

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

- (c) “Unit Trust of India” means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963).]

CHAPTER XIII

INCOME-TAX AUTHORITIES

A.—Appointment and control

²[**Income-tax authorities.**

116. There shall be the following classes of income-tax authorities for the purposes of this Act, namely :—

- (a) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963),
- (b) Directors-General of Income-tax or Chief Commissioners of Income-tax,
- (c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),
- ³[(cc) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),]
- ⁴[(cca) Joint Directors of Income-tax or Joint Commissioners of Income-tax,]
- (d) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),
- (e) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,
- (f) Income-tax Officers,
- (g) Tax Recovery Officers,
- (h) Inspectors of Income-tax.]

2. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Earlier, it was amended by the Central Boards of Revenue Act, 1963, w.e.f. 1-1-1964, the Finance Act, 1970, w.e.f. 1-4-1970 and the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

3. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

4. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

⁵[Appointment of income-tax authorities.

117. (1) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(2) Without prejudice to the provisions of sub-section (1), and subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Central Government may authorise the Board, or a Director-General, a Chief Commissioner or a Director or a Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner ⁶[or Deputy Commissioner].

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.]

⁷[Control of income-tax authorities.

118. The Board may, by notification in the Official Gazette, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as may be specified in such notification.]

⁸[Instructions to subordinate authorities.

⁹119. (1) The Board may, from time to time, issue such orders, instructions and directions to other income-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

5. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Earlier, it was amended by the Finance Act, 1970, w.e.f. 1-4-1970 and the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

6. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

7. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Prior to its substitution, section 118 stood as under:

‘118. *Control of income-tax authorities.*—(1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions, and also to the Director of Inspection.

(2) Income-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(3) Inspectors of Income-tax shall be subordinate to the Income-tax Officer or other income-tax authority under whom they are appointed to work and to any other income-tax authority to whom the said officer or other authority is subordinate.

Explanation.—For the purposes of sub-section (1), “Director of Inspection” does not include a Deputy Director of Inspection or an Assistant Director of Inspection; and for the purposes of sub-section (2), “Director of Inspection” does not include an Assistant Director of Inspection.’

8. Substituted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

9. See also Instruction No. 796, dated 22-11-1974. For details, see Taxmann’s Master Guide to Income-tax Act.

For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

Provided that no such orders, instructions or directions shall be issued—

- (a) so as to require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or
 - (b) so as to interfere with the discretion of the ¹⁰[* * *] ¹¹[Commissioner (Appeals)] in the exercise of his appellate functions.
- (2) Without prejudice to the generality of the foregoing power,—
- ¹²(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections ¹³[139,] 143, 144, 147, 148, 154, 155, ¹⁴[sub-section (1A) of section 201, sections 210, 211, 234A, 234B, 234C], 271 and 273 or otherwise), general or special orders in respect of any class of incomes or class of cases, setting forth directions or instructions (not being prejudicial to assessee) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;
 - (b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise ¹⁵[any income-tax authority, not being a ¹⁶[* * *] Commissioner (Appeals)] to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law;
 - ¹⁷(c) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any require-

10. Words “Deputy Commissioner (Appeals) or the” omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

11. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

12. See rule 111B.

13. Inserted by the Finance Act, 1990, w.e.f. 1-4-1990.

14. Substituted for “210, 234A, 234B” by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991. Earlier “234A, 234B” was inserted by the Finance Act, 1990, w.e.f. 1-4-1990.

15. Substituted for “the Commissioner or the Income-tax Officer” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

16. Words “Deputy Commissioner (Appeals) or the” omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

17. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

ment contained in any of the provisions of Chapter IV or Chapter VI-A, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions, namely:—

- (i) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and
- (ii) the assessee has complied with such requirement before the completion of assessment in relation to the previous year in which such deduction is claimed:

Provided that the Central Government shall cause every order issued under this clause to be laid before each House of Parliament.]

(3) ¹⁸[***]

B.—Jurisdiction

¹⁹[**Jurisdiction of income-tax authorities.**

120. (1) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

(2) The directions of the Board under sub-section (1) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(3) In issuing the directions or orders referred to in sub-sections (1) and (2), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria, namely :—

- (a) territorial area;
- (b) persons or classes of persons;
- (c) incomes or classes of income; and
- (d) cases or classes of cases.

18. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Prior to its omission, sub-section (3) stood as under :

“(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.”

19. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Prior to its substitution, section 120 stood as under:

“120. *Jurisdiction of Directors of Inspection.*—Directors of Inspection shall perform such functions of any other income-tax authority as may be assigned to them by the Board.”

(4) Without prejudice to the provisions of sub-sections (1) and (2), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,—

- (a) authorise any Director General or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;
- (b) empower the Director General or Chief Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by a ²⁰[Joint] Commissioner ²¹[or a ²⁰[Joint] Director], and, where any order is made under this clause, references in any other provision of this Act, or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such ²⁰[Joint] Commissioner ²¹[or ²⁰[Joint] Director] by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the ²⁰[Joint] Commissioner shall not apply.

(5) The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(6) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification.]

20. Substituted for “Deputy” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

21. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

Jurisdiction of Commissioners.

²²121. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

Jurisdiction of Commissioners (Appeals).

^{22a}121A. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Original section was inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.]

Jurisdiction of Appellate Assistant Commissioners.

^{22b}122. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

Jurisdiction of Inspecting Assistant Commissioners.

²³123. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

22. Prior to its omission, section 121, as amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967, stood as under:

“121. *Jurisdiction of Commissioners.*—(1) Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Board may direct.

(2) Where any directions issued under sub-section (1) have assigned to two or more Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall have concurrent jurisdiction and shall perform such functions in relation to the said area or persons or classes of persons or incomes or classes of income or cases or classes of cases as the Board may, by general or special order in writing, specify, for the distribution and allocation of the work to be performed.”

22a. Prior to its omission, section 121A stood as under:

“121A. *Jurisdiction of Commissioners (Appeals).*—(1) Commissioners (Appeals) shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Board may direct.

(2) Where any directions issued under sub-section (1) have assigned to two or more Commissioners (Appeals), the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Board may make for the distribution and allocation of the work to be performed.”

22b. Prior to its omission, section 122 stood as under:

“122. *Jurisdiction of Appellate Assistant Commissioners.*—(1) Appellate Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Board may direct.

(2) Where any directions issued under sub-section (1) have assigned to two or more Appellate Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Board may make for the distribution and allocation of the work to be performed.”

23. Prior to its omission, section 123, as substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967, stood as under :

“123. *Jurisdiction of Inspecting Assistant Commissioners.*—(1) Inspecting Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Commissioner may direct.

(2) Where any directions issued under sub-section (1) have assigned to two or more Inspecting Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall have concurrent jurisdiction and shall perform such functions in relation to the said area or persons or classes of persons or incomes or classes of income or cases or classes of cases as the Commissioner may, by general or special order in writing, specify, for the distribution and allocation of the work to be performed.”

²⁴[**Jurisdiction of Assessing Officers.**

²⁵**124.** (1) Where by virtue of any direction or order issued under sub-section (1) or sub-section (2) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction—

- (a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

24. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Prior to its substitution, section 124, as amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967 and the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975, stood as under :
 “124. *Jurisdiction of Income-tax Officers.*—(1) Income-tax Officers shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Commissioner may direct.

(2) Where any directions issued under sub-section (1) have assigned to two or more Income-tax Officers, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall have concurrent jurisdiction and shall perform their functions in relation to the said area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, in accordance with such general or special orders in writing as the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions.

(3) Within the limits of the area assigned to him, the Income-tax Officer shall have jurisdiction—

- (a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and
- (b) in respect of any other person residing within the area.

(4) Where a question arises under this section as to whether an Income-tax Officer has jurisdiction to assess any person, the question shall be determined by the Commissioner; or where the question is one relating to areas within the jurisdiction of different Commissioners, by the Commissioners concerned or, if they are not in agreement, by the Board.

(5) No person shall be entitled to call in question the jurisdiction of an Income-tax Officer—

- (a) after the expiry of one month from the date on which he has made a return under sub-section (1) of section 139 or after the completion of the assessment, whichever is earlier;
- (b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (2) of section 139 or under section 148 for the making of the return.

(6) Subject to the provisions of sub-section (5), where an assessee calls in question the jurisdiction of an Income-tax Officer, then the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (4) before assessment is made.

(7) Notwithstanding anything contained in this section or in section 130A, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income accruing or arising or received within the area for which he is appointed.”

25. For relevant case laws, *see* Taxmann’s Master Guide to Income-tax Act.

(b) in respect of any other person residing within the area.

(2) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the Director General or the Chief Commissioner or the Commissioner; or where the question is one relating to areas within the jurisdiction of different Director Generals or Chief Commissioners or Commissioners, by the Directors General or Chief Commissioners or Commissioners concerned or, if they are not in agreement, by the Board or by such Director General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, specify.

(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

(a) where he has made a return under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or after the completion of the assessment, whichever is earlier;

(b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (1) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier.

(4) Subject to the provisions of sub-section (3), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (2) before the assessment is made.

(5) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub-section (1) or sub-section (2) of section 120.]

Powers of Commissioner respecting specified areas, cases, persons, etc.

²⁶125. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

26. Prior to its omission, section 125, as substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967 and later on amended by the Finance Act, 1972, w.e.f. 1-4-1972, the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975 and the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under :

“125. *Powers of Commissioner respecting specified areas, cases, persons, etc.*—(1) The Commissioner may, by general or special order in writing, direct that—

(a) the powers conferred on the Income-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner;

(b) such of the functions assigned to the Income-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area, case or classes of

(Contd. on p. 1.506)

Concurrent jurisdiction of Inspecting Assistant Commissioner and Income-tax Officer.

²⁷125A. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

Original section was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.]

(Contd. from p. 1.505)

cases, person or class of persons or class of incomes, be performed by an Inspector of Income-tax or any member of the ministerial staff, subordinate to the Commissioner or any other income-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein :

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of an Income-tax Officer mentioned in the following provisions of this Act, namely, sections 131, 132, 132A, 132B, 140A, 143, 144, 146, 147, 148, 162, 163, 171, 172, 174, 175, 176, 177, 178, 183, 184, 185, 189, 221, 222, 226, 228, 228A, 253, 271 to 273 (both inclusive) and 274.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

- (a) where such order is made under clause (a) of the said sub-section (1), references in this Act or in any rule made thereunder to the Income-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;
- (b) where such order is made under clause (b) of the said sub-section (1), references in this Act or in any rule made hereunder to the Income-tax Officer shall be deemed to include references to the Inspector of Income-tax or the member of the ministerial staff specified in such order.”

27. Prior to its omission, section 125A, as amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under :

“125A. *Concurrent jurisdiction of Inspecting Assistant Commissioner and Income-tax Officer.*—(1) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on, or assigned to, the Income-tax Officer or Income-tax Officers by or under this Act in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed concurrently by the Inspecting Assistant Commissioner.

(2) Where under sub-section (1), an Inspecting Assistant Commissioner exercises concurrent jurisdiction with one or more Income-tax Officers in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, the Income-tax Officer or Income-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Inspecting Assistant Commissioner may direct.

(3) Without prejudice to the generality of the provisions contained in sub-section (3) of section 119, every Income-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act :

Provided that no instructions, which are prejudicial to the assessee, shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(Contd. on p. 1.507)

Powers of Board respecting specified area, classes of persons or incomes.

²⁸**126.** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

²⁹[Power to transfer cases³⁰.

³¹**127.** (1) The Director General or Chief Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing

(Contd. from p. 1.506)

(4) Where an order is made under sub-section (1) and the Inspecting Assistant Commissioner exercises the powers or performs the functions of an Income-tax Officer in relation to any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, references in this Act or in any rule made thereunder to the Income-tax Officer shall be construed as references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply.”

28. Prior to its omission, section 126, as amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under :

“126. *Powers of Board respecting specified area, classes of persons or incomes.*—Notwithstanding anything contained in the foregoing sections, the Board may, by notification in the Official Gazette, empower Commissioners, Commissioners (Appeals), Appellate Assistant Commissioners, Inspecting Assistant Commissioners and Income-tax Officers to perform such functions in respect of such area or of such classes of persons or of such classes of income as may be specified in the notification, and thereupon the functions so specified shall cease to be performed in respect of the area or classes of persons or classes of income by the other authorities under section 121, section 121A, section 122, section 123 or section 124.”

29. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Prior to its substitution, section 127, as substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967 and amended by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975, stood as under :

‘127. *Power to transfer cases.*—(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more of the following officers subordinate to him, namely:—

(a) any Income-tax Officer or Income-tax Officers;

(b) any Income-tax Officer or Income-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) also subordinate to him and the Board may similarly transfer any case from—

(i) any Income-tax Officer or Income-tax Officers, or

(ii) any Income-tax Officer or Income-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) :

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from any Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to any other Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) and the offices of all such officers are situated in the same city, locality or place :

(Contd. on p. 1.508)

so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Director General or Chief Commissioner or Commissioner,—

- (a) where the Directors General or Chief Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Director General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;
- (b) where the Directors General or Chief Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Director

(Contd. from p. 1.507)

Provided further that—

- (a) where any case has been transferred from any Income-tax Officer or Income-tax Officers to two or more Income-tax Officers, the Income-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions;
- (b) where any case has been transferred from any Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to two or more Income-tax Officers with concurrent jurisdiction with the Inspecting Assistant Commissioner, the officers (including the Inspecting Assistant Commissioner) to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions, and the Income-tax Officers shall perform their functions also in accordance with such orders or directions as the Inspecting Assistant Commissioner may make under sub-section (2) of section 124 or, as the case may be, under sub-section (2) of section 125A.

(2) The transfer of a case under sub-section (1) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Income-tax Officer or Income-tax Officers from whom the case is transferred.

Explanation.—In this section and in sections 121, 123, 124 and 125, the word “case”, in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.’

30. See also Circular No. 770, dated 16-9-1998. For details, see Taxmann’s Master Guide to Income-tax Act.

31. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation.—In section 120 and this section, the word “case”, in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.]

Functions of Inspectors of Income-tax.

³²**128.** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988].

Change of incumbent of an office.

³³**129.** Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor :

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.

Commissioner competent to perform any function or functions.

³⁴**130.** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

32. Prior to its omission, section 128, as substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967, stood as under :

“128. *Functions of Inspectors of Income-tax.*—Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Commissioner by an order, whether made under clause (b) of sub-section (1) of section 125 or otherwise, or by any other income-tax authority under whom they are appointed to work.”

33. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

34. Prior to its omission, section 130, as substituted by the Finance Act, 1970, w.e.f. 1-4-1970 and amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, stood as under :

“130. *Commissioner competent to perform any function or functions.*—(1) In respect of any function to be performed by a Commissioner under any provision of this Act in relation to an assessee, the Commissioner referred to therein shall,—

(a) in a case where only one Commissioner has jurisdiction over such assessee, be such Commissioner;

(Contd. on p. 1.510)

Income-tax Officer competent to perform any function or functions.

³⁵**130A.** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Original section was inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.]

C.—Powers

Power regarding discovery, production of evidence, etc.

³⁶**131.** (1) The ³⁷[Assessing] Officer, ³⁸[Deputy Commissioner (Appeals)], ³⁹[Joint Commissioner] ⁴⁰[, Commissioner (Appeals)] and ⁴¹[Chief Commissioner or Commissioner] shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(Contd. from p. 1.509)

- (b) in a case where two or more Commissioners have concurrent jurisdiction over such assessee, be the Commissioner empowered to perform such function by the Board.
- (2) Subject to the provisions of sub-section (1), for the purposes of sections 132, 253, 254, 256, 263 and 264, the Commissioner referred to therein shall, in relation to an assessee, be the Commissioner having for the time being jurisdiction over the assessee.”
35. Prior to its omission, section 130A, as amended by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975, stood as under :

“130A. *Income-tax Officer competent to perform any function or functions.*—In respect of any function to be performed by an Income-tax Officer under any provision of this Act in relation to an assessee, the Income-tax Officer referred to therein shall,—

 - (a) in a case where only one Income-tax Officer has jurisdiction over such assessee, be such Income-tax Officer;
 - (b) in a case where two or more Income-tax Officers have concurrent jurisdiction over such assessee, be the Income-tax Officer empowered to perform such function by the Board or, as the case may be, the Income-tax Officer to whom such function has been assigned by an order of the Commissioner or of the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf;
 - (c) in a case where two or more Income-tax Officers have concurrent jurisdiction over such assessee in relation to any function, be the Income-tax Officers empowered to perform such function by the Board or, as the case may be, the Income-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Inspecting Assistant Commissioner under sub-section (2) of section 124 or, as the case may be, under sub-section (2) of section 125A.”
36. See also Circular No. 8-D (LXXVI-22), dated 13-5-1958. For details, see Taxmann’s Master Guide to Income-tax Act.
- For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.
37. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
38. Substituted for “Appellate Assistant Commissioner”, *ibid*.
39. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
40. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.
41. Substituted for “Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

- (c) compelling the production of books of account and other documents;
and
- (d) issuing commissions.

⁴²[(1A) ⁴³[If the Director General or Director or ⁴⁴[Joint] Director or Assistant Director ⁴⁵[or Deputy Director], or the authorised officer referred to in sub-section (1) of section 132 before he takes action under clauses (i) to (v) of that sub-section,] has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purposes of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other income-tax authority.]

⁴⁶(2) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) ⁴⁷[or sub-section (1A)] may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act :

Provided that an ⁴⁸[Assessing] Officer ⁴⁹[or an ⁵⁰[Assistant Director ⁴⁵[or Deputy Director]]] shall not—

- (a) impound any books of account or other documents without recording his reasons for so doing, or
- (b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the ⁵¹[⁵²[Chief Commissioner or Director General or Commissioner or Director therefor, as the case may be.]]

42. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

43. Substituted for “If the Assistant Director of Inspection” by the Finance Act, 1988, w.e.f. 1-6-1988.

44. Substituted for “Deputy” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

45. Inserted, *ibid.*

46. Prior to its omission, sub-section (2) stood as under :

“(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the income-tax authority may impose upon him such fine not exceeding five hundred rupees as it thinks fit, and the fine so levied may be recovered in the manner provided in Chapter XVII-D.”

47. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

48. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

49. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

50. Substituted for “Assistant Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

51. Substituted for “Commissioner”, *ibid.*

52. Substituted for “Chief Commissioner or Commissioner therefor” by the Finance Act, 1988, w.e.f. 1-6-1988.

⁵³[Search and seizure.

⁵⁴132. ⁵⁵(1) Where the ⁵⁶[Director General or Director] or the ⁵⁷[Chief Commissioner or Commissioner] ⁵⁸[or any such ⁵⁹[Joint Director] or ⁶⁰[Joint Commissioner] as may be empowered in this behalf by the Board], in consequence of information in his possession, has reason to believe that—

- (a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or
- (b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or
- (c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property ⁶¹[which has not been, or would not be, disclosed] for the

53. Substituted by the Income-tax (Amendment) Act, 1965, w.e.f. 12-3-1965. Earlier, section 132 was substituted by the Finance Act, 1964, w.e.f. 1-4-1964. Section 6 of the Amendment Act, 1965 has made the following independent provision:

“*Validation of certain searches made.*—Any search of a building or place by an Inspecting Assistant Commissioner or Income-tax Officer purported to have been made in pursuance of sub-section (1) of section 132 of the principal Act before the commencement of this Act shall be deemed to have been made in accordance with the provisions of that sub-section as amended by this Act as if those provisions were in force on the day the search was made and shall not be called in question before any court of law or any other authority merely on the ground—

- (i) that the Inspecting Assistant Commissioner or the Income-tax Officer made such search with the assistance of any other person; or
- (ii) that no proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or the principal Act was pending against the person concerned when the search was authorised under the said sub-section.”

54. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act. For charter of rights and duties of persons searched, see Taxmann’s Master Guide to Income-tax Act.

55. See rule 112(2)(a) and Form No. 45 for form of authorisation for search and seizure.

56. Substituted for “Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

57. Substituted for “Commissioner”, *ibid.*

58. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

59. Substituted for “Deputy Director” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Director” was substituted for “Deputy Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

60. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

61. Substituted for “which has not been disclosed” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

⁶²[then,—

- (A) the ⁶³[Director General or Director] or the ⁶⁴[Chief Commissioner or Commissioner], as the case may be, may authorise any ⁶⁵[Joint Director], ⁶⁶[Joint Commissioner], ⁶⁷[Assistant Director ⁶⁸[or Deputy Director]], ⁶⁹[Assistant Commissioner ⁶⁸[or Deputy Commissioner] or Income-tax Officer], or
- (B) such ⁶⁵[Joint Director], or ⁶⁶[Joint Commissioner], as the case may be, may authorise any ⁶⁷[Assistant Director ⁶⁸[or Deputy Director]], ⁶⁹[Assistant Commissioner ⁶⁸[or Deputy Commissioner] or Income-tax Officer],

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—]

- (i) enter and search any ⁷⁰[building, place, vessel, vehicle or aircraft] where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;
- (ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;
- ⁷¹[(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;]
- (iii) seize any such books of account, other documents, money, bullion,

62. Substituted for “he may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer (hereinafter referred to as the authorised officer) to—” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

63. Substituted for “Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

64. Substituted for “Commissioner”, *ibid.*

65. Substituted for “Deputy Director” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Director” was substituted for “Deputy Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

66. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

67. Substituted for “Assistant Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

68. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

69. Substituted for “or Income-tax Officer” by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

70. Substituted for “building or place” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

71. Inserted, *ibid.*

jewellery or other valuable article or thing found as a result of such search;

- (iv) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;
- (v) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing :

⁷²[**Provided** that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any ⁷³[Chief Commissioner or Commissioner], but such ⁷³[Chief Commissioner or Commissioner] has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c), then, notwithstanding anything contained in section ⁷⁴[120], it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the ⁷⁵[Chief Commissioner or Commissioner] having jurisdiction over such person may be prejudicial to the interests of the revenue :]

⁷⁶[**Provided further** that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iii).]

⁷⁷[(1A) Where any ⁷⁸[Chief Commissioner or Commissioner], in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the ⁷⁹[Director General or Director] or any other ⁸⁰[Chief Commissioner or Commissioner] or any such ⁸¹[Joint Director] or ⁸²[Joint Commissioner] as may be empowered in this behalf by the Board to take action under clauses (i) to (v) of sub-section (1) are or is kept

72. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975. See rule 112(2)(b) and Form No. 45A for form of authorisation for search and seizure.

73. Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

74. Substituted for "121" by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

75. Substituted for "Commissioner", *ibid*.

76. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

77. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975. See rule 112(2)(c) and Form No. 45B.

78. Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

79. Substituted for "Director of Inspection", *ibid*.

80. Substituted for "Commissioner", *ibid*.

81. Substituted for "Deputy Director" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "Deputy Director" was substituted for "Deputy Director of Inspection" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

82. Substituted for "Deputy Commissioner" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "Deputy Commissioner" was substituted for "Inspecting Assistant Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such ⁸³[Chief Commissioner or Commissioner] may, notwithstanding anything contained in section ⁸⁴[120], authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.]

(2) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) ⁸⁵[or sub-section (1A)] and it shall be the duty of every such officer to comply with such requisition.

(3) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, ⁸⁶[for reasons other than those mentioned in the second proviso to sub-section (1),] serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

⁸⁷[*Explanation.*—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iii) of sub-section (1).]

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

⁸⁸[*Explanation.*—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.]

⁸⁹[(4A) 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, it may 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 ;

83. Substituted for “Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

84. Substituted for “121” by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

85. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

86. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

87. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

88. Inserted, *ibid*.

89. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

- (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.]

⁹⁰(5) ⁹¹[Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) is seized under sub-section (1) or sub-section (1A), ⁹²as a result of a search initiated or requisition made before the 1st day of July, 1995,] the Income-tax Officer, after affording a reasonable opportunity to the person concerned of being heard and making such enquiry as may be prescribed⁹³, shall, within ⁹⁴[one hundred and twenty] days of the seizure, make an order, with the previous approval of the ⁹⁵[Joint Commissioner],—]

- (i) estimating the undisclosed income (including the income from the undisclosed property) in a summary manner to the best of his judgment on the basis of such materials as are available with him ;
- (ii) calculating the amount of tax on the income so estimated in accordance with the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act ;

⁹⁶[(*ia*) determining the amount of interest payable and the amount of penalty imposable in accordance with the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act, as if the order had been the order of regular assessment ;]

- (*ii*) specifying the amount that will be required to satisfy any existing liability under this Act and any one or more of the Acts specified in clause (a) of sub-section (1) of section 230A in respect of which such person is in default or is deemed to be in default,

and retain in his custody such assets/or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in clauses (ii), ⁹⁷[(*ia*)] and (*ii*) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized :

⁹⁰. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

⁹¹. Substituted for the opening words beginning with "Where any money," and ending with "approval of the Commissioner,—" by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

⁹². Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

⁹³. *See* rules 112A and 112B.

⁹⁴. Substituted for "ninety" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

⁹⁵. Substituted for "Deputy Commissioner" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "Deputy Commissioner" was substituted for "Inspecting Assistant Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

⁹⁶. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

⁹⁷. Inserted, *ibid*.

Provided that if, after taking into account the materials available with him, the Income-tax Officer is of the view that it is not possible to ascertain to which particular previous year or years such income or any part thereof relates, he may calculate the tax on such income or part, as the case may be, as if such income or part were the total income chargeable to tax at the rates in force in the financial year in which the assets were seized ⁹⁸[and may also determine the interest or penalty, if any, payable or imposable accordingly] :

Provided further that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (ii), ⁹⁹[(*ii*a)] and (iii) or any part thereof, the Income-tax Officer may, with the previous approval of the ¹[Chief Commissioner or Commissioner], release the assets or such part thereof as he may deem fit in the circumstances of the case.

(6) The assets retained under sub-section (5) may be dealt with in accordance with the provisions of ²[section 132B].

(7) If the Income-tax Officer is satisfied that the seized assets or any part thereof were held by such person, for or on behalf of any other person, the Income-tax Officer may proceed under sub-section (5) against such other person and all the provisions of this section shall apply accordingly.

(8) The books of account or other documents seized under sub-section (1) ³[or sub-section (1A)] shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the ⁴[Chief Commissioner, Commissioner, Director General or Director] for such retention is obtained :

Provided that the ⁴[Chief Commissioner, Commissioner, Director General or Director] shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

⁵[(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded by him in writing, extends the period of operation of the order beyond sixty days, after obtaining the approval of the ⁶[Director or, as the case may be, Commissioner] for such extension :

Provided that the ⁶[Director or, as the case may be, Commissioner] shall not approve the extension of the period for any period beyond the expiry of thirty

98. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

99. Inserted, *ibid*.

1. Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

2. Substituted for "section 132A" by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

3. Inserted, *ibid*.

4. Substituted for "Chief Commissioner or Commissioner" by the Finance Act, 1997, w.r.e.f. 1-10-1996. Earlier "Chief Commissioner or Commissioner" was substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

5. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

6. Substituted for "Commissioner" by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

days after the completion of all the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.]

(9) The person from whose custody any books of account or other documents are seized under sub-section (1) ⁷[or sub-section (1A)] may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

⁸[(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents or assets seized under that sub-section shall be handed over by the authorised officer to the Income-tax Officer having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Income-tax Officer.]

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) ⁸[or sub-section (1A)] objects for any reason to the approval given by the ⁹[Chief Commissioner, Commissioner, Director General or Director] under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents.

(11) If any person objects for any reason to an order made under sub-section (5), he may, within thirty days of the date of such order, make an application to ¹⁰[the ¹¹[Chief Commissioner or Commissioner]], stating therein the reasons for such objection and requesting for appropriate relief in the matter.

¹²[(11A) Every application referred to in sub-section (11) which is pending immediately before the 1st day of October, 1984, before an authority notified under that sub-section as it stood immediately before that day shall stand transferred on that day to the ¹¹[Chief Commissioner or Commissioner], and the ¹¹[Chief Commissioner or Commissioner] may proceed with such application from the stage at which it was on that day :

Provided that the applicant may demand that before proceeding further with the application, he be reheard.]

(12) On receipt of the application under sub-section (10) the Board, or on receipt of the application under sub-section (11) ¹³[the ¹⁴[Chief Commissioner or

7. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

8. Inserted, *ibid*.

9. Substituted for "Chief Commissioner or Commissioner" by the Finance Act, 1997, w.r.e.f. 1-10-1996. Earlier "Chief Commissioner or Commissioner" was substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

10. Substituted for "such authority, as may be notified in this behalf by the Central Government in the Official Gazette hereafter in this section referred to as the notified authority" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

11. Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

12. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

13. Substituted for "the notified authority" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

14. Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

Commissioner]], may, after giving the applicant an opportunity of being heard, pass such orders as it ¹⁵[or he] thinks fit.

¹⁶[(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).]

¹⁷(14) The Board may make rules in relation to any search or seizure under this section ; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

- (i) for obtaining ingress into ¹⁸[any building, place, vessel, vehicle or aircraft] to be searched where free ingress thereto is not available ;
- (ii) for ensuring safe custody of any books of account or other documents or assets seized.

Explanation 1.—In computing ¹⁹[the period referred to in sub-section (5) for the purposes of that sub-section], any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Explanation 2.—In this section, the word “proceeding” means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.]

²⁰[**Powers to requisition books of account, etc.**

²¹**132A.** ²²(1) Where the ²³[Director General or Director] or the ²⁴[Chief Commissioner or Commissioner], in consequence of information in his possession, has reason to believe that—

- (a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to

15. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

16. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

17. See rules 112, 112A and 112B.

18. Substituted for “such building or place” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

19. Substituted for “the period of one hundred and twenty days for the purposes of sub-section (5)” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Earlier, it was amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

20. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

21. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

22. See rule 112D and Form No. 45C for form of authorisation under section 132A(1).

23. Substituted for “Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

24. Substituted for “Commissioner”, *ibid.*

produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

- (b) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or
- (c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

then, the ²⁵[Director General or Director] or the ²⁶[Chief Commissioner or Commissioner] may authorise any ²⁷[Joint Director], ²⁸[Joint Commissioner], ²⁹[Assistant Director ³⁰[or Deputy Director]], ³¹[Assistant Commissioner ³⁰[or Deputy Commissioner] or Income-tax Officer] (hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer) to require the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

(2) On a requisition being made under sub-section (1), the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(3) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) (both

25. Substituted for "Director of Inspection" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

26. Substituted for "Commissioner", *ibid*.

27. Substituted for "Deputy Director" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "Deputy Director" was substituted for "Deputy Director of Inspection" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

28. Substituted for "Deputy Commissioner" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "Deputy Commissioner" was substituted for "Inspecting Assistant Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

29. Substituted for "Assistant Director of Inspection" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

30. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

31. Substituted for "or Income-tax Officer" by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of this section and as if for the words “the authorised officer” occurring in any of the aforesaid sub-sections (4A) to (14), the words “the requisitioning officer” were substituted.]

³²[**Application of retained assets.**

³³**132B.** (1) The assets retained under sub-section (5) of section 132 may be dealt with in the following manner, namely :—

- (i) ³⁴The amount of the existing liability referred to in clause (iii) of the said sub-section and the amount of the liability determined on completion of the regular assessment or reassessment for all the assessment years relevant to the previous years to which the income referred to in clause (i) of that sub-section relates ³⁵[(including any penalty levied or interest payable in connection with such assessment or reassessment)] and in respect of which he is in default or is deemed to be in default may be recovered out of such assets.
- (ii) If the assets consist solely of money, or partly of money and partly of other assets, the ³⁶[Assessing] Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liability to the extent of the money so applied.
- (iii) The assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by ³⁷[the Assessing Officer or, as the case may be, Tax Recovery Officer] under authorisation from the ³⁸[Chief Commissioner or Commissioner] under sub-section (5) of section 226 and ³⁹[the Assessing Officer or, as the case may be, Tax Recovery Officer] may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule.

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

⁴⁰(3) Any assets or proceeds thereof which remain after the liabilities referred to

32. Inserted as section 132A by the Income-tax (Amendment) Act, 1965, w.e.f. 12-3-1965 and renumbered as “132B” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

33. For relevant case laws, *see* Taxmann’s Master Guide to Income-tax Act.

34. *See* rule 112C.

35. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

36. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

37. Substituted for “the Income-tax Officer”, *ibid.*, w.e.f. 1-4-1989.

38. Substituted for “Commissioner”, *ibid.*, w.e.f. 1-4-1988.

39. Substituted for “the Income-tax Officer”, *ibid.*, w.e.f. 1-4-1989.

40. *See* rule 112C.

in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

⁴¹(4) (a) The Central Government shall pay simple interest at the rate of ⁴²[fifteen] per cent per annum on the amount by which the aggregate of money retained under section 132 and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (iii) of sub-section (5) of that section exceeds the aggregate of the amounts required to meet the liabilities referred to in clause (i) of sub-section (1) of this section.

(b) Such interest shall run from the date immediately following the expiry of the period of six months from the date of the order under sub-section (5) of section 132 to the date of the regular assessment or reassessment referred to in clause (i) of sub-section (1) or, as the case may be, to the date of last of such assessments or reassessments.]

Power to call for information.

⁴³133. The ⁴⁴[Assessing] Officer, the ⁴⁵[Deputy Commissioner (Appeals),] ⁴⁶[the ⁴⁷[Joint Commissioner] or the Commissioner (Appeals)] may, for the purposes of this Act,—

- (1) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares ;
- (2) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family ;
- (3) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses ;
- (4) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head “Salaries” amounting to

41. See rule 119A.

42. Substituted for “twelve” by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 ; section 84 of the Amendment Act has clarified that the increase in the rate of interest will apply in respect of any period falling after 30-9-1984 and also in those cases where the interest became chargeable or payable from an earlier date. Earlier, “twelve” was substituted for “nine” by the Finance Act, 1972, w.e.f. 1-4-1972 ; “nine” was substituted for “six” by the Taxation Laws (Amendment) Act, 1967, w.e.f. 1-10-1967.

43. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

44. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

45. Substituted for “Appellate Assistant Commissioner”, *ibid*.

46. Substituted for “or the Inspecting Assistant Commissioner” by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

47. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

- more than ⁴⁸[one thousand rupees, or such higher amount as may be prescribed], together with particulars of all such payments made ;
- (5) require any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts ;
- (6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the ⁴⁹[Assessing] Officer, the ⁵⁰[Deputy Commissioner (Appeals)] ⁵¹], the ⁵²[Joint Commissioner] or the Commissioner (Appeals)], giving information in relation to such points or matters as, in the opinion of the ⁴⁹[Assessing] Officer, the ⁵⁰[Deputy Commissioner (Appeals)] ⁵¹], the ⁵²[Joint Commissioner] or the Commissioner (Appeals)], will be useful for, or relevant to, any ⁵³[enquiry or] proceeding under this Act :

⁵⁴[**Provided** that the powers referred to in clause (6), may also be exercised by the Director-General, the Chief Commissioner, the Director and the Commissioner :]

⁵⁵[**Provided further** that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of Director or Commissioner without the prior approval of the Director or, as the case may be, the Commissioner.]

⁵⁶[**Power of survey.**

⁵⁷**133A.** (1) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter—

- (a) any place within the limits of the area assigned to him, or

48. Substituted for “four hundred rupees” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

49. Substituted for “Income-tax”, *ibid.*, w.e.f. 1-4-1988.

50. Substituted for “Appellate Assistant Commissioner”, *ibid.*

51. Substituted for “or the Inspecting Assistant Commissioner” by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

52. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

53. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

54. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

55. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

56. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975. Original section was inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

57. See also Circular No. 7-D(LXIII-7), dated 3-5-1967. For details, see Taxmann’s Master Guide to Income-tax Act.

For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

(b) any place occupied by any person in respect of whom he exercises jurisdiction,⁵⁸[or]

⁵⁸[(c) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,]

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession—

- (i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,
- (ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and
- (iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation.—For the purposes of this sub-section, a place where a business or profession is carried on shall also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept.

(2) An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

(3) An income-tax authority acting under this section may,—

- (i) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,
- (ii) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,
- (iii) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act.

(4) An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

(5) Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the income-

58. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.

(6) If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the income-tax authority shall have all the powers under ⁵⁹[sub-section (1) of section 131] for enforcing compliance with the requirement made.

Explanation.—In this section,—

- (a) “income-tax authority” means ⁶⁰[a Commissioner,] a ⁶¹[Joint Commissioner], ⁶⁰[a Director, a ⁶²[Joint] Director,] an ⁶³[Assistant Director ⁶⁴[or Deputy Director]] or an ^{64a}[Assessing] Officer, and for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3) and sub-section (5), includes an Inspector of Income-tax, ⁶⁵[if so authorised by any such authority] ;
- (b) “proceeding” means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.]

⁶⁶[**Power to collect certain information.**

133B. (1) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may, for the purpose of collecting any information which may be useful for, or relevant to, the purposes of this Act, enter—

- (a) any building or place within the limits of the area assigned to such authority ; or
- (b) any building or place occupied by any person in respect of whom he exercises jurisdiction,

59. Substituted for “sub-sections (1) and (2) of section 131” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

60. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

61. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

62. Substituted for “Deputy” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

63. Substituted for “Assistant Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

64. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

64a. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

65. Substituted for “if so authorised by the Income-tax Officer”, *ibid.*, w.e.f. 1-4-1989.

66. Inserted by the Finance Act, 1986, w.e.f. 13-5-1986.

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to furnish such information as may be prescribed⁶⁷.

(2) An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession.

(3) For the removal of doubts, it is hereby declared that an income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

Explanation.—In this section, “income-tax authority” means a ⁶⁸[Joint Commissioner], an ⁶⁹[Assistant Director] ⁷⁰[or Deputy Director] or an ⁷¹[Assessing] Officer, and includes an Inspector of Income-tax who has been authorised by the ⁷¹[Assessing] Officer to exercise the powers conferred under this section in relation to the area in respect of which the ⁷¹[Assessing] Officer exercises jurisdiction or part thereof.]

Power to inspect registers of companies.

134. The ⁷¹[Assessing] Officer, the ⁷²[Deputy Commissioner (Appeals)], ⁷³[the ⁷⁴[Joint Commissioner] or the Commissioner (Appeals)], or any person subordinate to him authorised in writing in this behalf by the ⁷¹[Assessing] Officer, the ⁷²[Deputy Commissioner (Appeals)], ⁷³[the ⁷⁴[Joint Commissioner] or the Commissioner (Appeals)], may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

67. See rule 112E and Form No. 45D for form of information required to be furnished under section 133B(1).

68. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

69. Substituted for “Assistant Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

70. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

71. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

72. Substituted for “Appellate Assistant Commissioner”, *ibid*.

73. Substituted for “or the Inspecting Assistant Commissioner” by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

74. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

Power of ⁷⁵[Director General or Director], ⁷⁶[Chief Commissioner or Commissioner] and ^{76a}[Joint Commissioner].

135. The ⁷⁵[Director General or Director], the ⁷⁶[Chief Commissioner or Commissioner] and the ^{76a}[Joint Commissioner] shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an ⁷⁷[Assessing] Officer has under this Act in relation to the making of enquiries.

Proceedings before income-tax authorities to be judicial proceedings.

⁷⁸**136.** Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860) ⁷⁹[and every income-tax authority shall be deemed to be a Civil Court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)].

D.—Disclosure of information

Disclosure of information prohibited.

137. [Omitted by the Finance Act, 1964, w.e.f. 1-4-1964.]

⁸⁰**[Disclosure of information respecting assesses.**

⁸¹**138.** ⁸²[(1)(a) The Board or any other income-tax authority specified by it by a general or special order in this behalf may furnish or cause to be furnished to—

- (i) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealings in ⁸³foreign exchange as defined in section 2(d) of the Foreign Exchange Regulation Act, 1947 (7 of 1947)⁸⁴; or
- (ii) such officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify by notification⁸⁵ in the Official Gazette in this behalf,

75. Substituted for “Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

76. Substituted for “Commissioner”, *ibid.*

76a. Substituted for “Deputy Commissioner” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier “Deputy Commissioner” was substituted for “Inspecting Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

77. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

78. For relevant case laws, *see* Taxmann’s Master Guide to Income-tax Act.

79. Inserted by the Finance Act, 1985, with retrospective effect from 1-4-1974.

80. Substituted by the Finance Act, 1964, w.e.f. 1-4-1964.

81. For relevant case laws, *see* Taxmann’s Master Guide to Income-tax Act.

82. Substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

83. For definition of “foreign exchange”, *see* footnote 2 on p. 1.383 *ante*.

84. Since repealed and now the Foreign Exchange Regulation Act, 1973 (46 of 1973).

85. For specified income-tax/other authorities, *see* Taxmann’s Master Guide to Income-tax Act.

any such information⁸⁶[received or obtained by any income-tax authority in the performance of his functions under this Act], as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

(b) Where a person makes an application to the⁸⁷[Chief Commissioner or Commissioner] in the prescribed form⁸⁸ for any information relating to any assessee⁸⁹[received or obtained by any income-tax authority in the performance of his functions under this Act], the⁹⁰[Chief Commissioner or Commissioner] may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for⁹¹[***] and his decision in this behalf shall be final and shall not be called in question in any court of law.]

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the Central Government may, having regard to the practices and usages customary or any other relevant factors, by order notified⁹² in the Official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assesseees or except to such authorities as may be specified in the order.]

CHAPTER XIV

PROCEDURE FOR ASSESSMENT

Return of income.

⁹³**139.** ⁹⁴[(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the

86. Substituted for “relating to any assessee in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 (11 of 1922)” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

87. Substituted for “Commissioner”, *ibid.*, w.e.f. 1-4-1988.

88. See rule 113 and Form Nos. 46 to 49 for form of application to Commissioner for disclosure of information, form of information furnished by Commissioner and form of refusal to furnish information, respectively.

89. Substituted for “in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 (11 of 1922), on or after the 1st day of April, 1960” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

90. Substituted for “Commissioner”, *ibid.*, w.e.f. 1-4-1988.

91. “in respect of that assessment only” omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

92. For order notified under sub-section (2), see Taxmann’s Master Guide to Income-tax Act.

93. See also Circular No. 274, dated 28-6-1980, Circular No. 307, dated 23-6-1981, Circular No. 412, dated 2-3-1985, Circular No. 639, dated 13-11-1992, Circular No. 697, dated 16-12-1994 and Circular No. 709, dated 19-7-1995. For details, see Taxmann’s Master Guide to Income-tax Act.

For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

94. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, sub-section (1) as amended by the Finance Act, 1963, with retrospective effect from 1-4-1962, Taxation Laws (Amendment) Act, 1967, w.e.f. 1-10-1967, Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and Finance Act, 1972, w.e.f. 1-4-1972, stood as under :