

### Chapter not to apply to certain transfers.

**269UO.** The provisions of this Chapter shall not apply to or in relation to any immovable property where the agreement for transfer of such property is made by a person to his relative on account of natural love and affection, if a recital to that effect is made in the agreement for transfer.]

## CHAPTER XXI

### PENALTIES IMPOSABLE

#### Failure to furnish information regarding securities, etc.

<sup>23</sup>**270.** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

<sup>24</sup>[**Failure to furnish returns, comply with notices, concealment of income, etc.**

<sup>25</sup>**271.** (1) If the <sup>26</sup>[Assessing] Officer or the <sup>27</sup>[\*\*\*] <sup>28</sup>[Commissioner (Appeals)] in the course of any proceedings under this Act, is satisfied that any person—

(a) <sup>29</sup>[\* \* \*]

(b) has <sup>30</sup>[\* \* \*] failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 <sup>31</sup>[or fails to comply with a direction issued under sub-section (2A) of section 142], or

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23. Prior to its omission, section 270, as amended by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under :

“If any person fails to comply with a notice issued under sub-section (6) of section 94, the Assessing Officer may direct that such person shall pay by way of penalty a sum not exceeding five hundred rupees and by way of further penalty a like amount for every day after the infliction of such penalty during which the failure continues.”

24. Restored to its original version by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

25. See also relevant extracts of Minutes of 10th Meeting of DTAC held on 23-12-1967 and Circular No. 162, dated 24-3-1975 as amended by Circular No. 186, dated 23-12-1975. For details, see Taxmann’s Master Guide to Income-tax Act.

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

27. 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 and “or the” was inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

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

29. Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its omission, clause (a), as amended by the Finance Act, 1963, w.e.f. 28-4-1963 and Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under :

“(a) has failed to furnish the return of total income which he was required to furnish under sub-section (1) of section 139 or by notice given under sub-section (2) of section 139 or section 148 or has failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 139 or by such notice as the case may be, or”

30. “without reasonable cause” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

31. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

- (c) has concealed the particulars of his income or <sup>32</sup>[\* \* \*] furnished inaccurate particulars of such income,  
 he may direct that such person shall pay by way of penalty,—
- (i) <sup>33</sup>[\* \* \*]
- <sup>34</sup>[(ii) in the cases referred to in clause (b), in addition to any tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure ;]
- <sup>35</sup>[(iii) in the cases referred to in clause (c), in addition to any tax payable by him, a sum which shall not be less than, but which shall not exceed <sup>36</sup>[three times], the amount of tax sought to be evaded by reason of the concealment of particulars of his income or the furnishing of inaccurate particulars of such income :  
<sup>37</sup>[\* \* \*]

32. “deliberately” omitted by the Finance Act, 1964, w.e.f. 1-4-1964.

33. Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its omission, clause (i), as substituted by the Direct Taxes (Amendment) Act, 1974, with retrospective effect from 1-4-1962 and Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under :

‘(i) in the cases referred to in clause (a),—

(a) in the case of a person referred to in sub-section (4A) of section 139, where the total income in respect of which he is assessable as a representative assessee does not exceed the maximum amount which is not chargeable to income-tax, a sum not exceeding one per cent of the total income computed under this Act without giving effect to the provisions of sections 11 and 12, for each year or part thereof during which the default continued ;

(b) in any other case, in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent of the assessed tax for every month during which the default continued.

*Explanation.* —In this clause “assessed tax” means tax as reduced by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C;’

34. Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its substitution, clause (ii) stood as under :

“(ii) in the cases referred to in clause (b), in addition to any tax payable by him, a sum which shall not be less than ten per cent but which shall not exceed fifty per cent of the amount of the tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income ;”

35. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Original clause (iii) was substituted by the Finance Act, 1968, w.e.f. 1-4-1968.

36. Substituted for “twice” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

37. Omitted, *ibid.* Prior to its omission, proviso stood as under :

“**Provided** that, if in a case falling under clause (c), the amount of income (as determined by the Assessing Officer on assessment) in respect of which the particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees, the Assessing Officer shall not issue any direction for payment by way of penalty without the previous approval of the Deputy Commissioner.”

<sup>38</sup>[*Explanation 1*.—Where in respect of any facts material to the computation of the total income of any person under this Act,—

- (A) such person fails to offer an explanation or offers an explanation which is found by the <sup>39</sup>[Assessing] Officer or the <sup>40</sup>[\*\*\*] <sup>41</sup>[Commissioner (Appeals)] to be false, or
- (B) such person offers an explanation which he is not able to substantiate <sup>42</sup>[and fails to prove that such explanation is *bona fide* and that all the facts relating to the same and material to the computation of his total income have been disclosed by him],

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

<sup>43</sup>[\* \* \*]

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

38. Substituted for *Explanation* by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Original *Explanation* was inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

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

40. 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 and “or the” was inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

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

42. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

43. Proviso omitted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986. Prior to its omission, the proviso stood as under :

“**Provided** that nothing contained in this *Explanation* shall apply to a case referred to in clause (B) in respect of any amount added or disallowed as a result of the rejection of any explanation offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of his total income have been disclosed by him.”

sufficient to cover the utilised amount, that part of the amount so added or deducted in the year immediately preceding the first preceding year which is sufficient to cover such part of the utilised amount as is not so covered shall be treated to be the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the year immediately preceding the first preceding year and so on, until the entire utilised amount is covered by the amounts so added or deducted in such earlier assessment years.

<sup>44</sup>[*Explanation 3*.—Where any person who has not previously been assessed under this Act, fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the period aforesaid, no notice has been issued to him under clause (i) of sub-section (1) of section 142 or section 148 and the Assessing Officer or the <sup>45</sup>[\*\*\*] Commissioner (Appeals) is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.]

*Explanation 4*.—For the purposes of clause (iii) of this sub-section, the expression “the amount of tax sought to be evaded”,—

- (a) in any case where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished exceeds the total income assessed, means the tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income ;
- (b) in any case to which *Explanation 3* applies, means the tax on the total income assessed ;

44. Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its substitution, *Explanation 3*, as amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under :

“*Explanation 3*.—Where any person who has not previously been assessed under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, fails, without reasonable cause, to furnish within the period specified in sub-clause (iii) of clause (a) of sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the first day of April, 1974, and, until the expiry of the period aforesaid, no notice has been issued to him under sub-section (2) of section 139 or section 148 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.”

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

(c) in any other case, means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished.]

<sup>46</sup>[*Explanation 5*.—Where in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

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

(b) for any previous year which is to end on or after the date of the search, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income, <sup>47</sup>[unless,—

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

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

(ii) in a case falling under clause (b), on or before such date, in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the <sup>48</sup>[Chief Commissioner or Commissioner] before the said date ; or

(2) he, in the course of the search, makes a statement under sub-section (4) of section 132 that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control, has been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of time specified in <sup>49</sup>[\* \* \*] sub-section (1) of section 139, and also specifies in the

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

47. Substituted for the following by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986 :

“unless such income is, or the transactions resulting in such income are, recorded—

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

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

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Commissioner before the said date.”

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

49. “clause (a) or clause (b) of” omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

statement the manner in which such income has been derived and pays the tax, together with interest, if any, in respect of such income.]

<sup>50</sup>[*Explanation 6*.—Where any adjustment is made in the income or loss declared in the return under the proviso to clause (a) of sub-section (1) of section 143 and additional tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustment so made.]

<sup>51</sup>[(1A) Where any penalty is imposable by virtue of *Explanation 2* to sub-section (1), proceedings for the imposition of such penalty may be initiated notwithstanding that any proceedings under this Act in the course of which such penalty proceedings could have been initiated under sub-section (1) have been completed.

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

<sup>52</sup>(3) [Omitted by the *Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989*.]

(4) If the <sup>53</sup>[Assessing] Officer or the <sup>54</sup>[\*\*\*] <sup>55</sup>[Commissioner (Appeals)] in the course of any proceedings under this Act, is satisfied that the profits of a

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

51. Inserted by the *Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976*.

52. Prior to its omission, sub-section (3), as amended by the *Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976*, stood as under :

“(3) Notwithstanding anything contained in this section,—

- (a) no penalty for failure to furnish the return of his total income under sub-section (1) of section 139 shall be imposed under sub-section (1) on an assessee whose total income does not exceed the maximum amount not chargeable to tax in his case by one thousand five hundred rupees ;
- (b) where a person has failed to comply with a notice under sub-section (2) of section 139 or section 148 and proves that he has no income liable to tax, the penalty imposable under sub-section (1) shall not exceed twenty-five rupees;
- (c) no penalty shall be imposed under sub-section (1) upon any person assessable under clause (i) of sub-section (1) of section 160, read with section 161, as the agent of a non-resident for failure to furnish the return under sub-section (1) of section 139;
- (d) the penalty imposed under clause (i) of sub-section (1) and the penalty imposed under clause (iii) of that sub-section, read with *Explanation 3* thereto, shall not exceed in the aggregate twice the amount of the tax sought to be evaded:

**Provided** that nothing contained in clause (a) or clause (b) shall apply to a case referred to in sub-clause (a) of clause (i) of sub-section (1).”

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

54. 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* and “or the” was inserted by the *Finance (No. 2) Act, 1977, w.e.f. 10-7-1978*.

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

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

(4A) and (4B) [*Omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975. Original sub-sections (4A) and (4B) were inserted by the Income-tax (Amendment) Act, 1965, w.e.f. 12-3-1965. Later on sub-section (4A) was substituted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.*]

<sup>56</sup>[(5) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

<sup>57</sup>[**Failure to keep, maintain or retain books of account, documents, etc.**

**271A.** Without prejudice to the provisions of section 271, if any person <sup>58</sup>[\*\*\*] fails to keep and maintain any such books of account and other documents as required by section 44AA or the rules made thereunder, in respect of any previous year or to retain such books of account and other documents for the period specified in the said rules, the <sup>59</sup>[Assessing] Officer or the <sup>60</sup>[\*\*\*] <sup>61</sup>[Commissioner (Appeals)] may direct that such person shall pay, by way of penalty, <sup>62</sup>[a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees].]

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

57. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

58. “, without reasonable cause,” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

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

60. 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 and “or the” was inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

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

62. Substituted for “a sum which shall not be less than ten per cent but which shall not exceed fifty per cent of the amount of the tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

**<sup>63</sup>[Failure to get accounts audited.]**

**271B.** If any person fails <sup>64</sup>[\*\*\*] to get his accounts audited in respect of any previous year or years relevant to an assessment year or <sup>65</sup>[furnish a report of such audit as required under section 44AB], the <sup>66</sup>[Assessing] Officer may direct that such person shall pay, by way of penalty, a sum equal to one-half per cent of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such previous year or years or a sum of one hundred thousand rupees, whichever is less.]

**<sup>67</sup>[Failure to subscribe to the eligible issue of capital.]**

**271BB.** Whoever fails to subscribe any amount of subscription to the units issued under any scheme referred to in sub-section (1) of section 88A<sup>68</sup> to the eligible issue of capital under that sub-section within the period of six months specified therein, may be directed by the <sup>69</sup>[Joint] Commissioner to pay, by way of penalty, a sum equal to twenty per cent of such amount.]

**<sup>70</sup>[Penalty for failure to deduct tax at source.]**

**271C.** <sup>71</sup>(1) If any person fails to—

- (a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or
- (b) pay the whole or any part of the tax as required by or under—
  - (i) sub-section (2) of section 115-O; or
  - (ii) the second proviso to section 194B,

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

63. Inserted by the Finance Act, 1984, w.e.f. 1-4-1985.

64. “, without reasonable cause,” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

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

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

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

68. Section 88A has been omitted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1994.

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

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

71. Substituted by the Finance Act, 1997, w.e.f. 1-6-1997. Prior to its substitution, sub-section (1), as inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and amended by the Finance Act, 1990, w.e.f. 1-4-1990, read as under :

“(1) If any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B, he shall be liable to pay, by way of penalty, a sum equal to the amount of the tax which he failed to deduct as aforesaid.”



<sup>72</sup>[(2) Any penalty imposable under sub-section (1) shall be imposed by the  
<sup>73</sup>[Joint] Commissioner.]

<sup>74</sup>[**Penalty for failure to comply with the provisions of section 269SS.**

**271D.** <sup>75</sup>[(1) If a person takes or accepts any loan or deposits in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so taken or accepted.]

<sup>76</sup>[(2) Any penalty imposable under sub-section (1) shall be imposed by the  
<sup>73</sup>[Joint] Commissioner.]

<sup>77</sup>[**Penalty for failure to comply with the provisions of section 269T.**

**271E.** <sup>78</sup>[(1) If a person repays any deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the deposit so repaid.]

<sup>79</sup>[(2) Any penalty imposable under sub-section (1) shall be imposed by the  
<sup>80</sup>[Joint] Commissioner.]

<sup>81</sup>[**Penalty for failure to furnish return of income.**

**271F.** *If a person who is required to furnish a return of his income, as required under sub-section (1) of section 139, fails to furnish such return before the end of the relevant assessment year, he shall be liable to pay, by way of penalty, a sum of one thousand rupees :*

**Provided** *that a person who is required to furnish a return of his income, as required by the proviso to sub-section (1) of section 139, fails to furnish such return on or before the due date, he shall be liable to pay, by way of penalty, a sum of five hundred rupees.]*

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

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

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

75. Numbered as sub-section (1) by the Finance Act, 1990, w.e.f. 1-4-1990.

76. Inserted, *ibid.*

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

78. Numbered as sub-section (1) by the Finance Act, 1990, w.e.f. 1-4-1990.

79. Inserted, *ibid.*

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

81. Substituted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**. Prior to its substitution, section 271F, as inserted by the Finance Act, 1997, w.e.f. 1-4-1997, read as under :

*"271F. Penalty for failure to furnish return of income.—If a person who is required to furnish a return of his income as required by the proviso to sub-section (1) of section 139 fails to furnish such return on or before the due date, he shall be liable to pay by way of penalty, a sum of five hundred rupees."*

**Failure to give notice of discontinuance.**

<sup>82</sup>272. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

<sup>83</sup>[Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.]

272A. (1) If any person,—

- (a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or
- (b) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or
- (c) to whom a summons is issued under sub-section (1) of section 131 either to attend to give evidence or produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the place or time; or
- (d) fails to comply with the provisions of section 139A,

82. Prior to its omission, section 272 stood as under:

“Where any person fails to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176, the Assessing Officer may direct that a sum shall be recovered from him by way of penalty which shall not be less than 10 per cent of the tax but which shall not exceed the amount of tax subsequently assessed on him in respect of any income of the business or profession up to the date of its discontinuance.”

83. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, section 272A, as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and later on amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, Finance Act, 1982, w.e.f. 1-6-1982, Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986 and Finance Act, 1987, w.e.f. 1-6-1987, stood as under:

“272A. *Penalty for failure to answer questions, sign statements, allow inspections, etc.*—

(1) If any person,—

- (a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by an Assessing Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner or a Commissioner (Appeals) or a Chief Commissioner or Commissioner in the exercise of his powers under this Act; or
- (b) refuses to sign any statement made by him in the course of any proceeding under this Act which an Assessing Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner or a Commissioner (Appeals) or a Chief Commissioner or Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(2) If a person fails,—

- (a) to furnish in due time any of the returns or statements mentioned in section 133, section 206 or section 285B; or
- (b) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or
- (ba) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or

(Contd. on p. 1.776)

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure.

(2) If any person fails—

- (a) to comply with a notice issued under sub-section (6) of section 94; or
- (b) to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176; or
- (c) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206<sup>84</sup>[\*\*\*]<sup>85</sup>[or section 206C] or section 285B; or
- (d) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or
- (e) to furnish the return of income which he is required to furnish under sub-section (4A) of section 139 or to furnish it within the time allowed and in the manner required under that sub-section; or
- (f) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or
- (g) to furnish a certificate as required by section 203<sup>85</sup>[or section 206C]; or
- (h) to deduct and pay tax as required by sub-section (2) of section 226;

he shall pay, by way of penalty, a sum<sup>85a</sup>[of one hundred rupees] for every day during which the failure continues:

(Contd. from p. 1.775)

(c) to furnish a certificate as required by section 203; or

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

he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

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

- (a) in a case where the contravention, failure or default in respect of which such penalty is imposed occurs in the course of any proceeding before the Chief Commissioner or Commissioner or the Commissioner (Appeals) or the Deputy Commissioner (Appeals), by the Chief Commissioner or Commissioner or the Commissioner (Appeals) or, as the case may be, the Deputy Commissioner (Appeals);
- (aa) in a case falling under clause (ba) of sub-section (2), by the Chief Commissioner or Commissioner; and
- (b) in any other case, by the Deputy Commissioner.

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

84. Words “or section 206A or section 206B” omitted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

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

85a. Substituted for “which shall not be less than one hundred rupees, but which may extend to two hundred rupees,” by the Finance Act, 1999, w.e.f. 1-6-1999.

<sup>85b</sup>[**Provided** that the amount of penalty for failures in relation to <sup>86</sup>[*a declaration mentioned in section 197A, a certificate as required by section 203 and*] returns under sections 206 and 206C shall not exceed the amount of tax deductible or collectible, as the case may be.]

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

- (a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not lower in rank than a <sup>87</sup>[Joint] Director or a <sup>87</sup>[Joint] Commissioner, by such income-tax authority;
- (b) in a case falling under clause (f) of sub-section (2), by the Chief Commissioner or Commissioner; and
- (c) in any other case, by the <sup>87</sup>[Joint] Director or the <sup>87</sup>[Joint] Commissioner.

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

*Explanation.*—In this section, “income-tax authority” includes a Director General, Director, <sup>87</sup>[Joint] Director and an Assistant Director <sup>88</sup>[or Deputy Director] while exercising the powers vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the matters specified in sub-section (1) of section 131.]

<sup>89</sup>[**Penalty for failure to comply with the provisions of section 133B.**

**272AA.** (1) If a person <sup>90</sup>[\*\*\*] fails to comply with the provisions of section 133B, he shall, on an order passed by the <sup>91</sup>[Joint Commissioner], <sup>92</sup>[Assistant Director] <sup>93</sup>[or Deputy Director] or the <sup>94</sup>[Assessing] Officer, as the case may be, pay, by way of penalty, a sum which may extend to one thousand rupees.

<sup>85b</sup>. Inserted by the Finance (No. 2) 1991, w.e.f. 1-10-1991.

<sup>86</sup>. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

<sup>87</sup>. Substituted for “Deputy” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

<sup>88</sup>. Inserted, *ibid*.

<sup>89</sup>. Inserted by the Finance Act, 1986, w.e.f. 13-5-1986.

<sup>90</sup>. “, without reasonable cause,” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

<sup>91</sup>. 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.

<sup>92</sup>. Substituted for “Assistant Director of Inspection” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

<sup>93</sup>. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

<sup>94</sup>. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

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

**Penalty for failure to comply with the provisions of section 139A.**

<sup>95</sup>**272B.** [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original section 272B was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.*]

<sup>96</sup>**[Penalty for failure to comply with the provisions of section 203A.**

**272BB.** (1) If a person fails to comply with the provisions of section 203A, he shall, on an order passed by the <sup>97</sup>[Assessing] Officer, pay, by way of penalty, a sum which may extend to five thousand rupees.

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

<sup>98</sup>**[False estimate of, or failure to pay, advance tax.**

**273.** <sup>99</sup>[(1) If the <sup>97</sup>[Assessing] Officer, in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee—

- (a) has furnished under clause (a) of sub-section (1) of section 209A a statement of the advance tax payable by him which he knew or had reason to believe to be untrue, or
- (b) has <sup>1</sup>[\*\*\*] failed to furnish a statement of the advance tax payable by him in accordance with the provisions of clause (a) of sub-section (1) of section 209A,

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

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

95. Prior to its omission, section 272B, as amended by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under:

“(1) If a person fails to comply with the provisions of section 139A, he shall, on an order passed by the Assessing Officer, pay, by way of penalty, a sum which may extend to five hundred rupees.

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

96. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987.

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

98. Substituted by the Finance Act, 1969, w.e.f. 1-4-1970.

99. Inserted by the Finance Act, 1978, w.e.f. 1-6-1978.

1. “, without reasonable cause,” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

- (1) seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215, or
- (2) the amount which would have been payable by way of advance tax if the assessee had furnished a correct and complete statement in accordance with the provisions of clause (a) of sub-section (1) of section 209A,

whichever is less;

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

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

<sup>3</sup>[(2)] If the <sup>4</sup>[Assessing] Officer, in the course of any proceedings in connection with the regular assessment for the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, is satisfied that any assessee—

- <sup>5</sup>[(a) has furnished under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5) of section 209A, or under sub-section (1) or sub-section (2) of section 212, an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or]
- <sup>6</sup>[(aa) has furnished <sup>6a</sup>[under sub-section (4) of section 209A or] under sub-section (3A) of section 212 an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or]
- (b) has <sup>7</sup>[\*\*\*] failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of <sup>8</sup>[clause (b) of sub-section (1) of section 209A], or
- (c) has <sup>9</sup>[\*\*\*] failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of <sup>10</sup>[sub-section (4) of section 209A or] sub-section (3A) of section 212,

2. Inserted by the Finance (No. 2) Act, 1980, w.e.f. 1-9-1980.

3. Inserted by the Finance Act, 1978, w.e.f. 1-6-1978.

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

5. Substituted by the Finance Act, 1978, w.e.f. 1-6-1978. Earlier, clause (a) was amended by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1977.

6. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-9-1977.

6a. Inserted by the Finance Act, 1978, w.e.f. 1-6-1978.

7. “without reasonable cause” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

8. Substituted for “sub-section (3) of section 212” by the Finance Act, 1978, w.e.f. 1-6-1978.

9. “without reasonable cause” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

10. Inserted by the Finance Act, 1978, w.e.f. 1-6-1978.

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

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

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

<sup>11</sup>[(2) where a statement under clause (a) of sub-section (1) of section 209A was furnished by the assessee or where a notice under section 210 was issued to the assessee, the amount payable under such statement or, as the case may be, such notice,]

whichever is less;

<sup>12</sup>[(ia) which, in the case referred to in clause (aa), shall not be less than ten per cent but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215;]

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

<sup>13</sup>[(iii) which, in the case referred to in clause (c), shall not be less than ten per cent but shall not exceed one and a half times the amount by which—

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

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

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

<sup>14</sup>[**Provided** that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words “seventy-five per cent”, wherever they occur, the words “eighty-three and one-third per cent” had been substituted.]

11. Substituted by the Finance Act, 1978, w.e.f. 1-6-1978.

12. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-9-1977.

13. Substituted by the Finance Act, 1978, w.e.f. 1-6-1978.

14. Inserted by the Finance (No. 2) Act, 1980, w.e.f. 1-9-1980.

<sup>15</sup>[*Explanation* <sup>16</sup>[1].—For the purposes of clause (ia), the amount paid by the assessee on or before the date extended by the <sup>17</sup>[Chief Commissioner or Commissioner] under the <sup>18</sup>[first] <sup>19</sup>[proviso to sub-section (4) of section 209A or, as the case may be,] <sup>18</sup>[first] proviso to sub-section (3A) of section 212 shall, where the date so extended falls beyond the financial year immediately preceding the assessment year, also be regarded as tax actually paid during that financial year.]

<sup>20</sup>[*Explanation* 2.—When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under this section shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.]

<sup>21</sup>[(3) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

<sup>22</sup>[**Power to reduce or waive penalty, etc., in certain cases.**

<sup>23</sup>**273A.** (1) Notwithstanding anything contained in this Act, the <sup>24</sup>[<sup>25</sup>\*\*\*] Commissioner] may, in his discretion, whether on his own motion or otherwise,—

(i) <sup>26</sup>\*\*\*]

(ii) reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section (1) of section 271 \*[: or]

15. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-9-1977.

16. Numbered as *Explanation 1* by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

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

18. Inserted by the Finance Act, 1981, w.e.f. 1-4-1981.

19. Inserted by the Finance Act, 1978, w.e.f. 1-6-1978.

20. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

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

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

23. See also Instruction No. 1417, dated 29-9-1981. For details, see Taxmann’s Master Guide to Income-tax Act.

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

25. Words “Chief Commissioner or” omitted by the Finance Act, 1993, w.e.f. 1-6-1993.

26. Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its omission, clause (i) stood as under:

“(i) reduce or waive the amount of penalty imposed or imposable on a person under clause (i) of sub-section (1) of section 271 for failure, without reasonable cause, to furnish the return of total income which he was required to furnish under sub-section (1) of section 139; or”

\*Should be deleted.



(iii) <sup>27</sup>[\*\*\*]

if he is satisfied that such person—

(a) <sup>28</sup>[\*\*\*]

(b) in the case referred to in clause (ii), has, prior to the detection by the <sup>29</sup>[Assessing] Officer, of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars;

(c) <sup>30</sup>[\*\*\*]

and also has, <sup>31</sup>[in the case referred to in clause (b)], co-operated in any enquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

*Explanation* <sup>32</sup>[\*\*\*].—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a nature as not to attract the provisions of clause (c) of sub-section (1) of section 271.

<sup>32</sup>[\*\*\*]

27. Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its omission, clause (iii) stood as under:

“(iii) reduce or waive the amount of interest paid or payable under sub-section (8) of section 139 or section 215 or section 217 or the penalty imposed or imposable under section 273,”

28. Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its omission, clause (a) stood as under:

“(a) in the case referred to in clause (i), has, prior to the issue of a notice to him under sub-section (2) of section 139, voluntarily and in good faith made full and true disclosure of his income;”

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

30. Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its omission, clause (c) stood as under:

“(c) in the cases referred to in clause (iii), has, prior to the issue of a notice to him under sub-section (2) of section 139, or where no such notice has been issued and the period for the issue of such notice has expired, prior to the issue of notice to him under section 148, voluntarily and in good faith made full and true disclosure of his income and has paid the tax on the income so disclosed,”

31. Substituted for “in all the cases referred to in clauses (a), (b) and (c)” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

32. “1” and *Explanation 2*, as inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, omitted by the Finance Act, 1985, w.e.f. 24-5-1985. Omitted *Explanation 2* read as under:

“*Explanation 2*.—Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to a person are seized under section 132 and within fifteen days of such seizure, the person makes a full and true disclosure of his income to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Income-tax Officer of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, a disclosure of such particulars.”

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

(a) <sup>33</sup>[\*\*\*]

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

no order reducing or waiving the penalty under sub-section (1) shall be made by <sup>34</sup>[the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be].

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

<sup>35</sup>[**Provided** that where an order has been made in favour of any person under sub-section (1) on or before the 24th day of July, 1991, such person shall be entitled to further relief only once in relation to other assessment year or years if he makes an application to the income-tax authority referred to in sub-section (4) at any time before the 1st day of April, 1992.]

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the <sup>36</sup><sup>37</sup>[\*\*\*] Commissioner] may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

- (i) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and
- (ii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him:

33. Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Prior to its omission, clause (a), as amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, stood as under:

“(a) if in a case the penalty imposed or imposable under clause (i) of sub-section (1) of section 271 or the minimum penalty imposable under section 273 for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate of the penalty imposed or imposable under the said clause or of the minimum penalty imposable under the said section for those years, exceeds a sum of one hundred thousand rupees, or”

34. Substituted for “the Chief Commissioner or Commissioner except with the previous approval of the Board” by the Finance Act, 1993, w.e.f. 1-6-1993. Earlier the words “Chief Commissioner or Commissioner” was substituted for “Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

35. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 27-9-1991.

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

37. Words “Chief Commissioner or” omitted by the Finance Act, 1993, w.e.f. 1-6-1993.

<sup>38</sup>[**Provided** that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by <sup>39</sup>[the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be]. (5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.]

<sup>40</sup>[(6) The provisions of this section <sup>41</sup>[as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989] shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

<sup>42</sup>[(7) Notwithstanding anything contained in sub-section (6), the provisions of sub-section (1), sub-section (2), or, as the case may be, sub-section (4) [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989)], shall apply in the case of reduction or waiver of penalty or interest in relation to any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year, with the modifications that the power under the said sub-section (1) shall be exercisable only by the Commissioner and instead of the previous approval of the Board, the Commissioner shall obtain the previous approval of the Chief Commissioner or Director General, as the case may be, while dealing with such case.]

<sup>43</sup>[**Penalty not to be imposed in certain cases.**

**273B.** Notwithstanding anything contained in the provisions of <sup>44</sup>[clause (b) of sub-section (1) of] <sup>45</sup>[section 271, section 271A, section 271B, <sup>46</sup>[section 271BB,] section 271C, section 271D, section 271E, <sup>47</sup>[section 271F,] clause (c) or

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

39. Substituted for "the Chief Commissioner or Commissioner except with the previous approval of the Board" by the Finance Act, 1993, w.e.f. 1-6-1993. Earlier the words "Chief Commissioner or Commissioner" was substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

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

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

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

43. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

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

45. Substituted for "section 270, clause (a) or clause (b) of sub-section (1) of section 271, section 271A, section 271B, sub-section (2) of section 272A, sub-section (1) of section 272AA, sub-section (1) of section 272B" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

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

47. Inserted by the Finance Act, 1997, w.e.f. 1-4-1997.

clause (d) of sub-section (1) or sub-section (2) of section 272A, sub-section (1) of section 272AA] or <sup>48</sup>[sub-section (1) of section 272BB or] clause (b) of sub-section (1) or clause (b) or clause (c) of sub-section (2) of section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.]

### Procedure.

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

<sup>49</sup>[(2) No order imposing a penalty under this Chapter shall be made—

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

(b) by the Assistant Commissioner <sup>50</sup>[or Deputy Commissioner], where the penalty exceeds twenty thousand rupees,

except with the prior approval of the <sup>51</sup>[Joint] Commissioner.]

<sup>52</sup>[(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.]

### <sup>53</sup>[Bar of limitation for imposing penalties.

**275.** <sup>54</sup>[(1)] No order imposing a penalty under this Chapter shall be passed—

<sup>55</sup>[(a) in a case where the relevant assessment or other order is the subject-

48. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987.

49. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original sub-section (2) which was amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, was omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1975.

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

51. Substituted for "Deputy", *ibid*.

52. Substituted by the Taxation Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, sub-section (3), as substituted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under:

"(3) A Deputy Commissioner (Appeals) or a Commissioner (Appeals), on making an order under this Chapter imposing a penalty, shall forthwith send a copy of the same to the Assessing Officer."

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

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

55. Substituted for clauses (a) and (b) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, clause (a) as amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under:

"(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under sub-section (2) of section 253, after the expiration of a period of—

(i) two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or

(Contd. on p. 1.786)

matter of an appeal to the <sup>56</sup>[\*\*\*] Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the <sup>57</sup>[\*\*\*] Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later;

- (b) in a case where the relevant assessment or other order is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;
- (c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.]

<sup>58</sup>[(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.]

<sup>59</sup>[*Explanation.*—In computing the period of limitation for the purposes of this section,—

- (i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;
- (ii) any period during which the immunity granted under section 245H remained in force; and
- (iii) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.]]

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(Contd. from p. 1.785)

(ii) six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner,

whichever period expires later;

- (b) in any other case, after the expiration of two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed.”

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

57. Words “Deputy Commissioner (Appeals) or the” omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier the quoted words were inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

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

59. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

**CHAPTER XXII****OFFENCES AND PROSECUTIONS**

<sup>60</sup>[**Contravention of order made under sub-section (3) of section 132.**

**275A.** Whoever contravenes any order referred to in <sup>61</sup>[the second proviso to sub-section (1) or] sub-section (3) of section 132 shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine.]

<sup>62</sup>[**Removal, concealment, transfer or delivery of property to thwart tax recovery.**

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

<sup>63</sup>[**Failure to comply with the provisions of sub-sections (1) and (3) of section 178.**

**276A.** If a person <sup>64</sup>[\*\*\*]—

- (i) fails to give the notice in accordance with sub-section (1) of section 178; or
- (ii) fails to set aside the amount as required by sub-section (3) of that section; or
- (iii) parts with any of the assets of the company or the properties in his hands in contravention of the provisions of the aforesaid sub-section,

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

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

60. Inserted by the Income-tax (Amendment) Act, 1965, w.e.f. 12-3-1965.

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

62. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original section, dealing with failure to make payment or deliver return, etc., as amended by the Finance Act, 1968, w.e.f. 1-4-1968 and the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, was omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

63. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

64. “, without reasonable cause or excuse,” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

**Failure to comply with the provisions of section 269AB or section 269-I.**

<sup>64a</sup>**276AA.** [*Omitted by the Finance Act, 1986, w.e.f. 1-10-1986. Original section was inserted by the Income-tax (Amendment) Act, 1981, w.e.f. 1-7-1982.*]

<sup>65</sup>[**Failure to comply with the provisions of sections 269UC, 269UE and 269UL.**

**276AB.** Whoever <sup>66</sup>[\*\*\*] fails to comply with the provisions of section 269UC or fails to surrender or deliver possession of the property under sub-section (2) of section 269UE or contravenes the provisions of sub-section (2) of section 269UL shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine:

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

<sup>67</sup>[**Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.**

**276B.** If a person fails to pay to the credit of the Central Government,—

- (a) the tax deducted at source by him as required by or under the provisions of Chapter XVII-B; or
- (b) the tax payable by him, as required by or under—
  - (i) sub-section (2) of section 115-O; or
  - (ii) the second proviso to section 194B,

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

<sup>64a</sup>. Omitted section 276AA stood as under:

“Whoever, without reasonable cause or excuse, fails to comply with the provisions of section 269AB or with any direction issued under sub-section (5) of section 269-I shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine:

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

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

66. “, without reasonable cause or excuse,” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

67. Substituted by the Finance Act, 1997, w.e.f. 1-6-1997. Prior to its substitution, section 276B, as inserted by the Finance Act, 1968, w.e.f. 1-4-1968 and later on substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975 and amended by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986 and further substitution by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, read as under :

(Contd. on p. 1.789)

<sup>68</sup>[**Failure to pay the tax collected at source.**

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

<sup>69</sup>[**Wilful attempt to evade tax, etc.**

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

- (i) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

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

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

- (i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or
- (ii) makes or causes to be made any false entry or statement in such books of account or other documents; or
- (iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

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(Contd. from p. 1.788)

“**276B.** *Failure to pay the tax deducted at source.*—If a person fails to pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XVII-B, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.”

68. Inserted by the Finance Act, 1988, w.e.f. 1-6-1988.

69. Substituted for section 276C by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975. Original section 276C was inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.



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

<sup>70</sup>[**Failure to furnish returns of income.**

**276CC.** If a person wilfully fails to furnish in due time the return of income which he is required to furnish under sub-section (1) of section 139 or by notice given under <sup>71</sup>[clause (i) of sub-section (1) of section 142] or section 148, he shall be punishable,—

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

**Provided** that a person shall not be proceeded against under this section for failure to furnish in due time the return of income under sub-section (1) of section 139—

- (i) for any assessment year commencing prior to the 1st day of April, 1975; or
- (ii) for any assessment year commencing on or after the 1st day of April 1975, if—
- (a) the return is furnished by him before the expiry of the assessment year; or
- (b) the tax payable by him on the total income determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source, does not exceed three thousand rupees.]

<sup>72</sup>[**Failure to furnish return of income in search cases.**

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

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

<sup>73</sup>[**Failure to produce accounts and documents.**

**276D.** If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice served on him under sub-section (1) of

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

71. Substituted for "sub-section (2) of section 139" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

72. Inserted by the Income-tax (Amendment) Act, 1997, w.e.f. 1-1-1997.

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

section 142, such accounts and documents as are referred to in the notice <sup>74</sup>[or wilfully fails to comply with a direction issued to him under sub-section (2A) of that section], he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both.]

**Failure to comply with the provisions of section 269SS.**

<sup>75</sup>**276DD.** [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.*]

**Failure to comply with the provisions of section 269T.**

<sup>76</sup>**276E.** [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.*]

<sup>77</sup>**[False statement in verification, etc.**

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

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

<sup>78</sup>**[Abetment of false return, etc.**

**278.** If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 276C, he shall be punishable,—

74. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

75. Prior to its omission, section 276DD, as inserted by the Finance Act, 1984, w.e.f. 1-4-1984, and later on amended by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under:

“If a person takes or accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine equal to the amount of such loan or deposit.”

76. Prior to its omission, section 276E, as inserted by the Income-tax (Second Amendment) Act, 1981, w.e.f. 11-7-1981 and later on amended by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under:

“If a person repays any deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine equal to the amount of such deposit.”

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

78. Substituted, *ibid.*

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

<sup>79</sup>[**Punishment for second and subsequent offences.**

**278A.** If any person convicted of an offence under section 276B or sub-section (1) of section 276C or section 276CC <sup>80</sup>[or section 276DD] <sup>81</sup>[or section 276E] or section 277 or section 278 is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.]

<sup>82</sup>[**Punishment not to be imposed in certain cases.**

**278AA.** Notwithstanding anything contained in the provisions of section 276A, section 276AB, <sup>83</sup>[or section 276B,] no person shall be punishable for any failure referred to in the said provisions if he proves that there was reasonable cause for such failure.]

<sup>84</sup>[**Offences by companies.**

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

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

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

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

80. Inserted by the Finance Act, 1985, w.e.f. 24-5-1985.

81. Inserted by the Income-tax (Second Amendment) Act, 1981, w.e.f. 11-7-1981.

82. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

83. Substituted for "section 276B, section 276DD or section 276E," by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

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

*Explanation.*—For the purposes of this section,—

- (a) “company” means a body corporate, and includes—
  - (i) a firm; and
  - (ii) an association of persons or a body of individuals whether incorporated or not; and
- (b) “director”, in relation to—
  - (i) a firm, means a partner in the firm;
  - (ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

<sup>85</sup>[**Offences by Hindu undivided families.**

**278C.** (1) Where an offence under this Act has been committed by a Hindu undivided family, the karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render the karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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

<sup>86</sup>[**Presumption as to assets, books of account, etc., in certain cases.**

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

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

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

86. Inserted, *ibid.*

<sup>87</sup>[**Presumption as to culpable mental state.**

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

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

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

**Prosecution to be at instance of**<sup>88</sup>[**Chief Commissioner or Commissioner**].

<sup>89</sup>**279.** <sup>90</sup>(1) A person shall not be proceeded against for an offence under section 275A, section 276, section 276A, section 276B, section 276BB, section 276C, section 276CC, section 276D, section 277 or section 278 except with the previous sanction of the Commissioner or Commissioner (Appeals) or the appropriate authority:

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

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

<sup>91</sup>[(1A) A person shall not be proceeded against for an offence under section 276C or section 277 in relation to the assessment for an assessment year in respect of which the penalty imposed or imposable on him under clause (iii) of sub-section (1) of section 271 has been reduced or waived by an order under section 273A.]

87. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

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

89. See also Letter [F. No. 4/7/69-IT(Inv.)], dated 21-3-1969 and Instruction No. 3170 of 1980. For details, see Taxmann’s Master Guide to Income-tax Act.

90. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991. Prior to substitution, sub-section (1) stood as under:

‘(1) A person shall not be proceeded against for an offence under section 275A, section 276, section 276A, section 276B, section 276BB, section 276C, section 276CC, section 276D, section 277 or section 278 except with the previous sanction of the Chief Commissioner or Director General or Commissioner:

**Provided** that no such sanction shall be required if the prosecution is at the instance of the Commissioner (Appeals) or the appropriate authority.

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

Earlier sub-section (1) was substituted by the Finance Act, 1988, w.e.f. 1-4-1989. Sub-section was also amended by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975, the Income-tax (Second Amendment) Act, 1981, w.e.f. 11-7-1981, Finance Act, 1982, w.e.f. 1-4-1982 and Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1984.

91. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975. Original sub-section was inserted by the Income-tax (Amendment) Act, 1965, w.e.f. 12-3-1965.

<sup>92</sup>[(2) Any offence under this Chapter may, either before or after the institution of proceedings, be compounded by the Chief Commissioner or a Director General.]

<sup>93</sup>[(3) Where any proceeding has been taken against any person under sub-section (1), any statement made or account or other document produced by such person before any of the income-tax authorities specified in <sup>94</sup>[clauses (a) to (g)] of section 116 shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty impossible would be reduced or waived, <sup>95</sup>[under section 273A] or that the offence in respect of which such proceeding was taken would be compounded.]

<sup>96</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that the power of the Board to issue orders, instructions or directions under this Act shall include and shall be deemed always to have included the power to issue instructions or directions (including instructions or directions to obtain the previous approval of the Board) to other income-tax authorities for the proper composition of offences under this section.]

<sup>97</sup>[**Certain offences to be non-cognizable.**

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

<sup>98</sup>[**Proof of entries in records or documents.**

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

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92. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991. Prior to its substitution, sub-section (2), as substituted by the Finance Act, 1988, w.e.f. 1-4-1989, stood as under:“(2) Any offence under this Chapter may, either before or after the institution of proceedings, be compounded by—

(a) the Board or a Chief Commissioner or a Director General authorised by the Board in this behalf, in a case where the prosecution would lie at the instance of the Commissioner (Appeals) or the appropriate authority;

(b) the Chief Commissioner or Director General or Commissioner, in any other case.”

93. Inserted by the Income-tax (Amendment) Act, 1965, w.e.f. 12-3-1965.

94. Substituted for “clauses (a), (b), (c), (d) and (e)” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

95. Substituted for “under sub-section (4A) of section 271” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

96. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1962.

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

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

is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody.]

### **Disclosure of particulars by public servants.**

**280.** (1) If a public servant <sup>99</sup>[furnishes any information or produces any document in contravention of the provisions of sub-section (2) of section 138], he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

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

## CHAPTER XXII-A ANNUITY DEPOSITS

*[Chapter XXII-A, consisting of sections 280A, 280B, 280C, 280D, 280E, 280F, 280G, 280H, 280-I, 280J, 280K, 280L, 280M, 280N, 280-O, 280P, 280Q, 280R, 280S, 280T, 280U, 280V, 280W and 280X, omitted by the Finance Act, 1988, w.e.f. 1-4-1988. The Chapter was inserted by the Finance Act, 1964, w.e.f. 1-4-1964 and has not been in operation since 1-4-1969 when the requirement as to annuity deposit was discontinued by the Finance Act, 1968, w.e.f. 1-4-1968 through an amendment made in section 280C.]*

## CHAPTER XXII-B TAX CREDIT CERTIFICATES

*[Chapter XXII-B, consisting of sections 280Y, 280Z, 280ZA, 280ZB, 280ZC, 280ZD and 280ZE, omitted by the Finance Act, 1990, w.e.f. 1-4-1990. No tax credit certificate granted under section 280Z or section 280ZC shall be produced before the Assessing Officer after the 31st day of March, 1991 for the purposes of sub-section (6) of section 280Z or, as the case may be, sub-section (4) of section 280ZC. Earlier Chapter XXII-B was inserted by the Finance Act, 1965, w.e.f. 1-4-1965.]*

### **Definitions**

<sup>99a</sup>**280Y.** *[Omitted by the Finance Act, 1990, w.e.f. 1-4-1990]*

99. Substituted for “discloses any particulars, the disclosure of which is prohibited by section 137” by the Finance Act, 1964, w.e.f. 1-4-1964.

99a. Prior to omission, section 280Y read as under :

‘280Y. *Definitions.*—In this Chapter,—

(a) “eligible issue of capital” means an issue of ordinary shares specified as such in the scheme ;

*(Contd. on p. 1.797)*

**†Tax credit certificates to certain equity shareholders.****280Z.** [Omitted by the Finance Act, 1990, w.e.f. 1-4-1990.]*(Contd. from p. 1.796)*

- (b) “public company” means a public company as defined in section 3 of the Companies Act, 1956 (1 of 1956) ;
- (c) “scheme” means a scheme made under this Chapter ;
- (d) “urban area” means any area which the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this Chapter.†

1. Prior to omission section 280Z, as amended by the Finance Act, 1968, w.e.f. 1-4-1968 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

‘280Z. *Tax credit certificates to certain equity shareholders.*—(1) An individual shall be granted a tax credit certificate if he by himself or some other person on his behalf has subscribed to, and made payments in respect of, any eligible issue of capital.

(2) A Hindu undivided family shall also be granted a tax credit certificate if any person has subscribed to, and made payments in respect of, any eligible issue of capital on behalf of that Hindu undivided family.

(3) A tax credit certificate granted under the provisions of this section shall be for the amount or the aggregate of the amounts computed as hereunder with reference to the capital so subscribed and paid :

- |   |                             |
|---|-----------------------------|
| (i) on the first Rs. 15,000 of the amount paid in the financial year  | at the rate of 5 per cent ; |
| (ii) on the next Rs. 10,000 of the amount paid in the financial year  | at the rate of 3 per cent ; |
| (iii) on the next Rs. 10,000 of the amount paid in the financial year | at the rate of 2 per cent ; |
| (iv) on the balance of the amount paid in the financial year          | <i>nil.</i>                 |

*Explanation.*—For the purposes of this section—

- (i) “subscribed” includes acquisition of the shares forming part of an eligible issue of capital from a person who is specified as an underwriter in pursuance of clause 11 of Part I of Schedule II to the Companies Act, 1956 (1 of 1956) (hereinafter in this section referred to as the underwriter) ;
  - (ii) a payment shall be treated as having been made to the extent to which and on the date on which the amount of the said payment has been credited to the share capital account of the company.
- (4) A tax credit certificate for the amount specified in sub-section (3) shall be granted to an individual or Hindu undivided family—
- (a) where payment by way of subscription has been made to the company, in respect of the financial year in which payment has been made and each of the three financial years following that year ; and
  - (b) where the acquisition has been made from the underwriter, in respect of the financial year in which the capital was so acquired and each one, if any, of the following financial years not falling beyond the third financial year from the end of the financial year in which the payment by way of subscription has been made to the company by the underwriter :

**Provided** that, in either case, the capital is held by or on behalf of the individual or on behalf of the Hindu undivided family, as the case may be, at all the end of the relevant financial year :

*(Contd. on p. 1.798)*



### Tax credit certificates for shifting of industrial undertaking from urban area.

**280ZA.** [Omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original section was inserted by the Finance Act, 1965, w.e.f. 1-4-1965.]

(Contd. from p. 1.797)

**Provided further** that where any part of the capital in respect of which a tax credit certificate had been granted in a financial year (hereinafter referred to as the earlier financial year) is sold, transferred or otherwise disposed of in a subsequent financial year, the tax credit certificate to be granted with reference to the remaining capital in respect of the said subsequent financial year or any financial year following that year shall be for such amount as bears to the amount for which the tax credit certificate was granted in the earlier financial year in same proportion as the amount of the remaining capital as on the 31st day of March of the subsequent financial year bears to the total amount of the capital with reference to which the tax credit certificate was granted in the earlier financial year.

(5) If any individual by himself or on behalf of any other individual or on behalf of any Hindu undivided family has acquired any shares forming part of an eligible issue of capital from the underwriter, he shall not be entitled to a tax credit certificate under this section, unless his name is entered as a shareholder in respect of such shares in the register of shareholders of the company.

\*(6) The amount shown on a tax credit certificate granted to an individual or Hindu undivided family shall, on the certificate being produced before the Assessing Officer, be adjusted against any liability of such individual or Hindu undivided family under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date on which the certificate was produced before Assessing Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such individual or Hindu undivided family, as the case may be, under that Chapter and the provisions of this Act shall apply accordingly.

(7) The Central Government may specify in a scheme any issue of ordinary shares by a public company as eligible issue of capital.

(8) In specifying any issue of ordinary shares as eligible issue of capital, the Central Government shall have regard to the following factors, namely :—

- (a) the total amount of the capital issued ;
- (b) the terms and conditions subject to which the capital is issued ;
- (c) the trade or business in which the company concerned is engaged ;
- (d) the purposes for which the issue is being made ;
- (e) any other relevant factor.†

\*No tax credit certificate granted under section 280Z shall be produced before the Assessing Officer after the 31st day of March, 1991 for purposes of sub-section (6) of section 280Z—*Vide* Finance Act, 1990, w.e.f. 1-4-1990.

2. Section 280ZA, as amended by the Finance Act, 1968, w.e.f. 1-4-1968, the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and the Finance Act, 1983, w.e.f. 1-4-1984, stood as under :

‘(1) If any company owning an industrial undertaking situate in an urban area shifts, with the prior approval of the Board, such undertaking to any area (not being the area in which such undertaking is situate), it shall be granted a tax credit certificate.

(2) The tax credit certificate to be granted under sub-section (1) shall be for an amount computed in the following manner with reference to the amount of the tax payable by the company on its income chargeable under the head “Capital gains” arising from the transfer of capital assets, being machinery or plant or buildings or lands or any rights in buildings

(Contd. on p. 1.799)

**Tax credit certificate to certain manufacturing companies in certain cases.**

<sup>3</sup>280ZB. [Omitted by the Finance Act, 1990, w.e.f. 1-4-1990.]

(Contd. from p. 1.798)

or lands used for the purposes of the business of the said undertaking in the urban area, effected in the course of or in consequence of the shifting of such industrial undertaking, namely:—

- (a) the amount of expenditure incurred by the company in—
  - (i) purchasing new machinery or plant for the purposes of the business of the company in the area to which the undertaking is shifted;
  - (ii) acquiring lands or constructing buildings for the purposes of its business in the said area; and
  - (iii) shifting its machinery or plant and other effects and transferring its establishment to such area,

within a period of three years, from the date of the approval referred to in sub-section (1), or such further period as the Board may allow, shall first be ascertained;

- (b) the amount of the tax credit certificate shall bear to the amount of tax payable by the company on its income chargeable under the head “Capital gains” as aforesaid, the same proportion as the amount of expenditure ascertained under clause (a) bears to the amount of the said income:

**Provided** that the amount of the tax credit certificate shall in no case exceed the amount of the tax aforesaid.

(3) The amount shown on a tax credit certificate granted to a company under this section shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of the company under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to the company under that Chapter and the provisions of this Act shall apply accordingly.

(4) Where a capital asset, being machinery or plant purchased for the purposes of the business of the company in the area to which the undertaking is shifted or building or land, or any right in building or land, acquired, or as the case may be, constructed in the said area, is transferred by the company within a period of five years from the date of purchase, acquisition or, as the case may be, the date of completion of construction to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), an amount equal to one-half of the amount for which a tax credit certificate has been granted to the company under sub-section (1) shall be deemed to be tax due from the company on the thirtieth day following the date of transfer under a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly.

*Explanation.*—Any land or building used for the residence of persons employed in the business of the company or for use of such persons as a hospital, creche, school, canteen, library, recreational centre, shelter, rest-room or lunch-room shall, for the purposes of this section, be deemed to be land or building used for the purposes of the business of the company.’

3. Prior to omission section 280ZB, as amended by the Finance Act, 1966, w.e.f. 1-4-1966, the Finance Act, 1968, w.e.f. 1-4-1968, the Finance Act, 1987, w.e.f. 1-4-1988 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under:

(Contd on p. 1.800)

(Contd from p. 1.799)

‘280ZB. *Tax credit certificate to certain manufacturing companies in certain cases.*—

(1) Where any company engaged in the manufacture or production of any of the articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951), is, in respect of its profits and gains attributable to such manufacture or production,—

- (i) liable to pay any tax for the assessment year commencing on the 1st day of April, 1965 (hereinafter referred to as the base year), and for any one or more of the five assessment years next following that year ; or
- (ii) not liable to pay any tax for the base year but becomes so liable for any succeeding year (hereinafter referred to as the succeeding base year), and also for any one or more of the assessment years following that year, not being an assessment year commencing on the first day of April, 1971, or any subsequent assessment year,

and the tax for any such succeeding year exceeds—

(a) in the case referred to in clause (i), the tax payable for the base year ;

(b) in the case referred to in clause (ii), the tax payable for the succeeding base year, then the company shall be granted a tax credit certificate for an amount equal to twenty per cent of such excess :

**Provided** that the amount of the tax credit certificate shall not for any assessment year exceed ten per cent of such tax payable by the company for that year.

(2) The amount shown on a tax credit certificate granted to any company under this section shall, on the certificate being produced before the Assessing Officer, be adjusted against any liability of the company under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date on which the certificate was produced before the Assessing Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such company under that Chapter and the provisions of this Act shall apply accordingly :

**Provided** that the adjustment or refund, as the case may be, under this sub-section shall be only for such amount, not exceeding the amount of the certificate, as is used within such period as may be specified in the scheme—

- (i) for repayment of loans taken by the company from any of the financial institutions notified in this behalf by the Central Government, or
- (ii) for redemption of its debentures, or
- (iii) for the acquisition of any capital asset in India, including the construction of any building, for the purposes of the business of the company.

*Explanation 1.*—In this section, “tax” means income-tax payable under this Act and surtax, if any, payable under the Companies (Profits) Surtax Act, 1964 (7 of 1964).

*Explanation 2.*—The amount of income-tax in respect of the profits or gains attributable to the manufacture or production of the articles referred to in sub-section (1) shall be an amount bearing to the total amount of income-tax payable on the total income (such income-tax being computed in the manner specified hereunder) the same proportion as the amount of such profits or gains bears to the total income. The amount of income-tax payable by the company for any assessment year shall be computed after making allowance for any relief, rebate or deduction in respect of income-tax to which the company is entitled under the provisions of this Act or the annual Finance Act and after deducting from such amount of income-tax—

(a) [\*\*\*]

- (b) (i) in respect of the assessment year commencing on the 1st day of April, 1965, the amount, if any, by which the rebate of income-tax admissible to the company under the provisions of the Finance Act, 1965 (10 of 1965), is, under

(Contd. on p. 1.801)

**Tax Credit Certificate in relation to exports.**

<sup>4</sup>280ZC. [Omitted by the Finance Act, 1990, w.e.f. 1-4-1990.]

(Contd. from p. 1.800)

the provisions of the said Act, reduced with reference to the face value of any bonus shares or the amount of any bonus issued by the company to its shareholders during the previous year or any previous year prior to that year or with reference to any amount of dividends declared or distributed by it during the previous year or any previous year prior to that year ; or

- (ii) in respect of the assessment year commencing on the 1st day of April, 1966, or any subsequent assessment year, the amount of income-tax, if any, payable by the company under the provisions of the annual Finance Act, with reference to the relevant amount of distributions of dividends by it.

*Explanation 3.*—The amount of surtax in respect of the chargeable profits attributable to the manufacture or production of the articles referred to in sub-section (1) shall be an amount bearing to the total amount of surtax payable under the Companies (Profits) Surtax Act, 1964 (7 of 1964), the same proportion as the amount of such chargeable profits bears to the whole of the chargeable profits.’

4. Prior to omission section 280ZC, as amended by the Finance (No. 2) Act, 1965, w.r.e.f. 1-4-1964, the Finance (No. 2) Act, 1965, w.e.f. 11-9-1965 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

‘280ZC. *Tax Credit Certificate in relation to exports.*—(1) Subject to the provisions of this section, a person who exports any goods or merchandise out of India after the 28th day of February, 1965, and receives the sale proceeds thereof in India in accordance with the Foreign Exchange Regulation Act, 1947 (7 of 1947), and the rules made thereunder, shall be granted a tax credit certificate for an amount calculated at a rate not exceeding fifteen per cent on the amount of such sale proceeds.

*Explanation 1.*—For the removal of doubt it is hereby declared that the expression “sale proceeds” in this sub-section does not include freight or insurance attributable to the transport of the goods or merchandise beyond the customs station as defined in the Customs Act, 1962 (52 of 1962).

*Explanation 2.*—For the purposes of this sub-section, a person who exports any goods or merchandise in respect of which the declaration in pursuance of rule 3 of the Foreign Exchange Regulation Rules, 1952, is required to be in Form E.P., or Form E.P.I. in the First Schedule to the said Rules, shall not in respect of such goods or merchandise be deemed to have received the sale proceeds in India in accordance with the Foreign Exchange Regulation Act, 1947 (7 of 1947), and the rules made thereunder unless he receives the same in India through an authorised dealer as defined in the said Act.

(2) The goods or merchandise in respect of which a tax credit certificate shall be granted under sub-section (1) (including the destination of their export) and the rate at which the amount of such certificate shall be calculated shall be such as may be specified in the scheme :

**Provided** that different rates may be specified in respect of different goods or merchandise.

(3) In specifying the goods or merchandise (including the destination of their export) and the rates, the Central Government shall have regard to the following factors, namely :—

- (a) the cost of manufacture or production of such goods or merchandise and prices of similar goods in the foreign markets ;
- (b) the need to develop foreign markets for such goods or merchandise ;
- (c) the need to earn foreign exchange ;
- (d) any other relevant factor.

(Contd on p. 1.802)

**Tax credit certificates in relation to increased production of certain goods.**

<sup>5</sup>280ZD. [Omitted by the Finance Act, 1990, w.e.f. 1-4-1990.]

(Contd. from p. 1.801)

\*(4) The amount shown on a tax credit certificate granted to any person under this section shall, on the certificate being produced before the Assessing Officer, be adjusted against any liability of that person under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date on which the certificate was produced before the Assessing Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such person under that Chapter and the provisions of this Act shall apply accordingly.'

\*No tax credit certificate granted under section 280ZC shall be produced before the Assessing Officer after the 31st day of March, 1991, for the purposes of sub-section (4) of section 280ZC. *Vide* Finance Act, 1990, w.e.f. 1-4-1990.

5. Prior to omission section 280ZD, as amended by the Finance Act, 1968, w.e.f. 1-4-1968 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

'280ZD. *Tax credit certificates in relation to increased production of certain goods.*—

(1) Subject to the provisions of this section, a person, who during any financial year commencing on the 1st day of April, 1965, or any subsequent financial year (not being a year commencing on the 1st day of April, 1970, or any financial year thereafter) manufactures or produces any goods, shall be granted a tax credit certificate for an amount calculated at a rate not exceeding twenty-five per cent of the amount of the duty of excise payable by him on that quantum of the goods cleared by him during the relevant financial year which exceeds the quantum of the goods cleared by him during the base year, whether the clearance in either case is for home consumption or export.

(2) The goods in respect of which a tax credit certificate shall be granted under sub-section (1) and the rate at which the amount of such certificate shall be calculated, shall be such as may be specified in the scheme :

**Provided** that different rates may be specified in respect of different goods.

(3) In specifying the goods and the rates under sub-section (1), the Central Government shall have regard to the following factors, namely :—

- (a) the need for stimulating industrial output ;
- (b) the need for financial assistance to industrial undertakings engaged in the manufacture or production of such goods ;
- (c) any other relevant factor.

(4) Where any undertaking begins, after the 1st day of April in the base year, to manufacture or produce any goods in respect of which a tax credit certificate may be granted under sub-section (1), the quantum of goods cleared in that year shall, for the purposes of that sub-section, be determined in such manner as may be provided in the scheme.

(5) The amount shown on a tax credit certificate granted to any person under this section shall, on the certificate being produced before the Assessing Officer, be adjusted against any liability of that person under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date on which the certificate was produced before the Assessing Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such person under that Chapter and the provisions of this Act shall apply accordingly :

**Provided** that the adjustment or refund, as the case may be, under this sub-section shall be only for such amount, not exceeding the amount of the certificate, as is used within such period as may be specified in the scheme—

(Contd. on p. 1.803)

**Tax credit certificate scheme.**

<sup>5a</sup>**280ZE.**[*Omitted by the Finance Act, 1990, w.e.f. 1-4-1990.*]

(Contd. from p. 1.802)

- (i) for repayment of loans taken by the person from any of the financial institutions notified in this behalf by the Central Government, or
- (ii) for the acquisition of any capital asset in India, including the construction of any building, for the purposes of his business, or
- (iii) where the person is a company, also for redemption of its debentures.

(6) In this section—

- (a) “base year”, in relation to an existing undertaking which manufactures or produces the goods referred to in sub-section (1), means the financial year commencing on the 1st day of April, 1964, and in relation to any other undertaking, the financial year in which such undertaking begins to manufacture or produce such goods ;
- (b) “duty of excise” means the duty of excise leviable under the Central Excises and Salt Act, 1944 (1 of 1944).’

5a. Prior to omission, section 280ZE, read as under :

“280ZE. *Tax credit certificate scheme.*—(1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called tax credit certificate scheme or schemes in relation to tax credit certificates to be granted under this Chapter.

(2) A scheme framed under sub-section (1) may provide for—

- (a) the form and manner in which, and the authority to which, applications for the grant of tax credit certificates shall be made ;
- (b) the form in which, and the intervals at which, and the authority by which, such certificate shall be issued ;
- (c) the verification of any information or particulars furnished, or contained in any application made, by or on behalf of any person entitled to tax credit certificates ;
- (d) the determination of the rights and obligations of a person to whom such certificate has been granted and the circumstances in which any right in or title to the said certificate may be transferred to or devolve on any other person by succession or otherwise ;
- (e) the determination of the rights and obligations of persons who jointly subscribe to an eligible issue of capital ;
- (f) the determination of the rights and obligations of persons who subscribe to an eligible issue of capital, on behalf, or for the benefit, of any other person ;
- (g) the appointment of any officer of Government or of the Reserve Bank of India to exercise any rights or perform any duties in connection with the grant of the said certificates ;
- (h) the goods or merchandise and the rate or rates for the purposes of section 280ZC and section 280ZD and the destination of the export of such goods or merchandise for the purposes of section 280ZC ;
- (i) any other matter which may be necessary or proper for the effective implementation of the provisions of this Chapter or the scheme.

(3) The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind any scheme made under this section.

(4) Any scheme made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree

(Contd. on p. 1.804)

**CHAPTER XXIII**  
**MISCELLANEOUS**

**6[Certain transfers to be void.]**

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

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

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

(ii) with the previous permission of the <sup>7</sup>[Assessing] Officer.

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

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

**Effect of failure to furnish information in respect of properties held benami.**

**8281A.** [*Repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.*]

(Contd. from p. 1.803)

in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, that provision of the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that provision.”

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

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

8. Prior to its repeal, section 281A, as inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 15-11-1972 and later amended by the Finance Act, 1984, w.e.f. 1-4-1984, stood as under :

“(1) No suit to enforce any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be instituted in any court by or on behalf of a person (hereafter in this section referred to as the claimant) claiming to be the real owner of such property unless notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant within a period of one year from the date of acquisition of the property to the Chief Commissioner or Commissioner.

(Contd. on p. 1.805)

<sup>9</sup>[**Provisional attachment to protect revenue in certain cases.**

**281B.** (1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment, the <sup>10</sup>[Assessing] Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the <sup>11</sup>[Chief Commissioner, Commissioner, Director General or Director], by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

<sup>12</sup>[*Explanation.*—For the purposes of this sub-section, proceedings under sub-section (5) of section 132 shall be deemed to be proceedings for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment.]

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

**Provided** that the <sup>13</sup>[Chief Commissioner, Commissioner, Director General or Director] may, for reasons to be recorded in writing, extend the aforesaid period

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(Contd. from p. 1.804)

(1A) Where any such property is acquired by the claimant before the 1st day of March, 1984, the provisions of sub-section (1) shall be deemed to have been fulfilled if notice in the prescribed form and containing the prescribed particulars in respect of the property is given by the claimant, within a period of one year from the said date, to the Chief Commissioner or Commissioner.

(1B) Notwithstanding anything contained in sub-section (1) or sub-section (1A), in relation to any suit relating to any immovable property of a value not exceeding fifty thousand rupees, the provisions of sub-section (1) or, as the case may be, sub-section (1A), shall be deemed to have been fulfilled if, at any time before the suit, notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant to the Chief Commissioner or Commissioner.

(2) The Chief Commissioner or Commissioner shall, on an application made in the prescribed manner, by the claimant or any person acting on his behalf or claiming under him, and on payment of the prescribed fees, issue, for the purposes of a suit referred to in sub-section (1), a certified copy of any notice given by the claimant under sub-section (1) or sub-section (1A) or sub-section (1B), within fourteen days from the date of receipt of the application.

(3) This section shall not apply to any suit of a value not exceeding two thousand rupees which is tried by,—

- (a) a Court of Small Causes constituted under the Presidency Small Cause Courts Act, 1882 (15 of 1882), or the Provincial Small Cause Courts Act, 1887 (9 of 1887); or
- (b) a court invested with the jurisdiction of a Court of Small Causes, by or under any enactment for the time being in force, in the exercise of such jurisdiction.”

9. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.
10. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
11. 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.
12. Inserted by the Finance Act, 1988, w.e.f. 1-4-1988.
13. 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.