

CHAPTER XXII

OFFENCES AND PROSECUTION

- 5 **473.** Whoever contravenes any order referred to in section 247(I)(viii) or (4) shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine. Contravention of order made under section 247.
- 474.** If a person, who is required to afford the authorised officer with the necessary facility to inspect the books of account or other documents under section 247(I)(b)(ii) fails to do so, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine. Failure to comply with section 247(I)(b)(ii).
- 10 **475.** Whoever, fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, with the intent to prevent such property or interest from being taken in execution of a certificate as prescribed, shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine. Removal, concealment, transfer or delivery of property to prevent tax recovery.
- 15 **476.** (I) If a person fails to—
 (a) pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XIX-B; or
 (b) pay tax or ensure payment of tax to the credit of the Central Government, as required under—
 (i) Note 3 in Table in section 393(3); or
 (ii) Note 6 to section 393(I) (Table: Sl. No. 8),
 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 shall also be liable to fine. Failure to pay tax to credit of Central Government under Chapter XIX-B.
- 20 (2) The provisions of this section shall not apply if the payment referred to in sub-section (I)(a) has been credited to the Central Government on or before the time prescribed for filing the statement for such payment under section 397(3)(b).
- 477.** (I) Where a person fails to pay to the credit of the Central Government the tax collected by him as required under section 394, 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 shall also be liable to fine. Failure to pay tax collected at source.
- 30 (2) The provisions of this section shall not apply if the payment of the tax collected at source has been made to the credit of the Central Government at any time on or before the time prescribed for filing the statement under section 397(3)(b) in respect of such payment.
- 35 **478.** (I) If a person wilfully attempts in any manner to evade payment of any tax, penalty or interest chargeable or imposable, or under-reports his income, under this Act, he shall be punishable,—
 (a) in a case, where the amount sought to be evaded or tax on under-reported income exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;
 (b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine,
 45 and shall also be liable for penalty that may be imposable on him under any other provision of this Act. Wilful attempt to evade tax, etc.
- 50 (2) If a person wilfully attempts in any manner to evade the payment of any tax, penalty or interest under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall, in the discretion of the court, also be liable to fine.

(3) In addition to the punishment referred to in sub-section (2), the person referred to in the said sub-section shall also be liable for penalty that may be imposable on him under any other provision of this Act.

(4) 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—

(a) 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

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

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

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

Failure to furnish
returns of income.

479. (1) If a person wilfully fails to furnish in due time the return of income, which is required to be furnished under section 263(1), or by notice given under sections 268(1) or 280, he shall be punishable,—

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

(b) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine.

(2) A person shall not be proceeded against under sub-section (1) for failure to furnish in due time the return of income under section 263(1) for any tax year, if—

(a) the return is furnished by him before the expiry of one year from the end of the tax year or a return is furnished by him under section 263(6) within the time provided in that section; or

(b) the tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any, paid before the expiry of one year from the end of the tax year, and any tax deducted or collected at source, does not exceed ten thousand rupees.

Failure to furnish
return of income in
search cases.

480. If a person wilfully fails to furnish in due time the return of total income which is required to be furnished by notice given under section 294 (1)(a), 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 shall also be liable to fine.

Failure to produce
accounts and
documents.

481. If a person wilfully fails to produce, or cause to be produced, the accounts and documents as are referred to in the notice served on him under section 268(1) on or before the date specified in such notice, or wilfully fails to comply with a direction issued to him under section 268(5) of, he shall be punishable with rigorous imprisonment for a term which may extend to one year and shall also be liable to fine.

482. 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,—

False statement
in verification,
etc.

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

10 (b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine.

483. (1) If any person (herein referred to as the first person) wilfully and with intent to enable any other person (herein referred to as the second person) to evade any tax or interest or penalty chargeable and imposable under this Act in the
15 circumstances referred to in sub-section (2), 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 two years and with fine.

Falsification of
books of
account or
document, etc.

20 (2) The circumstances referred to in sub-section (1) shall be, where the first person 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.

25 (3) 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.

484. If a person abets or induces in any manner another person—

Abetment of
false return, etc.

 (a) to make and deliver an account or a statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true; or

30 (b) to commit an offence under section 478(1),

he shall be punishable,—

35 (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 twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;

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

485. If any person convicted of an offence under sections 476, 477, 478(1), 479, 480, 482 or 484 is again convicted of an offence under any of the said sections, 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
45 extend to seven years and shall also be liable to fine.

Punishment for
second and
subsequent
offences.

Punishment not to
be imposed in
certain cases.

486. No person shall be punishable for any failure referred to in section 476 or 477, irrespective of anything contained in that section, if he proves that there was reasonable cause for such failure.

Offences by
companies.

487. (1) If 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.

(2) The provisions of sub-section (1) shall not apply if the person referred in the said sub-section proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) If it is proved that an offence under this Act has been committed by a company 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, then irrespective of the provisions of sub-section (1), 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.

(4) Where an offence committed by a company under this Act is punishable with imprisonment and fine, then, without prejudice to the provisions contained in sub-section (1) or (3), 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 (3), shall be liable to be proceeded against and punished as per the provisions of this Act.

(5) In 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.

Offences by
Hindu
undivided
family.

488. (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.

(2) Nothing contained in sub-section (1) 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.

(3) Irrespective of anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family, a member of such Hindu undivided family shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly, if it is proved that—

(a) the offence has been committed with the consent or connivance of such member; or

(b) the offence is attributable to any neglect on the part of such member.

5 **489.** (1) Where during the course of any search made under section 247, any money, bullion, jewellery, virtual digit asset or other valuable article or thing (herein 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 484, for an offence under this Act, the provisions of section 247(7) shall, so far as may be, apply in relation to such assets or books of account or other documents.

Presumption as to assets, books of account, etc., in certain cases.

10 (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 section 248(1)(a) or (b) or (c) 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 484, for an offence under this Act, the provisions of section 247(7) shall, so far as may be, apply in relation to such assets or books of account or other documents.

20 **490.** (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.

Presumption as to culpable mental state.

(2) In this section, “culpable mental state” includes intention, motive or knowledge of a fact or belief in, or reason to believe, a fact.

25 (3) 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.

30 **491.** (1) A person shall not be proceeded against for an offence under section 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, or 484 except with the previous sanction of the Principal Commissioner or Commissioner or Joint Commissioner (Appeals) or Commissioner (Appeals).

Prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

35 (2) The Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General may issue such instructions or directions to the income-tax authorities mentioned in sub-section (1) as he considers fit for institution of proceedings under that sub-section.

(3) A person shall not be proceeded against for an offence under section 478 or 482 in relation to the assessment for a tax year for which the penalty imposed or imposable on him under section 439 has been reduced or waived by an order under section 469.

40 (4) Any offence under this Chapter may be compounded, either before or after the institution of proceedings, by the Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General.

45 (5) 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 income-tax authority specified in section 236(a) to (k) shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that—

50 (a) such statement was made or such account or document was produced in the belief that the penalty imposable would be reduced or waived, under section 469; or

(b) the offence for which such proceeding was taken would be compounded.

(6) The power of the Board to issue orders, instructions or directions under this Act shall include 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. 5

Certain offences to be non-cognizable.

492. Irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, an offence punishable under section 476, 478, 479, 480, 482 or 484 shall be deemed to be non-cognizable within the meaning of that Sanhita. 10 46 of 2023.

Proof of entries in records or documents.

493. 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 by—

(a) production of the records or other documents in the custody of the income-tax authority containing such entries; or 15

(b) 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. 20

Disclosure of particulars by public servants.

494. (1) A public servant, who furnishes any information or produces any document in contravention of the provisions of section 258(3), 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. 25

Special Courts.

495. (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 Judicial Magistrate of the first class as Special Court for such area or areas, or for such cases or class or group of cases, as specified in the notification. 30

(2) In this section, “High Court” means the High Court of the State in which a Judicial Magistrate of first class designated as Special Court was functioning immediately before such designation.

(3) 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 Bharatiya Nagarik Suraksha Sanhita, 2023, be charged at the same trial. 35 46 of 2023.

Offences triable by Special Court.

496. (1) Irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023,— 40 46 of 2023.

(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;

(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. 45

(2) For the purposes of sub-section (1)(a), the court competent to try offences under section 520,—

(a) 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;

(b) which has not been designated as a Special Court, shall continue to try such offence pending before it till its disposal.

497. The Special Court, irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, 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 Bharatiya Nagarik Suraksha Sanhita, 2023 as applicable in the case of trial of summons case, shall apply accordingly.

Trial of offences as summons case.

498. (1) Save as otherwise provided in this Act, the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023 (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.

Application of Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court.

(2) The Central Government may also appoint a Special Public Prosecutor for any case or class or group of cases.

(3) 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.

(4) 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 section 2(v) of the Bharatiya Nagarik Suraksha Sanhita, 2023, and the provisions of that Sanhita shall have effect accordingly.

CHAPTER XXIII

MISCELLANEOUS

499. (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice by the Tax Recovery Officer as per the procedure specified under section 413, any assessee creates a charge on, or parts with the possession 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.

Certain transfers to be void.

(2) The charge or transfer as referred to in sub-section (1) shall not be void if it is made—

(a) 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

(b) with the previous permission of the Assessing Officer.

(3) 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.