[**statement of financial transaction or reportable account**].—If a person who is required to furnish ⁵[a statement of financial transaction or reportable account] under sub-section (1) of section 285BA, fails to furnish such ⁶[statement] within the time prescribed under sub-section (2) thereof, the income-tax authority prescribed under said sub-section (1) may direct that such person shall pay, by way of penalty, a sum of ⁷[five hundred rupees] for every day during which such failure continues:

Provided that where such person fails to furnish the ⁶[statement] within the period specified in the notice issued under sub-section (5) of section 285BA, he shall pay, by way of penalty, a sum of ⁸[one thousand rupees] for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the ⁶[statement] expires.]

⁹[**271FAA. Penalty for furnishing inaccurate statement of financial transaction or reportable account.**—If a person referred to in clause (k) of sub-section (1) of section 285BA, who is required to furnish a statement under that section, provides inaccurate information in the statement, and where—

(a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed under sub-section (7) of section 285BA or is deliberate on the part of that person; or

(b) the person knows of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or

(c) the person discovers the inaccuracy after the statement of financial transaction or reportable account is furnished and fails to inform and furnish correct information within the time specified under sub-section (6) of section 285BA,

then, the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees.]

¹⁰[**271FAB. Penalty for failure to furnish statement or information or document by an eligible investment fund.**—If any eligible investment fund which is required to furnish a statement or any information or document, as required under sub-section (5) of section 9A fails to furnish such statement or information or document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum of five hundred thousand rupees.]

¹¹[**271FB. Penalty for failure to furnish return of fringe benefits.**—If an employer, who is required to furnish a return of fringe benefits, as required under sub-section (1) of section 115WD, fails to furnish such return within the time prescribed under that sub-section, the Assessing Officer may direct that such employer shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.]

1. Subs. by Act 20 of 2002, s. 102, for section 271F (w.e.f. 1-6-2002).

2. Ins. by Act 7 of 2017, s. 86 (w.e.f. 1-4-2018).

3. Subs. by Act 17 of 2013, s. 58, for section 271FA (w.e.f. 1-4-2014).

4. Subs. by Act 25 of 2014, s. 70, for “annual information return” (w.e.f. 1-4-2015).

5. Subs. by s. 70, *ibid.*, for “an annual information return” (w.e.f. 1-4-2015).

6. Subs. by s. 70, *ibid.*, for “return” (w.e.f. 1-4-2015).

7. Subs. by Act 13 of 2018, s. 53, for “one hundred rupees” (w.e.f. 1-4-2018).

8. Subs. by s. 53, *ibid.*, for “five hundred rupees” (w.e.f. 1-4-2018).

9. Ins. by Act 25 of 2014, s. 71 (w.e.f. 1-4-2015).

10. Ins. by Act 20 of 2015, s. 73 (w.e.f. 1-4-2016).

11. Ins. by Act 18 of 2005, s. 59 (w.e.f. 1-4-2006).

¹[**271G. Penalty for failure to furnish information or document under section 92D.**—If any person who has entered into an ²[international transaction or specified domestic transaction] fails to furnish any such information or document as required by sub-section (3) of section 92D, the Assessing Officer ³[or the Transfer Pricing Officer as referred to in section 92CA] or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of the ²[international transaction or specified domestic transaction for each such failure.]

⁴[**271GA. Penalty for failure to furnish information or document under section 285A.**—If any Indian concern, which is required to furnish any information or document under section 285A, fails to do so, the income-tax authority, as may be prescribed under the said section, may direct that such Indian concern shall pay, by way of penalty,—

(i) a sum equal to two per cent of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

(ii) a sum of five hundred thousand rupees in any other case.]

⁵[**271GB. Penalty for failure to furnish report or for furnishing inaccurate report under section 286.**—(1) If any reporting entity referred to in section 286, which is required to furnish the report referred to in sub-section (2) of the said section, in respect of a reporting accounting year, fails to do so, the authority prescribed under that section (herein referred to as prescribed authority) may direct that such entity shall pay, by way of penalty, a sum of,—

(a) five thousand rupees for every day for which the failure continues, if the period of failure does not exceed one month; or

(b) fifteen thousand rupees for every day for which the failure continues beyond the period of one month.

(2) Where any reporting entity referred to in section 286 fails to produce the information and documents within the period allowed under sub-section (6) of the said section, the prescribed authority may direct that such entity shall pay, by way of penalty, a sum of five thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the period for furnishing the information and document expires.

(3) If the failure referred to in sub-section (1) or sub-section (2) continues after an order has been served on the entity, directing it to pay the penalty under sub-section (1) or, as the case may be, under sub-section (2), then, notwithstanding anything contained in sub-section (1) or sub-section (2), the prescribed authority may direct that such entity shall pay, by way of penalty, a sum of fifty thousand rupees for every day for which such failure continues beginning from the date of service of such order.

(4) Where a reporting entity referred to in section 286 provides inaccurate information in the report furnished in accordance with sub-section (2) of the said section and where—

(a) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or

(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of fifteen days of such discovery; or

(c) the entity furnishes inaccurate information or document in response to the notice issued under sub-section (6) of section 286,

then, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of five lakh rupees.]

1. Ins. by Act 14 of 2001, s. 91 (w.e.f. 1-4-2002).

2. Subs. by Act 23 of 2012, s. 102, for “international transaction” (w.e.f. 1-4-2013).

3. Ins. by Act 25 of 2014, s. 72 (w.e.f. 1-10-2014).

4. Ins. by Act 20 of 2015, s. 74 (w.e.f. 1-4-2016).

5. Ins. by Act 28 of 2016, s. 104 (w.e.f. 1-4-2017).

¹[**271H. Penalty for failure to furnish statements, etc.**—(1) Without prejudice to the provisions of the Act, the ²[Assessing Officer may direct that a person shall pay by way of] penalty, if, he—

(a) fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C; or

(b) furnishes incorrect information in the statement which is required to be delivered or caused to be delivered under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(2) The penalty referred to in sub-section (1) shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(3) Notwithstanding anything contained in the foregoing provisions of this section, no penalty shall be levied for the failure referred to in clause (a) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C before the expiry of a period of one year from the time prescribed for delivering or causing to be delivered such statement.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

³[**271-I. Penalty for failure to furnish information or furnishing inaccurate information under section 195.**—If a person, who is required to furnish information under sub-section (6) of section 195, fails to furnish such information, or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.]

⁴[**271J. Penalty for furnishing incorrect information in reports or certificates.**—Without prejudice to the provisions of this Act, where the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of ten thousand rupees for each such report or certificate.

Explanation.—For the purposes of this section,—

(a) “accountant” means an accountant referred to in the *Explanation* below sub-section (2) of section 288;

(b) “merchant banker” means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992.

(c) “registered valuer” means a person defined in clause (oaa) of section 2 of the Wealth-tax Act, 1957.]

[**272. Failure to give notice of discontinuance.**]—*Omitted by the Direct Tax Laws (Amendment) Act, 1987, (4 of 1988), s. 109 (w.e.f. 1-4-1989).*

⁵[**272A. Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.**—(1) If any person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

1. Ins. by Act 23 of 2012, s. 103 (w.e.f. 1-7-2012).

2. Subs. by Act 25 of 2014, s. 73, for certain words (w.e.f. 1-10-2014).

3. Ins. by Act 20 of 2015, s. 75 (w.e.f. 1-6-2015).

4. Ins. by Act 7 of 2017, s. 87 (w.e.f. 1-4-2017).

5. Subs. by Act 4 of 1988, s. 110 (w.e.f. 1-4-1989). Prior to its inserted by Act 41 of 1975, s. 63 (w.e.f. 1-4-1976).

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 131 either to attend to give evidence or produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the ¹[place or time; or]

²[(d) fails to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or fails to comply with a direction issued under sub-section (2A) of section 142,]

he shall pay, by way of penalty, ³[a sum of ten thousand rupees] for each such default or failure.

(2) If any person fails—

(a) to comply with a notice issued under sub-section (6) of section 94; or

(b) to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176; or

(c) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 ⁴*** ⁵[or section 206C] or section 285B; or

(d) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

⁶[(e) to furnish the return of income which he is required to furnish under sub-section (4A) or sub-section (4C) of section 139 or to furnish it within the time allowed and in the manner required under those sub-sections; or]

(f) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or

(g) to furnish a certificate as required by section 203 ⁵[or section 206C]; or

(h) to deduct and pay tax as required by sub-section (2) of section 226;

⁷[(i) to furnish a statement as required by sub-section (2C) of section 192;]

⁸[(j) to deliver or cause to be delivered in due time a copy of the declaration referred to in sub-section (1A) of section 206C;]

⁹[(k) to deliver or cause to be delivered a copy of the statement within the time specified in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C;]

¹⁰[(l) to deliver or cause to be delivered the ¹¹[statements] within the time specified in sub-section (1) of section 206A;]

¹²[(m) to deliver or cause to be delivered a statement within the time as may be prescribed under sub-section (2A) of section 200 or sub-section (3A) of section 206C,]

1. Subs. by Act 28 of 2016, s. 105, for “place or time,” (w.e.f. 1-4-2017).

2. Ins. by s. 105, *ibid.* (w.e.f. 1-4-2017).

3. Subs. by Act 14 of 2001, s. 92, for “a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees” (w.e.f. 1-6-2001).

4. The words, figures and letters “or section 206A or section 206B” omitted by Act 33 of 1996, s. 55 (w.e.f. 1-10-1996).

5. Ins. by Act 49 of 1991, s. 68 (w.e.f. 1-10-1991).

6. Subs. by Act 20 of 2002, s. 103, for clause (e) (w.e.f. 1-4-2003).

7. Ins. by Act 14 of 2001, s. 92 (w.e.f. 1-4-2002).

8. Ins. by Act 54 of 2003, s. 17, for clause (j) (w.e.f. 8-9-2003).

9. Ins. by Act 23 of 2004, s. 56 (w.e.f. 1-4-2005).

10. Ins. by Act 18 of 2005, s. 60 (w.e.f. 1-6-2005).

11. Subs. by Act 33 of 2009, s. 75, for “quarterly return” (w.e.f. 1-10-2009).

12. Ins. by Act 20 of 2015, s. 76 (w.e.f. 1-6-2015).

he shall pay, by way of penalty, a sum ¹[of one hundred rupees] for every day during which the failure continues:

²[Provided that the amount of penalty for failures in relation to ³[a declaration mentioned in section 197A, a certificate as required by section 203 and] returns under sections 206 and 206C ⁴[and ⁵[statements under sub-section (2A) or sub-section (3) of section 200 or the proviso to sub-section (3) or under sub-section (3A) of section 206C]] shall not exceed the amount of tax deductible or collectible, as the case may be:]

⁶[Provided further that no penalty shall be levied under this section for the failure referred to in clause (k), if such failure relates to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.]

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not lower in rank than a ⁷[Joint Director] or a ⁸[Joint Commissioner], by such income-tax authority;

⁹[(aa)in a case falling under clause (d) of sub-section (1), by the income-tax authority who had issued the notice or direction referred to therein;]

(b) in a case falling under clause (f) of sub-section (2), by the ¹⁰[Principal Chief Commissioner or Chief Commissioner] or ¹¹[Principal Commissioner or Commissioner]; and

(c) in any other case, by the ⁷[Joint Director] or the ⁸[Joint Commissioner].

(4) No order under this section shall be passed by any income-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

Explanation.—In this section, “income-tax authority” includes a ¹²[Principal Director General or Director General], ¹³[Principal Director or Director], ⁷[Joint Director] and an ¹⁴[Assistant Director or Deputy Director] while exercising the powers vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the matters specified in sub-section (1) of section 131.]

¹⁵**[272AA. Penalty for failure to comply with the provisions of section 133B.—(1) If a person ^{16***} fails to comply with the provisions of section 133B, he shall, on an order passed by the ⁸[Joint Commissioner], ¹⁴[Assistant Director or Deputy Director] or the ¹⁷[Assessing Officer], as the case may be, pay, by way of penalty, a sum which may extend to one thousand rupees.**

1. Subs. by Act 27 of 1999, s. 88, for “which shall not be less than hundred rupees, but which may extend to two hundred rupees,” (w.e.f. 1-6-1999).

2. Ins. by Act 49 of 1991, s. 68 (w.e.f. 1-10-1991).

3. Ins. by Act 21 of 1998, s. 62 (w.e.f. 1-4-1999).

4. Ins. by Act 21 of 2006, s. 53 (w.e.f. 1-6-2006).

5. Subs. by Act 20 of 2015, s. 76, for “statement under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C” (w.e.f. 1-6-2015).

6. Ins. by Act 23 of 2012, s. 104 (w.e.f. 1-7-2012).

7. Subs. by Act 21 of 1998, s. 3, for “Deputy Director” (w.e.f. 1-10-1998).

8. Subs. by s. 3, for *ibid.*, “Deputy Commissioner” (w.e.f. 1-10-1998).

9. Ins. by Act 28 of 2016, s. 105 (w.e.f. 1-4-2017).

10. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

11. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

12. Subs. by s. 4, *ibid.*, for “Director General” (w.r.e.f. 1-6-2013).

13. Subs. by s. 4, *ibid.*, for “Director” (w.r.e.f. 1-6-2013).

14. Subs. by Act 21 of 1998, s. 3, for “Assistant Director” (w.e.f. 1-10-1998).

15. Ins. by Act 23 of 1986, s. 35 (w.e.f. 13-5-1986).

16. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 20 (w.e.f. 10-9-1986).

17. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.]

¹[**272B. Penalty for failure to comply with the provisions of section 139A.**—(1) If a person fails to comply with the provisions of section 139A, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

(2) If a person who is required to quote his permanent account number in any document referred to in clause (c) of sub-section (5) of section 139A, or to intimate such number as required by sub-section (5A) ²[or sub-section (5C)] of that section, quotes or intimates a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

(3) No order under sub-section (1) or sub-section (2) shall be passed unless the person, on whom the penalty is proposed to be imposed, is given an opportunity of being heard in the matter.]

³[**272BB. Penalty for failure to comply with the provisions of section 203A.**—(1) If a person fails to comply with the provisions of section 203A, he shall, on an order passed by the ⁴[Assessing Officer], pay, by way of penalty, ⁵[a sum of ten thousand rupees].

⁶[(1A) If a person who is required to quote his “tax deduction account number” or, as the case may be, “tax collection account number” or “tax deduction and collection account number” in the challans or certificates or statements or other documents referred to in sub-section (2) of section 203A, quotes a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.]

(2) No order under sub-section (1) ⁶[or sub-section (1A)] shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.]

⁷[**272BBB. Penalty for failure to comply with the provisions of section 206CA.**—(1) If a person ⁸[fails to comply before the 1st day of October, 2004] with the provisions of section 206CA, he shall, on an order passed by the Assessing Officer, pay, by way of penalty, a sum of ten thousand rupees.

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed, is given an opportunity of being heard in the matter.]

1. Ins. by Act 20 of 2002, s. 104 (w.e.f. 1-6-2002).

2. Ins. by Act 23 of 2004, s. 57 (w.e.f. 1-4-2005).

3. Ins. by Act 11 of 1987, s. 68 (w.e.f. 1-6-1987).

4. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

5. Subs. by Act 14 of 2001, s. 93, for “a sum which may extend to five thousand rupees” (w.e.f. 1-6-2001).

6. Ins. by Act 21 of 2006, s. 54 (w.e.f. 1-6-2006).

7. Ins. by Act 20 of 2002, s. 105 (w.e.f. 1-6-2002).

8. Subs. by Act 23 of 2004, s. 58, for “fails to comply” (w.e.f. 1-10-2004).

¹[273. False estimate of, or failure to pay, advance tax.—²[(1) If the ³[Assessing Officer], in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee—

(a) has furnished under clause (a) of sub-section (1) of section 209A a statement of the advance tax payable by him which he knew or had reason to believe to be untrue, or

(b) has ^{4***} failed to furnish a statement of the advance tax payable by him in accordance with the provisions of clause (a) of sub-section (1) of section 209A,

he may direct that such person shall, in addition to the amount of tax, if any, payable by him, pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not be less than ten per cent but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVIIC falls short of—

(1) seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215, or

(2) the amount which would have been payable by way of advance tax if the assessee had furnished a correct and complete statement in accordance with the provisions of clause (a) of sub-section (1) of section 209A,

whichever is less;

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215]:

⁵[Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words “seventy-five per cent.”, at both the places where they occur, the words “eighty-three and one-third per cent.” had been substituted.]

⁶[(2)] If the ³[Assessing Officer], in the course of any proceedings in connection with the regular assessment for the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, is satisfied that any assessee—

1. Subs. by Act 14 of 1969, s. 22, for section 273 (w.e.f. 1-4-1970).

2. Ins. by Act 19 of 1978, s. 31 (w.e.f. 1-6-1978).

3. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

4. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 25 (w.e.f. 10-9-1986).

5. Ins. by Act 44 of 1980, s. 33 (w.e.f. 1-9-1980).

6. Section 273 renumbered as sub-section (2) thereof by Act 19 of 1978, s. 31 (w.e.f. 1-6-1978).

¹[(a) has furnished under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5) of section 209A, or under sub-section (1) or sub-section (2) of section 212, an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or]

²[(aa) has furnished ³[under sub-section (4) of section 209A or] under sub-section (3A) of section 212 an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or]

(b) has ^{4***} failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of ⁵[clause (b) of sub-section (1) of section 209A], or

(c) has ^{4***} failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of ⁶[sub-section (4) of section 209A or sub-section (3A) of section 212],

he may direct that such person shall, in addition to the amount of tax, if any, payable by him, pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of—

(1) seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215, or

⁷[(2) where a statement under clause (a) of sub-section (1) of section 209A was furnished by the assessee or where a notice under section 210 was issued to the assessee, the amount payable under such statement or, as the case may be, such notice,]

whichever is less;

²[(ia) which, in the case referred to in clause (aa), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215;]

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times of seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215; and

1. Subs. by Act 19 of 1978, s. 31, for clause (a) (w.e.f. 1-6-1978).

2. Ins. by Act 29 of 1977, s. 27 (w.e.f. 1-9-1977).

3. Ins. by Act 19 of 1978, s. 31 (w.e.f. 1-6-1978).

4. The words “, without reasonable cause,” omitted by Act 46 of 1986, s. 25 (w.e.f. 10-9-1986).

5. Subs. by Act 19 of 1978, s. 31, for “sub-section (3) of section 212” (w.e.f. 1-6-1978).

6. Subs. by s. 31, *ibid.*, for “sub-section (3A) of section 212” (w.e.f. 1-6-1978).

7. Subs. by s. 31, *ibid.*, for sub-clause (2) (w.e.f. 1-6-1978).

¹[(iii) which, in the case referred to in clause (c), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which—

(a) where the assessee has sent a statement under clause (a), or an estimate under clause (b) of sub-section (1) of section 209A, or an estimate in lieu of a statement under sub-section (2) of that section, the tax payable in accordance with such statement or estimate; or

(b) where the assessee was required to pay advance tax in accordance with the notice issued to him under section 210, the tax payable under such notice,

falls short of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215:]]

²[Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words “seventy-five per cent.”, wherever they occur, the words “eighty-three and one-third per cent.” had been substituted.]

³[*Explanation* ⁴[1].—For the purposes of clause (ia), the amount paid by the assessee on or before the date extended by the ⁵[⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner]] under the ⁸[⁹[first proviso] to sub-section (4) of section 209A or, as the case may be, ⁹[first proviso] to sub-section (3A) of section 212] shall, where the date so extended falls beyond the financial year immediately preceding the assessment year, also be regarded as tax actually paid during that financial year.]

¹⁰[*Explanation* 2.—When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under this section shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.]

¹¹[(3) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

1. Subs. by Act 19 of 1978, s. 31, for clause (iii) (w.e.f. 1-6-1978).

2. Ins. by Act 44 of 1980, s. 33 (w.e.f. 1-9-1980).

3. Ins. by Act 29 of 1977, s. 27 (w.e.f. 1-9-1977).

4. The *Explanation* numbered as *Explanation 1* by Act 67 of 1984, s. 49 (w.e.f. 1-4-1985).

5. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

6. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

8. Subs. by Act 19 of 1978, s. 31, for “proviso to sub-section (3A) of section 212” (w.e.f. 1-6-1978).

9. Subs. by Act 16 of 1981, s. 25, for “proviso” (w.e.f. 1-4-1981).

10. Ins. by Act 67 of 1984, s. 49 (w.e.f. 1-4-1985).

11. Ins. by Act 4 of 1988, s. 112 (w.e.f. 1-4-1989).

¹[273A. Power to reduce or waive penalty, etc., in certain cases.—(1) Notwithstanding anything contained in this Act, the ²^{3****} ⁴[Principal Commissioner or Commissioner]] may, in his discretion, whether on his own motion or otherwise,—

5* * * *

(ii) reduce or waive the amount of penalty imposed or imposable on a person under ⁶[section 270A or] clause (iii) of sub-section (1) of section 271; [or]

7* * * *

if he is satisfied that such person—

8* * * *

(b) in the case referred to in clause (ii), has, prior to the detection by the ⁹[Assessing Officer], of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars,

10* * * *

and also has, ¹¹[in the case referred to in clause (b)], co-operated in any enquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation. ^{12****}—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a nature as not to attract the provisions of ⁶[section 270A or] clause (c) of sub-section (1) of section 271.

12* * * *

(2) Notwithstanding anything contained in sub-section (1),—

13* * * *

(b) if in a case falling under ⁶[section 270A or] clause (c) of sub-section (1) of section 271, the amount of income in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

1. Ins. by Act 41 of 1975, s. 64 (w.e.f. 1-10-1975).

2. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

3. The words “Chief Commissioner or” omitted by Act 38 of 1993, s. 36 (w.e.f. 1-6-1993).

4. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

5. Clause (i) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

6. Ins. by Act 28 of 2016, s. 106 (w.e.f. 1-4-2017).

7. Clause (iii) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

8. Clause (a) omitted by s. 51, *ibid.* (w.e.f. 1-4-1989).

9. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

10. Clause (c) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

11. Subs. by s. 51, *ibid.*, for “in all the cases referred to in clauses (a), (b) and (c)” (w.e.f. 1-4-1989).

12. *Explanation 2* omitted by Act 32 of 1985, s. 34 (w.e.f. 24-5-1985). . Earlier “1” and *Explanation 2* was ins. by Act 67 of 1984, s. 50 (w.e.f. 1-10-1984).

13. Clause (a) omitted by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989). Earlier clause (a) was amended by Act 67 of 1984, s. 50 (w.e.f. 1-10-1984).

no order reducing or waiving the penalty under sub-section (1) shall be made by ¹[the ²[Principal Commissioner or Commissioner] except with the previous approval of the ³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Director General or Director General], as the case may be].

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order:

⁵[Provided that where an order has been made in favour of any person under sub-section (1) on or before the 24th day of July, 1991, such person shall be entitled to further relief only once in relation to other assessment year or years if he makes an application to the income-tax authority referred to in sub-section (4) at any time before the 1st day of April, 1992.]

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the ⁶[^{7***} ²[Principal Commissioner or Commissioner]] may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(i) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(ii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him:

⁸[Provided that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by ¹[the ²[Principal Commissioner or Commissioner] except with the previous approval of the ³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Director General or Director General], as the case may be].]

⁹[(4A) The order under sub-section (4), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided further that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.]

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.]

1. Subs. by Act 38 of 1993, s. 36, for “the Chief Commissioner or Commissioner except with the previous approval of the Board” (w.e.f. 1-6-1993). Earlier the words “Chief Commissioner or Commissioner” were substituted by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for “Director General” (w.r.e.f. 1-6-2013).

5. Ins. by Act 49 of 1991, s. 69 (w.e.f. 27-9-1991).

6. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

7. The words “Chief Commissioner or” omitted by Act 38 of 1993, s. 36 (w.e.f. 1-6-1993).

8. The *proviso* added by Act 67 of 1984, s. 50 (w.e.f. 1-10-1984).

9. Ins. by Act 28 of 2016, s. 106 (w.e.f. 1-6-2016).

¹[(6) The provisions of this section ²[as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989] shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

³[(7) Notwithstanding anything contained in sub-section (6), the provisions of sub-section (1), sub-section (2), or, as the case may be, sub-section (4) [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989)], shall apply in the case of reduction or waiver of penalty or interest in relation to any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year, with the modifications that the power under the said sub-section (1) shall be exercisable only by the ⁴[Principal Commissioner or Commissioner] and instead of the previous approval of the Board, the ⁴[Principal Commissioner or Commissioner] shall obtain the previous approval of the ⁵[Principal Chief Commissioner or Chief Commissioner] or ⁶[Principal Director General or Director General], as the case may be, while dealing with such case.]

⁷[**273AA. Power of ⁴[Principal Commissioner or Commissioner] to grant immunity from penalty.**—(1) A person may make an application to the ⁴[Principal Commissioner or Commissioner] for granting immunity from penalty, if—

(a) he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA; and

(b) the penalty proceedings have been initiated under this Act.

(2) The application to the ⁴[Principal Commissioner or Commissioner] under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The ⁴[Principal Commissioner or Commissioner] may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived.

⁸[(3A) The order under sub-section (3), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided further that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.]

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the ⁴[Principal Commissioner or Commissioner], if he is satisfied that such person had, in the course of any

1. Ins. by Act 4 of 1988, s. 113 (w.e.f. 1-4-1989).

2. Ins. by Act 3 of 1989, s. 51 (w.e.f. 1-4-1989).

3. Ins. by Act 32 of 1994, s. 48 (w.e.f. -6-1994).

4. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

5. Subs. by s. 4, *ibid.*, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

6. Subs. by s. 4, *ibid.*, for “Director General” (w.r.e.f. 1-6-2013).

7. Ins. by Act 18 of 2008, s. 53, (w.e.f. 1-4-2008).

8. Ins. by Act 28 of 2016, s. 107 (w.e.f. 1-6-2016).

proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹[**273B. Penalty not to be imposed in certain cases.**—Notwithstanding anything contained in the provisions of ²[clause (b) of sub-section (1) of] ³[section 271, section 271A ⁴[, section 271AA], section 271B, ⁴[section 271BA], ⁵[section 271BB,] ⁶[section 271C, section 271CA], section 271D, section 271E, ⁷[section 271F, ⁸[section 271FA, ⁹[section 271FAB, section 271FB, section 271G, section 271GA], ¹⁰[section 271GB,] ¹¹[section 271H,] ¹²[section 271-I,] ¹³[section 271J,] clause (c) or clause (d) of sub-section (1) or sub-section (2) of section 272A, sub-section (1) of section 272AA] or ¹⁴¹⁵[section 272B or] ¹⁶[sub-section (1) or sub-section (1A) of] ¹⁷[section 272BB] or] sub-section (1) of section 272BBB or] clause (b) of sub-section (1) or clause (b) or clause (c) of sub-section (2) of section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.]

274. Procedure.—(1) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

¹⁸[(2) No order imposing a penalty under this Chapter shall be made—

(a) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(b) by the ¹⁹[Assistant Commissioner or Deputy Commissioner], where the penalty exceeds twenty thousand rupees,

except with the prior approval of the ²⁰[Joint Commissioner].

²¹[(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.]

1. Ins. by Act 46 of 1986, s. 26 (w.e.f. 10-9-1986).

2. Ins. by Act 3 of 1989, s. 57 (w.e.f. 1-4-1989).

3. Subs. by Act 4 of 1988, s. 114 for “section 270, clause (a) and clause (b) of sub-section (1) of section 271, section 271A, section 271B, sub-section (2), of section 272A, sub-section (1) of section 272AA, sub-section (1) of section 272B” (w.e.f. 1-4-1989).

4. Ins. by Act 14 of 2001, s. 94 (w.e.f. 1-4-2002).

5. Ins. by Act 12 of 1990, s. 50 (w.e.f. 1-4-1990).

6. Subs. by Act 21 of 2006, s. 55, for “section 271C” (w.e.f. 1-4-2007).

7. Subs. by Act 23 of 2004, s. 59, for “section 271F” (w.e.f. 1-4-2005). Earlier the quoted words were inserted by 26 of 1997, s. 55 (w.e.f. 1-4-1997).

8. Subs by Act 18 of 2005, s. 61, for “section 271FA” (w.e.f. 1-4-2006).

9. Subs. by Act 20 of 2015, s. 77, for “section 271FB, section 271G” (w.e.f. 1-4-2016). Earlier “section 271G” inserted by Act 14 of 2001, s. 94 (w.e.f. 1-4-2002).

10. Ins. by Act 28 of 2016, s. 108 (w.e.f. 1-4-2017).

11. Ins. by Act 23 of 2012, s. 105 (w.e.f. 1-7-2012).

12. Ins. by Act 20 of 2015, s. 77 (w.e.f. 1-6-2015).

13. Ins. by Act 7 of 2017, s. 88 (w.e.f. 1-4-2017).

14. Subs. by Act 11 of 1987, s. 69, for “section 272B or” (w.e.f. 1-4-1987).

15. Ins. by Act 20 of 2002, s. 106 (w.e.f. 1-6-2002).

16. Subs. by Act 21 of 2006, s. 55 for “sub-section (1) of section 272BB” (w.e.f. 1-6-2006).

17. Subs. by Act 20 of 2002, s. 106 for “section 272BB or” (w.e.f. 1-6-2002).

18. Ins. by Act 4 of 1988, s. 115 (w.e.f. 1-4-1989). Earlier it was amended by Act of 42 of 1970, s. 49 (w.e.f. 1-4-1971) and later omitted by act 41 of 1975, s. 65 (w.e.f. 1-4-1975).

19. Subs. by Act 21 of 1998, s. 3, for “Assistant Commissioner” (w.e.f. 1-10-1998).

20. Subs by s. 3, *ibid*, for “Deputy Commissioner” (w.e.f. 1-10-1998).

21. Subs. by Act 4 of 1988, s. 115, for sub-section (3) (w.e.f. 1-4-1987). Earlier it was amended by Act 29 of 1977, s. 19 (w.e.f. 10-7-1978).

¹[**275. Bar of limitation for imposing penalties.**—²[(I)] No order imposing a penalty under this Chapter shall be passed—

³[(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the ^{4***} Commissioner (Appeals) under section 246 ⁵[or section 246A] or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the ^{4***} Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the ⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner], whichever period expires later:

⁸[Provided that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the ⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner], whichever is later;]

(b) in a case where the relevant assessment or other order is the subject-matter of revision under section 263 ⁸[or section 264], after the expiry of six months from the end of the month in which such order of revision is passed;

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.]

⁹[(IA) In a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253 or an appeal to the High Court under section 260A or an appeal to the Supreme Court under section 261 or revision under section 263 or section 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty is passed before the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the ⁶[Principal Chief Commissioner or Chief Commissioner] or the ⁷[Principal Commissioner or Commissioner] or the order of revision under section 263 or section 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order

1. Subs. by Act 42 of 1970, s. 50, for section 275 (w.e.f. 1-4-1971).

2. Section 275 renumbered as sub-section (I) thereof by Act 36 of 1989, s. 26 (w.e.f. 1-4-1989).

3. Subs. by Act 4 of 1988, s. 116, for clauses (a) and (b) excluding the *Explanation* (w.e.f. 1-4-1989).

4. The words and brackets “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998).

5. Ins. by Act 10 of 2000, s. 70 (w.e.f. 1-6-2000).

6. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

8. Ins. by Act 32 of 2003, s. 96 (w.e.f. 1-6-2003).

9. Ins. by Act 29 of 2006, s. 18 (w.e.f. 13-7-2006).

of the Commissioner (Appeals) or, the Appellate Tribunal or the High Court, or the Supreme Court or order of revision under section 263 or section 264:

Provided that no order of imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty shall be passed—

(a) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(b) after the expiry of six months from the end of the month in which the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the ¹[Principal Chief Commissioner or Chief Commissioner] or the ²[Principal Commissioner or Commissioner] or the order of revision under section 263 or section 264 is passed:

Provided further that the provisions of sub-section (2) of section 274 shall apply in respect of the order imposing or enhancing or reducing penalty under this sub-section.]

³[(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.]

⁴[*Explanation.*—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;

(ii) any period during which the immunity granted under section 245H remained in force; and

(iii) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.]]

CHAPTER XXII

OFFENCES AND PROSECUTIONS

⁵[**275A. Contravention of order made under sub-section (3) of section 132.**—Whoever contravenes any order referred to in ⁶[the second proviso to sub-section (1) or] sub-section (3) of section 132 shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine.]

1. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

2. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

3. Ins. by Act 36 of 1989, s. 26 (w.e.f. 1-4-1989).

4. Subs. by Act 41 of 1975, s. 66, for the *Explanation* (w.e.f. 1-1-1976).

5. Ins. by Act 1 of 1965, s. 4 (w.e.f. 12-3-1965).

6. Ins. by Act 12 of 1990, s. 47 (w.e.f. 1-4-1990).

¹[**275B. Failure to comply with the provisions of clause (iib) of sub-section (I) of section 132.**—If a person who is required to afford the authorised officer the necessary facility to inspect the books of account or other documents, as required under clause (iib) of sub-section (I) of section 132, fails to afford such facility to the authorised officer, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.]

²[**276. Removal, concealment, transfer or delivery of property to thwart tax recovery.**—Whoever fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in execution of a certificate under the provisions of the Second Schedule shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.]

³[**276A. Failure to comply with the provisions of sub-sections (I) and (3) of section 178.**—If a person ^{4***} —

(i) fails to give the notice in accordance with sub-section (I) of section 178; or

(ii) fails to set aside the amount as required by sub-section (3) of that section; or

(iii) parts with any of the assets of the company or the properties in his hands in contravention of the provisions of the aforesaid sub-section,

he shall be punishable with rigorous imprisonment for a term which may extend to two years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.]

276AA. [Failure to comply with the provisions of section 269AB or section 269-I].—*Omitted by the Finance Act, 1986 (23 of 1986), s. 37 (w.e.f. 1-10-1986). Original section was inserted by the Income-tax (Amendment) Act, 1981 (22 of 1981), s. 10 (w.e.f. 1-7-1982).*

⁵[**276AB. Failure to comply with the provisions of sections 269UC, 269UE and 269UL.**—Whoever ^{4***} fails to comply with the provisions of section 269UC or fails to surrender or deliver possession of the property under sub-section (2) of section 269UE or contravenes the provisions of sub-section (2) of section 269UL shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.]

1. Ins. by Act 20 of 2002, s. 107 (w.e.f. 1-6-2002).

2. Ins. by Act 4 of 1988, s. 117 (w.e.f. 1-4-1989).

3. Ins. by Act 10 of 1965, s. 58 (w.e.f. 1-4-1965).

4. The words “, without reasonable cause or excuse,” omitted by Act 46 of 1986, s. 27 (w.e.f. 10-9-1986).

5. Ins. by Act 23 of 1986, s. 36 (w.e.f. 13-5-1986).

¹²[**276B. Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.**—If a person fails to pay to the credit of the Central Government,—

(a) the tax deducted at source by him as required by or under the provisions of Chapter XVII-B;
or

(b) the tax payable by him, as required by or under—

(i) sub-section (2) of section 115-O; or

(ii) the second proviso to section 194B,

he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.]

³[**276BB. Failure to pay the tax collected at source.**—If a person fails to pay to the credit of the Central Government, the tax collected by him as required under the provisions of section 206C, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.]

276C. Wilful attempt to evade tax, etc.—(1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable ⁴[or imposable, or under reports his income,] under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

(i) in a case where the amount sought to be evaded ⁵[or tax on under-reported income] exceeds ⁶[twenty-five hundred thousand rupees], with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to ⁷[two years] and with fine.

(2) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to ⁸[two years] and shall, in the discretion of the court, also be liable to fine.

Explanation.—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(ii) makes or causes to be made any false entry or statement in such books of account or other documents; or

1. Subs. by Act 26 of 1997, s. 56, for section 276B (w.e.f. 1-6-1997).

2. Subs. by Act 41 of 1975, s. 68, for section 276B and 276C (w.e.f. 1-10-1975). Earlier section 276C was inserted by Act 42 of 1970, s. 52 (w.e.f. 1-4-1971) and section 276B was inserted by Act 19 of 1968, s. 21 (w.e.f. 1-4-1968) and later on section 276B amended by Act 46 of 1986, s. 27 (w.e.f. 10-9-1986).

3. Ins. by Act 26 of 1988, s. 46 (w.e.f. 1-6-1988).

4. Subs. by Act 28 of 2016, s. 109, for “or imposable” (w.e.f. 1-4-2017).

5. Ins. by s. 109, *ibid.* (w.e.f. 1-4-2017).

6. Subs. by Act 23 of 2012, s. 106, for “one hundred thousand rupees” (w.e.f. 1-7-2012).

7. Subs. by s. 106, *ibid.*, for “three years” (w.e.f. 1-7-2012).

(iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

276CC. Failure to furnish returns of income.—If a person wilfully fails to furnish in due time ¹[the return of fringe benefits which he is required to furnish under sub-section (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or] the return of income which he is required to furnish under sub-section (1) of section 139 or by notice given under ²[clause (i) of sub-section (1) of section 142] or ³[section 148 or section 153A,] he shall be punishable,—

(i) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds ⁴[twenty-five hundred thousand rupees], with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to ⁵[two years] and with fine:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the ⁶[return of fringe benefits under sub-section (1) of section 115WD or return of income under sub-section (1) of section 139]—

(i) for any assessment year commencing prior to the 1st day of April, 1975; or

(ii) for any assessment year commencing on or after the 1st day of April, 1975, if—

(a) the return is furnished by him before the expiry of the assessment year; or

(b) the ⁷[tax payable by such person, not being a company,] on the total income determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source, does not exceed three thousand rupees.]]

⁸[**276CCC. Failure to furnish return of income in search cases.**—If a person wilfully fails to furnish in due time the return of total income which he is required to furnish by notice given under clause (a) of section 158BC, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine:

Provided that no person shall be punishable for any failure under this section in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.]

⁹[**276D. Failure to produce accounts and documents.**—If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice served on him under sub-section (1) of section 142, such accounts and documents as are referred to in the notice ¹⁰[or wilfully fails to comply with a direction issued to him under sub-section (2A) of that section], he shall be punishable with rigorous imprisonment for a term which may extend to one year ¹¹[and with fine].]

1. Ins. by Act 18 of 2005, s. 62 (w.e.f. 1-4-2006).

2. Subs. by Act 4 of 1988, s. 126, for “sub-section (2) of section 139” (w.e.f. 1-4-1989).

3. Subs. by Act 32 of 2003, s. 97, for “section 148” (w.e.f. 1-6-2003).

4. Subs. by Act 23 of 2012, s. 107, “one hundred thousand rupees” (w.e.f. 1-7-2012).

5. Subs. by s. 107, *ibid.*, for “three years” (w.e.f. 1-7-2012).

6. Subs. by Act 18 of 2005, s. 62, for “return of income under sub-section (1) of section 139” (w.e.f. 1-4-2006).

7. Subs. by Act 13 of 2018, s. 54, for “tax payable by him” (w.e.f. 1-4-2018).

8. Ins. by Act 14 of 1997, s. 10 (w.e.f. 1-1-1997).

9. Ins. by Act 42 of 1970, s. 52 (w.e.f. 1-4-1971).

10. Ins. by Act 41 of 1975, s. 69 (w.e.f. 1-4-1976).

11. Subs. by Act 25 of 2014, s. 74, for “or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both “ (w.e.f. 1-10-2014).

276DD. [Failure to comply with the provisions of section 269SS].—Omitted by the *Direct Tax Laws (Amendment) Act, 1987* (4 of 1987), s. 119 (w.e.f. 1-4-1989). Earlier it was inserted by the *Finance Act* (21 of 1984), s. 31 (w.e.f. 1-4-1984) and later on amended by the *Taxation Laws (Amendments and Miscellaneous Provisions) Act* (46 of 1986), s. 27 (w.e.f. 10-9-1986).

276E. [Failure to comply with the provisions of section 269T].—Omitted by s. 119, *ibid.*, (w.e.f. 1-4-1989). Earlier it was inserted by the *Income-Tax (Second Amendment) Act* (38 of 1981), s. 4 (w.e.f. 11-7-1981) and later on amended by the *Taxation Laws (Amendments and Miscellaneous Provisions) Act* (46 of 1986), s. 27 (w.e.f. 10-9-1986).

¹**[277. False statement in verification, etc.]**—If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(i) in a case where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds ²[twenty-five hundred thousand rupees], with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to ³[two years] and with fine.

⁴**[277A. Falsification of books of account or document, etc.]**—If any person (hereafter in this section referred to as the first person) wilfully and with intent to enable any other person (hereafter in this section referred to as the second person) to evade any tax or interest or penalty chargeable and imposable under this Act, makes or causes to be made any entry or statement which is false and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceedings against the first person or the second person, under this Act, the first person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to ⁵[two years] and with fine.

Explanation.—For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act.]

278. Abetment of false return, etc.—If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to ⁶[any income or any fringe benefits chargeable to tax] which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (I) of section 276C, he shall be punishable,—

(i) in a case where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds ⁷[twenty-five hundred thousand rupees], with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to ⁸[two years] and with fine.

1. Subs. by Act 41 of 1975, s. 70, for sections 277 and 278 (w.e.f. 1-10-1975).

2. Subs. by Act 23 of 2012, s. 108, for “one hundred thousand rupees” (w.e.f. 1-7-2012).

3. Subs. by s. 108, *ibid.*, for “three years” (w.e.f. 1-7-2012).

4. Ins. by Act 23 of 2004, s. 60 (w.e.f. 1-10-2004).

5. Subs. by Act 23 of 2012, s. 109, for “three years” (w.e.f. 1-7-2012).

6. Subs. by Act 18 of 2005, s. 63, for “any income chargeable to tax” (w.e.f. 1-4-2006).

7. Subs. by Act 23 of 2012, s. 110, for “one hundred thousand rupees” (w.e.f. 1-7-2012).

8. Subs. by s. 110, *ibid.*, for “three years” (w.e.f. 1-7-2012).

278A. Punishment for second and subsequent offences.—If any person convicted of an offence under section 276B or sub-section (1) of section 276C or section 276CC ¹[or section 276DD] ²[or section 276E] or section 277 or section 278 is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

³**[278AA. Punishment not to be imposed in certain cases.**—Notwithstanding anything contained in the provisions of section 276A, section 276AB, ⁴[or section 276B,] no person shall be punishable for any failure referred to in the said provisions if he proves that there was reasonable cause for such failure.]

⁵**[278AB. Power of ⁶[Principal Commissioner or Commissioner] to grant immunity from prosecution.**—(1) A person may make an application to the ⁶[Principal Commissioner or Commissioner] for granting immunity from prosecution, if he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA.

(2) The application to the ⁶[Principal Commissioner or Commissioner] under sub-section (1) shall not be made after institution of the prosecution proceedings after abatement.

(3) The ⁶[Principal Commissioner or Commissioner] may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived:

Provided that where the application for settlement under section 245C had been made before the 1st day of June, 2007, the ⁶[Principal Commissioner or Commissioner] may grant immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the ⁶[Principal Commissioner or Commissioner], if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings.]

1. Ins. by Act 32 of 1985, s. 35 (w.e.f. 24-5-1985).

2. Ins. by Act 38 of 1981, s. 5 (w.e.f. 11-7-1981).

3. Ins. by Act 46 of 1986, s. 28 (w.e.f. 10-9-1986).

4. Subs. by Act 4 of 1988, s. 120, for “section 276B, section 276DD or section 276E” (w.e.f. 1-4-1989).

5. Ins. by Act 18 of 2008, s. 54 (w.e.f. 1-4-2008).

6. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

278B. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

¹[(3) Where an offence under this Act has been committed by a person, being a company, and the punishment for such offence is imprisonment and fine, then, without prejudice to the provisions contained in sub-section (1) or sub-section (2), such company shall be punished with fine and every person, referred to in sub-section (1), or the director, manager, secretary or other officer of the company referred to in sub-section (2), shall be liable to be proceeded against and punished in accordance with the provisions of this Act.]

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate, and includes—

(i) a firm; and

(ii) an association of persons or a body of individuals whether incorporated or not; and

(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.

278C. Offences by Hindu undivided families.—(1) Where an offence under this Act has been committed by a Hindu undivided family, the karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

1. Ins. by Act 23 of 2004, s. 61 (w.e.f. 1-10-2004).

278D. Presumption as to assets, books of account, etc., in certain cases.—(1) Where during the course of any search made under section 132, any money, bullion, jewellery or other valuable article or thing (hereafter in this section referred to as the assets) or any books of account or other documents has or have been found in the possession or control of any person and such assets or books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents.

(2) Where any assets or books of account or other documents taken into custody, from the possession or control of any person, by the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 132A are delivered to the requisitioning officer under sub-section (2) of that section and such assets, books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents.]

¹[**278E. Presumption as to culpable mental state.**—(1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—In this sub-section, “culpable mental state” includes intention, motive or knowledge of a fact or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.]

279. Prosecution to be at instance of ²[³**Principal Chief Commissioner or Chief Commissioner**] **or** ⁴[**Principal Commissioner or Commissioner**].—⁵[(1) A person shall not be proceeded against for an offence under section 275A, ⁶[section 275B,] section 276, section 276A, section 276B, section 276BB, section 276C, section 276CC, section 276D, ⁷[section 277, section 277A or section 278] except with the previous sanction of the ⁴[Principal Commissioner or Commissioner] or Commissioner (Appeals) or the appropriate authority:

Provided that the ³[Principal Chief Commissioner or Chief Commissioner] or, as the case may be, ⁸[Principal Director General or Director] General may issue such instructions or directions to the aforesaid income-tax authorities as he may deem fit for institution of proceedings under this sub-section.

Explanation.—For the purposes of this section, “appropriate authority” shall have the same meaning as in clause (c) of section 269UA.]

(1A) A person shall not be proceeded against for an offence under section 276C or section 277 in relation to the assessment for an assessment year in respect of which the penalty imposed or imposable on him under ⁹[section 270A or] clause (iii) of sub-section (1) of section 271 has been reduced or waived by an order under section 273A.]

1. Ins. by Act 46 of 1986, s. 29 (w.e.f. 10-9-1986).

2. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

3. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

5. Subs. by Act 49 of 1991, s. 70, for sub-section (1) (w.e.f. 1-10-1991).

6. Ins. by Act 20 of 2002, s. 108 (w.e.f. 1-6-2002).

7. Subs. by Act 23 of 2004, s. 62, for “section 277 of section 278” (w.e.f. 1-10-2004).

8. Subs. by Act 25 of 2014, s. 4, for “Director General” (w.r.e.f. 1-6-2013).

9. Ins. by Act 28 of 2016, s. 110 (w.e.f. 1-4-2017).

¹[(2) Any offence under this Chapter may, either before or after the institution of proceedings, be compounded by the ²[Principal Chief Commissioner or Chief Commissioner] or a ³[Principal Director General or Director General].

⁴[(3) Where any proceeding has been taken against any person under sub-section (1), any statement made or account or other document produced by such person before any of the income-tax authorities specified in ⁵[clauses (a) to (g)] of section 116 shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty imposable would be reduced or waived, ⁶[under section 273A] or that the offence in respect of which such proceeding was taken would be compounded.

⁷[*Explanation.*—For the removal of doubts, it is hereby declared that the power of the Board to issue orders, instructions or directions under this Act shall include and shall be deemed always to have included the power to issue instructions or directions (including instructions or directions to obtain the previous approval of the Board) to other income-tax authorities for the proper composition of offences under this section.]

⁸[**279A. Certain offences to be non-cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under section 276B or section 276C or section 276CC or section 277 or section 278 shall be deemed to be non-cognizable within the meaning of that Code.]

⁹[**279B. Proof of entries in records or documents.**—Entries in the records or other documents in the custody of an income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Chapter, and all such entries may be proved either by the production of the records or other documents in the custody of the income-tax authority containing such entries, or by the production of a copy of the entries certified by the income-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody.]

280. Disclosure of particulars by public servants.—(1) If a public servant ¹⁰[furnishes any information or produces any document in contravention of the provisions of sub-section (2) of section 138], he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(2) No prosecution shall be instituted under this section except with the previous sanction of the Central Government.

¹¹[**280A. Special Courts.**—(1) The Central Government, in consultation with the Chief Justice of the High Court, may, for trial of offences punishable under this Chapter, by notification, designate one or more courts of Magistrate of the first class as Special Court for such area or areas or for such cases or class or group of cases as may be specified in the notification.

Explanation.—In this sub-section, “High Court” means the High Court of the State in which a Magistrate of first class designated as Special Court was functioning immediately before such designation.

1. Subs. by Act 49 of 1991, s. 70 (w.e.f. 1-10-1991). Earlier substituted by Act 26 of 1988, s. 47 (w.e.f. 1-4-1989).

2. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Director General” (w.r.e.f. 1-6-2013).

4. Ins. by Act 1 of 1965, s. 5 (w.e.f. 12-3-1965).

5. Subs. by Act 4 of 1988, s. 126, for “clauses (a), (b), (c), (d) and (e)” (w.e.f. 1-4-1988).

6. Subs. by Act 41 of 1975, s. 71, for “under sub-section (4A) of section 271” (w.e.f. 1-10-1975).

7. Ins. by Act 49 of 1991, s. 70 (w.r.e.f. 1-4-1992).

8. Ins. by Act 41 of 1975, s. 72 (w.e.f. 1-10-1975).

9. Ins. by Act 3 of 1989, s. 53 (w.e.f. 1-4-1989).

10. Subs. by Act 5 of 1964, s. 43, for “discloses any particulars, the disclosure of which is prohibited by section 137,” (w.e.f. 1-4-1964).

11. Ins. by Act 23 of 2012, s. 111 (w.e.f. 1-7-2012).

(2) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial.

280B. Offences triable by Special Court.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) the offences punishable under this Chapter shall be triable only by the Special Court, if so designated, for the area or areas or for cases or class or group of cases, as the case may be, in which the offence has been committed:

Provided that a court competent to try offences under section 292,—

(i) which has been designated as a Special Court under this section, shall continue to try the offences before it or offences arising under this Act after such designation;

(ii) which has not been designated as a Special Court may continue to try such offence pending before it till its disposal;

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of the offence for which the accused is committed for trial.

280C. Trial of offences as summons case.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court, shall try, an offence under this Chapter punishable with imprisonment not exceeding two years or with fine or with both, as a summons case, and the provisions of the Code of Criminal Procedure, 1973 as applicable in the case of trial of summons case, shall apply accordingly.

280D. Application of Code of Criminal Procedure, 1973 to proceedings before Special Court.—(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor:

Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an advocate for not less than seven years, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974) and the provisions of that Code shall have effect accordingly.]

280E. CHAPTER XXII-A dealing with Annuity Deposits containing sections 280A to 280X were omitted by Finance Act, 1988 (26 of 1988), s. 48 (w.e.f. 1-4-1988). Sections 280A to 280D were subsequently inserted by Act 23 of 2012, s. 111 (w.e.f. 1-7-2012).

[CHAPTER XXII-B TAX CREDIT CERTIFICATES].—Omitted by the Finance Act, 1990 (12 of 1990), s. 48 (w.e.f. 1-4-1990).

[280Y. Definitions].—Omitted by s. 48, *ibid.* (w.e.f. 1-4-1990).

[280Z. Tax credit certificates to certain equity shareholders].—Omitted by s. 48, *ibid.* (w.e.f. 1-4-1990).

[280ZA. Tax credit certificates for shifting of industrial undertaking from urban area].—Omitted by the Finance Act, 1987 (11 of 1987), s. 70 (w.e.f. 1-4-1988). Original section was inserted by the Finance Act, 1965 (10 of 1965), s. 62 (w.e.f. 1-4-1965).

[280ZB. Tax credit certificate to certain manufacturing companies in certain cases].—Omitted by the Finance Act, 1990 (12 of 1990), s. 48 (w.e.f. 1-4-1990).

[280ZC. Tax credit certificate in relation to exports].—Omitted by s. 48, *ibid.* (w.e.f. 1-4-1990).

[280ZD. Tax credit certificates in relation to increased production of certain goods].—Omitted by the s. 48, *ibid.* (w.e.f. 1-4-1990).

[280ZE. Tax credit certificate scheme].—Omitted by s. 48, *ibid.* (w.e.f. 1-4-1990).

CHAPTER XXIII

MISCELLANEOUS

¹**[281. Certain transfers to be void.]**—(1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise:

Provided that such charge or transfer shall not be void if it is made—

(i) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee ; or

(ii) with the previous permission of the ²[Assessing Officer].

(2) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation.—In this section, “assets” means land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock-in-trade of the business of the assessee.]

281A. [Effect of failure to furnish information in respect of properties held benami].—*Rep. by the Benami Transactions (Prohibition) Act, 1988 (46 of 1988), s. 7 (w.e.f. 19-5-1988).*

³**[281B. Provisional attachment to protect revenue in certain cases.]**—(1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment, the ²[Assessing Officer] is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the ⁴[⁵Principal Chief Commissioner or Chief Commissioner], ⁶[Principal Commissioner or Commissioner], ⁷[Principal Director General or Director General] or ⁸[Principal Director or Director]], by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

⁹*

*

*

*

*

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

1. Subs. by Act 41 of 1975, s. 73, for section 281 (w.e.f. 1-10-1975).

2. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Ins. by Act 41 of 1975, s. 74 (w.e.f. 1-10-1975).

4. Subs. by Act 26 of 1997, s. 57, for “Chief Commissioner or Commissioner” (w.e.f. 1-10-1996). Earlier “Chief Commissioner or Commissioner” was substituted for “Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).

5. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

6. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for “Director General” (w.e.f. 1-6-2013).

8. Subs. by s. 4, *ibid.*, for “Director” (w.e.f. 1-6-2013).

9. The *Explanation* omitted by Act 28 of 2016, s. 111 (w.e.f. 1-6-2016).

Provided that the ¹[²Principal Chief Commissioner or Chief Commissioner], ³[Principal Commissioner or Commissioner], ⁴[Principal Director General or Director General] or ⁵[Principal Director or Director]] may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed ⁶[two years or sixty days after the date of order of assessment or reassessment, whichever is later].]

⁷*

*

*

*

*

⁸[(3) Where the assessee furnishes a guarantee from a scheduled bank for an amount not less than the fair market value of the property provisionally attached under sub-section (1), the Assessing Officer shall, by an order in writing, revoke such attachment:

Provided that where the Assessing Officer is satisfied that a guarantee from a scheduled bank for an amount lower than the fair market value of the property is sufficient to protect the interests of the revenue, he may accept such guarantee and revoke the attachment.

(4) The Assessing Officer may, for the purposes of determining the value of the property provisionally attached under sub-section (1), make a reference to the Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the Assessing Officer within a period of thirty days from the date of receipt of such reference.

(5) An order revoking the provisional attachment under sub-section (3) shall be made—

(i) within forty-five days from the date of receipt of the guarantee, where a reference to the Valuation Officer has been made under sub-section (4); or

(ii) within fifteen days from the date of receipt of guarantee in any other case.

(6) Where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay that sum within the time specified in the notice of demand, the Assessing Officer may invoke the guarantee furnished under sub-section (3), wholly or in part, to recover the amount.

(7) The Assessing Officer shall, in the interests of the revenue, invoke the bank guarantee, if the assessee fails to renew the guarantee referred to in sub-section (3), or fails to furnish a new guarantee from a scheduled bank for an equal amount, fifteen days before the expiry of the guarantee referred to in sub-section (3).

(8) The amount realised by invoking the guarantee referred to in sub-section (3) shall be adjusted against the existing demand which is payable by the assessee and the balance amount, if any, shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934) at the place where the office of the Principal Commissioner or Commissioner is situate.

1. Subs. by Act 26 of 1997, s. 57, for “Chief Commissioner or Commissioner” (w.e.f. 1-10-1996). Earlier “Chief Commissioner or Commissioner” was substituted for “Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for “Director General” (w.e.f. 1-6-2013).

5. Subs. by s. 4, *ibid.*, for “Director” (w.e.f. 1-6-2013).

6. Subs. by s. 75, *ibid.*, for “two years” (w.e.f. 1-10-2014).

7. The Second and third proviso omitted by s. 75, *ibid.* (w.e.f. 1-10-2014).

8. Ins. by Act 28 of 2016, s. 111 (w.e.f. 1-6-2016).

(9) Where the Assessing Officer is satisfied that the guarantee referred to in sub-section (3) is not required any more to protect the interests of the revenue, he shall release that guarantee forthwith.

Explanation.—For the purposes of this section, the expression “scheduled bank” shall mean a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).]

¹[**282. Service of notice generally.**—(1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as “communication”) may be made by delivering or transmitting a copy thereof, to the person therein named,—

(a) by post or by such courier services as may be approved by the Board; or

(b) in such manner as provided under the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons; or

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000); or

(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) may be delivered or transmitted to the person therein named.

Explanation.—For the purposes of this section, the expressions “electronic mail” and “electronic mail message” shall have the meanings as assigned to them in *Explanation* to section 66A of the Information Technology Act, 2000 (21 of 2000).]

²[**282A. Authentication of notices and other documents.**—(1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be ³[signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed].

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).]

282B. [Allotment of Document Identification Number].—*Omitted by the Finance Act, 2011 (8 of 2011), s. 31 (w.e.f. 1-4-2011).*

1. Subs. by Act 33 of 2009, s. 77, for section 282 (w.e.f. 1-10-2009).

2. Ins. by Act 18 of 2008, s. 55 (w.e.f. 1-6-2008).

3. Subs. by Act 28 of 2016, s. 112, for “signed in manuscript by that authority” (w.e.f. 1-6-2016).

283. Service of notice when family is disrupted or firm, etc., is dissolved.—(1) After a finding of total partition has been recorded by the ¹[Assessing Officer] under section 171 in respect of any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.

(2) Where a firm or other association of persons is dissolved, notices under this Act in respect of the income of the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution.

284. Service of notice in the case of discontinued business.—Where an assessment is to be made under section 176, the Assessing Officer may serve on the person whose income is to be assessed, or, in the case of a firm or an association of persons, on any person who was a member of such firm or association at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section.

²**[285. Submission of statement by a non-resident having liaison office.**—Every person, being a non-resident having a liaison office in India set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999 (42 of 1999), shall, in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within sixty days from the end of such financial year, a statement in such form and containing such particulars as may be prescribed.]

³**[285A. Furnishing of information or documents by an Indian concern in certain cases.**—Where any share of, or interest in, a company or an entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India, as referred to in *Explanation 5* to clause (i) of sub-section (1) of section 9, and such company or, as the case may be, entity, holds, directly or indirectly, such assets in India through, or in, an Indian concern, then, such Indian concern shall, for the purposes of determination of any income accruing or arising in India under clause (i) of sub-section (1) of section 9, furnish within the prescribed period to the prescribed income-tax authority the information or documents, in such manner, as may be prescribed.]

⁴**[285B. Submission of statements by producers of cinematograph films.**—Any person carrying on the production of a cinematograph film during the whole or any part of any financial year shall, in respect of the period during which such production is carried on by him in such financial year, prepare and deliver or cause to be delivered to the ¹[Assessing Officer], within thirty days from the end of such financial year or within thirty days from the date of the completion of the production of the film, whichever is earlier, a statement in the prescribed form containing particulars of all payments of over ⁵[fifty thousand rupees] in the aggregate made by him or due from him to each such person as is engaged by him in such production ⁶***.]

1. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

2. Ins. by Act 8 of 2011, s. 32 (w.e.f. 1-6-2011). Earlier it was omitted by Act 11 of 1987, s. 71, (w.e.f. 1-6-1987).

3. Ins. by Act 20 of 2015, s. 78 (w.e.f. 1-4-2016). Earlier it was inserted by Act 31 of 1964, s. 18, (w.e.f. 6-10-1964) and later amended by the Act 41 of 1975, s. 76, (w.e.f. 1-4-1976). And then omitted by 26 of 1988, s. 50 (w.e.f. 1-4-1988).

4. Ins. by Act 41 of 1975, s. 76 (w.e.f. 1-4-1976).

5. Subs. by Act 10 of 2000, s. 71, for “twenty-five thousand rupees” (w.e.f. 1-4-2001). Earlier it was subs. by Act 21 of 1998, s. 63, (w.e.f. 1-4-1999).

6. The words “as employee or otherwise” omitted by Act 13 of 1989, s. 24 (w.e.f. 1-6-1989).

¹[285BA. Obligation to furnish statement of financial transaction or reportable account. —

(1) Any person, being—

- (a) an assessee; or
- (b) the prescribed person in the case of an office of Government; or
- (c) a local authority or other public body or association; or
- (d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or
- (e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988); or
- (f) the Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898); or
- (g) the Collector referred to in clause (g) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013); or
- (h) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or
- (i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934); or
- (j) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996); or
- (k) a prescribed reporting financial institution,

who is responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed, under any law for the time being in force, shall furnish a statement in respect of such specified financial transaction or such reportable account which is registered or recorded or maintained by him and information relating to which is relevant and required for the purposes of this Act, to the income-tax authority or such other authority or agency as may be prescribed.

(2) The statement referred to in sub-section (1) shall be furnished for such period, within such time and in the form and manner, as may be prescribed.

(3) For the purposes of sub-section (1), “specified financial transaction” means any—

- (a) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or

1. Subs. by Act 25 of 2014, s. 76, for “section 285BA” (w.e.f. 1-4-2015). Earlier inserted by Act 32 of 2003, s. 98, (w.e.f. 1-4-2005) and later on subs. by Act 23 of 2004, s. 63 (w.e.f. 1-4-2005).

- (b) transaction for rendering any service; or
- (c) transaction under a works contract; or
- (d) transaction by way of an investment made or an expenditure incurred; or
- (e) transaction for taking or accepting any loan or deposit,

which may be prescribed:

Provided that the Board may prescribe different values for different transactions in respect of different persons having regard to the nature of such transaction:

Provided further that the value or, as the case may be, the aggregate value of such transactions during a financial year so prescribed shall not be less than fifty thousand rupees.

(4) Where the prescribed income-tax authority considers that the statement furnished under sub-section (1) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said income-tax authority may, in his discretion, allow; and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such statement shall be treated as an invalid statement and the provisions of this Act shall apply as if such person had failed to furnish the statement.

(5) Where a person who is required to furnish a statement under sub-section (1) has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.

(6) If any person, having furnished a statement under sub-section (1), or in pursuance of a notice issued under sub-section (5), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within a period of ten days inform the income-tax authority or other authority or agency referred to in sub-section (1), the inaccuracy in such statement and furnish the correct information in such manner as may be prescribed.

(7) The Central Government may, by rules made under this section, specify—

- (a) the persons referred to in sub-section (1) to be registered with the prescribed income-tax authority;
- (b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (a); and
- (c) the due diligence to be carried out by the persons for the purpose of identification of any reportable account referred to in sub-section (1).]

¹[**286. Furnishing of report in respect of international group.**—(1) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority (herein referred to as prescribed authority) in the form and manner, on or before such date, as may be prescribed,—

(a) whether it is the alternate reporting entity of the international group; or

(b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident.

(2) Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority ²[within a period of twelve months from the end of the said reporting accounting year], in the form and manner as may be prescribed.

(3) For the purposes of sub-section (2) ³[and sub-section (4)], the report in respect of an international group shall include,—

(a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;

(b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;

(c) the nature and details of the main business activity or activities of each constituent entity; and

(d) any other information as may be prescribed.

(4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (2), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year ³[within the period as may be prescribed], if the parent entity is resident of a country or territory,—

³[(a) where the parent entity is not obligated to file the report of the nature referred to in sub-section (2);]

⁴[(aa)] with which India does not have an agreement providing for exchange of the report of the nature referred to in sub-section (2); or

(b) there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity:

Provided that where there are more than one such constituent entities of the group, resident in India, the report shall be furnished by any one constituent entity, if,—

(a) the international group has designated such entity to furnish the report in accordance with the provisions of sub-section (2) on behalf of all the constituent entities resident in India; and

(b) the information has been conveyed in writing on behalf of the group to the prescribed authority.

1. Ins. by Act 28 of 2016, s. 113 (w.e.f. 1-4-2017).

2. Subs. by Act 13 of 2018, s. 55, for “on or before the due date specified under sub-section (1) of section 139, for furnishing the return of income for the relevant accounting year” (w.r.e.f. 1-4-2017).

3. Ins. by s. 55, *ibid.* (w.r.e.f. 1-4-2017).

4. Clause (a) relettered as clause (aa) thereof by s. 55, *ibid.* (w.r.e.f. 1-4-2017).

(5) Nothing contained in sub-section (4) shall apply, if, an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (2), with the tax authority of the country or territory in which such entity is resident, on or before the date specified ¹[by that country or territory] and the following conditions are satisfied, namely:—

(a) the report is required to be furnished under the law for the time being in force in the said country or territory;

(b) the said country or territory has entered into an agreement with India providing for exchange of the said report;

(c) the prescribed authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;

(d) the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and

(e) the prescribed authority has been informed by the ²[entity] referred to in sub-section (4) in accordance with sub-section (1).

(6) The prescribed authority may, for the purposes of determining the accuracy of the report furnished by any reporting entity, by issue of a notice in writing, require the entity to produce such information and document as may be specified in the notice within thirty days of the date of receipt of the notice:

Provided that the prescribed authority may, on an application made by such entity, extend the period of thirty days by a further period not exceeding thirty days.

(7) The provisions of this section shall not apply in respect of an international group for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year does not exceed the amount, as may be prescribed.

(8) The provisions of this section shall be applied in accordance with such guidelines and subject to such conditions, as may be prescribed.

(9) For the purposes of this section,—

(a) “accounting year” means,—

(i) a previous year, in a case where the parent entity or alternate reporting entity is resident in India; or

(ii) an annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law for the time being in force or the applicable accounting standards of the country or territory of which such entity is resident, in any other case;

³[(b) “agreement” means a combination of all of the following agreements, namely:—

(i) an agreement entered into under sub-section (1) of section 90 or sub-section (1) of section 90A; and

(ii) an agreement for exchange of the report referred to in sub-section (2) and notified by the Central Government;]

(c) “alternate reporting entity” means any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish the report of the nature referred to in sub-section (2) in the country or territory in which the said constituent entity is resident on behalf of such group;

1. Subs. by Act 13 of 2018, s. 55, for “in the said sub-section” (w.r.e.f. 1-4-2017).

2. Subs. by s. 55, *ibid.*, for “entities” (w.r.e.f. 1-4-2017).

3. Subs. by s. 55, *ibid.*, for clause (b) (w.r.e.f. 1-4-2017).

(d) “constituent entity” means,—

(i) any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange;

(ii) any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or

(iii) any permanent establishment of any separate business entity of the international group included in ¹[sub-clause (i) or sub-clause (ii)], if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;

(e) “group” includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes,—

(i) is required to be prepared under any law for the time being in force or the accounting standards of the country or territory of which the parent entity is resident; or

(ii) would have been required to be prepared had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;

(f) “consolidated financial statement” means the financial statement of an international group in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity;

(g) “international group” means any group that includes,—

(i) two or more enterprises which are resident of different countries or territories; or

(ii) an enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;

(h) “parent entity” means a constituent entity, of an international group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that,—

(i) it is required to prepare a consolidated financial statement under any law for the time being in force or the accounting standards of the country or territory of which the entity is resident; or

(ii) it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange,

and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in ¹[sub-clause (i) or sub-clause (ii)], that includes the separate financial statement of the first mentioned constituent entity;

(i) “permanent establishment” shall have the meaning assigned to it in clause (iiia) of section 92F;

(j) “reporting accounting year” means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in ²[sub-section (2) and (4)];

1. Subs. by Act 13 of 2018, s. 55, for “clause (i) or clause (ii)” (w.r.e.f. 1-4-2017).

2. Subs. by s. 55, *ibid.*, for “sub-section (2)” (w.r.e.f. 1-4-2017).

(k) “reporting entity” means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish a report of the nature referred to in sub-section (2);

(l) “systemic failure” with respect to a country or territory means that the country or territory has an agreement with India providing for exchange of report of the nature referred to in sub-section (2), but—

(i) in violation of the said agreement, it has suspended automatic exchange; or

(ii) has persistently failed to automatically provide to India the report in its possession in respect of any international group having a constituent entity resident in India.]

¹[**287. Publication of information respecting assesseees in certain cases.**—(1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assesseees and any other particulars relating to any proceedings ²[or prosecutions] under this Act in respect of such assesseees, it may cause to be published such names and particulars in such manner as it thinks fit.

³[(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the ⁴[*** Commissioner (Appeals)] has expired without an appeal having been presented or the appeal, if presented, has been disposed of.]

Explanation.—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.]

⁵[**287A. Appearance by registered valuer in certain matters.**—Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer.

Explanation.—In this section, “registered valuer” has the same meaning as in clause (oaa) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

288. Appearance by authorised representative.—(1) Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative.

(2) For the purposes of this section, “authorised representative” means a person authorised by the assessee in writing to appear on his behalf, being—

(i) a person related to the assessee in any manner, or a person regularly employed by the assessee; or

1. Subs. by Act 5 of 1964, s. 45, for section 287 (w.e.f. 1-4-1964).

2. Ins. by Act 41 of 1975, s. 77 (w.e.f. 1-10-1975).

3. Subs. by s. 77, *ibid.*, for sub-section (2) (w.e.f. 1-10-1975).

4. The words and brackets “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Which was substituted as “Deputy Commissioner (Appeals)” for “Appellate Assistant Commissioner” by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and the words and brackets “or the commissioner (Appeals)” were inserted after “Appellate Assistant Commissioner” by Act 22 of 1977, s. 39 and the Fifth Schedule (w.e.f. 1-4-1977).

5. Ins. by Act 45 of 1972, s. 6 (w.e.f. 1-1-1973).

(ii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or

(iii) any legal practitioner who is entitled to practise in any civil court in India; or

(iv) an accountant; or

(v) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(vi) any person who has acquired such educational qualifications as the Board may prescribe for this purpose; or

¹[(*via*) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa†, Daman and Diu, or Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee; or]

(vii) any other person who, immediately before the commencement of this Act, was an income-tax practitioner within the meaning of clause (iv) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), and was actually practicing as such.

²[*Explanation*.—In this section, “accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include [except for the purposes of representing the assessee under sub-section (1)]—

(a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 (18 of 2013); or

(b) in any other case,—

(i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;

(ii) in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;

(iii) in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;

(iv) any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);

(v) an officer or employee of the assessee;

(vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;

1. Ins. by the Taxation Laws (Extension to Union Territories) Regulation, 1963 (3 of 1963), s. 3(2) part II and the Schedule (w.e.f. 1-4-1963).

† Goa has now become a State by Act 18 of 1987, s. 5 (w.e.f. 30-5-1987).

2. Subs. by Act 20 of 2015, s. 79, for the *Explanation* (w.e.f. 1-6-2015).

(vii) an individual who, or his relative or partner—

(I) is holding any security of, or interest in, the assessee:

Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;

(II) is indebted to the assessee:

Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;

(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:

Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;

(viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;

(ix) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.

¹* * * *

(4) No person—

(a) who has been dismissed or removed from Government service after the 1st day of April, 1938; or

(b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, other than a penalty imposed on him under ²[clause (ii) of sub-section (I) of] section 271 ³[clause (d) of sub-section (I) of section 272A or]; or

⁴[(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud,

shall be qualified to represent an assessee under sub-section (I), for all times in the case of a person referred to in clause (a), for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine in the case of a person referred to in clause (b), for the period during which the insolvency continues in the case of a person referred to in clause (c), and for a period of ten years from the date of conviction in the case of a person referred to in clause (d).]

(5) If any person—

(a) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be;

1. Sub-section (3) omitted by Act 67 of 1984, s. 52 (w.e.f. 1-10-1984).

2. Ins. by Act 12 of 1990, s. 49 (w.e.f. 1-4-1990).

3. Ins. by Act 28 of 2016, s. 114 (w.e.f. 1-4-2017).

4. Subs. by Act 20 of 2015, s. 79, for certain words, brackets and letter (w.e.f. 1-6-2015).

(b) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1).

(6) Any order or direction under clause (b) of sub-section (4) or clause (b) of sub-section (5) shall be subject to the following conditions, namely:—

(a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

(7) A person disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), shall be disqualified to represent an assessee under sub-section (1).

¹[*Explanation.*—For the purposes of this section, “relative” in relation to an individual, means—

(a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) any lineal ascendant or descendant of the individual;

(e) any lineal ascendant or descendant of the spouse of the individual;

(f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);

(g) any lineal descendant of a brother or sister of either the individual or the spouse of the individual.]

²[**288A. Rounding off of income.**—³[The amount of total income] computed in accordance with the foregoing provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of *paise* shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the total income of the assessee for the purposes of this Act.]

⁴*

*

*

*

*

⁵[**288B. Rounding off amount payable and refund due.**—Any amount payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of *paise* shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten.]

1. Ins. by Act 20 of 2015, s. 79 (w.e.f. 1-6-2015).

2. Ins. by Act 13 of 1966, s. 34 (w.e.f. 1-4-1966).

3. Subs. by Act 19 of 1968, s. 30 and the Third Schedule, for “(1) Subject to the provisions of sub-section (2), the amount of total income” (w.e.f. 1-4-1969).

4. Sub-section (2) and *Explanation*, omitted by s. 30 and the Third Schedule, *ibid.* (w.e.f. 1-4-1969).

5. Subs. by Act 29 of 2006, s. 19, for section 288B (w.e.f. 13-7-2006).

289. Receipt to be given.—A receipt shall be given for any money paid or recovered under this Act.

290. Indemnity.—Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention, or payment thereof.

291. Power to tender immunity from prosecution.—(1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income ¹[it is necessary or expedient so to do], tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860), or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.

292. Cognizance of offences.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

²[**292A. Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply.**—Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (2 of 1974), or in the Probation of Offenders Act, 1958 (20 of 1958), shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

292B. Return of income, etc., not to be invalid on certain grounds.—No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.]

³[**292BB. Notice deemed to be valid in certain circumstances.**—Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(a) not served upon him; or

1. Ins. by Act 13 of 1963, s. 18 (w.e.f. 28-4-1963).

2. Ins. by Act 41 of 1975, s. 78 (w.e.f. 1-10-1975).

3. Ins. by Act 18 of 2008, s. 56 (w.e.f. 1-4-2008).

(b) not served upon him in time; or

(c) served upon him in an improper manner:

Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment.]

¹[**292C. Presumption as to assets, books of account, etc.**—²[(1)] Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search under section 132 ³[or survey under section 133A], it may, in any proceeding under this Act, be presumed—

(i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii) that the contents of such books of account and other documents are true; and

(iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.]

⁴[(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 132A, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 132A, had been found in the possession or control of that person in the course of a search under section 132.]

⁵[**292CC. Authorisation and assessment in case of search or requisition.**—(1) Notwithstanding anything contained in this Act,—

(i) it shall not be necessary to issue an authorisation under section 132 or make a requisition under section 132A separately in the name of each person;

(ii) where an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.

(2) Notwithstanding that an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition.]

1. Ins. by Act 22 of 2007, s. 78 (w.e.f. 1-10-1975).

2. Section 292C renumbered as sub-section (1) thereof by Act 18 of 2008, s. 57 (w.e.f. 1-10-1975).

3. Ins. by *ibid.* s. 57 (w.r.e.f. 1-6-2002).

4. Ins. by *ibid.* s. 57 (w.r.e.f. 1-10-1975).

5. Ins. by Act 23 of 2012, s. 112 (w.e.f. 1-4-1976).

293. Bar of suits in civil courts.—No suit shall be brought in any civil court to set aside or modify ¹[any proceeding taken or order made] under this Act; and no prosecution, suit or other proceeding shall lie against ²[the Government or] any officer of the Government for anything in good faith done or intended to be done under this Act.

³**[293A. Power to make exemption, etc., in relation to participation in the business of prospecting for, extraction, etc., of mineral oils.**—(1) If the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of persons specified in sub-section (2) or in regard to the whole or any part of the income of such class of persons ⁴[or in regard to the status in which such class of persons or the members thereof are to be assessed on their income from the business referred to in clause (a) of sub-section (2):

Provided that the notification for modification in respect of the status may be given effect from an assessment year beginning on or after the 1st day of April, 1993.]

(2) The persons referred to in sub-section (1) are the following, namely:—

(a) persons with whom the Central Government has entered into agreements for the association or participation of that Government or any person authorised by that Government in any business consisting of the prospecting for or extraction or production of mineral oils;

(b) persons providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by way of sale or hire) in connection with any business consisting of the prospecting for or extraction or production of mineral oils carried on by that Government or any person specified by that Government in this behalf by notification in the Official Gazette; and

(c) employees of the persons referred to in clause (a) or clause (b).

(3) Every notification issued under this section shall be laid before each House of Parliament.

⁵[*Explanation.*—For the purposes of this section,—

(a) “mineral oil” includes petroleum and natural gas;

(b) “status” means the category under which the assessee is assessed as “individual”, “Hindu undivided family” and so on.]]

⁶**[293B. Power of Central Government or Board to condone delays in obtaining approval.**—Where, under any provision of this Act, the approval of the Central Government or the Board is required to be obtained before a specified date, it shall be open to the Central Government or, as the case may be, the Board to condone, for sufficient cause, any delay in obtaining such approval.]

⁷**[293C. Power to withdraw approval.**—Where the Central Government or the Board or an income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, the Central Government or the Board or such authority may, notwithstanding that a provision to withdraw such approval has not been specifically provided for in such provision, withdraw such approval at any time:

1. Subs. by Act 26 of 1988, s. 51, for “any order made” (w.r.e.f. 1-3-1988).

2. Ins. by Act 5 of 1964, s. 46 (w.e.f. 1-4-1964).

3. Ins. by Act 16 of 1981, s. 22 (w.e.f. 1-4-1981).

4. Ins. by Act 22 of 1995, s. 49 (w.r.e.f. 1-4-1993).

5. Subs. by s. 49, *ibid.*, for the *Explanation* (w.r.e.f. 1-4-1993).

6. Ins. by Act 4 of 1988, s. 121 (w.e.f. 1-4-1989).

7. Ins. by Act 33 of 2009, s. 79 (w.e.f. 1-10-2009).

Provided that the Central Government or Board or income-tax authority shall, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the assessee concerned, at any time, withdraw the approval after recording the reasons for doing so.]

294. Act to have effect pending legislative provision for charge of tax.—If on the 1st day of April in any assessment year provision has not yet been made by a Central Act for the charging of income-tax^{1***} for that assessment year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding assessment year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force.

²[**294A. Power to make exemption, etc., in relation to certain Union territories.**—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa*, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessee or in regard to the whole or any part of the income of any assessee or class of assessee:

Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made.]

295. Power to make rules.—(1) The Board may, subject to the control of the Central Government, by notification in the Gazette of India, make rules for the whole or any part of India for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(a) the ascertainment and determination of any class of income;

(b) the manner in which and the procedure by which the income shall be arrived at in the case of—

(i) income derived in part from agriculture and in part from business;

(ii) persons residing outside India;

³[(iii) an individual who is liable to be assessed under the provisions of sub-section (2) of section 64;]

(c) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;

(d) the percentage on the written down value which may be allowed as depreciation in respect of buildings, machinery, plant or furniture;

⁴[(dd) the extent to which, and the conditions subject to which, any expenditure referred to in sub-section (3) of section 37 may be allowed;]

⁵[(dda) the matters specified in sub-sections (2) and (3) of section 44AA;]

1. The words “or super-tax” omitted by Act 10 of 1965, s. 63 (w.e.f. 1-4-1965).

2. Ins. by the Taxation Laws (Extension to Union Territories) Regulation, 1963 (3 of 1963), s. 3 and the Schedule (w.e.f. 1-4-1963).

3. Ins. by Act 42 of 1970, s. 55 (w.e.f. 1-4-1971).

4. Ins. by Act 5 of 1964, s. 47 (w.e.f. 1-4-1964).

5. Ins. by Act 41 of 1975, s. 79 (w.e.f. 1-4-1976).

¹²[(*e*)] the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 80GG;

³[(*ee*) the matters specified in Chapter X-A;]

(*eea*) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under sub-section (6) of section 139;

(*eeb*) the time within which any person may apply for the allotment of a permanent account number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A;

⁴[(*eeba*) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 139C;

(*eebb*) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 139D;]

(*eec*) the form of the report of audit and the particulars which such report shall contain under sub-section (2A) of section 142;]

³[(*eed*) remuneration of Chairperson and members of the Approving Panel under sub-section (18) and procedure and manner for constitution of, functioning and disposal of references by, the Approving Panel under sub-section (21) of section 144BA;]

(*f*) the manner in which and the period to which any such income as is referred to in section 180 may be allocated;

⁵[(*fa*) the form and manner in which the information relating to payment of any sum may be furnished under sub-section (6) of section 195;]

(*g*) the authority to be prescribed for any of the purposes of this Act;

(*h*) the procedure for giving effect to the terms of any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act;

⁶[(*ha*) the procedure for granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under this Act;]

(*i*) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;

1. Ins. by Act 41 of 1975, s. 79 (w.e.f. 1-4-1976).

2. Clause (*ee*) renumbered as clause (*e*) thereof by Act 17 of 2013, s. 59 (w.e.f. 1-4-2016). Earlier clause (*e*) omitted by Act 18 of 2005, s. 64 (w.e.f. 1-4-2006) which was amended by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f. 1-4-1968).

3. Ins. by s. 59, *ibid.* (w.e.f. 1-4-2016).

4. Ins. by Act 22 of 2007, s. 79 (w.e.f. 1-6-2006).

5. Ins. by Act 18 of 2008, s. 58 (w.e.f. 1-4-2008).

6. Ins. by Act 20 of 2015, s. 80 (w.e.f. 1-6-2015).

(j) the manner in which any document required to be filed under this Act may be verified;

(k) the procedure to be followed on applications for refunds;

¹[(kk) the procedure to be followed in calculating interest payable by assesseees or interest payable by Government to assesseees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assesseees may be ignored;]

(l) the regulation of any matter for which provision is made in section 230;

(m) the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation of any such order as is referred to in clause (c) of sub-section (2) of section 249 may be served;

²[(mm) the circumstances in which, the conditions subject to which and the manner in which, the ³[*** or the Commissioner (Appeals)] may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the ⁴[Assessing Officer];]

⁵[(mma) the form in which the statement under section 285B shall be delivered to the ⁴[Assessing Officer];]

(n) the maintenance of a register of persons other than legal practitioners or accountants as defined in sub-section (2) of section 288 practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in sub-section (5) of that section;

(o) the issue of certificate verifying the payment of tax by assesseees;

(p) any other matter which by this Act is to be, or may be, prescribed.

(3) In cases coming under clause (b) of sub-section (2), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Board is unreasonable, the rules made under this section may—

(a) prescribe methods by which an estimate of such income may be made; and

(b) in cases coming under sub-clause (i) of clause (b) of sub-section (2) specify the proportion of the income which shall be deemed to be income liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.

⁶[(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseees.]

1. Ins. by Act 42 of 1970, s. 55 (w.e.f. 1-4-1971).

2. Ins. by Act 16 of 1972, s. 41 (w.e.f. 1-4-1972).

3. The words “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Earlier the words “Deputy Commissioner (Appeals)” were substituted by Act 4 of 1988, s. 2, for “Appellate Assistant Commissioner” (w.e.f. 1-4-1988) and the words “or the Commissioner (Appeals)” were inserted by Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

4. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

5. Ins. by Act 41 of 1975, s. 79 (w.e.f. 1-4-1976).

6. Ins. by Act 26 of 1974, s. 14 (w.e.f. 18-8-1974).

¹²[**296. Rules and certain notifications to be placed before Parliament.**—The Central Government shall cause every rule made under this Act , ³[the rules of procedure framed by the Settlement Commission under sub-section (7) of section 245F, the Authority for Advance Rulings under section 245V and the Appellate Tribunal under sub-section (5) of section 255] and ⁴[every notification issued before the 1st day of June, 2007 under sub-clause (iv) of clause (23C) of section 10] ⁵[and every notification issued under sub-section (1C) of section 139] ⁶[or third proviso to sub-section (1) of section 153A or second proviso to sub-section (1) of section 153C] to be laid as soon as may be after the rule is made or the notification is issued before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, that rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.]]

297. Repeals and savings.—(1) The Indian Income-tax Act, 1922 (11 of 1922), is hereby repealed.

(2) Notwithstanding the repeal of the Indian Income-tax Act, 1922 (11 of 1922) (hereinafter referred to as the repealed Act),—

(a) where a return of income has been filed before the commencement of this Act by any person for any assessment year, proceedings for the assessment of that person for that year may be taken and continued as if this Act had not been passed;

(b) where a return of income is filed after the commencement of this Act otherwise than in pursuance of a notice under section 34 of the repealed Act by any person for the assessment year ending on the 31st day of March, 1962, or any earlier year, the assessment of that person for that year shall be made in accordance with the procedure specified in this Act;

(c) any proceeding pending on the commencement of this Act before any income-tax authority, the Appellate Tribunal or any court, by way of appeal, reference, or revision, shall be continued and disposed of as if this Act had not been passed;

(d) where in respect of any assessment year after the year ending on the 31st day of March, 1940,—

(i) a notice under section 34 of the repealed Act had been issued before the commencement of this Act, the proceedings in pursuance of such notice may be continued and disposed of as if this Act had not been passed;

(ii) any income chargeable to tax had escaped assessment within the meaning of that expression in section 147 and no proceedings under section 34 of the repealed Act in respect of any such income are pending at the commencement of this Act, a notice under section 148 may, subject to the provisions contained in section 149 or section 150, be issued with respect to that assessment year and all the provisions of this Act shall apply accordingly;

(e) ⁷[subject to the provisions of clause (g) and clause (j) of this sub-section,] section 23A of the repealed Act shall continue to have effect in relation to the assessment of any company or its shareholders for the assessment year ending on the 31st day of March, 1962 or any earlier year, and the provisions of the repealed Act shall apply to all matters arising out of such assessment as fully and effectually as if this Act had not been passed;

1. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier it was substituted by Act 4 of 1988, s. 122 (w.e.f. 1-4-1989).

2. Subs. by Act 41 of 1975, s. 80, for “section 296” (w.e.f. 1-4-1976).

3. Ins. by Act 32 of 1994, s. 49 (w.e.f. 1-6-1994).

4. Subs. by Act 22 of 2007, s. 80, for “every notification issued under sub-clause (iv) of clause (23C) of section 10” (w.e.f. 1-6-2007).

5. Ins. by Act 8 of 2011, s. 33 (w.e.f. 1-6-2011).

6. Ins. by Act 23 of 2012, s. 113 (w.e.f. 1-7-2012).

7. Ins. by Act 13 of 1963, s. 19 (w.e.f. 1-4-1962).

(f) any proceeding for the imposition of a penalty in respect of any assessment completed before the first day of April, 1962, may be initiated and any such penalty may be imposed as if this Act had not been passed;

(g) any proceeding for the imposition of a penalty in respect of any assessment for the year ending on the 31st day of March, 1962, or any earlier year, which is completed on or after the 1st day of April, 1962, may be initiated and any such penalty may be imposed under this Act;

(h) any election or declaration made or option exercised by an assessee under any provision of the repealed Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made or option exercised under the corresponding provision of this Act;

(i) where, in respect of any assessment completed before the commencement of this Act, a refund falls due after such commencement or default is made after such commencement in the payment of any sum due under such completed assessment, the provisions of this Act relating to interest payable by the Central Government on refunds and interest payable by the assessee for default shall apply;

(j) any sum payable by way of income-tax, super-tax, interest, penalty or otherwise under the repealed Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of such sum under the repealed Act;

(k) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly;

(l) any notification issued under sub-section (1) of section 60 ¹[or section 60A] of the repealed Act and in force immediately before the commencement of this Act shall, to the extent to which provision has not been made under this Act, continue in force ^{2***}:

³[Provided that the Central Government may rescind any such notification or amend it so as to rescind any exemption, reduction in rate or other modification made thereunder;]

(m) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

298. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) In particular, and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which the repealed Act shall apply in relation to the assessments for the assessment year ending on the 31st day of March, 1962, or any earlier year.

⁴[(3) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.

1. Ins. by Act 13 of 1966, s. 13 (w.e.f. 1-4-1962).

2. The words “until rescinded by the Central Government” omitted by Act 54 of 1972, s. 7 (w.e.f. 9-9-1972).

3. The *proviso* added by s. 7, *ibid.*, (w.e.f. 9-9-1972).

4. Sub-section (3) added by Act 4 of 1988, s. 123 (w.e.f. 1-4-1988).

THE FIRST SCHEDULE

INSURANCE BUSINESS

[See section 44]

A.—Life insurance business

1. Profits of life insurance business to be computed separately.—In the case of a person who carries on or at any time in the previous year carried on life insurance business, the profits and gains of such person from that business shall be computed separately from his profits and gains from any other business.

¹**[2. Computation of profits of life insurance business.**—The profits and gains of life insurance business shall be taken to be the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938 (4 of 1938), in respect of the last inter-valuation period ending before the commencement of the assessment year, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period.]

3. [Deductions.] *Omitted by the Finance Act, 1976 (66 of 1976), s. 23(w.e.f. 1-4-1977). Earlier, the rule was first amended by the Finance Act, 1966 (13 of 1966), s. 36 (w.e.f. 1-4-1966) and by the Finance Act, 1965 (10 of 1965), s. 65 (w.e.f. 1-4-1965).]*

4. Adjustment of tax paid by deduction at source.—Where for any year an assessment of the profits of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the income-tax payable for that year, credit shall not be given in accordance with section 199 for the income-tax paid in the previous year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period.

B.—Other insurance business

5. Computation of profits and gains of other insurance business.—The profits and gains of any business of insurance other than life insurance shall be taken to be the ²[profit before tax and appropriations as disclosed in the profit and loss account prepared in accordance with the provisions of the Insurance Act, 1938 (4 of 1938) or the rules made thereunder or the provisions of the Insurance Regulatory and Development Authority Act, 1999 (4 of 1999) or the regulations made thereunder,] subject to the following adjustments:—

(a) subject to the other provisions of this rule, ³[any expenditure or allowance including any amount debited to the profit and loss account either by way of a provision for any tax, dividend, reserve or any other provision as may be prescribed] which is not admissible under the provisions of ⁴[sections 30 to 43B] in computing the profits and gains of a business shall be added back;

1. Subs. by Act 66 of 1976, s. 23 (w.e.f. 1-4-1977).

2. Subs. by Act 33 of 2009, s. 80, for certain words (w.e.f. 1-4-2011).

3. Subs. by Act 21 of 1998, s. 64, for “any expenditure or allowance” (w.r.e.f. 1-4-1989).

4. Subs. by Act 4 of 1988, s. 126, for “section 30 to 43A” (w.e.f. 1-4-1989).

THE SECOND SCHEDULE
PROCEDURE FOR RECOVERY OF TAX

¹[[*See* sections 222 and 276]]

PART I

GENERAL PROVISIONS

1. Definitions.—In this Schedule, unless the context otherwise requires,—

²[(a) “certificate”, except in rules 7, 44, 65 and sub-rule (2) of rule 66, means the certificate drawn up by the Tax Recovery Officer under section 222 in respect of any assessee referred to in that section;]

(b) “defaulter” means the assessee mentioned in the certificate;

(c) “execution”, in relation to a certificate, means recovery of arrears in pursuance of the certificate;

(d) “movable property” includes growing crops;

(e) “officer” means a person authorised to make an attachment or sale under this Schedule;

(f) “rule” means a rule contained in this Schedule; and

(g) “share in a corporation” includes stock, debenture-stock, debentures or bonds.

2. Issue of notice.—³[When a certificate has been received by the Tax Recovery Officer from the ⁴[Assessing Officer]] for the recovery of arrears under this Schedule, the Tax Recovery Officer shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default steps would be taken to realise the amount under this Schedule.

3. When certificate may be executed.—No step in execution of a certificate shall be taken until the period of fifteen days has elapsed since the date of the service of the notice required by the preceding rule:

Provided that, if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a civil court and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such property:

Provided further that if the defaulter whose property has been so attached furnishes security to the satisfaction of the Tax Recovery Officer, such attachment shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer.

1. Subs. by Act 4 of 1988, s. 124, for “*See* section 222” (w.e.f. 1-4-1989).

2. Subs. by s. 124, *ibid.*, for clause (a) (w.e.f. 1-4-1989).

3. Restored by Act 3 of 1989, s. 95 (1-4-1989).

4. Subs. by s. 54, *ibid.*, for “Income-tax Officer” (w.e.f. 1-4-1988).

4. Mode of recovery.—If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant in his discretion, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes:—

- (a) by attachment and sale of the defaulter's movable property;
- (b) by attachment and sale of the defaulter's immovable property;
- (c) by arrest of the defaulter and his detention in prison;
- (d) by appointing a receiver for the management of the defaulter's movable and immovable properties.

5. Interest, costs and charges recoverable.—There shall be recoverable, in the proceedings in execution of every certificate,—

- (a) such interest upon the amount of tax or penalty or other sum to which the certificate relates as is payable in accordance with sub-section (2) of section 220, and
- (b) all charges incurred in respect of—
 - (i) the service of notice upon the defaulter to pay the arrears, and of warrants and other processes, and
 - (ii) all other proceedings taken for realising the arrears.

6. Purchaser's title.—(1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified.

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

7. Suit against purchaser not maintainable on ground of purchase being made on behalf of plaintiff.—(1) No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in this Schedule, on the ground that the purchase was made on behalf of the plaintiff or on behalf of someone through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

¹**[8. Disposal of proceeds of execution.**—(1) Whenever assets are realised by sale or otherwise in execution of a certificate, the proceeds shall be disposed of in the following manner, namely:—

- (a) they shall first be adjusted towards the amount due under the certificate in execution of which the assets were realised and the costs incurred in the course of such execution;
- (b) if there remains a balance after the adjustment referred to in clause (a), the same shall be utilised for satisfaction of any other amount recoverable from the assessee under this Act which may be due on the date on which the assets were realised; and

1. Subs. by Act 4 of 1988, s. 124, for rule 8 (w.e.f. 1-4-1989).

(c) the balance, if any, remaining after the adjustments under clauses (a) and (b) shall be paid to the defaulter.

(2) If the defaulter disputes any adjustment under clause (b) of sub-rule (1), the Tax Recovery Officer shall determine the dispute.]

9. General bar to jurisdiction of civil courts, save where fraud alleged.—Except as otherwise expressly provided in this Act, every question arising between the ¹[Tax Recovery Officer] and the defaulter or their representatives, relating to the execution, discharge or satisfaction of a certificate ^{2***}, or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Tax Recovery Officer before whom such question arises:

Provided that a suit may be brought in a civil court in respect of any such question upon the ground of fraud.

10. Property exempt from attachment.—(1) All such property as is by the Code of Civil Procedure, 1908 (5 of 1908), exempted from attachment and sale in execution of a decree of a civil court shall be exempt from attachment and sale under this Schedule.

(2) The Tax Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive.

11. Investigation by Tax Recovery Officer.—(1) Where any claim is preferred to, or any objection is made to the attachment or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection:

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designedly or unnecessarily delayed.

(2) Where the property to which the claim or objection applies has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms as to security or otherwise as the Tax Recovery Officer shall deem fit.

(3) The claimant or objector must adduce evidence to show that—

(a) (in the case of immovable property) at the date of the service of the notice issued under this Schedule to pay the arrears, or

(b) (in the case of movable property) at the date of the attachment,

he had some interest in, or was possessed of, the property in question.

(4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or objection, such property was not, at the said date, in the possession of the defaulter or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the defaulter at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale.

1. Subs. by Act 3 of 1989, s. 54, for "Assessing Officer" (w.e.f. 1-4-1989).

2. The words "duly filed under this Act" omitted by Act 4 of 1988, s. 124 (w.e.f. 1-4-1989).

(5) Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim.

(6) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a civil court to establish the right which he claims to the property in dispute; but, subject to the result of such suit (if any), the order of the Tax Recovery Officer shall be conclusive.

12. Removal of attachment on satisfaction or cancellation of certificate.—Where—

(a) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to hold a sale, are paid to the Tax Recovery Officer, or

(b) the certificate is cancelled,

the attachment shall be deemed to be withdrawn and, in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner provided by this Schedule for a proclamation of sale of immovable property.

13. Officer entitled to attach and sell.—The attachment and sale of movable property and the attachment and sale of immovable property may be made by such persons as the Tax Recovery Officer may from time to time direct.

14. Defaulting purchaser answerable for loss on resale.—Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the ¹[Tax Recovery Officer] by the officer holding the sale, and shall, at the instance of either the Tax Recovery Officer or the defaulter, be recoverable from the defaulting purchaser under the procedure provided by this Schedule:

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale.

15. Adjournment or stoppage of sale.—(1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour; and the officer conducting any such sale may, in his discretion, adjourn the sale, recording his reasons for such adjournment:

Provided that, where the sale is made in, or within the precincts of, the office of the Tax Recovery Officer, no such adjournment shall be made without the leave of the Tax Recovery Officer.

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation of sale under this Schedule shall be made unless the defaulter consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such arrears and costs has been paid to the Tax Recovery Officer who ordered the sale.

16. Private alienation to be void in certain cases.—(1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money.

1. Subs. by Act 3 of 1989, s. 54, for "Assessing Officer" (w.e.f. 1-4-1989).

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

17. Prohibition against bidding or purchase by officer.—No officer or other person having any duty to perform in connection with any sale under this Schedule shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

18. Prohibition against sale on holidays.—No sale under this Schedule shall take place on a Sunday or other general holiday recognised by the State Government or on any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place.

19. Assistance by police.—Any officer authorised to attach or sell any property or to arrest the defaulter or charged with any duty to be performed under this Schedule, may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and the authority to whom such application is made shall depute a sufficient number of police officers for furnishing such assistance.

¹[**19A. Entrustment of certain functions by Tax Recovery Officer.**—A Tax Recovery Officer may, with the previous approval of the ²[Joint Commissioner], entrust any of his functions as the Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him, be deemed to be a Tax Recovery Officer.]

PART II

ATTACHMENT AND SALE OF MOVABLE PROPERTY

Attachment

20. Warrant.—Except as otherwise provided in this Schedule, when any movable property is to be attached, the officer shall be furnished by the Tax Recovery Officer (or other officer empowered by him in that behalf) a warrant in writing and signed with his name specifying the name of the defaulter and the amount to be realised.

21. Service of copy of warrant.—The officer shall cause a copy of the warrant to be served on the defaulter.

22. Attachment.—If, after service of the copy of the warrant, the amount is not paid forthwith, the officer shall proceed to attach the movable property of the defaulter.

23. Property in defaulter's possession.—Where the property to be attached is movable property (other than agricultural produce) in the possession of the defaulter, the attachment shall be made by actual seizure, and the officer shall keep the property in his own custody or the custody of one of his subordinates and shall be responsible for due custody thereof:

Provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer may sell it at once.

1. Subs. by Act 4 of 1988, s. 124, for rule 19A (w.e.f. 1-4-1989).

2. Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998).

24. Agricultural produce.—Where the property to be attached is agricultural produce the attachment shall be made by affixing a copy of the warrant of attachment—

(a) where such produce is growing crop,—on the land on which such crop has grown, or

(b) where such produce has been cut or gathered,—on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or with the leave of the Tax Recovery Officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, thereupon, be deemed to have passed into the possession of the Tax Recovery Officer.

25. Provisions as to agricultural produce under attachment.—(1) Where agricultural produce is attached, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof as he may deem sufficient; ¹[and he shall have power to defray the cost of such arrangements].

(2) Subject to such conditions as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and, if the defaulter fails to do all or any of such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require reattachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

26. Debts and shares, etc.—(1) In the case of—

(a) a debt not secured by a negotiable instrument,

(b) a share in a corporation, or

(c) other movable property not in the possession of the defaulter except property deposited in, or in the custody of, any court,

the attachment shall be made by a written order prohibiting,—

(i) in the case of the debt—the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Tax Recovery Officer;

1. Subs. by Act 3 of 1989, s. 54, for “and the Assessing Officer shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangement” (w.e.f. 1-4-1989).

(ii) in the case of the share—the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(iii) in the case of the other movable property (except as aforesaid)—the person in possession of the same from giving it over to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation, and in the case of the other movable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt to the Tax Recovery Officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

27. Attachment of decree.—(1) The attachment of a decree of a civil court for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the civil court of a notice requesting the civil court to stay the execution of the decree unless and until—

(i) the Tax Recovery Officer cancels the notice, or

(ii) the ¹[Tax Recovery Officer] or the defaulter applies to the court receiving such notice to execute the decree.

(2) Where a civil court receives an application under clause (ii) of sub-rule (1), it shall, on the application of the ¹[Tax Recovery Officer] or the defaulter and subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate.

(3) The ¹[Tax Recovery Officer] shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

28. Share in movable property.—Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

29. Salary of Government servants.—Attachment of the salary or allowances of servants of the Government or a local authority may be made in the manner provided by rule 48 of Order 21 of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), and the provisions of the said rule shall, for the purposes of this rule, apply subject to such modifications as may be necessary.

30. Attachment of negotiable instrument.—Where the property is a negotiable instrument not deposited in a court nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought before the Tax Recovery Officer and held subject to his orders.

31. Attachment of property in custody of court or public officer.—Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued:

Provided that, where such property is in the custody of a court, any question of title or priority arising between the ¹[Tax Recovery Officer] and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such court.

1. Subs. by Act 3 of 1989, s. 54, for “Assessing Officer” (w.e.f. 1-4-1989).

32. Attachment of partnership property.—(1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing and of any other money which may become due to him in respect of the partnership, and direct accounts and inquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other persons shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

33. Inventory.—In the case of attachment of movable property by actual seizure, the officer shall, after attachment of the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and shall forward the same to the Tax Recovery Officer and a copy of the inventory shall be delivered by the officer to the defaulter.

34. Attachment not to be excessive.—The attachment by seizure shall not be excessive, that is to say, the property attached shall be as nearly as possible proportionate to the amount specified in the warrant.

35. Seizure between sunrise and sunset.—Attachment by seizure shall be made after sunrise and before sunset and not otherwise.

36. Power to break open doors, etc.—The officer may break open any inner or outer door or window of any building and enter any building in order to seize any movable property if the officer has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and the officer has notified his authority and intention of breaking open if admission is not given. He shall, however, give all reasonable opportunity to women to withdraw.

Sale

37. Sale.—The Tax Recovery Officer may direct that any movable property attached under this Schedule or such portion thereof as may seem necessary to satisfy the certificate shall be sold.

38. Issue of proclamation.—When any sale of movable property is ordered by the Tax Recovery Officer, the Tax Recovery Officer shall issue a proclamation, in the language of the district, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

39. Proclamation how made.—(1) Such proclamation shall be made by beat of drum or other customary mode,—

(a) in the case of property attached by actual seizure—

(i) in the village in which the property was seized, or, if the property was seized in a town or city, then, in the locality in which it was seized; and

(ii) at such other places as the Tax Recovery Officer may direct;

(b) in the case of property attached otherwise than by actual seizure, in such places, if any, as the Tax Recovery Officer may direct.

(2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

40. Sale after fifteen days.—Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale proclamation was affixed in the office of the Tax Recovery Officer.

41. Sale of agricultural produce.—(1) Where the property to be sold is agricultural produce, the sale shall be held,—

(a) if such produce is a growing crop—on or near the land on which such crop has grown, or

(b) if such produce has been cut or gathered—at or near the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited:

Provided that the Tax Recovery Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

(2) Where, on the produce being put up for sale,—

(a) a fair price, in the estimation of the person holding the sale, is not offered for it, and

(b) the owner of the produce, or a person authorised to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day,

the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce.

42. Special provisions relating to growing crops.—(1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

(2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (*e.g.*, as green wheat), it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

43. Sale to be by auction.—The property shall be sold by public auction in one or more lots as the officer may consider advisable, and if the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots.

44. Sale by public auction.—(1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs and in default of payment, the property shall forthwith be resold.

(2) On payment of the purchase-money, the officer holding the sale shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser, and the sale shall become absolute.

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

45. Irregularity not to vitiate sale, but any person injured may sue.—No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a civil court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

46. Negotiable instruments and shares in a corporation.—Notwithstanding anything contained in this Schedule, where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of directing the sale to be made by public auction, authorise the sale of such instrument or share through a broker.

47. Order for payment of coin or currency notes to the ¹[Assessing Officer].—Where the property attached is current coin or currency notes, the Tax Recovery Officer may, at any time during the continuance of the attachment, ²[direct that such coins or notes shall be credited to the Central Government and the amount so credited shall be dealt with in the manner specified in rule 8].

1. Subs. by Act 3 of 1989, s. 54, for “Income-tax Officer” (w.e.f. 1-4-1988).

2. Subs. by s. 54, *ibid.*, for “direct that such coins or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Assessing Officer” (w.e.f. 1-4-1989).

PART III

ATTACHMENT AND SALE OF IMMOVABLE PROPERTY

Attachment

48. Attachment.—Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under such transfer or charge.

49. Service of notice of attachment.—A copy of the order of attachment shall be served on the defaulter.

50. Proclamation of attachment.—The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer.

51. Attachment to relate back from the date of service of notice.—Where any immovable property is attached under this Schedule, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears, issued under this Schedule, was served upon the defaulter.

Sale

52. Sale and proclamation of sale.—(1) The Tax Recovery Officer may direct that any immovable property which has been attached, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation of the intended sale to be made in the language of the district.

53. Contents of proclamation.—A proclamation of sale of immovable property shall be drawn up after notice to the defaulter, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible,—

(a) the property to be sold;

(b) the revenue, if any, assessed upon the property or any part thereof;

(c) the amount for the recovery of which the sale is ordered; ¹***

²[(cc) the reserve price, if any, below which the property may not be sold; and]

(d) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of the property.

54. Mode of making proclamation.—(1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer.

1. The word “and” omitted by Act 41 of 1975, s. 81 (w.e.f. 1-10-1975).

2. Ins. by s. 81, *ibid*, (w.e.f. 1-10-1975).

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper, or in both; and the cost of such publication shall be deemed to be costs of the sale.

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given.

55. Time of sale.—No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later.

56. Sale to be by auction.—The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer:

¹[Provided that no sale under this rule shall be made if the amount bid by the highest bidder is less than the reserve price, if any, specified under clause (cc) of rule 53.]

57. Deposit by purchaser and resale in default.—(1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent on the amount of his purchase money, to the officer conducting the sale; and, in default of such deposit, the property shall forthwith be resold.

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of the property.

58. Procedure in default of payment.—In default of payment within the period mentioned in the preceding rule, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

²[**59. Authority to bid.**—(1) Where the sale of a property, for which a reserve price has been specified under clause (cc) of rule 53, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for an ³[Assessing Officer], if so authorised by the ⁴ ⁵[Principal Chief Commissioner or Chief Commissioner] or ⁶[Principal Commissioner or Commissioner]] in this behalf, to bid for the property on behalf of the Central Government at any subsequent sale.]

⁷[(2)] All persons bidding at the sale shall be required to declare, if they are bidding on their own behalf or on behalf of their principals. In the latter case, they shall be required to deposit their authority, and in default their bids shall be rejected.

1. The proviso added by Act 41 of 1975, s. 81 (w.e.f. 1-10-1975).

2. Ins. by s. 81 *ibid.* (w.e.f. 1-10-1975).

3. Subs. by Act 3 of 1989, s. 54, for “Income-tax Officer” (w.e.f. 1-4-1988).

4. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

5. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

6. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

7. The rule 59 re-numbered as sub-rule (2) thereof by Act 41 of 1975, s. 81 (w.e.f. 1-10-1975).

¹[(3) Where the ²[Assessing Officer] referred to in sub-rule (1) is declared to be the purchaser of the property at any subsequent sale, nothing contained in rule 57 shall apply to the case and the amount of the purchase price shall be adjusted towards the amount specified in the certificate.]

60. Application to set aside sale of immovable property on deposit.—(1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing—

(a) ^{3***} the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of ⁴[one and one-fourth per cent for every month or part of a month], calculated from the date of the proclamation of sale to the date when the deposit is made; and

(b) for payment to the purchaser, as penalty, a sum equal to five per cent of the purchase money, but not less than one rupee.

(2) Where a person makes an application under rule 61 for setting aside the sale of his immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this rule.

61. Application to set aside sale of immovable property on ground of non-service of notice or irregularity.—Where immovable property has been sold in execution of a certificate, ⁵[such Income-tax Officer as may be authorised by the ⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner] in this behalf], the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required by this Schedule or on the ground of a material irregularity in publishing or conducting the sale:

Provided that—(a) no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity; and

(b) an application made by a defaulter under this rule shall be disallowed unless the applicant deposits the amount recoverable from him in the execution of the certificate.

62. Setting aside sale where defaulter has no saleable interest.—At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

63. Confirmation of sale.—(1) Where no application is made for setting aside the sale under the foregoing rules or where such an application is made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer shall (if the full amount of the purchase money has been paid) make an order confirming the sale, and, thereupon, the sale shall become absolute.

1. Ins. by Act 4 of 1988, s. 124 (w.e.f. 1-4-1989).

2. Subs. by Act 3 of 1989, s. 54, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. The words “for payment to the Assessing Officer” omitted by Act 3 of 1989, s. 54 (w.e.f. 1-4-1989).

4. Subs. by Act 22 of 2007, s. 81, for “fifteen per cent. per annum” (w.e.f. 1-4-2008). Earlier it was substituted by Act 67 of 1984, s. 24 for “twelve per cent” (w.e.f. 1-10-1984). Earlier it was subs. by Act 16 of 1972, s. 25, for “nine per cent” (w.e.f. 1-4-1972). and it was subs. by Act 42 of 1970, s. 56, for “the rate of six per cent. per annum” (w.e.f. 1-4-1971).

5. Subs. by Act 3 of 1989, s. 54, for “Assessing Officer” (w.e.f. 1-4-1989).

6. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

(2) Where such application is made and allowed, and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale:

Provided that no order shall be made unless notice of the application has been given to the persons affected thereby.

64. Return of purchase money in certain cases.—Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow, shall be paid to the purchaser.

65. Sale certificate.—(1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser.

(2) Such certificate shall state the date on which the sale became absolute.

66. Postponement of sale to enable defaulter to raise amount due under certificate.—(1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms, and for such period as he thinks proper, to enable him to raise the amount.

(2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter, authorising him, within a period to be mentioned therein, and notwithstanding anything contained in this Schedule, to make the proposed mortgage, lease or sale:

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the defaulter, but to the Tax Recovery Officer:

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer.

67. Fresh proclamation before re-sale.—Every re-sale of immovable property, in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore provided for the sale.

68. Bid of co-sharer to have preference.—Where the property sold is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

¹[**68A. Acceptance of property in satisfaction of amount due from the defaulter.**—(1) Without prejudice to the provisions contained in this Part, an ²[Assessing Officer], duly authorised by the ³[⁴Principal Chief Commissioner or Chief Commissioner] or ⁵[Principal Commissioner or Commissioner]] in this behalf, may accept in satisfaction of the whole or any part of the amount due from the defaulter the property, the sale of which has been postponed for the reason mentioned in sub-rule (1) of rule 59, at such price as may be agreed upon between the ²[Assessing Officer] and the defaulter.

1. Ins. by Act 41 of 1975, s. 81 (w.e.f. 1-10-1975).

2. Subs. by Act 3 of 1989, s. 54, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

4. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

5. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

(2) Where any property is accepted under sub-rule (1), the defaulter shall deliver possession of such property to the ¹[Assessing Officer] and on the date the possession of the property is delivered to the ¹[Assessing Officer], the property shall vest in the Central Government and the Central Government shall, where necessary, intimate the concerned Registering Officer appointed under the Registration Act, 1908 (16 of 1908), accordingly.

(3) Where the price of the property agreed upon under sub-rule (1) exceeds the amount due from the defaulter, such excess shall be paid by the ¹[Assessing Officer] to the defaulter within a period of three months from the date of delivery of possession of the property and where the ¹[Assessing Officer] fails to pay such excess within the period aforesaid, the Central Government shall, for the period commencing on the expiry of such period and ending with the date of payment of the amount remaining unpaid, pay simple interest at ²[one-half per cent. for every month or part of a month] to the defaulter on such amount.]

³[**68B. Time limit for sale of attached immovable property.**—(1) No sale of immovable property shall be made under this Part after the expiry of three years from the end of the financial year in which the order giving rise to a demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has become conclusive under the provisions of section 245-I or, as the case may be, final in terms of the provisions of Chapter XX:

Provided that where the immovable property is required to be re-sold due to the amount of highest bid being less than the reserve price or under the circumstances mentioned in rule 57 or rule 58 or where the sale is set aside under rule 61, the aforesaid period of limitation for the sale of the immovable property shall stand extended by one year.

(2) In computing the period of limitation under sub-rule (1), the period—

(i) during which the levy of the aforesaid tax, interest, fine, penalty or any other sum is stayed by an order or injunction of any court; or

(ii) during which the proceedings of attachment or sale of the immovable property are stayed by an order or injunction of any court; or

(iii) commencing from the date of the presentation of any appeal against the order passed by the Tax Recovery Officer under this Schedule and ending on the day the appeal is decided,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation for the sale of the immovable property is less than 180 days, such remaining period shall be extended to 180 days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(3) Where any immovable property has been attached under this Part before the 1st day of June, 1992, and the order giving rise to a demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has also become conclusive or final before the said date, that date shall be deemed to be the date on which the said order has become conclusive or, as the case may be, final.

(4) Where the sale of immovable property is not made in accordance with the provisions of sub-rule (1), the attachment order in relation to the said property shall be deemed to have been vacated on the expiry of the time of limitation specified under this rule.]

1. Subs. by Act 3 of 1989, s. 54, for “Income-tax Officer” (w.e.f. 1-4-1988).

2. Subs. by Act 22 of 2007, s. 81, for “six per cent. per annum” (w.e.f. 1-4-2008). Earlier it was substituted by Act 54 of 2003, s. 21, for “eight per cent” (w.e.f. 8-9-2003). Earlier it was substituted by Act 20 of 2002, s. 109 (w.e.f. 1-6-2002). and it was substituted by Act 14 of 2001, s. 95, (w.e.f. 1-6-2001).

3. Ins. by Act 18 of 1992, s. 87 (w.e.f. 1-6-1992).

PART IV

APPOINTMENT OF RECEIVER

69. Appointment of receiver for business.—(1) Where the property of a defaulter consists of a business, the Tax Recovery Officer may attach the business and appoint a person as receiver to manage the business.

(2) Attachment of a business under this rule shall be made by an order prohibiting the defaulter from transferring or charging the business in any way and prohibiting all persons from taking any benefit under such transfer or charge, and intimating that the business has been attached under this rule. A copy of the order of attachment shall be served on the defaulter, and another copy shall be affixed on a conspicuous part of the premises in which the business is carried on and on the notice board of the office of the Tax Recovery Officer.

70. Appointment of receiver for immovable property.—Where immovable property is attached, the Tax Recovery Officer may, instead of directing a sale of the property, appoint a person as receiver to manage such property.

71. Powers of receiver.—(1) Where any business or other property is attached and taken under management under the foregoing rules, the receiver shall, subject to the control of the Tax Recovery Officer, have such powers as may be necessary for the proper management of the property and the realisation of the profits, or rents and profits, thereof.

(2) The profits, or rents and profits, of such business or other property, shall, after defraying the expenses of management, be adjusted towards discharge of the arrears, and the balance, if any, shall be paid to the defaulter.

72. Withdrawal of management.—The attachment and management under the foregoing rules may be withdrawn at any time at the discretion of the Tax Recovery Officer, or if the arrears are discharged by receipt of such profits and rents or are otherwise paid.

PART V

ARREST AND DETENTION OF THE DEFAULTER

73. Notice to show cause.—(1) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Tax Recovery Officer, for reasons recorded in writing, is satisfied—

(a) that the defaulter, with the object or effect of obstructing the execution of the certificate, has, after ¹[the drawing up of the certificate by the Tax Recovery Officer], dishonestly transferred, concealed, or removed any part of his property, or

(b) that the defaulter has, or has had since ¹[the drawing up of the certificate by the Tax Recovery Officer], the means to pay the arrears or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.

(2) Notwithstanding anything contained in sub-rule (1), a warrant for the arrest of the defaulter may be issued by the Tax Recovery Officer if the Tax Recovery Officer is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate, the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Tax Recovery Officer.

(3) Where appearance is not made in obedience to a notice issued and served under sub-rule (1), the Tax Recovery Officer may issue a warrant for the arrest of the defaulter.

1. Subs. by Act 4 of 1988, s. 124, for, “the receipt of the certificate in the office of the Tax Recovery Office” (w.e.f. 1-4-1989).

¹[(3A) A warrant of arrest issued by a Tax Recovery Officer under sub-rule (2) or sub-rule (3) may also be executed by any other Tax Recovery Officer within whose jurisdiction the defaulter may for the time being be found.]

(4) Every person arrested in pursuance of a warrant of arrest under ²[this rule] shall be brought before the Tax Recovery Officer ³[issuing the warrant] as soon as practicable and in any event within twenty-four hours of his arrest (exclusive of the time required for the journey):

Provided that, if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him.

¹[*Explanation.*—For the purposes of this rule, where the defaulter is a Hindu undivided family, the karta thereof shall be deemed to be the defaulter.]

74. Hearing.—When a defaulter appears before the Tax Recovery Officer in obedience to a notice to show cause or is brought before the Tax Recovery Officer under rule 73, ⁴[the Tax Recovery Officer shall proceed to hear the ⁵[Assessing Officer] and take all such evidence as may be produced by him in support of execution by arrest, and then give the defaulter] an opportunity of showing cause why he should not be committed to the civil prison.

75. Custody pending hearing.—Pending the conclusion of the inquiry, the Tax Recovery Officer may, in his discretion, order the defaulter to be detained in the custody of such officer as the Tax Recovery Officer may think fit or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance when required.

76. Order of detention.—(1) Upon the conclusion of the inquiry, the Tax Recovery Officer may make an order for the detention of the defaulter in the civil prison and shall in that event cause him to be arrested if he is not already under arrest:

Provided that in order to give the defaulter an opportunity of satisfying the arrears, the Tax Recovery Officer may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or of any other officer for a specified period not exceeding 15 days, or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance at the expiration of the specified period if the arrears are not so satisfied.

(2) When the Tax Recovery Officer does not make an order of detention under sub-rule (1) he shall, if the defaulter is under arrest, direct his release.

77. Detention in and release from prison.—(1) Every person detained in the civil prison in execution of a certificate may be so detained,—

(a) where the certificate is for a demand of an amount exceeding two hundred and fifty rupees—
for a period of six months, and

(b) in any other case—for a period of six weeks:

Provided that he shall be released from such detention—

(i) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or

⁶[(ii) on the request of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79.]

1. Ins. by Act 41 of 1975, s. 81 (w.e.f. 1-10-1975).

2. Subs. by s. 81, *ibid.*, for “sub-rule (1) or sub-rule (2)” (w.e.f. 1-10-1975).

3. Subs. by s. 81, *ibid.*, for “Tax Recovery Officer” (w.e.f. 1-10-1975).

4. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).

5. Subs. by s. 54, *ibid.*, for “Income-tax Officer” (w.e.f. 1-4-1988).

6. Subs. by Act 4 of 1988, s. 124, for clause (ii) (w.e.f. 1-4-1989). Earlier amended by Act 3 of 1989, s. 55 (w.e.f. 1-4-1988).

(2) A defaulter released from detention under this rule shall not, merely by reason of his release, be discharged from his liability for the arrears; but he shall not be liable to be rearrested under the certificate in execution of which he was detained in the civil prison.

78. Release.—(1) The Tax Recovery Officer may order the release of a defaulter who has been arrested in execution of a certificate upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Tax Recovery Officer and that he has not committed any act of bad faith.

(2) If the Tax Recovery Officer has ground for believing the disclosure made by a defaulter under sub-rule (1) to have been untrue, he may order the rearrest of the defaulter in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77.

79. Release on ground of illness.—(1) At any time after a warrant for the arrest of a defaulter has been issued, the Tax Recovery Officer may cancel it on the ground of his serious illness.

(2) Where a defaulter has been arrested, the Tax Recovery Officer may release him if, in the opinion of the Tax Recovery Officer, he is not in a fit state of health to be detained in the civil prison.

(3) Where a defaulter has been committed to the civil prison, he may be released therefrom by the Tax Recovery Officer on the ground of the existence of any infectious or contagious disease, or on the ground of his suffering from any serious illness.

(4) A defaulter released under this rule may be rearrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77.

80. Entry into dwelling house.—For the purpose of making an arrest under this Schedule—

(a) no dwelling house shall be entered after sunset and before sunrise;

(b) no outer door of a dwelling house shall be broken open unless such dwelling house or a portion thereof is in the occupancy of the defaulter and he or other occupant of the house refuses or in any way prevents access thereto; but, when the person executing any such warrant has duly gained access to any dwelling house, he may break open the door of any room or apartment if he has reason to believe that the defaulter is likely to be found there;

(c) no room, which is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, shall be entered into unless the officer authorised to make the arrest has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing.

81. Prohibition against arrest of women or minors, etc.—The Tax Recovery Officer shall not order the arrest and detention in the civil prison of—

(a) a woman, or

(b) any person who, in his opinion, is a minor or of unsound mind.

1. The proviso omitted by Act 4 of 1988, s. 124 (w.e.f. 1-4-1989).

PART VI

MISCELLANEOUS

82. Officers deemed to be acting judicially.—Every ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner], Tax Recovery Officer] or other officer acting under this Schedule shall, in the discharge of his functions under this Schedule, be deemed to be acting judicially within the meaning of the Judicial Officers Protection Act, 1850 (18 of 1850).

83. Power to take evidence.—Every ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner], Tax Recovery Officer] or other officer acting under the provisions of this Schedule shall have the powers of a civil court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents.

84. Continuance of certificate.—No certificate shall cease to be in force by reason of the death of the defaulter.

85. Procedure on death of defaulter.—⁴[If at any time after the issue of the certificate by the Assessing Officer to the Tax Recovery Officer] the defaulter dies, the proceedings under this Schedule (except arrest and detention) may be continued against the legal representative of the defaulter, and the provisions of this Schedule shall apply as if the legal representative were the defaulter.

86. Appeals.—⁵[(1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie to the ²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner].]

(2) Every appeal under this rule must be presented within thirty days from the date of the order appealed against.

(3) Pending the decision of any appeal, execution of the certificate may be stayed if the appellate authority so directs, but not otherwise.

⁶[(4) Notwithstanding anything contained in sub-rule (1), where a ²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner] is authorised to exercise powers as such in respect of any area, then, all appeals against the orders passed before the date of such authorisation by any Tax Recovery Officer authorised to exercise powers as such in respect of that area, or an area which is included in that area, shall lie to such ²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner].]

87. Review.—Any order passed under this Schedule may, after notice to all persons interested, be reviewed by the ²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner], Tax Recovery Officer or other officer who made the order, or by his successor in office, on account of any mistake apparent from the record.

88. Recovery from surety.—Where any person has under this Schedule become surety for the amount due by the defaulter, he may be proceeded against under this Schedule as if he were the defaulter.

89. [Penalties.]—*Omitted by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), s. 126 (w.e.f. 1-4-1989).*

1. Subs. by Act 4 of 1988, s. 124, for “Tax Recovery Commissioner” (w.e.f. 1-4-1989). Earlier substituted by Act 32 of 1971, s. 29, for “Tax Recovery Office” (w.e.f. 1-1-1972).

2. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

4. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).

5. Subs. by Act 4 of 1988, s. 124, for sub-rule (1) (w.e.f. 1-4-1989).

6. Subs. by s. 124, *ibid.*, for sub-rule (4) (w.e.f. 1-4-1989).

90. Subsistence allowance.—(1) When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released shall be borne by the ¹[Assessing Officer].

(2) Such sum shall be calculated on the scale fixed by the State Government for the subsistence of judgment-debtors arrested in execution of a decree of a civil court.

(3) Sums payable under this rule shall be deemed to be costs in the proceeding:

Provided that the defaulter shall not be detained in the civil prison or arrested on account of any sum so payable.

91. Forms.—The Board may prescribe the form to be used for any order, notice, warrant, or certificate to be issued under this Schedule.

92. Power to make rules.—(1) The Board may make rules, consistent with the provisions of this Act, regulating the procedure to be followed by ²[Principal Chief Commissioners or Chief Commissioners], ³[Principal Commissioners or Commissioners], Tax Recovery Officers and other officers acting under this Schedule.

(2) In particular, and without prejudice to the generality of the power conferred by sub-rule (1), such rules may provide for all or any of the following matters, namely:—

(a) the area within which ²[Principal Chief Commissioners or Chief Commissioners], ³[Principal Commissioners or Commissioners] or Tax Recovery Officers may exercise jurisdiction;

(b) the manner in which any property sold under this Schedule may be delivered;

(c) the execution of a document or the endorsement of a negotiable instrument or a share in a corporation, by or on behalf of the Tax Recovery Officer, where such execution or endorsement is required to transfer such negotiable instrument or share to a person who has purchased it under a sale under this Schedule;

(d) the procedure for dealing with resistance or obstruction offered by any person to a purchaser of any immovable property sold under this Schedule, in obtaining possession of the property;

(e) the fees to be charged for any process issued under this Schedule;

(f) the scale of charges to be recovered in respect of any other proceeding taken under this Schedule;

(g) recovery of poundage fee;

(h) the maintenance and custody, while under attachment, of livestock or other movable property, the fees to be charged for such maintenance and custody, the sale of such livestock or property, and the disposal of proceeds of such sale;

(i) the mode of attachment of business.

93. Saving regarding charge.—Nothing in this Schedule shall affect any provision of this Act whereunder the tax is a first charge upon any asset.

⁴**94. Continuance of certain pending proceedings and power to remove difficulties.**—All proceedings for the recovery of tax pending immediately before the coming into force of the amendments to this Schedule by the Direct Tax Laws (Amendment) Act, 1987 shall be continued under this Schedule as amended by that Act from the stage they had reached, and, for this purpose, every certificate issued by the ⁵[Assessing Officer] under section 222 before such amendment shall be deemed to be a certificate drawn up by the Tax Recovery Officer under that section after such amendment, and, if any difficulty arises in continuing the said proceedings, the Board may issue (whether by way of modification, not affecting the substance, of any rule in this Schedule or otherwise) general or special orders which appear to it to be necessary or expedient for the purpose of removing the difficulty.]

1. Restored by Act 3 of 1989, s. 95 as “Income-tax Officer” (w.e.f. 1-4-1989) and Subs. by s. 54, *ibid* (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.r.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

4. Ins. by Act 4 of 1988, s. 124 (w.e.f. 1-4-1989).

5. Subs. by Act 3 of 1989, s. 54, for “Income-tax Officer” (w.e.f. 1-4-1988).

THE THIRD SCHEDULE

PROCEDURE FOR DISTRAINT BY ¹[ASSESSING OFFICER] ²[OR TAX RECOVERY OFFICER]

[See section 226(5)]

Distraint and sale.—Where any distraint and sale of movable property are to be effected by any ¹[Assessing Officer] ²[or Tax Recovery Officer] authorised for the purpose, such distraint and sale shall be made, as far as may be, in the same manner as attachment and sale of any movable property attachable by actual seizure, and the provisions of the Second Schedule relating to attachment and sale shall, so far as may be, apply in respect of such distraint and sale.

1. Subs. by Act 3 of 1989, s. 55, for “Income-tax Officer” (w.e.f. 1-4-1988).

2. Ins. by s. 55, *ibid* (w.e.f. 1-4-1989).

THE FOURTH SCHEDULE

PART A

RECOGNISED PROVIDENT FUNDS

[See sections 2(38), 10(12), 10(25), 36(1)(iv), 88(2)(vi), 111, 192(4)]

1. Application of Part.—This Part shall not apply to any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies.

2. Definitions.—In this Part, unless the context otherwise requires,—

(a) “employer” means any person who maintains a provident fund for the benefit of his or its employees, being—

(i) a Hindu undivided family, company, firm or other association of persons, or

(ii) an individual engaged in a business or profession the profits and gains whereof are assessable to income-tax under the head “Profits and gains of business or profession”;

(b) “employee” means an employee participating in a provident fund, but does not include a personal or domestic servant;

(c) “contribution” means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own moneys, to the individual account of an employee, but does not include any sum credited as interest;

(d) “balance to the credit of an employee” means the total amount to the credit of his individual account in a provident fund at any time;

(e) “annual accretion”, in relation to the balance to the credit of an employee, means the increase to such balance in any year, arising from contributions and interest;

(f) “accumulated balance due to an employee” means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund;

(g) “regulations of a fund” means the special body of regulations governing the constitution and administration of a particular provident fund; and

(h) “salary” includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

3. According and withdrawal of recognition.—(1) The ¹[²Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner] may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in rule 4 and the rules made by the Board in this behalf, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions:

1. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

¹[Provided that in a case where recognition has been accorded to any provident fund on or before the 31st day of March, 2006 and such provident fund does not satisfy the conditions set out in clause (ea) of rule 4, the recognition to such fund shall be withdrawn, if such fund does not satisfy, on or before the ²³[31st day of March, 2014]], the conditions set out in the said clause and any other condition which the Board may, by rules specify, in this behalf:]

⁴[Provided further that nothing contained in the first proviso shall apply to the provident fund of an establishment in respect of which a notification has been issued by the Central Government under sub-section (2) of section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).]

(2) An order according recognition shall take effect on such date as the ⁵⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner]] may fix in accordance with any rules the Board may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

(3) An order withdrawing recognition shall take effect from the date on which it is made.

(4) An order according recognition to a provident fund shall not, unless the ⁵⁶[Principal Chief Commissioner or Chief Commissioner] or ⁷[Principal Commissioner or Commissioner]] otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund.

4. Conditions to be satisfied by recognised provident funds.—In order that a provident fund may receive and retain recognition, it shall, subject to the provisions of rule 5, satisfy the conditions set out below and any other conditions which the Board may, by rules, specify—

(a) all employees shall be employed in India, or shall be employed by an employer whose principal place of business is in India;

(b) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund;

(c) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year;

(d) the fund shall be vested in two or more trustees or in the Official Trustee under a trust which shall not be revocable, save with the consent of all the beneficiaries;

(e) the fund shall consist of contributions as above specified, received by the trustees, of accumulations thereof, and of interest credited in respect of such contributions and accumulations, and of securities purchased therewith and of any capital gains arising from the transfer of capital assets of the fund, and of no other sums;

1. Ins. by Act 21 of 2006, s. 56 (w.e.f. 1-4-2007).

2. Subs. by Act 8 of 2011, s. 34, for "31st day of December, 2010" (w.e.f. 1-1-2011).

3. Subs. by Act 17 of 2013, s. 60, for "31st day of March, 2013" (w.e.f. 1-4-2013). Earlier "the 31st day of March, 2012" was substituted for "the 31st day of March, 2013" by Act 23 of 2012, s. 114 (w.e.f. 1-4-2012).

4. Ins. by Act 22 of 2007, s. 82 (w.e.f. 1-4-2007).

5. Subs. by Act 4 of 1988, s. 2, for "Commissioner" (w.e.f. 1-4-1988).

6. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013).

¹[(*ea*) the fund shall be a fund of an establishment to which the provisions of sub-section (3) of section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) apply or of an establishment which has been notified by the Central Provident Fund Commissioner under sub-section (4) of section 1 of the said Act, and such establishment shall obtain exemption under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section;]

(*f*) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund:

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and the accumulations thereof;

(*g*) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund;

(*h*) save as provided in clause (*g*) or in accordance with such conditions and restrictions as the Board may, by rules, specify, no portion of the balance to the credit of an employee shall be payable to him.

5. Relaxation of conditions.—(*1*) Notwithstanding anything contained in clause (*a*) of rule 4, the ²³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]] may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in India, provided the proportion of employees employed outside India does not exceed ten per cent.

(2) Notwithstanding anything contained in clause (*b*) of rule 4, an employee who retains his employment while serving in the armed forces of the Union or when taken into or employed in the national service under any law for the time being in force, may, whether he receives from the employer any salary or not, contribute to the fund during his service in the armed forces of the Union or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to serve the employer.

(3) Notwithstanding anything contained in clause (*e*) or clause (*g*) of rule 4,—

(*a*) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may consent to retain the whole or any part of the accumulated balance due to the employee to be drawn by him at any time on demand;

(*b*) where the accumulated balance due to an employee who has ceased to be an employee is retained in the fund in accordance with the preceding clause, the fund may consist also of interest in respect of such accumulated balance;

1. Subs. by Act 22 of 2007, s. 82, for clause (*ea*) (w.e.f. 1-4-2007).

2. Subs. by Act 4 of 1988, s. 2, for "Commissioner" (w.e.f. 1-4-1988).

3. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013).

¹[(c) the fund may also consist of any amount transferred from the individual account of an employee in any recognised provident fund maintained by his former employer and the interest in respect thereof.]

(4) Subject to any rules which the Board may make in this behalf, the ²³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]] may, in respect of any particular fund, relax the provisions of clause (c) of rule 4,—

(a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not in each case exceed five hundred rupees per mensem; and

(b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

(5) Notwithstanding anything contained in clause (h) of rule 4, in order to enable an employee to pay the amount of tax assessed on his total income as determined under sub-rule (4) of rule 11, he shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in sub-rule (2) of rule 11 had not been included in his total income.

6. Employer's annual contributions, when deemed to be income received by employee.—That portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

(a) contributions made by the employer in excess of ⁵[twelve] per cent. of the salary of the employee, and

(b) interest credited on the balance to the credit of the employee in so far as it ^{6***} is allowed at a rate exceeding such rate as may be fixed by the Central Government in this behalf by notification in the Official Gazette,

shall be deemed to have been received by the employee in that previous year and shall be included in his total income for that previous year, and shall be liable to income-tax ^{7***}.

⁸[**7. Exemption for employee's contributions.**—An employee participating in a recognised provident fund shall, in respect of his own contributions to his individual account in the fund in the previous year, be entitled to a deduction in the computation of his total income of an amount determined in accordance with ⁹[section 80C].]

8. Exclusion from total income of accumulated balance.—The accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be excluded from the computation of his total income—

(i) if he has rendered continuous service with his employer for a period of five years or more, or

1. Ins. by Act 20 of 1974, s. 12 (w.e.f. 1-4-1974).

2. Subs. by Act 4 of 1988, s. 2, for "Commissioner" (w.e.f. 1-4-1988).

3. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013).

5. Subs. by Act 26 of 1997, s. 58, for "ten" (w.e.f. 1-4-1998).

6. The words "exceeds one-third of the salary of the employee or" omitted by Act 44 of 1980, s. 34 (w.e.f. 1-4-1981).

7. The words "and super-tax" omitted by Act 10 of 1965, s. 66 (w.e.f. 1-4-1965).

8. Subs. by s. 66, *ibid.*, for rule 7 (w.e.f. 1-4-1965).

9. Subs. by Act 20 of 1967, s. 20, for "section 80A or, as the case may be, to a deduction from the amount of income-tax with which he is chargeable on his total income of an amount of income-tax determined in accordance with section 87" (w.e.f. 1-4-1968).

(ii) if, though he has not rendered such continuous service, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee, ¹[or]

¹[(iii) if, on the cessation of his employment, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by ²[such other employer; or]

³[(iv) if the entire balance standing to the credit of the employee is transferred to his account under a pension scheme referred to in section 80CCD and notified by the Central Government.]

Explanation.—Where the accumulated balance due and becoming payable to an employee participating in a recognised provident fund maintained by his employer includes any amount transferred from his individual account in any other recognised provident fund or funds maintained by his former employer or employers, then, in computing the period of continuous service for the purposes of clause (i) or clause (ii) the period or periods for which such employee rendered continuous service under his former employer or employers aforesaid shall be included.]

9. Tax on accumulated balance.—(1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income owing to the provisions of rule 8 not being applicable, the ⁴[Assessing Officer] shall calculate the total of the various sums of ⁵[tax] which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of ⁵[tax] for such years shall be payable by the employee in addition to any other ⁵[tax] for which he may be liable for the previous year in which the accumulated balance due to him becomes payable.

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 becomes payable, an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E of the Indian Income-tax Act, 1922 (11 of 1922), for any assessment year up to and including the assessment year 1932-33, if the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), had come into force on the 15th day of March, 1930, shall be payable by the employee in addition to any other tax payable by him for the previous year in which such balance becomes payable.

10. Deduction at source of tax payable on accumulated balance.—The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 applies, at the time an accumulated balance due to an employee is paid, deduct therefrom the amount payable under that rule and all the provisions of Chapter XVII-B shall apply as if the accumulated balance were income chargeable under the head “Salaries”.

11. Treatment of balance in newly recognised provident fund.—(1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Board may prescribe.

1. Ins. by Act 20 of 1974, s. 12 (w.e.f. 1-4-1975).

2. Subs. by Act 28 of 2016, s. 115, for “such other employer” (w.e.f. 1-4-2017).

3. Ins. by s. 115, *ibid* (w.e.f. 1-4-2017).

4. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

5. Subs. by Act 10 of 1965, s. 66, for “income-tax and super tax” (w.e.f. 1-4-1965).

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-rule (4) of this rule and sub-rule (5) of rule 5 shall apply thereto.

(3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax ¹*** in accordance with the provisions of this Act, other than this Part.

(4) Subject to such rules as the Board may make in this behalf, the ²[Assessing Officer] shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Part had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any sum, and such aggregate (if any) shall be deemed to be income received by the employee in the previous year in which the recognition of the fund takes effect and shall be included in the employee's total income for that previous year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the ³⁴[Principal Chief Commissioner or Chief Commissioner] or ⁵[Principal Commissioner or Commissioner]] may, subject to the said rules, make a summary calculation of such aggregate.

(5) Nothing in this rule shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee before recognition is accorded, in any manner which may be lawful.

12. Accounts of recognised provident funds.—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars, as the Board may prescribe.

(2) The accounts shall be open to inspection at all reasonable times by income-tax authorities, and the trustees shall furnish to the ²[Assessing Officer] such abstracts thereof as the Board may prescribe.

13. Appeals.—(1) An employer objecting to an order of the ³⁴[Principal Chief Commissioner or Chief Commissioner] or ⁵[Principal Commissioner or Commissioner]] refusing to recognise or an order withdrawing recognition from a provident fund may appeal, within sixty days of such order, to the Board.

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as the Board may prescribe.

1. The words "and super -tax" omitted by Act 10 of 1965, s. 66 (w.e.f. 1-4-1965).

2. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).

3. Subs. by s. 2, *ibid.*, for "Commissioner" (w.e.f. 1-4-1988).

4. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013).

5. Subs. by s. 4, *ibid.*, for "Commissioner" (w.r.e.f. 1-6-2013).

14. Treatment of fund transferred by employer to trustee.—(1) Where an employer, who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustees (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer within the meaning of section 37, incurred in the previous year in which the accumulated balance due to the employee is paid.

15. Provisions relating to rules.—(1) In addition to any power conferred by this Part, the Board may make rules—

(a) prescribing the statements and other information to be submitted along with an application for recognition;

(b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company;

¹[(bb) regulating the investment or deposit of the moneys of a recognised provident fund:

Provided that no rule made under this clause shall require the investment of more than fifty per cent. of the moneys of such fund in Government securities as defined in section 2 of the Public Debt Act, 1944 (18 of 1944);]

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund;

(d) determining the extent to and the manner in which exemption from payment of ²[tax] may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn; and

(e) generally, to carry out the purposes of this Part and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as it may deem requisite.

(2) All rules made under this Part shall be subject to the provisions of section 296.

1. Ins. by Act 42 of 1970, s. 57 (w.e.f. 1-4-1971).

2. Subs. by Act 10 of 1965, s. 66, for “income-tax and super-tax” (w.e.f. 1-4-1965).

PART B

APPROVED SUPERANNUATION FUNDS

[See sections 2(6), 10(13), 10(25) (iii), 36(1)(iv), 87(1)(e), 192(5), ¹[206]]

1. Definitions.—In this Part, unless the context otherwise requires, “employer”, “employee”, “contribution” and “salary” have, in relation to superannuation funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds.

2. Approval and withdrawal of approval.—(1) The ²[³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]] may accord approval to any superannuation fund or any part of a superannuation fund which, in his opinion, complies with the requirements of rule 3, and may at any time withdraw such approval, if, in his opinion, the circumstances of the fund or part cease to warrant the continuance of the approval.

(2) The ²[³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]] shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions.

(3) The ²[³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]] shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The ²[³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]] shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter.

3. Conditions for approval.— In order that a superannuation fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

(a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent of the employees shall be employed in India;

(b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons ;

(c) the employer in the trade or undertaking shall be a contributor to the fund ; and

(d) all annuities, pensions and other benefits granted from the fund shall be payable only in India.

1. Subs. by Act 11 of 1987, s. 74, for “206(2)” (w.e.f. 1-6-1987).

2. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

3. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.r.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

4. Application for approval.—(1) An application for approval of a superannuation fund or part of a superannuation fund shall be made in writing by the trustees of the fund to the ¹[Assessing Officer] by whom the employer is assessable, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules ²[and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made)] for which such accounts have been made up, but the ³⁴[Principal Chief Commissioner or Chief Commissioner] or ⁵[Principal Commissioner or Commissioner]] may require such further information to be supplied as he thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the ¹[Assessing Officer] mentioned in sub-rule (1), and in default of such communication any approval given shall, unless the ³⁴[Principal Chief Commissioner or Chief Commissioner] or ⁵[Principal Commissioner or Commissioner]] otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

5. Contributions by employer when deemed to be income of employer.—Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purpose of income-tax ^{6***} to be the income of the employer of the previous year in which it is so repaid.

6. Deduction of tax on contributions paid to an employee.— Where any contributions made by an employer, including interest on contributions, if any, are paid to an employee during his lifetime ⁷[in circumstances other than those referred to in clause (13) of section 10], ⁸[tax] on the amounts so paid shall be deducted at the average rate of ⁸[tax] at which the employee was liable to ⁸[tax] during the preceding three years or during the period, if less than three years, when he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Board may direct.

7. Deduction from pay of and contributions on behalf of employee to be included in return.—Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under ^{9***} section 206.

8. Appeals.—(1) An employer objecting to an order of the ³⁴[Principal Chief Commissioner or Chief Commissioner] or ⁵[Principal Commissioner or Commissioner]] refusing to accord approval to a superannuation fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board.

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed.

9. Liability of trustees on cessation of approval.—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved superannuation fund under the provisions of this Part.

1. Subs. by Act 4 of 1988, s. 2, for “Income-tax” (w.e.f. 1-4-1988).

2. Subs. by Act 42 of 1970, s. 57, for “and of the accounts of the fund for the last three years for which such accounts have been made up” (w.e.f. 1-4-1971).

3. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

4. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.r.e.f. 1-6-2013).

5. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

6. The words “and super-tax” omitted by Act 10 of 1965, s. 66 (w.e.f. 1-4-1965).

7. Ins. by s. 66, *ibid.*, (w.e.f. 1-4-1965).

8. Subs. by s. 66, *ibid.*, for “income-tax and super-tax” (w.e.f. 1-4-1965).

9. The words, brackets and figure “sub-section (1) of” omitted by Act 11 of 1987 s. 74 (w.e.f. 1-6-1987).

10. Particulars to be furnished in respect of superannuation funds.—The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the ¹[Assessing Officer], within such period, not being less than twenty-one days from the date of the notice, as may be specified in the notice, furnish such return, statement, particulars or information, as the ¹[Assessing Officer] may require.

11. Provisions relating to rules.—(1) In addition to any power conferred by this Part, the Board may make rules—

(a) prescribing the statements and other information to be submitted along with an application for approval;

(b) prescribing the returns, statements, particulars, or information which the ¹[Assessing Officer] may require from the trustees of an approved superannuation fund or from the employer;

(c) limiting the ordinary annual contribution and any other contributions to an approved superannuation fund by an employer ;

²[(cc) regulating the investment or deposit of the moneys of an approved superannuation fund:

Provided that no rule made under this clause shall require the investment of more than fifty per cent of the moneys of such fund in Government securities as defined in section 2 of the Public Debt Act, 1944 (18 of 1944);]

(d) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund;

(e) determining the extent to, and the manner in, which exemption from payment of ³[tax] may be granted in respect of any payment made from a superannuation fund from which approval has been withdrawn;

(f) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Part or of the rules made thereunder; and

(g) generally, to carry out the purposes of this Part and to secure such further control over the approval of the superannuation funds and the administration of approved superannuation funds as it may deem requisite.

(2) All rules made under this Part shall be subject to the provisions of section 296.

PART C

APPROVED GRATUITY FUND

⁴[See sections 2(5), 10(25)(iv), 17(1)(iii), 36(1)(v)]

1. Definitions.—In this Part, unless the context otherwise requires “employer”, “employee”, “contribution” and “salary” have, in relation to gratuity funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds.

1. Subs. by Act 4 of 1988, s. 2, for “Income-tax” (w.e.f. 1-4-1988).

2. Ins. by Act 42 of 1970, s. 57 (w.e.f. 1-4-1971).

3. Subs. by Act 10 of 1965, s. 66 for “income-tax and super-tax” (w.e.f. 1-4-1965).

4. Subs. by Act 16 of 1972, s. 42 for “See sections 2(5), 17(1)(iii), 36 (1)(v)” (w.e.f. 1-4-1973).

2. Approval and withdrawal of approval.—(1) The ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner]] may accord approval to any gratuity fund which, in his opinion, complies with the requirements of rule 3 and may at any time withdraw such approval if, in his opinion, the circumstances of the fund cease to warrant the continuance of the approval.

(2) The ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner]] shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect and where the approval is granted subject to conditions, those conditions.

(3) The ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner]] shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner]] shall neither refuse nor withdraw approval to any gratuity fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter.

3. Conditions for approval.—In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

(a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent of the employees shall be employed in India ;

(b) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement or on termination of their employment after a minimum period of service specified in the rules of the fund or to the widows, children or dependants of such employees on their death ;

(c) the employer in the trade or undertaking shall be a contributor to the fund ; and

(d) all benefits granted by the fund shall be payable only in India.

4. Application for approval.—(1) An application for approval of a gratuity fund shall be made in writing by the trustees of the fund to the ⁴[Assessing Officer], by whom the employer is assessable and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules ⁵[and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up], but the ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner]] may require such further information to be supplied as he thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alterations to the ⁴[Assessing Officer] mentioned in sub-rule (1), and in default of such communication, any approval given shall, unless the ¹[²[Principal Chief Commissioner or Chief Commissioner] or ³[Principal Commissioner or Commissioner]] otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

1. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

4. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

5. Subs by Act 42 of 1970, s. 57, for “and of the accounts of the fund for the last year for which such accounts have been made up” (w.e.f. 1-4-1971).

5. Gratuity deemed to be salary.—Where any gratuity is paid to an employee during his lifetime, the gratuity shall be treated as salary paid to the employee for the purposes of this Act.

6. Liability of trustees on cessation of approval.—If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees of the fund shall nevertheless remain liable to tax on any gratuity paid to any employee.

7. contributions by employer, when deemed to be income of employer.—Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purposes of income-tax ^{1***} to be the income of the employer of the previous year in which they are so repaid.

8. Appeals.—(1) An employer objecting to an order of the ²³[Principal Chief Commissioner or Chief Commissioner] or ⁴[Principal Commissioner or Commissioner]] refusing to accord approval to a gratuity fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board.

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed.

⁵[**8A. Particulars to be furnished in respect of gratuity funds.**—The trustees of an approved gratuity fund and any employer who contributes to an approved gratuity fund shall, when required by notice from the ⁶[Assessing Officer], furnish within such period, not being less than twenty-one days from the date of the notice, as may be specified in the notice, such return, statement, particulars or information, as the ⁶[Assessing Officer] may require.]

9. Provisions relating to rules.—(1) In addition to any power conferred in this Part, the Board may make rules—

(a) prescribing the statements and other information to be submitted along with an application for approval;

(b) limiting the ordinary annual and other contributions of an employer to the fund;

⁷[(bb) regulating the investment or deposit of the moneys of an approved gratuity fund:

Provided that no rule made under this clause shall require the investment of more than fifty per cent of the moneys of such fund in Government securities as defined in section 2 of the Public Debt Act, 1944 (18 of 1944);]

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or the creation of a charge upon, his beneficial interest in an approved gratuity fund;

(d) providing for the withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part or the rules made thereunder; and

(e) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds as it may deem requisite.

(2) All rules made under this Part shall be subject to the provisions of section 296.

1. The words “and super-tax” omitted by Act 10 of 1965, s. 66 (w.e.f. 1-4-1965).

2. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

3. Subs. by Act 25 of 2014, s. 4 for “Chief Commissioner” (w.r.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid.*, for “Commissioner” (w.r.e.f. 1-6-2013).

5. Ins. by Act 42 of 1970, s. 57 (w.e.f. 1-4-1971).

6. Subs. by Act 4 of 1988, s. 2, for “Income-tax” (w.e.f. 1-4-1988).

7. Ins. by Act 42 of 1970, s. 57 (w.e.f. 1-4-1971).

¹[THE FIFTH SCHEDULE

²[See section 33(1)(b)(B)(i)]

LIST OF ARTICLES AND THINGS

- (1) Iron and steel (metal), ferro-alloys and special steels.
- (2) Aluminium, copper, lead and zinc (metals).
- (3) ³[Coal, lignite, iron ore], bauxite, manganese ore, dolomite, limestone, magnesite and mineral oil.
- (4) Industrial machinery specified under the heading "8. Industrial machinery", sub-heading "A. Major items of specialised equipment used in specific industries", of the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951).
- (5) Boilers and steam generating plants, steam engines and turbines and internal combustion engines.
- (6) Flame and drip proof motors.
- (7) Equipment for the generation and transmission of electricity including transformers, cables and transmission towers.
- (8) Machine tools and precision tools (including their attachments and accessories, cutting tools and small tools), dies and jigs.
- (9) Tractors, earth-moving machinery and agricultural implements.
- (10) Motor trucks and buses.
- (11) Steel castings and forgings and malleable iron and steel castings.
- (12) Cement and refractories.
- (13) Fertilisers, namely, ammonium sulphate, ammonium sulphate nitrate (double salt), ammonium nitrate, calcium ammonium nitrate (nitrolime stone), ammonium chloride, superphosphate, urea and complex fertilisers of synthetic origin containing both nitrogen and phosphorus, such as ammonium phosphates, ammonium sulphate phosphate and ammo-nium nitro phosphate.
- (14) Soda ash.
- (15) Pesticides.
- (16) Paper and pulp including newsprint.
- (17) Electronic equipment, namely, radar equipment, computers, electronic accounting and business machines, electronic communication equipment, electronic control instruments and basic components, such as valves, transistors, resistors, condensers, coils, magnetic materials and microwave components.
- (18) Petrochemicals including corresponding products manufactured from other basic raw materials like calcium carbide, ethyl alcohol or hydrocarbons from other sources.
- (19) Ships.
- (20) Automobile ancillaries.

1. Ins. by Act 10 of 1965, s. 67 (w.e.f. 1-4-1965).

2. Subs. by Act 19 of 1968, s. 30 and the Third Schedule, for "[See sections 33(1)(b)(B)(i) and 80B(7)]" (w.e.f. 1-4-1969). Earlier substituted by Act 20 of 1967, s. 33 and the Third Schedule, for "[See sections 33(1)(b)(B)(i) and 83B(7)]" (w.e.f. 1-4-1968). Prior substituted by Act 13 of 1966, s. 37, for "[See section 33 (1) (iii) (c) I]" (w.e.f. 1-4-1966).

3. Subs. by Act 15 of 1965, s. 18, for "Iron ore" (w.e.f. 1-4-1965).

(21) Seamless tubes.

(22) Gears.

(23) Ball, roller and tapered bearings.

(24) Component parts of the articles mentioned in item Nos. (4), (5), (7) and (9), that is to say, such parts as are essential for the working of the machinery referred to in the items aforesaid and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose and are in complete finished form and ready for fitment.

(25) Cotton seed oil.

¹[(26) Tea.

(27) Printing machinery.]

²[(28) Processed seeds.

(29) Processed concentrates for cattle and poultry feed.

(30) Processed (including frozen) fish and fish products.

(31) Vegetable oils and oil-cakes manufactured by the solvent extraction process from seeds other than cotton seed.]

³[(32) Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope.

(33) Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope.]]

1. Ins. by Act 13 of 1966, s. 37 (w.e.f. 1-4-1966).

2. Ins. by Act 19 of 1968, s. 30 and the Third Schedule (w.e.f. 1-4-1969).

3. Ins. by Act 14 of 1969, s. 23 (w.e.f. 1-4-1970).

THE SIXTH SCHEDULE

Omitted by the Finance Act, 1972 (16 of 1972), s. 43 (w.e.f. 1-4-1973). Originally, the Schedule was inserted by the Finance Act, 1968 (19 of 1968), s. 30 and the Third Schedule (w.e.f. 1-4-1969) and was later amended by the Finance (No. 2) Act, 1971 (32 of 1971), s. 30 (w.e.f. 1-4-1972).

¹[THE SEVENTH SCHEDULE

[See section 35E]

PART A

MINERALS

1. Aluminium ores.
2. Apatite and phosphatic ores.
3. Beryl.
4. Chrome ore.
5. Coal and lignite.
6. Columbite, Samarskite and other minerals of the "rare earths" group.
7. Copper.
8. Gold.
9. Gypsum.
10. Iron ore.
11. Lead.
12. Manganese ore.
13. Molybdenum.
14. Nickel ores.
15. Platinum and other precious metals and their ores.
16. Pitchblende and other uranium ores.
17. Precious stones.
18. Rutile.
19. Silver.
20. Sulphur and its ores.
21. Tin.
22. Tungsten ores.
23. Uraniferous allanite, monazite and other thorium minerals.
24. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.
25. Vanadium ores.
26. Zinc.
27. Zircon.

1. Ins. by Act 42 of 1970, s. 58 (w.e.f. 1-4-1971).

PART B

GROUPS OF ASSOCIATED MINERALS

1. Apatite, Beryl, Cassiterite, Columbite, Emerald, Felspar, Lepidolite, Mica, Pitchblende, Quartz, Samarskite, Scheelite, Topaz, Tantalite, Tourmaline.
2. Iron, Manganese, Titanium, Vanadium and Nickel minerals.
3. Lead, Zinc, Copper, Cadmium, Arsenic, Antimony, Bismuth, Cobalt, Nickel, Molybdenum, and Uranium minerals, and Gold and Silver, Arsenopyrite, Chalcopyrite, Pyrite, Pyphrotite and Pentlandite.
4. Chromium, Osmiridium, Platinum and Nickel minerals.
5. Kyanite, Sillimanite, Corundum, Dumortierite and Topaz.
6. Gold, Silver, Tellurium, Selenium and Pyrite.
7. Barytes, Fluorite, Chalcocite, Selenium, and minerals of Zinc, Lead and Silver.
8. Tin and Tungsten minerals.
9. Limestone, Dolomite and Magnesite.
10. Ilmenite, Monazite, Zircon, Rutile, Garnet and Sillimanite.
11. Sulphides of Copper and Iron.
12. Coal, Fireclay and Shale.
13. Magnetite and Apatite.
14. Magnesite and Chromite.
15. Talc (Soapstone and Steatite) and Dolomite.
16. Bauxite, Laterite, Aluminous Clays, Lithomarge, Titanium, Vanadium, Gallium and Columbium minerals.]

¹[THE EIGHTH SCHEDULE

[See section 80-IA(2)(iv)(b)]

LIST OF INDUSTRIALLY BACKWARD STATES AND UNION TERRITORIES

- (1) Arunachal Pradesh
- (2) Assam
- (3) Goa
- (4) Himachal Pradesh
- (5) Jammu and Kashmir
- (6) Manipur
- (7) Meghalaya
- (8) Mizoram
- (9) Nagaland
- (10) Sikkim
- (11) Tripura
- (12) Andaman and Nicobar Islands
- (13) Dadra and Nagar Haveli
- (14) Daman and Diu
- (15) Lakshadweep
- (16) Pondicherry.]

[THE NINTH SCHEDULE]. *Omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986 (46 of 1986), s. 31(w.e.f. 1-4-1988). Original Ninth Schedule was inserted by the Direct Taxes (Amendment) Act, 1974 (26 of 1974), s. 16 (w.e.f. 1-4-1975).*

[THE TENTH SCHEDULE]. *Omitted by the Finance Act, 1999 (27 of 1999), s. 89 (w.e.f. 1-4-2000).*

1. Ins. by Act 38 of 1993, s. 37 (w.e.f. 1-4-1994). Prior to inseted by Act 26 of 1974, s. 14 (w.e.f. 1-4-1974). Later on amended by Act 66 of 1976, s. 24 (w.e.f. 1-4-1976). And omitted by Act 46 of 1986, s. 30 (w.e.f. 1-4-1984).

¹[THE ELEVENTH SCHEDULE

²[*See* section 32A, ³[section 32AB], [#]section 80CC(3)(a)(i), section 80-I(2), ^{4@}[section 80J(4) and ^{\$}section 88A(3)(a)(i)]]}

LIST OF ARTICLES OR THINGS

1. Beer, wine and other alcoholic spirits.
2. Tobacco and tobacco preparations, such as, cigars and cheroots, cigarettes, biris, smoking mixtures for pipes and cigarettes, chewing tobacco and snuff.
3. Cosmetics and toilet preparations.
4. Tooth paste, dental cream, tooth powder and soap.
5. Aerated waters in the manufacture of which blended flavouring concentrates in any form are used.
⁵[*Explanation.*—“Blended flavouring concentrates” shall include, and shall be deemed always to have included, synthetic essences in any form.]
6. Confectionery and chocolates.
7. Gramophones, including record-players and gramophone records.
⁶* * * *
- ⁷[9. Projectors.]
10. Photographic apparatus and goods.
⁸* * * *
22. Office machines and apparatus such as typewriters, calculating machines, cash registering machines, cheque writing machines, intercom machines and teleprinters.
Explanation.—The expression “office machines and apparatus” includes all machines and apparatus used in offices, shops, factories, workshops, educational institutions, railway stations, hotels and restaurants for doing office work ⁹[and for data processing (not being computers within the meaning of section 32AB)].
23. Steel furniture, whether made partly or wholly of steel.
24. Safes, strong boxes, cash and deed boxes and strong room doors.
25. Latex foam sponge and polyurethane foam.
¹⁰* * * *
27. Crown corks, or other fittings of cork, rubber, polyethylene or any other material.
28. Pilfer-proof caps for packaging or other fittings of cork, rubber, polyethylene or any other material.
¹¹* * * *

1. Ins. by Act 29 of 1977, s. 28 (w.e.f. 1-4-1978).

2. Subs. by Act 16 of 1981, s. 24, for “[See section 32A and section 80J(4)]” (w.e.f. 1-4-1981).

[#]Section 80CC omitted by Act 33 of 1996, s. 22 (w.e.f. 1-4-1993).

3. Ins. by Act 23 of 1986, s. 39 (w.e.f. 1-4-1987).

4. Subs. by Act 12 of 1990, s. 50 for “and section 80(J)(4)” (w.e.f. 1-4-1990).

[@] Now Section 80J omitted by Act 33 of 1996, s. 29 (w.e.f. 1-4-1989).

^{\$}Section 88A omitted by Act 33 of 1996, s. 35 (w.e.f. 1-4-1994).

5. Ins. by Act 11 of 1987, s. 73 (w.e.f. 1-4-1988).

6. Item 8 omitted by Act 16 of 1981, s. 24 (w.e.f. 1-4-1982).

7. Subs. by Act 26 of 1988, s. 53, for item 9 (w.e.f. 1-4-1989).

8. Items 11 to 21 (both inclusive) omitted by Act 16 of 1981, s. 24 (w.e.f. 1-4-1982).

9. Subs. by Act 11 of 1987, s. 73, for “for data processing and for transmission and reception of messages” (w.e.f. 1-4-1988).

10. Item 26 omitted by Act 16 of 1981, s. 24 (w.e.f. 1-4-1982).

11. Item 29 omitted by s. 24, *ibid.* (w.e.f. 1-4-1982).

¹[THE TWELFTH SCHEDULE

[See section 80HHC(2)(b)(ii)]

PROCESSED MINERALS AND ORES

(i) Pulverised or micronised—barytes, calcite, steatite, pyrophyllite, wollastonite, zircon, bentonite, red or yellow oxide, red or yellow ochre, talc, quartz, feldspar, silica powder, garnet, silliminite, fireclay, ballclay, manganese dioxide ore.

(ii) Processed or activated—bentonite, diatomious earth, fullers earth.

(iii) Processed—kaoline (china clay), whiting, calcium carbonate.

(iv) Beneficated-chromite, flourspar, graphite, vermiculite, ilmenite, brown ilmenite (lencoxene) rutile, monazite and other mineral concentrates.

(v) Mica blocks, mica splittings, mica condenser films, mica powder, micanite, silvered mica, punched mica, mica paper, mica tapes, mica flakes.

(vi) Exfoliated-vermiculite, calcined kyanite, magnesite, calcined magnesite, calcined alumina.

(vii) Sized iron ore processed by mechanical screening or crushing and screening through dry process or mechanical crushing, screening, washing and classification through wet process.

(viii) Iron ore concentrates processed through crushing, grinding or magnetic separation.

(ix) Agglomerated iron ore.

(x) Cut and polished minerals and rocks including cut and polished granite.

Explanation.—For the purposes of this Schedule, “processed”, in relation to any mineral or ore, means—

(a) dressing through mechanical means to obtain concentrates after removal of gangue and unwanted deleterious substances or through other means without altering the minerological identity;

(b) pulverisation, calcination or micronisation;

(c) agglomeration from fines;

(d) cutting and polishing;

(e) washing and levigation;

(f) benefication by mechanical crushing and screening through dry process;

(g) sizing by crushing, screening, washing and classification through wet process;

(h) other upgrading techniques such as removal of impurities through chemical treatment, refining by gravity separation, bleaching, floatation or filtration.]

1. Ins. by Act 49 of 1991, s. 71 (w.e.f. 1-4-1991). Earlier it was inserted by Act 14 of 1982, s. 31 (w.e.f. 1-4-1983) and omitted by Act 23 of 1986, s. 38 (w.e.f. 1-4-1987).

¹[THE THIRTEENTH SCHEDULE
²[[See sections 80-IB(4) and 80-IC(2)]]
LIST OF ARTICLES OR THINGS

PART A

FOR THE STATE OF SIKKIM

<i>S. No.</i>	<i>Article or thing</i>
1.	Tobacco and tobacco products (including cigarettes, cigars and gutka, etc.)
2.	Aerated branded beverages
3.	Pollution-causing paper and paper products

PART B

FOR THE STATE OF HIMACHAL PRADESH AND THE STATE OF UTTARANCHAL

<i>S. No.</i>	<i>Activity or article or thing</i>	<i>Excise classification</i>	<i>Sub-class under National Industrial Classification (NIC), 1998</i>
1.	Tobacco and tobacco products including cigarettes and pan masala	24.01 to 24.04 and 21.06	1600
2.	Thermal Power Plant (coal/oil based)		40102 or 40103
3.	Coal washeries/dry coal processing		
4.	Inorganic Chemicals excluding medicinal grade oxygen (2804.11), medicinal grade hydrogen peroxide (2847.11), compressed air (2851.30)	Chapter 28	
5.	Organic chemicals excluding Pro-vitamins/vitamins, Hormones (29.36), Glycosides (29.39), sugars* (29.40)	Chapter 29	24117
6.	Tanning and dyeing extracts, tannins and their derivatives, dyes, colours, paints and varnishes; putty, fillers and other mastics; inks	Chapter 32	24113 or 24114
7.	Marble and mineral substances not classified elsewhere	25.04 25.05	14106 or 14107
8.	Flour mills/rice mills	11.01	15311
9.	Foundries using coal		

1. Ins. by Act 32 of 2003, s. 99 (w.e.f. 1-4-2004).

2. Subs. by Act 23 of 2004, s. 64, for "[See section 80-IC(2)]" (w.e.f. 1-4-2005).

<i>S. No.</i>	<i>Activity or article or thing</i>	<i>Excise classification</i>	<i>Sub-class under National Industrial Classification (NIC), 1998</i>
10.	Minerals fuels, mineral oils and products of their distillation; bituminous substances: mineral waxes	Chapter 27	
11.	Synthetic rubber products	40.02	24131
12.	Cement clinkers and asbestos, raw including fibre	2502.10, 2503.00	
13.	Explosive (including industrial explosives, detonators and fuses, fireworks, matches, propellant powders, etc.)	36.01 to 36.06	24292
14.	Mineral or chemical fertilizers	31.02 to 31.05	2412
15.	Insecticides, fungicides, herbicides and pesticides (basic manufacture and formulation)	3808.10	24211 or 24219
16.	Fibre glass and articles thereof	70.14	26102
17.	Manufacture of pulp—wood pulp, mechanical or chemical (including dissolving pulp)	47.01	21011
18.	Branded aerated water/soft drinks (non-fruit based)	2201.20, 2202.20	15541 or 15542
¹ [19.	Manufacture of pulp—wood pulp, mechanical or chemical (including dissolving pulp)	4701.00	
	Newsprint in rolls or sheets	4801.00	
	Writing or printing paper for printing of educational textbooks	4802.10	
	Paper or paperboard, in the manufacture of which—	4802.20	
	(a) the principal process of lifting the pulp is done by hand; and		
	(b) if power driven sheet forming equipment is used, the Cylinder Mould VAT does not exceeds 40 inches		
	Maplitho paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4802.30	
	Others	4802.90	

1. Subs. by Act 33 of 2009, s. 82, for certain entries (w.e.f. 1-4-2010).

<i>S. No.</i>	<i>Activity or article or thing</i>	<i>Excise classification</i>	<i>Sub-class under National Industrial Classification (NIC), 1998</i>
	Toilet or facial tissue stock, towel or napkin stock and similar paper of a kind used for household or sanitary purposes, cellulose wadding and webs of cellulose fibres, whether or not creped, crinkled embossed, perforated, surfact-coloured, surface decorated or printed, in rolls of a width exceeding 36 cms. or in rectangular (including square) sheets with at least one side exceeding 36 cms. in unfolded state.	4803.00	
	Kraft paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4804.10	
	Kraft paper and paperboard used in the manufacture of cartons for packing of horticultural produce	4804.20	
	Others	4804.90	
	Other uncoated paper and paper-board, in roll or sheets, not further worked or processed than as specified in Note 2 to this Chapter.	4805.00	
	Grease-proof paper	4806.10	
	Glassine and other glazed transparent or translucent paper	4806.20	
	Others	4806.90	
	Straw Board, in the manufacture of which sun-drying process has been employed.	4807.91	
	Straw paper and other straw board, whether or not covered with paper other than straw paper.	4807.92	
	Other	4807.99	
	Carbon or similar copying papers	4809.10	
	Self-copy paper	4809.20	
	Others	4809.90	

<i>S. No.</i>	<i>Activity or article or thing</i>	<i>Excise classification</i>	<i>Sub-class under National Industrial Classification (NIC), 1998</i>
	Paper and paperboard of a kind used for writing, printing or other graphic purposes.	4810.10	
	Kraft paper and paperboard other than that of a kind used for writing, printing or other graphic purposes.	4810.20	
	Other paper and paperboard	4810.90	
	Tarred, bituminized or asphalted paper and paperboard.	4811.10	
	Gummed or adhesive paper and paperboard	4811.20	
	Paper and paperboard coated, impregnated or covered with plastic (excluding adhesives).		
	Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics (including thermoset resins or mixtures thereof or chemical formulations containing melamine, phenol, urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; Products known commercially as decorative laminates.	4811.31	
	Others	4811.39	
	Paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol.	4811.40	
	Other	4811.90	
	Cigarette paper, whether or not cut to size or in the form of booklets or tubes.]	4813.00	
20.	Plastics and articles thereof	39.09 to 39.15]	

¹[PART C
FOR THE STATE OF JAMMU AND KASHMIR

<i>S. No.</i>	<i>Article or thing</i>
1.	Cigarettes/cigars of tobacco, manufactured tobacco and substitutes
2.	Distilled/brewed alcoholic drinks
3.	Aerated branded beverages and their concentrates.]

1. Ins. by 23 of 2004, s. 64 (w.e.f. 1-4-2005).

THE FOURTEENTH SCHEDULE
[See section 80-IC(2)]
LIST OF ARTICLES OR THINGS OR OPERATIONS
PART A

FOR THE NORTH-EASTERN STATES

1. Fruit and Vegetable Processing industries manufacturing or producing—
 - (i) Canned or bottled products;
 - (ii) Aseptic packaged products;
 - (iii) Frozen products;
 - (iv) De-hydrated products;
 - (v) Oleoresins.
2. Meat and Poultry Product industries manufacturing or producing—
 - (i) Meat Products (buffalo, sheep, goat and pork);
 - (ii) Poultry production;
 - (iii) Egg Powder Plant.
3. Cereal Based Product industries manufacturing or producing—
 - (i) Maize Milling including starch and its derivatives;
 - (ii) Bread, Biscuits, Breakfast Cereal.
4. Food and Beverage industries manufacturing or producing—
 - (i) Snacks;
 - (ii) Non-alcoholic beverages;
 - (iii) Confectionery including chocolate;
 - (iv) Pasta products;
 - (v) Processed spices, etc.;
 - (vi) Processed pulses;
 - (vii) Tapioca products.
5. Milk and milk based product industries manufacturing or producing—
 - (i) Milk powder;
 - (ii) Cheese;
 - (iii) Butter/ghee;
 - (iv) Infant food;
 - (v) Weaning food;
 - (vi) Malted milk food.
6. Food packaging industry.
7. Paper products industry.
8. Jute and mesta products industry.
9. Cattle or poultry or fishery feed products industry.
10. Edible Oil processing or vanaspati industry.

11. Processing of essential oils and fragrances industry.
12. Processing and raising of plantation crops—tea, rubber, coffee, coconuts, etc.
13. Gas based Intermediate Products Industry manufacturing or producing—
 - (i) Gas exploration and production;
 - (ii) Gas distribution and bottling;
 - (iii) Power generation;
 - (iv) Plastics;
 - (v) Yarn raw materials;
 - (vi) Fertilizers;
 - (vii) Methanol;
 - (viii) Formaldehyde and FR resin melamine and MF resin;
 - (ix) Methylamine, Hexamethylenetetramine, Ammonium bi-carbonate;
 - (x) Nitric Acid and Ammonium Nitrate;
 - (xi) Carbon black;
 - (xii) Polymer chips.
14. Agro forestry based industry.
15. Horticulture industry.
16. Mineral based industry.
17. Floriculture industry.
18. Agro-based industry.

PART B

FOR THE STATE OF SIKKIM

<i>S. No.</i>	<i>Activity or article or thing or operation</i>
1.	Eco-Tourism including Hotels, Resorts, Spa, Amusement Parks and Ropeways.
2.	Handicrafts and handlooms.
3.	Wool and silk reeling, weaving and processing, printing, etc.
4.	Floriculture.
5.	Precision Engineering including watch making.
6.	Electronics including computronics hardware and software and Information Technology (IT) related industries.
7.	Food processing including Agro-based industries. Processing, preservation and packaging of fruits and vegetables (excluding conventional grinding/extraction units).
8.	Medicinal and aromatic Herbs—Plantation and Processing.
9.	Raising and processing of plantation crops, <i>i.e.</i> , tea, oranges and cardamom.
10.	Mineral based industry.
11.	Pharma products.
12.	Honey.
13.	Biotechnology.

PART C
FOR THE STATE OF HIMACHAL PRADESH AND THE STATE OF UTTARANCHAL

<i>S.</i>	<i>Activity or article or thing or operation</i>	<i>4/6 digit excise classification</i>	<i>Sub-class under NIC classification on 1998</i>	<i>ITC(HS) classification 4/6 digit</i>
1.	Floriculture	-	-	0603 or 060120 or 06029020 or 06024000
2.	Medicinal herbs and aromatic herbs, etc., processing	-	-	
3.	Honey	-	-	-040900
4.	Horticulture and agro-based industries such as	21.03	15135 to 15137 and 15139	
	(a) Sauces, ketchup, etc.	2202.40		
	(b) Fruit juices and fruit pulp	20.01		
	(c) Jams, jellies, vegetable juices, puree, pickles, etc.			
	(d) Preserved fruits and vegetables			
	(e) Processing of fresh fruits and vegetables including packaging			
	(f) Processing, preservation, packaging of mushrooms			
5.	Food Processing Industry excluding those included in the Thirteenth Schedule	19.01 to 19.04		
6.	Sugar and its by-products	-	-	17019100
7.	Silk and silk products	50.04 50.05	17116	
8.	Wool and wool products	51.01 to 51.12	17117	

<i>S. No.</i>	<i>Activity or article or thing or operation</i>	<i>4/6 digit excise classification</i>	<i>Sub-class under NIC classification on 1998</i>	<i>ITC(HS) classification 4/6 digit</i>
9.	Woven fabrics (Excisable garments)	-	-	6101 to 6117
10.	Sports goods and articles and equipment for general physical exercise and equipment for adventure sports/activities, tourism (to be specified, by notification, by the Central Government)	9506.00		
11.	Paper and paper products excluding those in the Thirteenth Schedule (as per excise classification)			
12.	Pharma products	30.03 to 30.05		
13.	Information and Communication Technology Industry, Computer hardware, Call Centres	84.71	30006/7	
14.	Bottling of mineral water	2201		
15.	Eco-tourism including hotels, resorts, spa, entertainment/ amusement parks and rope-ways	-	55101	
16.	Industrial gases (based on atmospheric fraction)			
17.	Handicrafts			
18.	Non-timber forest product-based industries.]			