INCOME-TAX ACT, 2025

ACT NO. 30 OF 2025

An Act to consolidate and amend the law relating to income-tax

BE it enacted by Parliament in the Seventy-sixth Year of the Republic of India, as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Income-tax Act, 2025.

(2) It extends to the whole of India.

(3) Save as otherwise provided in this Act, it shall come into force on the 1st April, 2026.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) "accountant" shall have the meaning assigned to it in section 515(3)(*b*);

(*2*) "Additional Commissioner" means a person appointed to be an Additional Commissioner of Income-tax under section 237(1);

(*3*) "Additional Director" means a person appointed to be an Additional Director of Income-tax under section 237(1);

(*4*) "advance tax" means the advance tax payable as per Chapter XIX-C;

(*5*) "agricultural income" means—

(*a*) any rent or revenue derived from a land which is situated in India and is used for agricultural purposes;

(*b*) any income derived from such land by—

(*i*) agriculture; or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in item (*ii*);

(*c*) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any such land with respect to which, or the produce of which, any process mentioned in sub-clause (*b*)(*ii*) and (*iii*) is carried on, where such building—

(*i*) is on or in the immediate vicinity of such land and that land is assessed to land revenue in India, or is subject to a local rate assessed and collected by officers of the Government as such, or where the land is not so assessed to land revenue or subject to a local rate it is not situated in any area as specified in clause (*22*)(*iii*)(*A*) or (*B*); and

(*ii*) is required as a dwelling house, or as a store-house, or other out-building, by the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land;

(*d*) any income derived from saplings or seedlings grown in a nursery,

but shall not include—

(*i*) the income derived from any building or land referred to in sub-clause (*c*) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (*a*) or (*b*); or

(*ii*) any income arising from the transfer of any land referred to in clause (*22*)(*iii*)(*A*) or (*B*);

(*6*) "amalgamation", in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of such merger being referred to as the amalgamated company) in such a manner that—

(*a*) all the property of the amalgamating company or companies immediately before the amalgamation become the property of the amalgamated company by virtue of the amalgamation;

(*b*) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation;

(*c*) the shareholders holding not less than three-fourths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company;

(*7*) "annual value", in relation to any property, means its annual value as determined under section 21;

(*8*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 361;

(*9*) "approved gratuity fund" means a gratuity fund, which is approved and continues to be approved by the approving authority as per Part B of Schedule XI;

(*10*) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund, which is approved and continues to be approved by the approving authority as per Part B of Schedule XI;

(*11*) "assessee" means a person by whom any tax or any other sum of money is payable under this Act, and includes—

(*a*) every person in respect of whom any proceeding under this Act has been taken—

(*i*) for the assessment of his income or of the loss sustained by him or refund due to him; or

(*ii*) for the assessment of the income of any other person in respect of which he is assessable, or of the loss sustained by such other person or refund due to such other person;

(*b*) every person who is deemed to be an assessee under this Act;

(*c*) every person who is deemed to be an assessee in default under this Act;

(*12*) "Assessing Officer" means—

(*a*) the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer, who is vested with the relevant jurisdiction by virtue of directions or orders issued under section 241(1) or (2) or (3), or any other provision of this Act; and

(*b*) the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, who is directed under section 241(5)(*b*) to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;

(*13*) "assessment" includes reassessment and recomputation;

(*14*) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax or a Deputy Commissioner of Income-tax under section 237(1);

(*15*) "Assistant Director" means a person appointed to be an Assistant Director of Income-tax or a Deputy Director of Income-tax under section 237(1);

(*16*) "average rate of income-tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income;

(*17*) "block of assets" means a group of assets falling within a class of assets comprising of—

(*a*) tangible assets, being buildings, machinery, plant or furniture;

(*b*) intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession,

in respect of which the same percentage of depreciation is prescribed;

(*18*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(*19*) "books or books of account" includes ledgers, day-books, cash books, account-books and other books, whether kept—

(*a*) in written form; or

(*b*) in electronic or any digital form, or on cloud based storage, or on any electromagnetic data storage device, such as floppy, disc, tape, portable data storage device, external hard drives, or memory cards; or

(*c*) as print-outs of data stored in electronic or digital form or on storage devices mentioned in sub-clause (*b*);

(*20*) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(*21*) "business trust" means a trust registered as—

(*a*) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) ; or

(*b*) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*22*) "capital asset" means—

(*a*) property of any kind held by an assessee, whether or not connected with his business or profession;

(*b*) any securities held by—

(*i*) a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or

(*ii*) an investment fund specified in section 224(10)(*a*) which has invested such securities in accordance with the provisions of the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(*c*) any unit linked insurance policy to which exemption under Schedule II (Table: Sl. No. 2) does not apply,

but does not include—

(*i*) any stock-in-trade, other than the securities referred to in sub-clause (*b*), consumable stores or raw materials held for business or profession;

(*ii*) personal effects;

(*iii*) agricultural land in India, not being a land situated—

(*A*) in any area comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(*B*) in any area within the distance as specified in column C of the following Table, measured aerially from the local limits of any municipality or cantonment board referred to in item (*A*) and having population as referred to in column B of the said Table:—

Table

Sl. No.	***Population of municipality or cantonment board***	***Within distance, measured aerially, from local limits of any municipality or cantonment board not being more than***
A	*B*	*C*
1.	More than 10000 and upto 100000.	Two kilometres.
2.	More than 100000 and upto 1000000.	Six kilometres.
3.	More than 1000000.	Eight kilometres;

(*iv*) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 as may be notified by the Central Government,

where,—

(*A*) "Foreign Institutional Investor" shall have the meaning assigned to it in section 210(6)(*a*);

(*B*) "personal effects" means any movable property (including wearing apparel and furniture) held for personal use by the assessee or any family member dependent on him, but excludes—

(*I*) jewellery, which includes—

(*a*) ornaments made of gold, silver, platinum, or any other precious metal or any alloy of such precious metals, with or without precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel; or

(*b*) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel; or

(*II*) archaeological collections; or

(*III*) drawings; or

(*IV*) paintings; or

(*V*) sculptures; or

(*VI*) any work of art;

(*C*) "population" shall mean the population according to the last preceding census of which the relevant figures have been published before the first day of the tax year;

(*D*) "property" includes any rights in or in relation to an Indian company, including rights of management or control or any other rights; and

(*E*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*23*) "charitable purpose" includes—

(*a*) relief of the poor;
(*b*) education;
(*c*) yoga;
(*d*) medical relief;
(*e*) preservation of environment (including watersheds, forests and wildlife);
(*f*) preservation of monuments or places or objects of artistic or historic interest;
(*g*) the advancement of any other object of general public utility;

(*24*) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax or a Director General of Income-tax or a Principal Chief Commissioner of Income-tax or a Principal Director General of Income-tax under section 237(1);

(*25*) "child", in relation to an individual, includes a step-child and an adopted child of that individual;

(*26*) "Commissioner" means a person appointed to be a Commissioner of Income-tax or a Director of Income-tax or a Principal Commissioner of Income-tax or a Principal Director of Income-tax under section 237(1);

(*27*) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Income-tax (Appeals) under section 237(1);

(*28*) "company" means—

(*a*) any Indian company; or
(*b*) any body corporate incorporated by or under the laws of a country outside India; or
(*c*) any institution, association or body which is or was assessable or was assessed as a company under the Income-tax Act, 1961, as it stood immediately before its repeal by this Act (herein referred to as the Income-tax Act, 1961) (43 of 1961); or
(*d*) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by order of the Board to be a company for such period as specified in such declaration;

(*29*) "company in which the public are substantially interested" means—

(*a*) a company owned by the Government or the Reserve Bank of India or in which at least 40% of the shares of the company are held (individually or collectively) by the Government or the Reserve Bank of India or a corporation owned by that bank; or
(*b*) a company which is registered under section 8 of the Companies Act, 2013 (18 of 2013); or
(*c*) a company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, the Board by order declares it to be such a company for the period as specified in the declaration; or
(*d*) a mutual benefit finance company, that is to say, a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 406 of the Companies Act, 2013 (18 of 2013), to be a *Nidhi* or Mutual Benefit Society; or
(*e*) a company, wherein shares (excluding those entitled to a fixed rate of dividend, with or without a further right to participate in profits) carrying not less than 50% of the voting power, have been unconditionally, allotted to or acquired by, and were beneficially held throughout the relevant tax year by, one or more co-operative societies; or
(*f*) a company which is not a private company as defined in the Companies Act, 2013 (18 of 2013), and either of the following conditions is fulfilled:—
(*i*) shares in the company (not being shares entitled to a fixed rate of dividend, with or without a further right to participate in profits) were, as on the last day of the relevant tax year, listed in a recognised stock exchange in India as per the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;
(*ii*) shares in the company (not being those entitled to a fixed rate of dividend, with or without a further right to participate in profits) carrying not less than 50% of the voting power, have been unconditionally, allotted to or acquired by, and were beneficially held throughout the relevant tax year by—
(*A*) the Government; or
(*B*) a corporation established by a Central Act or State Act or Provincial Act; or
(*C*) any company to which this clause applies or any subsidiary company of such company, if the entire share capital of such subsidiary company has been held by the parent company or by its nominees throughout the tax year,
so, however, that in respect of an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, the expression "not less than 50%" shall be read as if the expression "not less than 40%" had been substituted;

(*30*) "convertible foreign exchange" means foreign exchange which is treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law;

(*31*) "co-operative bank" shall have the same meaning as specified in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(*32*) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law in force in any State or Union territory for the registration of co-operative societies;

(*33*) "currency" shall have the same meaning as assigned to it in section 2(*h*) of the Foreign Exchange Management Act, 1999 (42 of 1999);

(*34*) "demerged company" means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;

(*35*) "demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 230 to 232 of the Companies Act, 2013 (18 of 2013), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

(*a*) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;
(*b*) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;
(*c*) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger, except in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 made under the Companies Act, 2013 (18 of 2013);
(*d*) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis, except where the resulting company itself is a shareholder of the demerged company;
(*e*) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company or companies by virtue of the demerger, otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(*f*) the transfer of the undertaking is on a going concern basis; and

(*g*) the demerger is as per the conditions, if any, notified under section 116(7) by the Central Government,

where,—

(*i*) "undertaking" shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity;

(*ii*) "liabilities relatable to the undertaking", referred to in sub-clause (*b*), shall include—

(*A*) the liabilities which arise out of the activities or operations of the undertaking;

(*B*) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(*C*) the amount "N", being the amount of general or multipurpose borrowings of the undertaking, as computed below, in cases other than those referred to in item (*A*) or (*B*),—

$$N = K \times \left(\frac{L}{M}\right)$$

where,—

K = the amount of general or multipurpose borrowings of the demerged company;

L = the value of the assets transferred in a demerger; and

M = the total value of the assets of such demerged company immediately before the demerger;

(*iii*) any change in the value of assets consequent to their revaluation shall be ignored for determining the value of the property referred to in sub-clause (*c*);

(*iv*) the splitting up or the reconstruction of any authority or a body constituted or established under a Central Act or State Act or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if it fulfils such conditions as the Central Government may, by notification, specify;

(*v*) the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if it has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as the Central Government may, by notification, specify;

(*vi*) the reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if it has been made to transfer any asset of the demerged company to the resulting company and the resulting company—

(*A*) is a public sector company on the appointed day indicated in such scheme approved by the Central Government or any other body authorised under the Companies Act, 2013 (18 of 2013) or any other applicable law governing such public sector companies; and

(*B*) fulfils such other conditions as the Central Government may, by notification, specify in this behalf;

(*36*) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income-tax under section 237(1);

(*37*) "Deputy Director" means a person appointed to be a Deputy Director of Income-tax under section 237(1);

(*38*) "director" and "manager", in relation to a company, shall have the same meanings as respectively assigned to them in section 2(*34*) and (*53*) of the Companies Act, 2013 (18 of 2013);

(*39*) "Director General or Director" means a person appointed to be a Director General of Income-tax or a Director of Income-tax, under section 237(1), and includes a Principal Director General or a Principal Director or an Additional Director or a Joint Director or a Deputy Director or an Assistant Director;

(*40*) "dividend" includes—

(*a*) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(*b*) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not;

(*c*) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;

(*d*) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether capitalised or not;

(*e*) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise),—

(*i*) as an advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, with or without a right to participate in profits) holding not less than 10% of the voting power; or

(*ii*) as an advance or loan to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (herein referred to as the said concern); or

(*iii*) made on behalf, or for the individual benefit, of any such shareholder,

to the extent to which the company in either case possesses accumulated profits;

(*f*) any payment by a company on purchase of its own shares from a shareholder as per section 68 of the Companies Act, 2013 (18 of 2013),

but does not include—

(*i*) a distribution made under sub-clause (*c*) or (*d*) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets;

(*ii*) any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;

(*iii*) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (*e*), to the extent to which it is so set off;

(*iv*) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company);

(*v*) any advance or loan between two group entities, where,—

(*A*) one of the group entity is a "Finance Company" or a "Finance Unit"; and

(*B*) the parent entity or principal entity of such group is listed on stock exchange in a country or territory outside India other than the country or territory outside India as specified by the Board in this behalf,

where,—

(*A*) "accumulated profits" for the purposes of—

(*I*) sub-clauses (*a*), (*b*), (*d*) and (*e*), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses;

(*II*) sub-clause (*c*), shall include all profits of the company up to the date of liquidation, but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law in force, include any profits of the company before three successive tax years immediately preceding the tax year in which such acquisition took place;

(*B*) in respect of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation;

(*C*) "concern" means a Hindu undivided family or a firm or an association of persons or a body of individuals or a company;

(*D*) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the tax year, beneficially entitled to not less than 20% of the income of such concern;

(*E*) for the purposes of sub-clause (*v*),—

(*I*) "Finance Company" and "Finance Unit" shall have the same meaning as respectively assigned to them in regulation 2(1)(*e*) and (*f*) of the International Financial Services Centres Authority (Finance Company) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019), and is set up as a global or regional corporate treasury centre for undertaking treasury activities or treasury services as per the relevant regulations made by the International Financial Services Centres Authority established under section 4 of the said Act;

(*II*) "group entity", "parent entity" and "principal entity" shall be such entities which satisfy such conditions as may be prescribed in this behalf;

(*41*) "document" includes an electronic record as defined in section 2(1)(*t*) of the Information Technology Act, 2000 (21 of 2000);

(*42*) "domestic company" means—

(*i*) an Indian company; or

(*ii*) any other company which has made the prescribed arrangements within India for the declaration and payment of the dividends (including dividends on preference shares) payable out of its income liable to tax under this Act;

(*43*) "electoral trust" means a trust so approved by the Board as per the scheme made by the Central Government;

(*44*) "fair market value", in relation to a capital asset, means—

(*a*) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date; and

(*b*) where the price referred to in sub-clause (*a*) is not ascertainable, such price as determined in the manner, as may be prescribed;

(*45*) "firm" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932), and shall include a "limited liability partnership" as defined in section 2(1)(*n*) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(*46*) "foreign company" means a company which is not a domestic company;

(*47*) "foreign currency" shall have the same meaning as assigned to it in section 2(*m*) of the Foreign Exchange Management Act, 1999 (42 of 1999);

(*48*) "hearing" includes communication of data and documents through electronic mode;

(*49*) "income" includes—

(*a*) profits and gains;

(*b*) dividend;

(*c*) voluntary contributions received by—

(*i*) a registered non-profit organisation; or

(*ii*) an association referred to in Schedule III (Table: Sl. No. 23); or

(*iii*) any University or other educational institution or any hospital or other institution referred to in Schedule VII (Table: Sl. No. 19); or

(*iv*) an electoral trust;

(*d*) the value of any perquisite or profit in lieu of salary taxable under sections 17 and 18;

(*e*) any special allowance or benefit, other than perquisite included under sub-clause (*d*), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(*f*) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;

(*g*) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company, either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or that person;

(*h*) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in section 303(1)(*c*) or (*d*) or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being herein referred to as the beneficiary), and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;

(*i*) any sum chargeable to income-tax under—

(*A*) section 26(2)(*b*) or (*c*) or (*d*) or section 38 or 95;

(*B*) section 26(2)(*e*) or (*g*);

(*j*) the value of any benefit or perquisite taxable under section 26(2)(*f*);

(*k*) any capital gains chargeable under section 67;

(*l*) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed as per section 55 or any surplus taken to be such profits and gains as per Schedule XIV;

(*m*) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;

(*n*) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;

(*o*) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;

(*p*) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

(*q*) any sum referred to in section 26(2)(*h*);

(*r*) the fair market value of inventory referred to in section 26(2)(*j*);

(*s*) any sum referred to in section 92(2)(*k*) or (*l*);

(*t*) any sum of money referred to in section 92(2)(*h*);

(*u*) any sum of money or value of property referred to in section 92(2)(*m*);

(*v*) any compensation or other payment referred to in section 92(2)(*j*);

(*w*) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency, in cash or kind, to the assessee other than—

(*i*) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset as per section 39(1)(*d*) and (3); or

(*ii*) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government,

where,—

(*A*) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;

(*B*) "Keyman insurance policy" shall have the meaning assigned to it in Schedule II (Note 1);

(*C*) "lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner, under any scheme or arrangement, called by any name;

(*50*) "Income Computation and Disclosure Standards" means such standards as may be notified under section 276(2);

(*51*) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 237(1);

(*52*) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;

(*53*) "Indian company" means a company formed and registered under the Companies Act, 2013 (18 of 2013) and includes—

(*a*) company formed and registered under any law relating to companies formerly or currently in force in any part of India; or

(*b*) corporation established by or under a Central Act or State Act or Provincial Act; or

(*c*) institution or association or body which is declared by the Board to be a company under clause (*28*),

the registered or principal office of which is in India;

(*54*) "Indian currency" shall have the same meaning as assigned to it in section 2(*q*) of the Foreign Exchange Management Act, 1999 (42 of 1999);

(*55*) "infrastructure capital company" means a company which makes investments by acquiring shares or providing long-term finance to—

(*a*) any enterprise or undertaking wholly engaged in the business referred to in section 80-IA(4) or 80-IAB(1) of the Income-tax Act, 1961 (43 of 1961); or

(*b*) an undertaking developing and building—

(*i*) a housing project referred to in section 80-IB(10) of the Income-tax Act, 1961 (43 of 1961); or

(*ii*) a project for constructing a hotel of not less than three star category as classified by the Central Government; or

(*iii*) a project for constructing a hospital with at least one hundred beds for patients;

(*56*) "infrastructure capital fund" means a fund operating under a trust deed registered under the Registration Act, 1908 (16 of 1908) established to raise moneys by the trustees for investment by acquiring shares or providing long-term finance to enterprises or undertakings referred to in clause (*55*);

(*57*) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under section 237(1);

(*58*) "insurer" means an insurer, being an Indian insurance company, as defined under section 2(*7A*) of the Insurance Act, 1938 (4 of 1938), which has been granted a certificate of registration under section 3 of that Act;

(*59*) "interest" means interest payable in any manner for moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes service fee or any other charges for the moneys borrowed or debt incurred or for any credit facility that has not been utilised;

(*60*) "interest on securities" means—

(*a*) interest on any security of the Central Government or a State Government;

(*b*) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central Act or State Act or Provincial Act;

(*61*) "International Financial Services Centre" shall have the same meaning as assigned to it in section 2(*q*) of the Special Economic Zones Act, 2005 (28 of 2005);

(*62*) "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under section 237(1);

(*63*) "Joint Commissioner (Appeals)" means a person appointed to be a Joint Commissioner of Income-tax (Appeals) or an Additional Commissioner of Income-tax (Appeals) under section 237(1);

(*64*) "Joint Director" means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under section 237(1);

(*65*) "legal representative" shall have the same meaning as assigned to it in section 2(*11*) of the Code of Civil Procedure,1908 (5 of 1908);

(*66*) "liable to tax", in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country;

(*67*) "long-term capital asset" means a capital asset which is not a short-term capital asset;

(*68*) "long-term capital gain" means capital gains arising from the transfer of a long-term capital asset;

(*69*) "manufacture", with its grammatical variations and cognate expressions, means a change in a non-living physical object or article or thing—

(*a*) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(*b*) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;

(*70*) "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax) applicable in relation to the highest slab of income for an individual, association of persons or, as the case may be, body of individuals, as specified in the Finance Act of the relevant year;

(*71*) "non-banking financial company" shall have the same meaning as assigned to it in section 45-I(*f*) of the Reserve Bank of India Act, 1934 (2 of 1934);

(*72*) "non-resident" means a person who is not a "resident", and for the purposes of sections 161, 174 and 312, includes a person who is not ordinarily resident as per section 6(13);

(*73*) "notification" means a notification published in the Official Gazette and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(*74*) "partner" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932), and shall include—

(*a*) any person who, being a minor, has been admitted to the benefits of partnership; and

(*b*) a partner of a limited liability partnership as defined in section 2(1)(*q*) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(*75*) "partnership" shall have the same meaning as assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932), and shall include a "limited liability partnership" as defined in section 2(1)(*n*) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(*76*) "Permanent Account Number (PAN)" means a unique number consisting of ten alphanumeric characters, allotted by the Assessing Officer to a person for the purpose of identification under this Act, and includes a Permanent Account Number allotted under the new series;

(*77*) "person" includes—

(*a*) an individual;

(*b*) a Hindu undivided family;

(*c*) a company;

(*d*) a firm;

(*e*) an association of persons or a body of individuals, whether incorporated or not;

(*f*) a local authority; and

(*g*) every artificial juridical person, not falling within any of the preceding sub-clauses,

whether or not such an association of persons or a body of individuals or a local authority or an artificial juridical person was formed or established or incorporated with the object of deriving income, profits, or gains;

(*78*) "person of Indian origin" means an individual who or either of his parents or any of his grand-parents, was born in undivided India;

(*79*) "person who has a substantial interest in the company", in relation to a company means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits, carrying not less than 20% of the voting power;

(*80*) "prescribed" means prescribed by rules made under this Act;

(*81*) "Principal Chief Commissioner" means a person appointed to be a Principal Chief Commissioner of Income-tax under section 237(1);

(*82*) "Principal Commissioner" means a person appointed to be a Principal Commissioner of Income-tax under section 237(1);

(*83*) "Principal Director" means a person appointed to be a Principal Director of Income-tax under section 237(1);

(*84*) "Principal Director General" means a person appointed to be a Principal Director General of Income-tax under section 237(1);

(*85*) "principal officer", with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

(*a*) the secretary, treasurer, manager or agent of the authority, company, association or body; or

(*b*) any person connected with the management or administration of the local authority, company, association or body upon whom the Assessing Officer has served a notice of his intention of treating him as the principal officer thereof;

(*86*) "profession" includes vocation;

(*87*) "public sector bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) and a bank included in the category "other public sector banks" by the Reserve Bank of India;

(*88*) "public sector company" means any corporation established by or under any Central Act or State Act or Provincial Act or a Government company as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013);

(*89*) "public servant" shall have the same meaning as assigned to it in section 2(*28*) of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023);

(*90*) "rate or rates in force" or "rates in force", in relation to a tax year, for the purposes of—

(*a*) (*i*) computing the income-tax chargeable under section 316(5) or 317(2) or 319 or 320(2); or

(*ii*) deducting income-tax under section 392(1) to (6) from income chargeable under the head "Salaries"; or

(*iii*) computing the advance tax payable under Chapter XIX-C in a case not falling under section 207 or 194(1) (Table: Sl. No. 1) or 194(1) (Table: Sl. No. 6) or 214 or 307 or 308 or 311; or

(*iv*) deducting tax under section 393(1) [Table: Sl. No. 1(*i*)], [Table: Sl. No. 5(*i*)], [Table: Sl. No. 5(*ii*)], [Table: Sl. No. 5(*iii*)] and (Table: Sl. No. 7) or in section 393(3) (Table: Sl. No. 1), (Table: Sl. No. 2) and (Table: Sl. No. 3),

means the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year;

(*b*) computing the advance tax payable under Chapter XIX-C in a case falling under section 207 or 194(1) (Table: Sl. No. 1) or 194(1) (Table: Sl. No. 6) or 214 or 307 or 308 or 311 the rate or rates specified in the said respective section, or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant tax year, whichever is applicable;

(*c*) deducting tax under section 393(2) (Table: Sl. No. 6), (Table: Sl. No. 7), (Table: Sl. No. 8), (Table: Sl. No. 9) and (Table: Sl. No. 17), the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant tax year or the rate or rates of income-tax specified in an agreement entered into by the Central Government under section 159(1), or an agreement notified by the Central Government under section 159(2), whichever is applicable;

(*91*) "recognised provident fund" means a provident fund which has been and continues to be recognised by the approving authority as per Part A of the Schedule XI, and includes a provident fund established under a scheme framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(*92*) "recognised stock exchange" means a recognised stock exchange as referred to in section 2(*f*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions, as may be prescribed, and notified by the Central Government for this purpose;

(*93*) "regular assessment" means the assessment made under section 270(10) or 271;

(*94*) "relative", in relation to an individual, means the husband, wife, brother, sister or any lineal ascendant (maternal as well as paternal) or descendant of that individual;

(*95*) "Reserve Bank of India" means the Bank constituted under section 3(1) of the Reserve Bank of India Act, 1934 (2 of 1934);

(*96*) "resident" means a person who is resident in India as per section 6;

(*97*) "resulting company" means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;

(*98*) "scheduled bank" shall have the same meaning as assigned to it in section 2(*e*) of the Reserve Bank of India Act, 1934 (2 of 1934);

(*99*) "Securities and Exchange Board of India" shall have the same meaning as assigned to it in section 2(1)(*a*) of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*100*) "senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant tax year;

(*101*) (*a*) "short-term capital asset" means a capital asset held by an assessee for not more than twenty-four months immediately preceding the date of its transfer; and

(*b*) where the capital asset is a—

(*i*) security listed in a recognised stock exchange in India; or

(*ii*) unit of the Unit Trust of India; or

(*iii*) unit of an equity-oriented fund; or

(*iv*) zero-coupon bond,

the provisions of sub-clause (*a*) shall have effect, as if for the words "twenty-four months", the words "twelve months" had been substituted; and

(*c*) in determining the period for which capital asset is held by the assessee,—

(*A*) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation;

(*B*) there shall be included the period for which—

(*I*) the asset was held by the previous owner referred to in section 73(1) (Table: Sl. No. 1), for a capital asset which becomes the property of the assessee in the circumstances mentioned in the said section;

(*II*) the share or shares in the amalgamating company were held by the assessee, for a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(*f*);

(*III*) the share or shares held in the demerged company were held by the assessee, for a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger;

(*IV*) the person was a member of a recognised stock exchange in India immediately before its demutualisation or corporatisation, for a capital asset, being trading or clearing rights of that recognised stock exchange, acquired by a person pursuant to such demutualisation or corporatisation of that recognised stock exchange;

(*V*) the person was a member of a recognised stock exchange in India immediately before its demutualisation or corporatisation, for a capital asset being equity share or shares in a company allotted pursuant to such demutualisation or corporatisation of that recognised stock exchange;

(*VI*) the share or shares were held by the assessee, for a capital asset being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in section 70(1)(*zi*);

(*VII*) the unit or units in the consolidating scheme of a mutual fund were held by the assessee, for a capital asset being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(*zj*);

(*VIII*) the preference shares were held by the assessee, for a capital asset being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(*zb*);

(*IX*) the unit or units in the consolidating plan of a mutual fund scheme were held by the assessee, for a capital asset being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 70(1)(*zk*);

(*X*) the original unit or units in the main portfolio were held by the assessee, for a capital asset being a unit or units in a segregated portfolio referred to in section 73(1) (Table: Sl. No. 11);

(*XI*) gold was held by the assessee before conversion into the Electronic Gold Receipt, for a capital asset being Electronic Gold Receipt issued in respect of such gold deposited as referred to in section 70(1)(*y*);

(*XII*) Electronic Gold Receipt was held by the assessee before its conversion into gold for a capital asset being gold released in respect of such Electronic Gold Receipt as referred to in section 70(1)(*y*);

(*C*) there shall be reckoned, the period from—

(*I*) the date of its conversion or treatment, for a capital asset referred to in section 26(2)(*j*);

(*II*) the date of allotment of a share or any other security (herein referred to as the financial asset), for a capital asset being such financial asset subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset;

(*III*) the date of the offer of the right to subscribe to any financial asset which is renounced in favour of any other person by the company or institution, as the case may be, making such offer, for a capital asset, being such right;

(*IV*) the date of the allotment of a financial asset allotted without any payment and on the basis of holding of any other financial asset, for a capital asset being such financial asset;

(*V*) the date of allotment or transfer of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), for a capital asset being such specified security or sweat equity shares;

(*VI*) the date on which a request for the redemption was made, for a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in section 209(1)(Table: Sl. No. 2) held by such assessee;

(*D*) for capital assets other than those mentioned in items (*A*) to (*C*), the said period shall be determined in such manner, as may be prescribed,

where,—

(*A*) "equity oriented fund" shall have the meaning assigned to it in section 198(8);

(*B*) "security" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*C*) "specified security" means the securities as defined in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;

(*D*) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(*102*) "short-term capital gain" means capital gains arising from the transfer of a short-term capital asset;

(*103*) (*a*) "slump sale" means the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer;

(*b*) for the purpose of sub-clause (*a*)—

(*i*) "undertaking" shall have the meaning assigned to it in clause (*35*)(*i*); and

(*ii*) the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities;

(*104*) "Special Economic Zone" shall have the same meaning as assigned to it in section 2(*za*) of the Special Economic Zones Act, 2005 (28 of 2005);

(*105*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or State Government for the payment of stamp duty in respect of an immovable property, where the expression "assessable" shall mean the value which any authority of that Government would have adopted or assessed as if it were referred to such authority for the purposes of payment of stamp duty, irrespective of anything to the contrary contained in any other law in force;

(*106*) "tax" means income-tax chargeable under this Act;

(*107*) "Tax Recovery Officer" means an Income-tax Officer authorised in writing by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, to exercise—

(*a*) the powers of a Tax Recovery Officer; and

(*b*) the powers and functions conferred on, or assigned to, an Assessing Officer under this Act, and as may be prescribed;

(*108*) "total income" means the total amount of income referred to in section 5, computed in the manner as laid down in this Act;

(*109*) "transfer" in relation to a capital asset, includes—

(*a*) the sale, exchange or relinquishment of the asset; or

(*b*) the extinguishment of any rights therein; or

(*c*) the compulsory acquisition thereof under any law in force; or

(*d*) where the asset is converted by the owner into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment; or

(*e*) the maturity or redemption of a zero coupon bond; or

(*f*) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner) which has the effect of transferring, or enabling the enjoyment of, any immovable property; or

(*g*) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882); or

(*h*) disposing of, or parting with, an asset or any interest therein, or creating any interest in any asset in any manner, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, irrespective of whether such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India,

where, the expression "immovable property" means—

(*i*) any land or any building or part of a building, and includes, where any land or any building or part of a building is to be transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also, such that the land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein;

(*ii*) any rights in or with respect to any land or any building or a part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein), which has been constructed or which is to be constructed, accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease of such land, building or part of a building;

(*110*) "Valuation Officer" means a person appointed by the Central Government as a Valuation Officer who shall exercise powers as specified in section 269(3), and includes a Regional Valuation Officer, a District Valuation Officer and an Assistant Valuation Officer;

(*111*) "virtual digital asset" means—

(*a*) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, called by any name, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;

(*b*) a non-fungible token or any other token of similar nature, by whatever name called;

(*c*) any other digital asset, as the Central Government may, by notification, specify;

(*d*) any crypto-asset being a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions, whether or not such asset is included in sub-clause (*a*) or (*b*) or (*c*),

where,—

(*i*) "non-fungible token" means such digital asset as the Central Government may, by notification, specify;

(*ii*) the Central Government may, by notification, exclude any digital asset from this definition, subject to such conditions as specified therein;

(*112*) "zero coupon bond" means a bond—

(*a*) issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank on or after the 1st June, 2005;

(*b*) for which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank; and

(*c*) which the Central Government may, by notification, specify,

where, the expression "infrastructure debt fund" means the infrastructure debt fund notified by the Central Government under Schedule VII (Table: Sl. No. 46).

Definition of "tax year" .

3. (1) For the purposes of this Act, "tax year" means the twelve months period of the financial year commencing on the 1st April.

(2) In the case of a business or profession newly set up, or a source of income newly coming into existence in any financial year, the tax year shall be the period beginning with—

(*a*) the date of setting up of such business or profession; or

(*b*) the date on which such source of income newly comes into existence,

and ending with the said financial year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

CHAPTER II

BASIS OF CHARGE

Charge of Income-tax.

4. (1) Where any Central Act enacts that income-tax shall be charged for any tax year at any rate or rates, income-tax for such tax year shall be charged at that rate or those rates in accordance with and subject to the provisions of this Act.

(2) The charge of income-tax under sub-section (1) shall be on the total income of the tax year of every person as per the provisions of this Act.

(3) Income-tax shall also include any additional income-tax, by whatever name called, levied under this Act.

(4) If this Act provides that income-tax is to be charged in respect of income of a period other than the tax year, it shall be charged accordingly.

(5) For the income chargeable under this section, income-tax shall be deducted or collected at source or paid in advance as provided under this Act.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Scope of total income.

5. (1) Subject to the provisions of this Act, the total income of any tax year of a person, who is a resident, includes all income from whatever source derived, which—

(*a*) is received or deemed to be received in India in that year by or on behalf of such person;

(*b*) accrues or arises, or is deemed to accrue or arise, to such person in India in that year; or

(*c*) accrues or arises to such person outside India in that year, but when such person is "not ordinarily resident" in India under section 6(13), such income shall be included only when it is derived from a business controlled in or a profession set up in India.

(2) Subject to the provisions of this Act, the total income of a tax year of a person, who is a non-resident, includes all income from whatever source derived, which—

(*a*) is received or deemed to be received in India in that year by or on behalf of such person; or

(*b*) accrues or arises, or is deemed to accrue or arise, to such person in India in that year.

(3) Income accruing or arising outside India shall not be deemed to be received in India under this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

(4) If an income has been included in a person's total income on the basis that it—

(*a*) has accrued or arisen; or

(*b*) is deemed to have accrued or arisen,

to such person, it shall not again be included on the basis that it is received or deemed to be received by that person in India.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Residence in India.

6. (1) For the purposes of this Act, residential status in India in a tax year of a person shall be determined as per the provisions of this section.

(2) An individual shall be resident in India in a tax year, if he—

(*a*) is in India for a total period of one hundred and eighty-two days or more in that tax year; or

(*b*) is in India cumulatively for sixty days or more during that year and has been in India cumulatively for three hundred and sixty-five days or more in the four years preceding such tax year.

(3) The provisions of sub-section (2)(*b*) shall not apply in the case of an individual who is a citizen of India and leaves India in any tax year—

(*a*) as a member of the crew of an Indian ship, as defined in section 3(18) of the Merchant Shipping Act, 1958 (44 of 1958); or

(*b*) for the purposes of employment outside India.

(4) The provisions of sub-section (2)(*b*) shall not apply, subject to the provisions of sub-section (5), in the case of an individual—

(*a*) who is a citizen of India or a person of Indian origin; and

(*b*) who being outside India, comes on a visit to India in any tax year.

(5) Where the person referred to in sub-section (4) has a total income exceeding fifteen lakh rupees during the tax year referred therein (other than the income from foreign sources), sub-section (2)(*b*) shall apply as if the words “sixty days” had been substituted with “one hundred and twenty days”.

(6) For the purposes of sub-section (2), if the individual is—

(*a*) a citizen of India; and

(*b*) a member of the crew of a foreign-bound ship leaving India,

the total number of days in India, in respect of that voyage, shall be determined in such manner and subject to such conditions, as may be prescribed.

(7) Irrespective of the provisions of sub-sections (2) to (6), an individual shall be deemed to be resident in India for a tax year, if he—

(*a*) is a citizen of India;

(*b*) is not liable to tax in any other country or territory due to his domicile, residence, or similar criteria; and

(*c*) has total income exceeding fifteen lakh rupees during such tax year (other than the income from foreign sources).

(8) Sub-section (7) shall not apply to an individual, who is resident in India for a tax year under sub-sections (2) to (6).

(9) A Hindu undivided family, firm or other association of persons shall be resident in India in any tax year unless the control and management of its affairs is situated wholly outside India during such tax year.

(10)(*a*) A company is said to be a resident in India in any tax year, if—

(*i*) it is an Indian company; or

(*ii*) its place of effective management is in India in that tax year;

(*b*) for the purposes of this sub-section, “place of effective management” means a place where key management and commercial decisions necessary for the conduct of business of the company as a whole are, in substance, made.

(11) Every other person is resident in India in any tax year unless during that tax year the control and management of the affairs of such person is situated wholly outside India.

(12) If a person is resident in India in a tax year for any source of income, he shall be deemed to be resident in India in that tax year for each of his other sources of income.

(13) A person is not ordinarily resident in India in any tax year, if that person is—

(*a*) an individual who has been, or a Hindu undivided family, whose manager has been—

(*i*) a non-resident in India in nine out of the ten tax years preceding that year; or

(*ii*) in India cumulatively for seven hundred and twenty-nine days or less in seven tax years preceding that year; or

(*b*) a citizen of India or a person of Indian origin,—

(*i*) whose total income excluding income from foreign sources exceeds fifteen lakh rupees during the tax year, as mentioned in sub-section (5); and

(*ii*) who has been in India cumulatively for one hundred and twenty days or more but less than one hundred and eighty-two days during the tax year; or

(*c*) a citizen of India who is deemed to be resident in India under sub-section (7).

(14) For the purposes of this section, “income from foreign sources” means the income, which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

Income deemed to be received and dividend deemed to be income in a tax year.

7. (1) The following incomes shall be deemed to be received in the tax year:—

(*a*) the annual accretion in that year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provided in paragraph 6 of Part A of Schedule XI;

(*b*) the transferred balance in a recognised provident fund, to the extent provided in paragraph 11(4) and (5) of Part A of Schedule XI;

(*c*) the contribution made by the Central Government or any other employer in that year to the account of an employee under a pension scheme mentioned in section 124.

(2) For inclusion in the total income of an assessee,—

(*a*) any dividend declared by a company or distributed or paid by it within the meaning of section 2(*40*)(*a*) to (*f*) shall be deemed to be the income of the tax year in which it is so declared, distributed or paid, as the case may be;

(*b*) any interim dividend shall be deemed to be the income of the tax year in which the amount of such dividend is unconditionally made available by the company to the member who is entitled to it.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Income on receipt of capital asset or stock-in-trade by specified person from specified entity.

8. (1) Where a specified person receives during the tax year any capital asset or stock-in-trade, or both, from a specified entity in connection with the dissolution or reconstitution of such specified entity, then the specified entity shall be deemed to have transferred such capital asset or stock-in-trade, or both, to the specified person in the year in which such capital asset or stock-in-trade, or both, are received by the specified person.

(2) Any profits and gains arising from the deemed transfer mentioned in sub-section (1) by the specified entity shall be—

(*i*) deemed to be the income of such specified entity of the tax year in which such capital asset or stock-in-trade, or both, were received by the specified person; and

(*ii*) chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains".

(3) For the purposes of this section, fair market value of the capital asset or stock-in-trade, or both, on the date of its receipt by the specified person shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer mentioned in sub-section (1).

(4) If any difficulty arises in giving effect to the provisions of this section and section 67(10), the Board may, with the previous approval of the Central Government, issue guidelines for removing the difficulty.

(5) Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline 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 guideline.

(6) For the purposes of this section,—

(*a*) "specified entity" means a firm or other association of persons or body of individuals (not being a company or a co-operative society);

(*b*) "specified person" means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any tax year;

(*c*) "reconstitution of the specified entity" means, where—

(*i*) one or more of its partners or members, of such specified entity ceases to be partners or members; or

(*ii*) one or more new partners or members are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, of the specified entity, before the change, continue as partner or partners or member or members after the change; or

(*iii*) all the partners or members, of such specified entity continue with a change in their respective share or in the shares of some of them.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Income deemed to accrue or arise in India.

9. (1) The income referred to in sub-sections (2) to (8) shall be deemed to accrue or arise in India.

(2) The income accruing or arising, directly or indirectly, through or from—

(*a*) any asset or source of income in India; or
(*b*) any property in India; or
(*c*) any business connection in India; or
(*d*) the transfer of a capital asset situated in India,

shall be deemed to accrue or arise in India.

(3) Any income falling under the head "Salaries" shall be deemed to accrue or arise in India, if it is—

(*a*) earned in India, and any income payable for,—
(*i*) services rendered in India; and
(*ii*) the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment,

shall be regarded as income earned in India ;
(*b*) payable by the Government to an Indian citizen for services rendered outside India.

(4) Any dividend paid by an Indian company outside India shall be deemed to accrue or arise in India.

(5)(*a*) Income by way of interest payable by—

(*i*) the Government;
(*ii*) a resident, except where it is payable in respect of any debt incurred, or moneys borrowed and used, for the purpose of—
(*A*) a business or profession carried on by such resident outside India; or
(*B*) making or earning any income by such resident from any source outside India; or
(*iii*) a non-resident, if it is in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such non-resident in India,

shall be deemed to accrue or arise in India;

(*b*) for the purposes of clause (*a*),—

(*i*) any interest payable by the permanent establishment in India of a non-resident person engaged in the business of banking, to the head office or any other permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to such permanent establishment in India;
(*ii*) such permanent establishment in India shall—
(*A*) be deemed to be a person separate from, and independent of, the non-resident person of which it is a permanent establishment; and
(*B*) the provisions of this Act relating to computation of total income, determination of tax and collection and recovery shall apply, accordingly;
(*iii*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*).

(6)(*a*) Income by way of royalty payable by—

(*i*) the Government;
(*ii*) a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of—
(*A*) a business or profession carried on by such resident outside India; or
(*B*) making or earning any income by such resident from any source outside India; or
(*iii*) a non-resident, if the royalty is payable in respect of any right, property or information used or services utilised for the purposes of—
(*A*) a business or profession carried on by such non-resident in India; or
(*B*) making or earning any income by such non-resident from any source in India,

shall be deemed to accrue or arise in India;

(*b*) in this sub-section, "royalty" means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for the following—

(*i*) the transfer or grant of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;
(*ii*) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property;
(*iii*) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property;
(*iv*) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;
(*v*) the use or right to use any industrial, commercial or scientific equipment except the amounts referred in section 61(2) (Table: Sl. No. 5);
(*vi*) the transfer or grant of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including—
(*A*) films or video tapes for use in connection with television; or
(*B*) tapes for use in connection with radio broadcasting;
(*vii*) the rendering of services in connection with the activities referred to in sub-clauses (*i*) to (*vi*);

(*c*) for the purposes of clause (*b*),—

(*i*) the transfer or grant of all or any rights in respect of any right, property or information includes transfer or grant of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which that right is transferred;
(*ii*) royalty includes consideration in respect of any right, property or information, whether or not—
(*A*) the possession or control of that right, property or information is with the payer;
(*B*) that right, property or information is used directly by the payer;
(*C*) the location of that right, property or information is in India;

(*iii*) the expression "process" includes transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not that process is secret;

(*iv*) the expression "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customised electronic data.

(7)(*a*) Income by way of fees for technical services payable by—

(*i*) the Government;

(*ii*) a resident, except where it is payable in respect of services utilised for—

(*A*) a business or profession carried on by such resident outside India; or

(*B*) making or earning any income by such resident from any source outside India; or

(*iii*) a non-resident, if it is payable in respect of services utilised for—

(*A*) a business or a profession carried on by such non-resident in India; or

(*B*) making or earning any income by such non-resident from any source in India,

shall be deemed to accrue or arise in India;

(*b*) in this sub-section, "fees for technical services" means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration—

(*i*) for any construction, assembly, mining or like project undertaken by the recipient; or

(*ii*) which would be income of the recipient chargeable under the head "Salaries".

(8) Income arising outside India, in the nature of a sum referred to in section 2(*49*)(*u*), paid by a person resident in India,—

(*a*) to a non-resident, not being a company, or to a foreign company; or

(*b*) to a person not ordinarily resident in India under section 6(13),

shall be deemed to accrue or arise in India.

(9)(*a*) For the purposes of this section, "business connection" in India shall include—

(*i*) any business carried out in India in the case of which all or part of operation are carried out in India; or

(*ii*) a significant economic presence in India;

(*b*) in clause (*a*), a business carried out in India shall include—

(*i*) business activity carried out through a person who, acting on behalf of the non-resident,—

(*A*) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are—

(*I*) in the name of the non-resident; or

(*II*) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or

(*III*) for the provision of services by the non-resident; or

(*B*) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(*C*) habitually secures orders in India, mainly or wholly for the non-resident, or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident;

(*ii*) a business activity carried out through a person who is a broker, general commission agent or any other agent, through whom such activity is carried out, and who is working mainly or wholly on behalf of—

(*A*) a non-resident (referred to as the principal non-resident); or

(*B*) such non-resident and other non-residents who—

(*I*) are controlled by the principal non-resident; or

(*II*) have a controlling interest in the principal non-resident; or

(*III*) are subject to the same common control as the principal non-resident,

and such person shall not be deemed as having an independent status;

(*c*) in clauses (*a*) and (*b*), a business carried out in India shall not include any business activity or operations of the non-resident—

(*i*) carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent is acting in the ordinary course of his business; or

(*ii*) which are confined to any of the following—

(*A*) the purchase of goods in India for the purposes of export out of India; or

(*B*) the collection of news and views in India for transmission out of India, in the case where such non-resident is engaged in the business of running a news agency or of publishing newspapers, magazines or journals; or

(*C*) the display of uncut and unassorted diamond in any special zone notified by the Central Government, in the case where such nonresident is a foreign company engaged in the business of mining of diamonds; or

(*D*) the shooting of any cinematographic film in India, in the case where such non-resident is a person being—

(*I*) an individual who is not an Indian citizen; or

(*II*) a firm which does not have a partner who is an Indian citizen or who is resident in India; or

(*III*) a company which does not have a shareholder who is an Indian citizen or who is resident in India;

(*d*) a non-resident shall have a significant economic presence in India, where there is—

(*i*) transaction in respect of any goods, services or property carried out by such non-resident with any person in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the tax year exceeds such amount as may be prescribed; or

(*ii*) systematic and continuous soliciting of business activities or engaging in interaction with such number of users in India, as may be prescribed,

irrespective of whether the agreement for such transactions or activities is entered in India, or the non-resident has a residence or place of business in India, or the non-resident renders any services in India;

(*e*) the provisions of clause (*d*) shall not apply to the transactions or activities which are confined to the purchase of goods in India for the purpose of export;

(*f*) in this section, only the income which is reasonably attributable to—

(*i*) operations carried out in India, when all operations of the business are not carried out in India;
(*ii*) transactions or activities referred to in clause (*d*),

shall be deemed to accrue or arise in India from any business connection;

(*g*) the income attributable to operations of any business or significant economic presence in this section shall also include income from—

(*i*) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;
(*ii*) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and
(*iii*) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.

(10) In sub-section (2),—

(*a*) an asset or a capital asset, being any share of, or interest in, a company or entity registered or incorporated outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets (whether tangible or intangible) located in India;
(*b*) the share or interest, referred to in clause (*a*), shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of such assets,—
(*i*) exceeds the amount of ten crore rupees; and
(*ii*) represents at least 50% of the value of all the assets owned by the company or entity, as the case may be;
(*c*) the value of an asset shall be the fair market value on the specified date of such asset without reduction of liabilities, if any, in respect of the asset, determined in the manner, as may be prescribed;
(*d*) the expression "specified date" in clause (*c*) means—
(*i*) the date on which the accounting period of the company or, as the case may be, the entity ends preceding the date of transfer of a share or an interest; or
(*ii*) the date of transfer, if the book value of the assets of the company or, as the case may be, the entity on the date of transfer exceeds the book value of the assets as on the date referred to in sub-clause (*i*), by 15%;
(*e*) the expression "accounting period" in clause (*d*) means—
(*i*) each period of twelve months ending with the 31st March;
(*ii*) each period of twelve months ending with a date other than the 31st March, in a case where a company or an entity, referred to in clause (*a*), regularly adopts a period of twelve months ending on a day other than the 31st March for—
(*A*) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or
(*B*) reporting to persons holding the share or interest;
(*iii*) the period beginning with the date of registration or incorporation of a company or entity and ending with the 31st March or such other day referred to in sub-clause (*ii*), in a case where a company or entity comes into existence and the later accounting period shall be the successive periods of twelve months; or
(*iv*) the period beginning with the 1st April or such other day as applicable in sub-clause (*ii*) and ending with the date immediately preceding the date on which the company or entity ceases to exist, in a case where the company or the entity ceases to exist before the end of the accounting period;
(*f*) in case of assets mentioned in clause (*a*), if—
(*i*) there is a transfer outside India of any share of, or interest in, a company or an entity registered or incorporated outside India by a non-resident transferor; and
(*ii*) all the assets owned, directly or indirectly, by that company or entity are not located in India,

then, the income referred to in sub-section (2) shall be only such part of the income as is reasonably attributable to assets located in India and determined in the manner, as may be prescribed;
(*g*) the income referred to in sub-section (2) shall not include income from transfer, outside India, of any share of, or interest in, a company or an entity registered or incorporated outside India,—
(*i*) if such share of, or interest in, a company or an entity registered or incorporated outside India is held by a non-resident by way of investment, directly or indirectly,—
(*A*) in Category I or Category II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, prior to their repeal, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
(*B*) in Category I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
(*ii*) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer,—
(*A*) does not hold the right of management or control in relation to such company or the entity; and
(*B*) does not hold voting power or share capital or interest exceeding 5% of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or
(*iii*) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer,—
(*A*) does not hold the right of management or control in relation to such company or the entity;
(*B*) does not hold any right in, or in relation to, such company or entity which would entitle it to the right of management or control in the company or entity which directly owns the assets situated in India; and
(*C*) does not hold such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding 5% of the total voting power or total share capital or total interest, as the case may be, of the company or entity, which directly owns the assets situated in India;
(*iv*) in this clause, "associated enterprises" shall have the meaning assigned to it in section 162.

(11) In sub-sections (5), (6) and (7), income of a non-resident shall be deemed to accrue or arise in India and shall be included in his total income, whether or not,—

(*a*) the non-resident has a residence or place of business or business connection in India; or
(*b*) the non-resident has rendered services in India.

(12)(*a*) In this section, the fund management activity carried out by an eligible investment fund through an eligible fund manager acting on behalf of such fund, shall not constitute business connection in India of that fund;

(*b*) the eligible investment fund mentioned in clause (*a*) shall not be said to be resident in India under section 6 merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India;

(*c*) nothing contained in this section shall apply to exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not;

(*d*) nothing contained in this section shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager;

(*e*) the conditions for being an eligible investment fund or an eligible fund manager, or furnishing of requisite statements shall be as per the provisions of Schedule I;

(*f*) the Central Government may, by notification, specify that any one or more of the conditions as referred to in clause (*e*) shall not apply, or shall apply, with such modifications, as specified, in case of an eligible investment fund and its eligible fund manager, if—

(*i*) the eligible fund manager is located in an International Financial Services Centre; and
(*ii*) has commenced its operations on or before the 31st March, 2030.

(13) For the purposes of this section, the expression “through” shall mean and include “by means of”, “in consequence of” or “by reason of”.

Apportionment of income between spouses governed by Portuguese Civil Code.

10. If a husband and wife are governed by the community of property system (known as "COMMUNIAO DOS BENS" under the Portuguese Civil Code of 1860) in force in the State of Goa and the Union Territories of Dadra and Nagar Haveli and Daman and Diu, then—

(*a*) their income under any head of income shall not be assessed together as that of such community of property (whether treated as an association of persons or a body of individuals);

(*b*) the income mentioned in clause (*a*) under each head of income other than "Salaries" shall be divided equally between the husband and the wife;

(*c*) the income so divided shall be included separately in the total income of the husband and the wife respectively, and the remaining provisions of this Act shall apply accordingly; and

(*d*) where either the husband or the wife, has any income under the head "Salaries", that income shall be included in the total income of the spouse who has actually earned it.

CHAPTER III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

A.-Incomes not to be included in total income

Incomes not included in total income.

11. (1) In computing the total income of any person for a tax year under this Act, any income enumerated in Schedules II, III, IV, V and VI shall not be included, subject to fulfilment of conditions specified therein.

(2) Wherever the conditions referred to in the Schedules referred in sub-section (1) are not satisfied in any tax year in respect of any income enumerated in the said Schedules, such income shall be charged to tax under this Act on the total income for that tax year.

(3) The persons enumerated in Schedule VII shall, subject to fulfilment of the conditions specified therein, not be chargeable to tax under this Act on the total income for a tax year.

(4) Wherever the conditions referred to in Schedule VII are not satisfied in respect of the persons enumerated in the said Schedule in any tax year, the income of such person shall be charged to tax under the provisions of this Act for that tax year.

(5) The Central Government may make rules or issue notifications for the purposes of this section as specified in Schedules II, III, IV, V, VI and VII.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

B.-Incomes not to be included in total income of political parties and electoral trusts

Incomes not included in total income of political parties and electoral trusts.

12. (1) In computing the total income of any political party or an electoral trust for a tax year under this Act, any income enumerated in Schedule VIII shall not be included, subject to fulfilment of conditions specified therein.

(2) Wherever the conditions referred to in Schedule VIII are not satisfied in any tax year in respect of any income enumerated in the said Schedule, such income shall be charged to tax under this Act for that tax year.

(3) The Central Government may make rules or issue notifications for the purposes of this section as specified in Schedule VIII.

CHAPTER IV

Computation of total income

A.-Heads of income

Heads of income.

13. Save as otherwise provided in this Act, all incomes shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income:—

(*a*) Salaries;
(*b*) Income from house property;
(*c*) Profits and gains of business or profession;
(*d*) Capital gains; and
(*e*) Income from other sources.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Income not forming part of total income and expenditure in relation to such income.

14. (1) Irrespective of anything to the contrary contained in this Act, for the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income.

(2) Where the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with—

(*a*) the correctness of the claim of expenditure incurred by the assessee; or

(*b*) the claim made by the assessee that no expenditure has been incurred,

in relation to income which does not form part of the total income under this Act, he shall determine such amount of expenditure in accordance with any method, as may be prescribed.

(3) Irrespective of anything to the contrary contained in this Act, the provisions of this section shall apply in a case where any expenditure has been incurred during any tax year in relation to income which does not form part of the total income under this Act, but such income has not accrued or arisen or has not been received during that tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

B.-Salaries

Salaries.

15. (1) The following income shall be chargeable to income-tax under the head "Salaries":—

(*a*) any salary due from an employer to an assessee in the tax year, whether paid or not;

(*b*) any salary paid or allowed to him in the tax year by or on behalf of an employer though not due or before it became due to him;

(*c*) any arrears of salary paid or allowed to him in the tax year by or on behalf of an employer, if not charged to income-tax for any earlier tax year.

(2) For the purposes of sub-section (1), employer includes former employer.

(3) If any salary paid in advance is included in the total income of any person for any tax year, it shall not be included again in the total income of such person when the salary becomes due.

(4) Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as salary for the purposes of this section.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Income from salary.

16. For the purposes of this Part, "salary" includes—

(*a*) wages;

(*b*) any annuity or pension;

(*c*) any gratuity;

(*d*) any fees or commission;

(*e*) perquisites;

(*f*) profits *in lieu* of, or in addition to, any salary or wages;

(*g*) any advance of salary;

(*h*) any payment received by an employee in respect of any period of leave not availed of by him;

(*i*) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax as per paragraph 6 of Part A of Schedule XI;

(*j*) the aggregate of all sums that are comprised in the transferred balance as referred to in paragraph 11(2) of Part A of Schedule XI of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-paragraphs (4) and (5) thereof;

(*k*) the contribution made by the Central Government or any other employer in any tax year, to the account of an employee under a pension scheme referred to in section 124; and

(*l*) the contribution made by the Central Government in any tax year, to the *Agniveer* Corpus Fund account of an individual enrolled in the *Agnipath* Scheme referred to in section 125.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Perquisite.

17. (1) For the purposes of this Part, "perquisite" includes—

(*a*) the value of rent-free accommodation provided to the assessee by his employer computed in such manner as may be prescribed;

(*b*) the value of any accommodation, computed in such manner as may be prescribed, provided to the assessee by his employer at a concessional rate which is in excess of rent recoverable from or payable by the assessee;

(*c*) the value of any benefit or amenity granted or provided free of cost or at concessional rate in the following cases:—

(*i*) by a company to an employee, who is a director thereof or who has a substantial interest in the company;

(*ii*) by any employer (including a company) to an employee [other than employee referred in sub-clause (*i*)] whose income under the head "Salaries" by way of monetary payment (from one or more employers) exceeds such amount as may be prescribed;

(*d*) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the current employer, or former employer, free of cost or at concessional rate to the assessee;

(*e*) the value of any other benefit or amenity, as may be prescribed;

(*f*) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee;

(*g*) any sum payable by the employer to effect an assurance on the life of the assessee or to effect a contract for an annuity, whether directly or through a fund, other than—

(*i*) a recognised provident fund; or

(*ii*) an approved superannuation fund; or

(*iii*) a Deposit-linked Insurance Fund established under—

(*A*) section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948); or

(*B*) section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(*h*) aggregate amount of any contribution, in excess of ₹750000 in a tax year, made to the account of the assessee by the employer—

(*i*) in a recognised provident fund;

(*ii*) in the scheme referred to in section 124(1); and

(*iii*) in an approved superannuation fund;

(*i*) the annual accretion by way of interest, dividend or any other amount of similar nature during the tax year to the balance at the credit of the fund or scheme referred to in clause (*h*), computed in such manner, as may be prescribed (to the extent it relates to the contribution referred to in the said clause in any tax year).

(2) Nothing in sub-section (1) shall apply to—

(*a*) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

(*b*) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—

(*i*) in any hospital maintained by the Government, or any local authority, or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(*ii*) in respect of the prescribed diseases or ailments, in any hospital approved by the Principal Chief Commissioner or Chief Commissioner having regard to such guidelines as may be issued in this behalf;

(*c*) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved, for the purposes of section 30(*c*), by the—

(*i*) Central Government; or

(*ii*) Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(*d*) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme, approved for the purposes of section 126, by the—

(*i*) Central Government; or

(*ii*) Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(*e*) any expenditure incurred by the employer for the use of any vehicle for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence;

(*f*) any expenditure incurred by the employer, or any sum paid by the employer in respect of any expenditure actually incurred by the employee, on—

(*i*) medical treatment of the employee or any family member of such employee outside India;

(*ii*) travel and stay abroad for the employee or any member of the family of such employee for medical treatment;

(*iii*) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment.

(3) For the purposes of sub-section (2)(*f*),—

(*a*) the expenditure on medical treatment and stay abroad shall be excluded from the perquisite only to the extent permitted by the Reserve Bank of India; and

(*b*) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed such amount as may be prescribed.

(4) For the purposes of this section,—

(*a*) "fair market value" means the value determined in accordance with the method, as may be prescribed;

(*b*) "family", in relation to an individual, shall have the meaning assigned to it in Schedule III (Note 2);

(*c*) "gross total income" shall have the meaning assigned to it in section 122(10);

(*d*) "hospital" includes a dispensary or a clinic or a nursing home;

(*e*) "option" means a right but not an obligation, granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(*f*) "specified security" means the securities as defined in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;

(*g*) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(*h*) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, on the date on which the option is exercised by the assessee, as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares.

Profits in lieu of salary.

18. (1) For the purposes of this Part, "profits *in lieu* of salary" includes,—

(*a*) the amount of any compensation due to, or received by, an assessee from his employer or former employer at or in connection with the—
  (*i*) termination of his employment; or
  (*ii*) modification of the terms and conditions relating thereto;

(*b*) any amount due to, or received, whether in lump sum or otherwise, by any assessee from any person—
  (*i*) before his joining any employment with that person; or
  (*ii*) after cessation of his employment with that person;

(*c*) any payment due to or received by an assessee—
  (*i*) from an employer or a former employer; or
  (*ii*) from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions; or
  (*iii*) any sum received under a Keyman insurance policy as defined in Schedule II (Note 1), including the sum allocated by way of bonus on such policy.

(2) The payment referred in sub-section (1)(*c*) shall not include any payment referred to in—

(*a*) Schedule II (Table: Sl. No. 3);

(*b*) Schedule II (Table: Sl. No. 4);

(*c*) Schedule II (Table: Sl. No. 8); and

(*d*) Schedule III (Table: Sl. No. 11).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deductions from salaries.

19. (1) The income chargeable under the head "Salaries" shall be computed after making the deductions in respect of sums of the nature mentioned in column B of the following Table, not exceeding the amount as mentioned in column C thereof:—

TABLE

Sl. No.	*Nature of sum*	*Amount of deduction*
A	*B*	*C*
1.	Sum paid by the assessee as a tax on employment as per article 276(2) of the Constitution, leviable by or under any law.	Entire amount.
2.	Standard deduction.	(*a*) ₹ 75000 or the salary, whichever is less, where income-tax is computed under section 202(1); (*b*) ₹ 50000 or the salary, whichever is less, in any other case.
3.	Death—*cum*-retirement gratuity received as referred to in sub-section (2)(*g*).	Entire amount.
4.	Payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services.	Entire amount.
5.	Gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972).	Amount received, as restricted to the amount calculated as per the provisions of section 4(2) and (3) of the said Act.
6.	Any other gratuity received by an employee— (*i*) on his retirement; or (*ii*) on his becoming incapacitated before such retirement; or (*iii*) on termination of his employment.	Amount being minimum of— (*a*) actual gratuity received; (*b*) amount specified by the Central Government, by notification, having regard to the limit applicable in this behalf to the employees of the Central Government; and (*c*) half month's salary for each completed year of service, calculated as under:— $\text{Amount} = \frac{1}{2}(A \times B)$ where,— A = average salary for ten months immediately preceding the month when any such event occurs; B = number of such completed years.
7.	Payment in commutation of pension received— (*a*) under the Civil Pensions (Commutation) Rules of the Central Government; or (*b*) under any similar scheme applicable to— (*i*) the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union, [such members or holders not covered under (*a*)]; (*ii*) the members of the all-India services; (*iii*) the members of the defence services; (*iv*) the members of the civil services of a State, or the holders of civil posts under a State; or (*v*) the employees of a local authority or a corporation established by a Central Act or State Act or Provincial Act.	Entire amount.
8.	Payment in commutation of pension is received under any scheme from any other employer.	The commuted value shall be determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality, and— (*a*) where the employee has received gratuity, the commuted value of one-third of the pension, which he is normally entitled to receive; and (*b*) in any other case, the commuted value of one-half of such pension.
9.	Payment in commutation of pension received from a fund as specified in Schedule VII (Table: Sl. No. 3).	Entire amount.
10.	Compensation received by a workman at the time of his retrenchment— (*a*) under the Industrial Disputes Act, 1947 (14 of 1947); or (*b*) under any other Act or rules, orders or notifications issued thereunder; or (*c*) under any standing orders; or (*d*) under any award, contract of service or otherwise.	Minimum of— (*a*) compensation received; (*b*) amount calculated as per provisions of section 25F(*b*) of the Industrial Disputes Act, 1947 (14 of 1947); (*c*) such amount, not being less than ₹ 50000, as may be notified by the Central Government.

Sl. No.	*Nature of sum*	*Amount of deduction*
A	*B*	*C*
11.	In case of compensation referred to in Sl. No. 10, where such compensation received is in accordance with any scheme which the Central Government may approve in this behalf, having regard to— (*a*) the need for extending special protection to the workmen in the undertaking to which such scheme applies; and (*b*) other relevant circumstances.	Compensation received.
12.	Amount received or receivable on voluntary retirement or termination of service under a scheme or schemes of voluntary retirement, by an employee as referred to in sub-section (2)(*h*).	Minimum of— (*a*) compensation received; and (*b*) ₹ 500000.
13.	Payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise.	Entire amount.
14.	Payment of the nature referred against serial number 13 received by an employee who is not a Central Government or State Government employee.	Amount being minimum of— (*a*) the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement, whether on superannuation or otherwise (entitlement of earned leave shall not exceed thirty days for every year of actual service); (*b*) amount "A", where,— A=10 x B; B = average monthly salary for the ten months immediately preceding his retirement whether on superannuation or otherwise; (*c*) amount as the Central Government may, by notification, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government; and (*d*) actual payment received.

(2) For the purposes of the Table referred to in sub-section (1),—

(*a*) in respect of the entries against serial number 6 thereof, if gratuity or gratuities was or were received from one or more than one employer in the same tax year (whether or not any gratuity or gratuities was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A - B,

where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of gratuity or gratuities which was or were received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from the total income of any such tax year or years;

(*b*) in respect of the entries against serial numbers 6 and 14 thereof, "Salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(*c*) in respect of the entries against serial numbers 10 and 11 thereof, the following amounts shall be deemed to be compensation received at the time of retrenchment:—

(*i*) compensation received by a workman at the time of the closing down of the undertaking in which he is employed;

(*ii*) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed, from the employer in relation to that undertaking to a new employer, if—

(*A*) the service of the workman has been interrupted by such transfer; or

(*B*) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before such transfer; or

(*C*) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment or compensation on the basis that his service has been continuous and has not been interrupted by such transfer;

(*d*) in respect of the entries against serial numbers 10 and 11 thereof, the expressions "employer" and "workman" shall have the same meanings as respectively assigned to them in the Industrial Disputes Act, 1947 (14 of 1947);

(*e*) the provisions of the entries against serial number 12 thereof shall be subject to the following conditions:—

(*i*) the applicable schemes of the said companies or authorities or societies or Universities or the institutes referred to in clauses (*h*)(*vii*) and (*x*), governing the payment of such amount are made as per such guidelines (including, *inter alia*, criteria of economic viability) as may be issued in this behalf;

(*ii*) where deduction has been allowed to an employee in respect of the said item for any tax year, no deduction thereunder shall be allowed to him in relation to any other tax year; and

(*iii*) where any relief under section 157 has been allowed to an assessee for any tax year in respect of any amount referred to in the said item, such amount shall not be allowed as a deduction from the compensation received or receivable in any tax year;

(*f*) in respect of the entries against serial number 14 thereof, if any payment on account of cash equivalent of leave salary is received from one or more than one employer in the same tax year (whether or not any such payment or payments was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A - B,

where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of payment or payments which was received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from total income of any such tax year or years;

(*g*) the death—*cum*-retirement gratuity referred to in sub-section (1) (Table: Sl. No. 3) shall be as—

(*A*) received under the revised pension rules of the Central Government, or the Central Civil Services (Pension) Rules, 2021; or

(*B*) received under any similar scheme applicable—

(*i*) to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said rules);

(*ii*) to the members of the all-India services;

(*iii*) to the members of the civil services of a State or holders of civil posts under a State; or

(*iv*) to the employees of a local authority;

(*h*) the schemes of voluntary retirement or termination of service as referred to in sub-section (1) (Table: Sl. No. 12) shall be for the employees of—

(*i*) a public sector company (under a scheme of voluntary separation); or

(*ii*) any other company; or

(*iii*) an authority established under a Central Act or State Act or Provincial Act; or

(*iv*) a local authority; or

(*v*) a co-operative society; or

(*vi*) a University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956); or

(*vii*) an Indian Institute of Technology within the meaning of section 3(*g*) of the Institutes of Technology Act, 1961 (59 of 1961); or

(*viii*) the Central or any State Government; or

(*ix*) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification, specify in this behalf; or

(*x*) such institute of management, as the Central Government may, by notification, specify in this behalf.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

C.-Income from house property

Income from house property.

20. (1) The annual value of property consisting of any buildings or lands appurtenant thereto, owned by the assessee shall be chargeable to income-tax under the head “Income from house property”.

(2) The provisions of sub-section (1) shall not apply to such portions of the property, as the assessee may occupy for his business or profession, the profits of which are chargeable to income-tax.

Determination of annual value.

21. (1) For the purposes of section 20, the annual value of any property shall be deemed to be the higher of the following:—

(*a*) the sum for which it might reasonably be expected to let from year to year; or

(*b*) the actual rent received or receivable by the owner, if the property or any part of it is let.

(2) If the property or any part of it is let and was vacant for the whole or any part of the tax year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in sub-section (1)(*a*), the annual value of such property shall be deemed to be the amount so received or receivable.

(3) The annual value of the property shall be reduced by the taxes (including service taxes) levied by a local authority in respect of such property, actually paid during the tax year by the owner, irrespective of when such taxes became payable.

(4) The rent which cannot be realised by the owner shall not be included in computing the actual rent received or receivable, subject to the rules as may be made in this behalf.

(5) Where a property is held as stock-in-trade and is not let wholly or partly at any time during the tax year, the annual value of such property or part thereof shall be *nil* for two years from the end of the financial year in which the certificate for completion of construction is obtained from the competent authority.

(6) The annual value of the property consisting of a house or any part thereof shall be taken as *nil*, if the owner occupies it for his own residence or cannot actually occupy it due to any reason.

(7) The provisions of sub-section (6)—

(*a*) shall apply only in respect of two of such houses as specified by the assessee in this behalf;

(*b*) shall not apply, if the house or any part thereof is actually let during any time of the tax year, or if the owner derives any other benefit from it.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deductions from income from house property.

22. (1) The income under the head "Income from house property" shall be computed after making the following deductions:—

(*a*) 30% of the annual value as determined under section 21;

(*b*) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital;

(*c*) where the capital referred to in clause (*b*) is borrowed during any period prior to the tax year in which the property has been acquired or constructed, the amount of any interest payable for the said prior period in five equal instalments for the said tax year and for each of the four immediately succeeding tax years.

(2) In case of property or properties referred to in section 21(6), the aggregate amount of deduction under sub-section (1)(*b*) shall not exceed—

(*a*) ₹ 200000, subject to the following conditions:—

(*i*) the property has been acquired or constructed with borrowed capital and such acquisition or construction is completed within five years from the end of tax year in which capital was borrowed;

(*ii*) the assessee furnishes a certificate from the person to whom interest is payable on such capital; and

(*b*) ₹ 30000 in any other case.

(3) The deduction under section 22(1)(*c*) shall be computed after reducing the interest referred to in the said section by any amount already allowed as a deduction under any other provisions of this Act.

(4) The certificate referred to in sub-section (2) shall specify—

(*a*) the amount of interest payable on capital borrowed; and

(*b*) the interest payable on any new loan, where subsequent to the capital borrowed, the assessee has taken any such loan for repayment of whole or any part of such capital.

(5) The aggregate of the amounts of deduction under sub-section (2) in respect of properties of the nature referred to in section 21(6) shall not exceed ₹ 200000.

(6) Any interest chargeable under this Act which is payable outside India shall not be allowed as a deduction under this section, if—

(*a*) tax has not been paid or deducted on such interest under Chapter XIX-B; and

(*b*) in respect of such interest, there is no agent in India as per section 306.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Arrears of rent and unrealised rent received subsequently.

23. (1) The amount of arrears of rent received by an assessee from a tenant, or the unrealised rent realised subsequently from a tenant, shall be deemed to be the income from house property in respect of the tax year in which such rent is received or realised.

(2) The amount deemed to be income from house property under sub-section (1) shall be included in the total income of the assessee under the head “Income from house property”, whether the assessee is the owner of the property or not in that tax year.

(3) A sum equal to 30% of the arrears of rent or the unrealised rent referred to in sub-section (1) shall be allowed as deduction.

Property owned by co-owners.

24. (1) For property co-owned with definite and ascertainable share, the co-owners shall not be assessed as an association of persons and their income computed separately under this Part as per their respective share shall be included in their total income.

(2) The relief available under section 21(6) shall be provided as if each co-owner is individually entitled to the said relief.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Interpretation.

25. For the purposes of sections 20 to 24, the "owner" in relation to a property or any part thereof shall include—

(*a*) an individual who transfers without adequate consideration, any property to the spouse (except under an agreement to live apart), or to a minor child (other than a married daughter);

(*b*) the holder of an impartible estate, and he shall be deemed to be an individual owner in respect of all the properties comprised in the estate;

(*c*) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association;

(*d*) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882);

(*e*) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or its part—

(*i*) by virtue of transfer of such property by way of sale or exchange or original or extendible lease for a term of not less than twelve years; or

(*ii*) accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease which has the effect of enabling the enjoyment of such property.

D.-Profits and gains of business or profession

Income under head "Profits and gains of business or profession".

26. (1) The incomes referred to in sub-section (2) shall be chargeable to income-tax under the head "Profits and gains of business or profession".

(2) The income under sub-section (1) shall include—

(*a*) the profits and gains of any business or profession carried on by the assessee at any time during the tax year;

(*b*) any compensation or other payment, due to, or received, by any person by whatever name called,—

(*i*) wholly or substantially managing the affairs—

(*A*) of an Indian company; or

(*B*) in India, of any other company; or

(*ii*) holding any agency in India for any part of business activities of any other person; or

(*iii*) for any contract relating to business,

in connection with termination of management, office, agency or contract, as the case may be, or modification of terms and conditions relating thereto;

(*c*) any compensation or payment, due to, or received by, any person for vesting of the management of any property or business, in the Government including any corporation owned or controlled by the Government under any law in force;

(*d*) income derived by a trade, professional or similar association from specific services performed for its members;

(*e*) profits on sale of import licence, cash assistance against export, duty drawback or duty remission or any other export incentive, received or receivable;

(*f*) the value of any benefit or perquisite arising from business or the exercise of a profession, whether—

(*i*) convertible into money or not; or

(*ii*) in cash or in kind or partly in cash and partly in kind;

(*g*) any interest, salary, bonus, commission or remuneration, by whatever name called, which is due to, or received by, a partner of a firm from such firm to the extent allowed under section 35(*e*) as a deduction in computing the income of the firm;

(*h*) any sum, received or receivable, in cash or in kind—

(*i*) under an agreement for not carrying out any activity in relation to any business or profession, not being—

(*A*) any sum received on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business or profession which is chargeable under the head "Capital gains";

(*B*) any sum received as compensation from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, as per the terms of agreement entered into with the Government of India; or

(*ii*) under an agreement for not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision for services;

(*i*) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

(*j*) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the manner, as may be prescribed; and

(*k*) any sum which is received or receivable in cash or kind, when—

(*i*) a capital asset other than land or goodwill or financial instrument, is demolished, destroyed, discarded or transferred; and

(*ii*) the whole of the expenditure on it has been allowed as a deduction under section 35AD of the Income-tax Act, 1961 (43 of 1961) or section 46 of this Act.

(3) Where speculative transactions carried on by an assessee are of such nature to constitute a business, the business (herein referred to as speculation business) shall be deemed to be distinct and separate from any other business.

(4) Any income from letting out of a residential house or a part of it by the owner shall not be included in income under sub-section (1) and shall be chargeable only under the head "Income from house property".

Manner of computing profits and gains of business or profession.

27. The income referred to in section 26 shall be computed as per the provisions of sections 28 to 60, except section 58.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Rent, rates, taxes, repairs and insurance.

28. (1) The following amounts shall be allowed as deduction in respect of premises, machinery, plant or furniture used for the purposes of the business or profession:—

(*a*) any premium paid in respect of insurance against risk of damage or destruction thereof;

(*b*) land revenue, local rates or municipal taxes paid;

(*c*) rent paid, when the premises are occupied by the assessee as a tenant;

(*d*) amount paid on account of current repairs to the premises, not being in the nature of capital expenditure, when the premises are occupied by the assessee otherwise than as a tenant;

(*e*) amount paid on account of cost of repairs, not being in the nature of capital expenditure, when the premises are occupied by the assessee as a tenant and where he has undertaken to bear the cost of repairs to the premises; and

(*f*) the amount paid on account of current repairs to machinery, plant or furniture, not being in the nature of capital expenditure.

(2) In case where the premises, building, machinery, plant or furniture is partly used or not wholly and exclusively used for the purposes of the business or profession, the deduction allowable under sub-section (1) shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage for the purposes of the business or profession.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deductions related to employee welfare.

29. (1) The following sums, in the case of an assessee being an employer, shall be allowed as deduction in computing income chargeable under section 26:—

(*a*) any sum paid by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to—

(*i*) such limits, as may be prescribed, for recognising the provident fund or approving the superannuation fund; and

(*ii*) such conditions, as the Board may specify, for cases where the contributions are not made annually either as fixed amounts, or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or the contributions or to the number of members of the fund;

(*b*) any sum paid by way of contribution towards a pension scheme referred to in section 124, for an employee up to 14% of the salary of the employee in the tax year, where such salary includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(*c*) any sum paid by way of contribution towards an approved gratuity fund created by the assessee for the exclusive benefit of his employees under an irrevocable trust;

(*d*) irrespective of anything contained in sub-section (2), any provision made for the purpose of making contribution towards approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the tax year;

(*e*) (*i*) the amount of contribution received from an employee to which the provisions of section 2(*49*)(*o*) apply, if it is credited by the assessee to the account of the employee in the relevant fund or funds by the due date;

(*ii*) for the purposes of sub-clause (*i*), "due date" means the date by which the assessee is required as an employer to credit employee contribution to the account of an employee in the relevant fund under any Act, rule, order or notification issued under it or under any standing order, award, contract of service or otherwise and the provisions of section 37 shall not apply for determining the "due date" under this clause.

(2)(*a*) Subject to the provisions of sub-section (1)(*d*), no deduction shall be allowed for any provision made for the payment of gratuity to the employees on their retirement or termination for any reason; and

(*b*) in case deduction has been allowed for any provision made under sub-section (1)(*d*), then no deduction shall be allowed on actual payment made from such provision.

(3) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 (21 of 1860), or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under sub-section (1)(*a*) or (*b*) or (*c*), or as required by or under any other law in force.

Deduction on certain premium.

30. The following sums shall be allowed as deduction in computing income chargeable under section 26, being premium paid:—

(*a*) by any assessee in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of business or profession;

(*b*) by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;

(*c*) by the assessee as an employer, through any mode of payment other than cash, to effect or to keep in force an insurance on the health of its employees under a scheme framed in this behalf by—

(*i*) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or

(*ii*) any other insurer and approved by the Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

Deduction for bad debt and provision for bad and doubtful debt.

31. (1) The amount mentioned in column C of the Table below, in respect of any provision for bad and doubtful debts made by the assessee specified in column B thereof, shall be allowed as a deduction in computation of income chargeable under section 26.

Table

Sl. No.	*Specified assessee*	*Amount of deduction*
A	*B*	*C*
1.	(*a*) A scheduled bank, other than a bank incorporated by or under the laws of a country outside India; or (*b*) a non-scheduled bank; or (*c*) a co-operative bank, other than— (*i*) a primary agricultural credit society; or (*ii*) a primary co-operative agricultural and rural development bank.	(*a*) not more than 8.5% of the total income of the tax year computed before making any deduction under this clause and Chapter VIII, and an additional amount up to 10% of the aggregate average advances made by rural branches computed in the manner as may be prescribed; (*b*) for an assessee mentioned in clauses (*a*) and (*b*) of column B, at its option, an additional amount in excess of clause (*a*) of this column but not more than the income from redemption of securities as per a scheme framed by the Central Government, when such income has been disclosed in the return of income under the head "Profits and gains of business or profession".
2.	(*a*) A bank incorporated by or under the laws of a country outside India; or (*b*) a public financial institution or a State Financial Corporation or a State Industrial Investment Corporation; or (*c*) a non-banking financial company.	Not more than 5% of the total income of a tax year computed before making any deduction under this clause and Chapter VIII.

(2) Any amount of bad debt, or part of it, in the tax year in which such amount is written off as irrecoverable in the accounts of the assessee, shall be allowed as deduction in computation of income chargeable under section 26, subject to the following conditions:—

(*a*) it has been taken into account in computing the income of the assessee of the tax year in which it is written off, or any earlier tax year, or represents the money lent in the ordinary course of the business of banking or money lending which is carried on by the assessee;

(*b*) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the tax year in which the ultimate recovery is made; and

(*c*) where it relates to an assessee to which sub-section (1) applies,—

(*i*) only that amount which exceeds the credit balance in the provision for bad and doubtful debts account made under that sub-section shall be allowed as deduction;

(*ii*) such amount shall be allowed only when the assessee has debited any amount of bad debt or part thereof in that tax year to the provision for bad and doubtful debts account made under that sub-section; and

(*iii*) the aforesaid account shall be only one such account under sub-section (1) and such account shall be related to all types of advances, including advances made by rural branches.

(3) For the purposes of sub-section (2),—

(*a*) any bad debt or part of it written off as irrecoverable shall not include any provision for bad and doubtful debt;

(*b*) any amount of bad debt or part of it, which has been taken into account in computing the income of the assessee of the tax year in which the amount of bad debt or part of it becomes irrecoverable or of an earlier tax year as per income computation and disclosure standards notified under section 276(2) without recording it in the accounts, shall be allowed as a deduction in computing the income of the assessee of the tax year in which it becomes irrecoverable and such bad debt or part of it shall be deemed to be written off as irrecoverable in the accounts for the purposes of sub-section (2).

Other deductions.

32. The following amounts shall be allowed as deduction in computing income chargeable under section 26:—

(*a*) bonus or commission paid to an employee for services rendered, but only when such amount would not have been payable to the employee as profits or dividend if it had not been paid as bonus or commission;

(*b*) interest paid in respect of capital borrowed for the purposes of business or profession, where—

(*i*) such interest shall not include interest on capital borrowed for acquisition of an asset, whether capitalised in the books of account or not, for any period beginning from the date the capital was borrowed for acquisition of the asset till the date that asset was first put to use;

(*ii*) recurring subscriptions paid periodically by shareholders or subscribers in Mutual Benefit Societies fulfilling the conditions as may be prescribed, shall be deemed to be capital borrowed;

(*c*) contribution paid by a public financial institution to the credit guarantee fund trust for small industries as the Central Government may, by notification, specify;

(*d*) the *pro rata* amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner, as may be prescribed, where—

(*i*) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank issuing the bond, and the amount payable on maturity or redemption of such bond;

(*ii*) "period of life of bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(*e*) the amount carried to a special reserve created and maintained by a specified entity, subject to the following conditions:—

(*i*) such amount shall not exceed 20% of the profits derived from an eligible business computed under the head "Profits and gains of business or profession" before any deductions under this clause; and

(*ii*) when the aggregate of such amounts carried to such reserve account from time to time exceeds twice the amount of paid-up share capital and of general reserves of the specified entity, no deduction shall be allowable on such excess,

and for the purposes of this clause,—

(*A*) "specified entity" means—

(*I*) a public financial institution as specified in section 2(*72*) of the Companies Act, 2013 (18 of 2013);

(*II*) a financial corporation which is a public sector company;

(*III*) a banking company;

(*IV*) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(*V*) a housing finance company; and

(*VI*) any other financial corporation including a public company;

(*B*) "eligible business" means,—

(*I*) in respect of any of the specified entities referred to in clause (*e*)(*A*)(*I*) to (*IV*), the business of providing long-term finance for—

(*a*) industrial or agricultural development;

(*b*) development of infrastructure facility in India; or

(*c*) development of housing in India;

(*II*) in respect of the specified entity referred to in clause (*e*)(*A*)(*V*), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(*III*) in respect of the specified entity referred to in clause (*e*)(*A*)(*VI*), the business of providing long-term finance for development of infrastructure facility in India;

(*C*) "infrastructure facility" means—

(*I*) an infrastructure facility as defined in *Explanation* to section 80-IA(4)(*i*) of the Income-tax Act, 1961 (43 of 1961) or any other public facility of a similar nature as may be notified by the Board in this behalf and which fulfils the conditions as may be prescribed;

(*II*) an undertaking referred to in section 80-IA(4)(*ii*) or (*iii*) or (*iv*) or (*vi*) of the Income-tax Act, 1961 (43 of 1961); and

(*III*) an undertaking referred to in section 80-IB(10) of the Income-tax Act, 1961 (43 of 1961);

(*f*) any expenditure, not being capital expenditure, incurred by a corporation or a body corporate, by whatever name called, if,—

(*i*) it is constituted or established by a Central Act or State Act or Provincial Act;

(*ii*) it is notified by the Central Government for the purposes of this clause having regard to the objects and purposes of the Act referred to in sub-clause (*i*); and

(*iii*) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

(*g*) the expenditure incurred by a co-operative society engaged in the business of manufacture of sugar, on purchase of sugarcane at a price equal to or less than the price fixed or approved by the Government;

(*h*) marked to market loss or other expected loss as computed as per the income computation and disclosure standards notified under section 276(2);

(*i*) any expenditure *bona fide* incurred by a company for the purpose of promoting family planning amongst its employees, subject to the following conditions:—

(*A*) if such expenditure or any part of it is of capital nature, one-fifth of it shall be deducted for the tax year in which it was incurred and the balance shall be deducted in equal instalments for each of the four immediately succeeding tax years;

(*B*) the provisions of sections 33(11) and 112(3) shall apply to deduction under this clause as they apply in relation to deductions allowable in respect of depreciation;

(*C*) the provisions of sections 38(1)(*c*), 39(4) (Table: Sl. No. 9), 45(6) and (10), shall apply to an asset representing capital expenditure for promoting family planning, to the extent they apply to an asset representing capital expenditure on scientific research;

(*j*) the amount being difference between the actual cost of animals used for the purposes of the business or profession otherwise than as stock-in-trade and the amount realised from the carcasses or animals, where such animals have died or become permanently useless; and

(*k*) the amount paid as securities transaction tax or commodities transaction tax, if—

(*i*) the taxable securities transactions or taxable commodities transactions are entered into the course of the business during the tax year; and

(*ii*) the income arising from such taxable securities transactions or taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Deduction for depreciation.

33. (1) A deduction in respect of depreciation of—

(*a*) buildings, machinery, plant or furniture, being tangible assets;

(*b*) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st April, 1998, not being goodwill of a business or profession,

owned wholly or partly by the assessee and used wholly and exclusively for the purposes of the business or profession, shall be allowed, as per the provisions of this section.

(2) In case of assets referred to in sub-section (1) of an undertaking engaged in generation or generation and distribution of power, the deduction in respect of depreciation shall be such percentage of its actual cost to the assessee, as may be prescribed.

(3) (*a*) In case of any block of assets, deduction in respect of depreciation shall be such percentage of its written down value, as may be prescribed;

(*b*) when any building, machinery, plant or furniture is partly, or not wholly and exclusively, used for the purposes of the business or profession, the deduction under clause (*a*) shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage of such building, machinery, plant or furniture for the purposes of the business or profession;

(*c*) when deduction of actual cost in respect of any machinery or plant has been allowed under section 54, no deduction under this sub-section shall be allowed.

(4) The deduction under this section shall be restricted to 50% of the prescribed rate, if such asset, being asset referred to in sub-sections (2) and (3) is—

(*a*) acquired by the assessee during the tax year; and

(*b*) put to use for the purposes of business or profession for less than one hundred and eighty days in that tax year.

(5) The aggregate deduction in respect of depreciation allowable to the predecessor and successor in cases of succession under section 70(1)(*zd*) or (*ze*) or (*zf*), or section 313, or to the amalgamating and the amalgamated company in the case of amalgamation, or to the demerged and resulting company in the case of demerger, as the case may be, for any tax year, shall not exceed the deduction calculated at the prescribed rates under this section as if the succession, amalgamation or demerger had not taken place, and such deduction shall be allowed on *pro rata* basis based on number of days for which assets were used by the following:—

(*a*) predecessor and successor, in case of such succession; or

(*b*) amalgamating company and the amalgamated company in case of an amalgamation; or

(*c*) demerged company and the resulting company in case of a demerger.

(6) Where a building, not owned by the assessee, is held on lease or by any other right of occupancy is used for the purposes of business or profession of the assessee, and if any capital expenditure is incurred by the assessee for the purposes of business or profession on construction of any structure or any work by way of renovation, extension or improvement to such building, then such structure or work shall be treated as a building owned by the assessee for the purposes of this section.

(7) The provisions of this section shall apply whether or not the assessee has claimed deduction for depreciation in computing his total income.

(8) In addition to deduction under sub-section (3), additional deduction in respect of depreciation for any new machinery or plant shall be allowed, when—

(*a*) the assessee is engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power;

(*b*) the assessee acquires and installs the new machinery or plant;

(*c*) the new machinery or plant is first put to use by the assessee for the purposes of business; and

(*d*) the new machinery or plant (not being a ship or an aircraft)—

(*i*) was not used either within or outside India by any other person before its installation by the assessee;

(*ii*) is not installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(*iii*) is not in the nature of any office appliances or road transport vehicle; or

(*iv*) is not an asset on which the whole of the actual cost is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income under the head "Profits and gains of business or profession" of any tax year.

(9) The additional deduction in respect of depreciation referred to in sub-section (8) shall be—

(*a*) 20% of the actual cost of the new machinery or plant in the tax year when it is acquired and put to use, subject to the provisions of clause (*b*); or

(*b*) 10% of the actual cost, if the new machinery or plant is acquired and put to use for less than one hundred and eighty days in the relevant tax year, and 10% of the actual cost shall be allowed in the immediately succeeding tax year.

(10) The difference between the written down value and the moneys payable including the scrap value, if any, for any tangible asset in respect of which depreciation is claimed and allowed under sub-section (2), shall be allowed as deduction when—

(*a*) such asset is sold, discarded, demolished or destroyed in the tax year not being the tax year in which it is first put into use;

(*b*) the moneys payable including the scrap value, if any, is less than its written down value; and

(*c*) such deficiency is actually written off in the books of account of the assessee.

(11) (*a*) Where the profits and gains chargeable for the tax year before allowing the deduction under sub-sections (1) to (10) is less than such allowable deduction, then—

(*i*) if such profits and gains is not a loss, the deduction under sub-sections (1) to (10) shall be allowed to the extent of the available profits and gains;

(*ii*) if such profits and gains is a loss, no deduction under sub-sections (1) to (10) shall be allowed;

(*b*) the amount of deduction which has not been allowed under clause (*a*) shall be added to the allowable deduction under this section, whether available or not, for the succeeding tax year and the total amount shall be deemed to be eligible for deduction in that year, and so on for the succeeding tax years; and

(*c*) the provisions of this sub-section shall be subject to the provisions of sections 112(3) and 113(4).

(12) For the purposes of this section,—

(*a*) "assets" mean—

(*i*) tangible assets, being buildings, machinery, plant or furniture;

(*ii*) intangible assets being—

(*A*) know-how; or

(*B*) patents; or

(*C*) copyrights; or

(*D*) trademarks; or

(*E*) licences; or

(*F*) franchises; or

(*G*) any other similar business or commercial rights, but not being goodwill of a business or profession;

(*b*) "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);

(*c*) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company or in a scheme of amalgamation of a banking company, as referred to in section 5(*c*) of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in section 45(15) of the said Act, sanctioned and brought into force by the Central Government under section 45(7) of that Act, of any asset by the banking company to the banking institution;

(*d*) "written down value of the block of assets" shall have the same meaning as in section 41(1)(*c*).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

General conditions for allowable deductions.

34. (1) Any expenditure (not being an expenditure of the nature specified in sections 28 to 33, 44 to 49, 51 and 52 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(2) For the purposes of sub-section (1), an expenditure laid out or expended wholly and exclusively for business or profession by the assessee shall not include any of the following:—

(*a*) an expenditure incurred for any purpose which is an offence or is prohibited by law; or

(*b*) an expenditure incurred on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013); or

(*c*) an expenditure incurred on advertisement in any souvenir, brochure, tract, pamphlet or the like, published by a political party.

(3) The expenditure mentioned in sub-section (2)(*a*) shall include expenditure incurred for—

(*a*) any purpose which is an offence under, or is prohibited by, any law in force in or outside India; or

(*b*) providing a benefit or perquisite in any form to a person, who may or may not be carrying on a business or exercising a profession, when its acceptance by the person is in violation of any law or rule or regulation or guideline governing the conduct of that person; or

(*c*) compounding an offence under any law in force in or outside India; or

(*d*) settling proceedings initiated in relation to contravention under any law notified by the Central Government in this behalf.

Amounts not deductible in certain circumstances.

35. Irrespective of any other provision of Chapter IV-D, the following amounts shall not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession":—

(*a*) any amount on account of—
- (*i*) tax paid on income; or
- (*ii*) tax paid by employer referred to in Schedule III (Table: Sl. No. 10); or
- (*iii*) tax paid in any other country for which relief is eligible under section 159 or 160,

and shall include any surcharge or cess on such tax, by whatever name called;

(*b*) (*i*) 30% of any sum payable to a resident, on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax has not been deducted or, after deduction, has not been paid up to the due date specified in section 263(1), so, however, that—
- (*A*) where in respect of any such sum, tax is deducted in any subsequent year, or is deducted during the tax year but paid after the due date specified in section 263(1), 30% of such sum shall be allowed as a deduction in computing the income of the tax year, in which such tax has been paid;
- (*B*) where the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B on any such sum but he is not deemed to be an assessee in default under section 398(2), then for the purposes of this sub-clause, the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee referred to in section 398(2);

(*ii*) any interest, royalty, fees for technical services or other sum chargeable under this Act which is payable—
- (*A*) outside India; or
- (*B*) in India to a non-resident (which is not a company) or to a foreign company,

on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax, has not been deducted or after deduction, has not been paid up to the due date specified in section 263(1), so, however, that —
- (*I*) where in respect of any such sum, tax is deducted in any subsequent year, or is deducted during the tax year but paid after the due date specified in section 263(1), such sum shall be allowed as a deduction in computing the income of the tax year, in which such tax has been paid;
- (*II*) where the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B on any such sum but he is not deemed to be an assessee in default under section 398(2), then for the purposes of this sub-clause the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee as referred to in section 398(2);

(*iii*) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source under Chapter XIX-B from any payments made from the fund which are chargeable to tax under the head "Salaries";

(*c*) any payment chargeable under the head "Salaries", payable outside India or to a non-resident on which tax is deductible at source under Chapter XIX-B and such tax has not been deducted or, after deduction, has not been paid;

(*d*) any amount—
- (*i*) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or
- (*ii*) which is appropriated, directly or indirectly, from,

a State Government undertaking by the State Government;

(*e*) the expenditure incurred by a firm, assessable as such—
- (*i*) in the nature of salary, bonus, commission or remuneration, by whatever name called (herein referred as remuneration) to a partner, who is not a working partner; or
- (*ii*) on the remuneration to a working partner, and interest to any partner, if it is—
  - (*A*) not authorised by the partnership deed applicable for the period for which such remuneration or interest is paid; or
  - (*B*) authorised by and is as per the terms of partnership deed but relates to the period prior to the date of such partnership deed, or which was not authorised by the earlier partnership deed; or
- (*iii*) on the aggregate remuneration to all working partners as authorised by the partnership deed, exceeding the amount computed as under:—
  - (*A*) on the first ₹ 600000 of the book profit or in case of a loss, ₹ 300000 or at the rate of 90% of the book profit, whichever is higher;
  - (*B*) on the balance of the book profit, at the rate of 60%; or
- (*iv*) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum, so, however, that—
  - (*A*) where an individual is a partner in a firm, on behalf, or for the benefit, of any other person (such partner and the other person being herein referred to as "partner in a representative capacity" and "person so represented", respectively),—
    - (*I*) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;
    - (*II*) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause;
  - (*B*) where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;
- (*v*) in this clause—
  - (*A*) "book profit" means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IV-D as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;
  - (*B*) "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

(*f*) the expenditure incurred by an association of persons or a body of individuals (other than a company, or a co-operative society or society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India) in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, made to a member of such association or body, provided that—
- (*i*) where the interest has been paid by the association or the body to its member and such member has also paid interest to the association or the body, then only such excess interest, if any, paid by the association or body shall not be allowed under this clause;

(*ii*) where an individual is a member of an association or a body on behalf, or for benefit of any other person, such member and any other person shall be referred as "representative member" and "person so represented", respectively, then, the provisions of this clause—

(*A*) shall not be applicable in respect of interest paid to or received from, such individual otherwise than in his capacity as a representative member;

(*B*) shall be applicable in respect of interest paid to or received from, an individual in his capacity as a representative member and, the person so represented;

(*C*) shall not be applicable in respect of interest paid to a member, otherwise than as representative member, on behalf or for the benefit of any other person.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Expenses or payments not deductible in certain circumstances.

36. (1) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other provision of this Act relating to computation of income under the head "Profits and gains of business or profession".

(2) If the assessee incurs any expenditure for which payment has been or is to be made to any "specified person", which in the opinion of the Assessing Officer is excessive or unreasonable having regard to the—

(*a*) fair market value of the goods, services or facilities; or

(*b*) legitimate needs of the business or profession of the assessee; or

(*c*) benefit derived by or accruing to the assessee therefrom,

so much of the expenditure as considered excessive or unreasonable by him shall not be allowed as a deduction.

(3) For the purposes of sub-section (2) and this sub-section,—

(*a*) "specified person" shall mean the following,—

(*i*) in relation to an assessee mentioned in column B of the Table below, the person referred to in column C thereof:—

Table

Sl. No.	*Assessee*	*Specified person*
A	*B*	*C*
1.	Individual.	Any relative of the assessee.
2.	Company.	Any director of the company or his relative.
3.	Firm.	Partner of the firm or his relative.
4.	Association of persons.	Member of the association or his relative.
5.	Hindu undivided family.	Member of the family or his relative;

(*ii*) any person being an individual or company or firm or association of persons or Hindu undivided family having substantial interest in the business or profession of the assessee, or any director, partner, member thereof or any relatives of such individual, director, partner, member or any other company in which the first mentioned company has substantial interest;

(*iii*) a company, firm, association of persons, or Hindu undivided family whose director, partner or member has substantial interest in the business or profession of the assessee, or any director, partner or member thereof and their relatives, as the case may be;

(*iv*) any person carrying on a business or profession, where assessee, being—

(*A*) an individual or his relative; or

(*B*) a company, its directors or their relatives; or

(*C*) a firm, its partners or their relatives; or

(*D*) an association of persons, its members or their relatives; or

(*E*) a Hindu undivided family, its members or their relatives,

has substantial interest in the business or profession of such person;

(*b*) a person is deemed to have "substantial interest in the business or profession" if—

(*i*) in a case where the business or profession is carried on by a company, such person is, at any time during the tax year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than 20% of the voting power; and

(*ii*) in any other case, such person is, at any time during the tax year, beneficially entitled to not less than 20% of the profits of such business or profession.

(4) Where in respect of any expenditure incurred by the assessee, any payment or aggregate of payments made in a day to a person exceeds ₹ 10000 and is not made through specified banking or online mode, then the expenditure by way of such payments shall not be allowed as a deduction.

(5) Where any deduction was made in any preceding tax year for a liability incurred for any expenditure and payment in respect of such liability is made during a subsequent tax year and if such payment or aggregate of payments made in a day to a person exceeds ₹ 10000 and is not made through specified banking or online mode, such payment shall be deemed to be the income under the head "Profits and gains of business or profession" in such subsequent tax year.

(6) For the purposes of sub-sections (4) and (5), the figures "₹ 10000" shall be read as "₹ 35000" in case the payment is made for plying, hiring or leasing of goods carriages.

(7) The provisions of sub-sections (4) and (5) shall not be applicable in cases and circumstances, as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

(8) Nothing (with reference to mode of payment) contained in any other law in force or in any contract, shall apply in respect of any payment which has been made through specified banking or online mode, in compliance of sub-sections (4) to (7), and no plea shall be allowed to be raised, in any suit or other proceeding on the ground that the payment was not made or tendered in cash or in mode other than through specified banking or online mode.

(9) No deduction or allowance shall be allowed in respect of marked to market loss or other expected loss, except as allowable under section 32(1)(*h*).

Certain deductions allowed on actual payment basis only.

37. (1) The sums payable, as specified in sub-section (2), which are otherwise allowable as a deduction under this Act, shall be allowed as a deduction while computing the income chargeable under section 26 only in the tax year in which such sums are actually paid irrespective of—

(*a*) any provision to the contrary in this Act; or

(*b*) method of accounting regularly followed; or

(*c*) the tax year in which the liability was incurred.

(2) The sums payable for the purposes of sub-section (1), shall be—

(*a*) tax, duty, cess, surcharge or fee, by whatever named called, levied under any law in force;

(*b*) contribution of the employer to a provident fund or superannuation fund or gratuity fund or any fund for the welfare of employees;

(*c*) amount payable by employer *in lieu* of any leave at the credit of the employee;

(*d*) any sum referred to in section 32(*a*);

(*e*) interest on loans or advances or borrowings from specified financial entities as per the terms and conditions of the agreement governing such loans or advances or borrowings;

(*f*) amount payable to the Indian Railways for use of railway assets; or

(*g*) amount payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).

(3) In case the amounts specified in sub-section (2), except the sum referred to in clause (*g*) thereof, are paid after the end of the tax year in which the liability was incurred, but on or before the due date of filing of return of income under section 263(1) for such tax year, the deduction towards such sum shall be allowed in such tax year.

(4) If interest on loans or advances or borrowings specified in sub-section (2)(*e*) is converted into a loan or advance or debenture or any other instrument by which the liability to pay is deferred to a future date, then it shall not be deemed to have been actually paid.

(5) If a deduction in respect of any sum payable under sub-section (2) has already been allowed in any tax year when such liability was incurred, it shall not be allowed again in any subsequent tax year when it is paid.

(6) The provisions of this section shall not apply to a sum received by the assessee from any employee as contribution towards any of the funds referred to in section 2(*49*)(*o*).

(7) For the purposes of this section, "specified financial entities" means a public financial institution or State Financial Corporation or State Industrial Investment Corporation or such class of non-banking financial companies as may be notified by the Central Government or a scheduled bank or a co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank).

(8) For the purposes of sub-section (2)(*a*), "the sum payable" means a sum for which the assessee has incurred liability in the tax year even though such sum might not have been payable within that year under the relevant law.

Certain sums deemed as profits and gains of business or profession.

38. (1) The following sums shall be deemed to be profits and gains of business or profession and shall be chargeable to income-tax, in the manner specified below, subject to the provisions of sub-section (2):—

(*a*) where an allowance or deduction has been allowed in respect of any loss, expenditure or trading liability incurred by the assessee during any tax year, then,—

(*i*) the value of any benefit accruing to the assessee by way of cessation or remission of such trading liability, including a unilateral act of write-off of such liability in his accounts, in a subsequent tax year in which such benefit accrues; or

(*ii*) any amount obtained by the assessee, whether in cash or otherwise, in respect of such loss or expenditure incurred, in subsequent tax year in which the amount is obtained,

whether the business or profession in respect of which the allowance or deduction was made is in existence in such subsequent tax year or not;

(*b*) in a case where any tangible asset [as referred to in section 33(12)(*a*)(*i*)], which is owned by assessee, is sold, discarded, demolished or destroyed, and the moneys payable for such asset, together with the scrap value [A] exceeds the written down value of such assets [C], the sum as computed below, in the tax year in which the moneys payable for such asset becomes due—

(*i*) where the moneys payable for such asset together with the scrap value [A] is less than the actual cost of such asset [B], then—
[A] - [C]; or

(*ii*) in any other case,—
[B] - [C];

(*c*) in a case where an asset representing expenditure of a capital nature on scientific research, referred to in section 45(1)(*a*)(*i*) is sold, without having been used for other purposes, and the sale proceeds together with the total deductions allowed under that section exceed the amount of capital expenditure, the excess or the amount of deduction so made, whichever is less, in the tax year in which the asset was sold;

(*d*) in a case where a deduction has been allowed for a bad debt (or part of it) under the provisions of section 31(2), and any amount subsequently recovered exceeds the difference between such debt and the amount allowed, then the amount in excess, in the tax year in which recovery is made;

(*e*) in a case where a deduction has been allowed for any special reserve created and maintained under the provisions of section 32(*e*), any amount subsequently withdrawn from such reserve, in the tax year in which the amount is withdrawn.

(2) The provisions of sub-section (1) shall apply subject to fulfilment of the following conditions:—

(*a*) in respect of sub-section (1)(*a*), only when an allowance or deduction has been made in assessment for any tax year towards the trading liability, loss or expenditure incurred;

(*b*) in respect of sub-section (1)(*b*), only when the asset owned by the assessee, has been used for the purpose of business or profession, and depreciation has been claimed and allowed thereon under section 33(2);

(*c*) in respect of sub-section (1)(*c*), only when the asset has not been used for other purposes.

(3) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (1)(*a*), (*c*), (*d*) or (*e*), in respect of that business or profession, any loss, not being a loss sustained in speculation business, which arose in that business or profession during the tax year in which it ceased to exist and which could not be set off against any other income of that tax year shall, so far as may be, be set off against the income chargeable to tax under the said clauses of that sub-section.

(4) In respect of sums referred to in sub-section (1)(*a*), if the benefit referred therein accrues to, or amount referred therein is obtained, by the successor in business, the value of the benefit or the amount shall be chargeable to income-tax as income in the hands of successor in business.

(5) The provisions of sub-section (1)(*b*), (*c*), (*d*) and (*e*) shall apply in a tax year even if the business is no longer in existence.

(6) For the purposes of this section,—

(*a*) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company;

(*b*) "successor in business" means—

(*i*) the amalgamated company, where there has been an amalgamation;

(*ii*) the resulting company, where there has been a demerger;

(*iii*) where the assessee is succeeded by any other person in that business or profession, that other person;

(*iv*) where a firm carrying on a business or profession is succeeded by another firm, that other firm.

Computation of actual cost.

39. (1) The actual cost of an asset used for the purposes of the business or profession shall be the actual cost to the assessee, as reduced by the following amounts:—

(*a*) part of cost of asset, if any, met by any other person or authority, directly or indirectly;

(*b*) goods and services tax paid in respect of which credit of input tax has been claimed and allowed under the relevant law;

(*c*) duty of excise or additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944;

(*d*) subsidy, grant or reimbursement, by whatever name called, if any, relatable to the acquisition of the asset, received, directly or indirectly, by the assessee from—

(*i*) the Central Government;

(*ii*) a State Government;

(*iii*) any authority established under any law; or

(*iv*) any other person.

(2) The payment or aggregate of payments exceeding ₹10,000 in a day for acquisition of an asset or part thereof, made to a person in a mode otherwise than by specified banking or online mode, shall be excluded from the actual cost of that asset.

(3) In a case where the subsidy, grant or reimbursement referred to in sub-section (1)(*d*) is not directly relatable to the asset acquired, the amount of reduction under sub-section (1)(*d*) shall be determined as under:—

$$A \times \left(\frac{B}{C}\right)$$

where,—

A = total amount of subsidy, grant or reimbursement not directly relatable to the asset;

B = cost of the asset acquired for which actual cost is to be determined;

C = cost of all the assets in respect of or in reference to which the subsidy or grant or reimbursement is so received.

(4) In circumstances specified under column B of the Table below, the actual cost of the asset shall be as specified in column C thereof.

Table

Sl. No.	*Specified circumstances*	*Determination of actual cost*
A	*B*	*C*
1.	Where capital asset is transferred by an amalgamating company to an amalgamated company being an Indian company in a scheme of amalgamation.	Actual cost to amalgamated company shall be the same as it would have been if the amalgamating company had continued to hold such capital asset for the purpose of its own business.
2.	Where capital asset is transferred by a demerged company to a resulting company being an Indian company in a demerger.	Actual cost to resulting company shall be the same as it would have been, if the demerged company had continued to hold such asset for the purpose of its own business, which shall not exceed the written down value of such capital asset in the hands of demerged company.
3.	Where inventory is converted into or treated as a capital asset.	Fair Market Value of such inventory as on date of conversion, as determined in the manner as may be prescribed.
4.	Where asset is acquired by the assessee by way of gift or inheritance.	Actual cost to the previous owner as reduced by— (*a*) depreciation actually allowed in respect of tax year commencing on 1st April, 1986 or any earlier tax year; and (*b*) depreciation allowable for tax year commencing on or after 1st April, 1987 under this Act or under the Income-tax Act, 1961(43 of 1961), as if such asset was the only asset in the relevant block of asset.
5.	Where a building, being the property of the assessee, is put to use for the purpose of business or profession during the tax year.	Actual cost of the building as reduced by the depreciation— (*a*) that would have been allowable had the building been used for the purpose of business or profession from the date of acquisition; and (*b*) calculated at the rate in force on the date on which such asset was put to use for the purpose of business or profession.
6.	Where capital asset is transferred by— (*a*) a holding company to its subsidiary company; or (*b*) a subsidiary company to its holding company, and the conditions of section 70(1)(*c*) and (*d*), as the case may be, are satisfied.	Actual cost to the transferee company shall be the same as it would have been, if the transferor company had continued to hold such asset for the purpose of its own business.
7.	Where an asset, which previously belonged to the assessee and had been used by him for the purpose of his business or profession, is reacquired by the assessee.	(*a*) Actual cost of the asset in the hands of assessee, when it was first acquired, as reduced by— (*i*) depreciation actually allowed in respect of tax year commencing on 1st April, 1986 or any earlier tax year; and (*ii*) depreciation allowable for tax year commencing on or after 1st April, 1987 under this Act or under the Income-tax Act, 1961 (43 of 1961), as if such asset was the only asset in the relevant block of asset; or (*b*) actual price for which such asset is reacquired by the assessee, whichever is lower.

Sl. No.	*Specified circumstances*	*Determination of actual cost*
A	*B*	*C*
8.	Where an asset is acquired by the assessee from previous owner and subsequently asset is given back to the previous owner by way of lease, hire or otherwise, and— (*a*) the asset was being used for the purpose of business or profession by the previous owner; and (*b*) depreciation has been claimed by the previous owner.	Actual cost of asset to the assessee shall be the written down value of the asset in the hands of the previous owner at the time of transfer by the previous owner.
9.	Where an asset is used in business after it ceases to be used for scientific research related to that business and a deduction is allowable under section 33(3).	Actual cost of asset as reduced by deduction allowed for the capital asset under section 45(1)(*a*)(*i*) or under section 35(1)(*iv*) of the Income-tax Act, 1961 (43 of 1961).
10.	Where the assessee had acquired an asset outside India, as a non-resident, and the asset is brought by him to India and put to use in his business or profession in India.	Actual cost of the asset as reduced by the depreciation— (*a*) that would have been allowable had the asset been used for the purpose of business or profession in India since the date of its acquisition; and (*b*) calculated at the rate in force.
11.	Where capital asset is acquired under the scheme of corporatisation of a recognised stock exchange approved by the Securities and Exchange Board of India.	Actual cost of the asset, as if there was no corporatisation.
12.	(*a*) Where deduction under section 46 was allowed or allowable in respect of the capital asset— (*i*) to the assessee; or (*ii*) to any person and the assessee acquires or receives such asset through special modes of acquisition from such person. (*b*) Where deduction allowed under section 46 in respect of a capital asset becomes deemed income as per section 46(9)(*b*).	(*a*) Actual cost shall be deemed to be *nil*. (*b*) Actual cost of the asset as reduced by the depreciation,— (*i*) that would have been allowable had the asset been used for the purpose of business since date of acquisition; and (*ii*) calculated at the rate in force.
13.	Where any amount is paid or payable as interest in connection with the acquisition of an asset.	Actual cost shall not include so much of such amount as is relatable to any period after such asset is first put to use.

(5) Irrespective of anything contained in sub-section (4), other than serial number 8 of the Table in the said sub-section, in a case where the asset is acquired by the assessee, its actual cost shall be such amount as may be determined by the Assessing Officer having regard to all the circumstances of the case, where—

(*a*) the asset was used by any other person for the purposes of his business, before such acquisition; and

(*b*) the Assessing Officer is satisfied that the main purpose of the transfer of the asset, directly or indirectly, was to reduce tax liability (by claiming depreciation on enhanced actual cost).

(6) The determination of actual cost under sub-section (5) shall be made with the prior approval of the Joint Commissioner.

(7) For the purposes of this section, "special modes of acquisition" means acquisition—

(*a*) by way of a gift or will or an irrevocable trust; or

(*b*) upon distribution on the liquidation of a company; or

(*c*) by such mode of transfer as is referred to in section 70(1)(*a*), (*c*), (*d*), (*e*), (*j*), (*zd*), (*ze*) and (*zf*).

Special provision for computation of cost of acquisition of certain assets.

40. (1) For the purposes of computation of income under the head "Profits and gains of business or profession", cost of acquisition of an asset which becomes property of—

(*a*) an amalgamated company under a scheme of amalgamation; or

(*b*) an assessee, under a gift, or will, or an irrevocable trust, or on total or partial partition of a Hindu undivided family,

when sold as stock-in-trade shall be the sum of—

(*i*) cost of acquisition of the said asset in the hands of the amalgamating company in case of clause (*a*), or the transferor or donor in case of clause (*b*);

(*ii*) any cost of improvement made;

(*iii*) any expenditure incurred by the amalgamating company or transferor or donor, as the case may be, wholly and exclusively in connection with such transfer.

(2) This section shall not apply to an asset referred to in section 67(6).

Written down value of depreciable asset.

41. (1) For the purposes of computation of income under the head "Profits and gains of business or profession", written down value means—

(*a*) in case the asset is acquired in the tax year, the actual cost to the assessee;

(*b*) in case the asset is acquired before the tax year, actual cost to the assessee less depreciation actually allowed under this Act or under the Income-tax Act, 1961 (43 of 1961);

(*c*) in case of block of assets, the written down value computed in the following manner:

[(A - D) + B - C] - E, where

A = the written down value of the block of assets in the immediately preceding tax year;

B = actual cost of any asset falling within that block, acquired during the tax year;

C = moneys payable together with scrap value, if any, in respect of any asset falling within the block, which is sold, transferred, demolished, destroyed or discarded during the tax year, where "C" shall not exceed (A - D) + B;

D = depreciation actually allowed in respect of block of assets in relation to the said immediately preceding tax year;

E = in the case of a slump sale, the actual cost of the asset falling within that block as reduced by—

(*i*) depreciation actually allowed in respect of tax year commencing on 1st April, 1986 or any earlier tax year; and

(*ii*) depreciation allowable for tax year commencing on or after 1st April, 1987 under this Act or under the Income-tax Act, 1961 (43 of 1961), as if such asset was the only asset in the relevant block of asset.

(2) Where any block of asset is transferred by—

(*a*) a holding company to its subsidiary company and the conditions of section 70(1)(*c*) are satisfied;

(*b*) a subsidiary company to its holding company and the conditions of section 70(1)(*d*) are satisfied; or

(*c*) amalgamating company to the amalgamated company being an Indian company,

then the actual cost of the block of assets, irrespective of anything contained in section 39, in the hands of transferee company or amalgamated company, as the case may be, shall be the same as written down value of the block of assets as in the case of the transferor company or the amalgamating company in the immediately preceding tax year as reduced by depreciation actually allowed in respect of that block of asset in relation to that tax year.

(3) Where any asset, forming part of a block of assets is transferred by a demerged company to a resulting company, the written down value of block of assets of demerged company for the immediately preceding tax year, shall be reduced by the written down value of the assets transferred to the resulting company pursuant to such demerger.

(4) Where any asset, forming part of a block of assets is transferred by a demerged company to a resulting company then the actual cost of the block of assets, irrespective of anything contained in section 39, for resulting company shall be the written down value of the assets transferred from the demerged company immediately before such demerger.

(5) Where any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions in section 70(1)(*ze*) are satisfied, then the actual cost of the block of assets, irrespective of anything contained in section 39, in the hands of limited liability partnership shall be written down value in the hands of said company as on the date of conversion of the company into limited liability partnership.

(6) Where any asset forming part of the block of assets is transferred to a company under the scheme of corporatisation of a recognised stock exchange in India approved by the Securities and Exchange Board of India, the written down value of the block of assets in the hands of such company, shall be the written down value of the assets transferred immediately before such transfer.

(7) In a case of succession in business or profession under section 313, where an assessment is made in the hands of successor under section 313(2), the written down value of any asset or block of assets shall be the amount which would have been taken as its written down value, if the assessment had been made directly on the person succeeded to.

(8) For the purposes of this section, any allowance in respect of any depreciation carried forward under section 33(11) shall be deemed to be the depreciation actually allowed.

(9) Where an assessee was not required to compute his total income for the purposes of this Act for any tax year or tax years preceding the tax year under consideration,—

(*a*) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(*b*) the total amount of depreciation on such asset provided in the books of account of the assessee in respect of such tax year or tax years preceding the tax year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(*c*) the depreciation actually allowed under clause (*b*) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.

(10) For the purposes of this section, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the tax year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act or under the Income-tax Act, 1961 (43 of 1961).

(11) For the purposes of this section, the term "sold" shall have the meaning assigned to it in section 38(6)(*a*).

Capitalising impact of foreign exchange fluctuation.

42. (1) Irrespective of anything contained in any other provision of this Act, where at the time of making payment during the tax year, there is a variation in liability of an assessee as expressed in Indian currency, due to change in rate of exchange, in relation to an asset acquired for the purpose of business or profession from a country outside India, it shall be dealt with in the manner specified in sub-sections (2) and (3).

(2) For this section, the liability shall exclude any part met directly or indirectly by any other person or authority and the "variation in liability" shall be computed as—

A = B - C

where,—

A = variation in liability;

B = payment expressed in Indian currency at the time when it is made—

(*a*) towards the whole or part of the cost of asset; or

(*b*) towards repayment of the whole or part of the moneys borrowed, directly or indirectly, along with interest in foreign currency, specifically for acquiring such asset;

C = liability, corresponding to the amount referred in B, in Indian currency at the time of acquisition of such asset.

(3) The variation in liability shall be added or reduced from the—

(*a*) actual cost of the asset as referred in section 39; or

(*b*) expenditure of capital nature referred to in section 32(*i*) or 45(1)(*a*)(*i*); or

(*c*) cost of acquisition of a capital asset (not being a capital asset referred to in section 74) for the purpose of section 72,

and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset.

(4) Where the assessee has entered into a contract with an authorised dealer as defined in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999), for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the said liability, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this section shall, in respect of so much of the sum specified in the contract as is available for discharging the said liability, be computed with reference to the rate of exchange specified therein.

Taxation of foreign exchange fluctuation.

43. (1) Subject to the provisions of section 42, any gain or loss arising on account of change in foreign exchange rates on foreign currency transactions shall be treated as income or loss, as the case may be, and shall be computed as per the income computation and disclosure standards notified under section 276(2).

(2) The provisions of sub-section (1) shall be applicable to all foreign currency transactions, including those relating to—

(*a*) monetary items and non-monetary items;
(*b*) translation of financial statements of foreign operations;
(*c*) forward exchange contracts; and
(*d*) foreign currency translation reserves.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Amortisation of certain preliminary expenses.

44. (1) If an assessee, being an Indian company or a person (other than a company), who is resident in India, incurs any expenditure specified in sub-section (2)—

(*a*) before the commencement of its business; or

(*b*) after the commencement of its business, in connection with the extension of its undertaking or in connection with its setting up a new unit,

the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive tax years beginning with—

(*i*) the tax year in which the business commences, for clause (*a*); or

(*ii*) the tax year in which the extension of the undertaking is completed or the new unit commences production or operation, for clause (*b*).

(2) The expenditure referred to in sub-section (1) shall be—

(*a*) the expenditure in connection with—

(*i*) preparation of feasibility report;

(*ii*) preparation of project report;

(*iii*) conducting market survey or any other survey necessary for the business;

(*iv*) engineering services relating to the business;

(*b*) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business;

(*c*) in addition to expenditure in clauses (*a*) and (*b*), if the assessee is a company,—

(*i*) legal charges for drafting and printing of the Memorandum and Articles of Association of the company;

(*ii*) fees for registering the company under the provisions of the Companies Act, 2013 (18 of 2013);

(*iii*) expenditure in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus; and

(*d*) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act), as may be prescribed.

(3) In relation to expenditure specified in sub-section (2)(*a*), the assessee shall furnish a statement containing the particulars of the expenditure in such form and manner, as may be prescribed.

(4) The allowable deduction under sub-section (1) in respect of aggregate of expenditure referred to in sub-section (2) shall be restricted to 5%—

(*a*) of the cost of the project; or

(*b*) of the capital employed in the business of the company, where the assessee is an Indian company, at its option.

(5) For the purposes of this section,—

(*a*) "cost of the project" means the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings) and—

(*i*) for cases under sub-section (1)(*a*), the actual cost as shown in the books of the assessee as on the last day of the tax year in which the business commences;

(*ii*) for cases under sub-section (1)(*b*), the actual cost as shown in the books of the assessee as on the last day of the tax year in which either the extension of the undertaking is completed, or the new unit commences production or operations, as the case may be, in so far as such fixed assets have been acquired or developed in connection with the extension of the undertaking or setting up of new unit;

(*b*) "capital employed in the business of the company" means—

(*i*) in cases under sub-section (1)(*a*), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the business of the company commences;

(*ii*) in a case under sub-section (1)(*b*), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the extension of the undertaking is completed or, as the case may be, the new unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the undertaking or the setting up of the new unit of the company;

(*c*) "long-term borrowings" means—

(*i*) any moneys borrowed by the company from Government or Industrial Finance Corporation of India Limited or any other financial institution which is eligible for deduction under section 32(*e*) or any banking institution (not being a financial institution referred to above); or

(*ii*) any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the tenure of moneys borrowed or debt is not less than seven years.

(6) If the assessee is a person, other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless,—

(*a*) the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant before the specified date referred to in section 63; and

(*b*) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by such date in such form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed.

(7) If an undertaking of Indian company entitled for deduction under sub-section (1) is transferred before expiry of five years specified in the said sub-section, in a scheme of amalgamation, to another Indian company, then—

(*a*) no deduction under sub-section (1) shall be allowed to the amalgamating company for the tax year in which amalgamation takes place; and

(*b*) all provisions of this section shall continue to apply to the amalgamated company as they would have applied to the amalgamating company, as if the amalgamation had not taken place.

(8) If an undertaking of Indian company entitled for deduction under sub-section (1) is transferred before five years specified in the said sub-section, in a scheme of demerger to another company, then—

(*a*) no deduction under sub-section (1) shall be allowed to the demerged company for the tax year in which demerger takes place; and

(*b*) all provisions of this section shall continue to apply to the resulting company as they would have applied to the demerged company, as if the demerger had not taken place.

(9) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (2), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

Expenditure on scientific research.

45. (1)(*a*) A deduction shall be allowed for any expenditure, being in the nature of—

(*i*) capital expenditure, but not on acquisition of land which is acquired as such or as part of any property; or

(*ii*) revenue expenditure,

incurred on scientific research related to the business of the assessee subject to provisions of this section.

(*b*) A deduction shall also be allowed under this sub-section in respect of the aggregate of expenditure (not being in the nature of capital expenditure), related to business, incurred on—

(*i*) salary to an employee engaged in such scientific research; or

(*ii*) purchase of materials used in such scientific research,

where such expenditure is incurred within three years immediately preceding the commencement of business, to the extent certified by the prescribed authority as incurred on such research and such expenditure shall be deemed to have been incurred in the tax year in which the business is commenced.

(*c*) For the purposes of this sub-section, the aggregate of capital expenditure incurred within three years immediately preceding the commencement of business shall be deemed to have been incurred in the tax year in which the business is commenced.

(2)(*i*) A deduction shall be allowed in respect of any expenditure on scientific research incurred (not being expenditure in the nature of cost of any land or building) by a company engaged in the business of—

(*A*) bio-technology; or

(*B*) manufacture or production of any article or thing, which is not specified in Schedule XIII,

on in-house research and development facility as approved by the prescribed authority, subject to the conditions and manner, as may be prescribed.

(*ii*) No deduction shall be allowed under this sub-section to a company approved under sub-section (3)(*b*)(*ii*).

(*iii*) No deduction shall be allowed in respect of the expenditure mentioned in clause (*i*) under any other provision of this Act.

(*iv*) The expenditure under clause (*i*) shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as may be prescribed.

(*v*) For the purposes of this sub-section, "expenditure on scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central Act or State Act or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).

(3) A deduction shall be allowed for any sum, paid to—

(*a*) (*i*) a research association having the object of undertaking scientific research or to a University, college or institution to be used for scientific research; or

(*ii*) a research association having the object of undertaking research in social science or statistical research or to a University, college or institution to be used for research in social science or statistical research;

(*b*) a company which is—

(*i*) registered in India having the main object of scientific research and development; and

(*ii*) approved by such authority, for the purposes of this clause in such manner and subject to such conditions, as may be prescribed;

(*c*) (*i*) a national laboratory; or

(*ii*) a University; or

(*iii*) an Indian Institute of Technology; or

(*iv*) a specified person,

with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority.

(4) For the purposes of sub-section (3),—

(*a*) the expenditure shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as may be prescribed; and

(*b*) in respect of clause (*a*) of the said sub-section, only such association, University, college or other institution shall be eligible for deduction, which for the time being is approved in the manner and subject to such conditions, as may be prescribed, and is specified by the Central Government, by notification.

(5) The deduction for any sum under sub-section (3) shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such entities or the programme undertaken by entities as mentioned in sub-section (3)(*c*), has been withdrawn.

(6) Where a deduction is allowed for any tax year under this section in respect of expenditure, represented wholly or partly by an asset, no deduction shall be allowed under section 33(3) for the same or any other tax year in respect of that asset.

(7) The provisions of section 33(11) in respect of depreciation shall apply in relation to deductions allowable for capital expenditure under sub-section (1).

(8) No deduction in respect of the sum mentioned in sub-section (3)(*c*) shall be allowed under any other provision of this Act.

(9) If any question arises under this section as to whether, and if so, to what extent any activity constitutes or constituted scientific research, or any asset is or was being used, for scientific research, the Board shall refer the question to—

(*a*) the Central Government, when such question relates to any activity under sub-section (3)(*a*), and its decision shall be final;

(*b*) the prescribed authority, when such question relates to any other activity other than the activity specified in clause (*a*), whose decision shall be final.

(10) When an amalgamating company, in a scheme of amalgamation, sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing capital expenditure on scientific research, the provisions of this section shall apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset.

(11) For the purposes of this section,—

(*a*) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by such authority and in such manner, as may be prescribed;

(*b*) "salary" has the meaning assigned to it in section 16 read with section 18 subject to the following modifications:

(*i*) in section 16, clauses (*e*) and (*j*) shall be omitted;

(*ii*) in section 18, the references to "assessee" shall be construed as references to "employee of former employee" and the reference to "his employer or former employer" and "an employer or a former employer" shall be construed as reference to "the assessee";

(*c*) "specified person" means such person approved by the prescribed authority; and

(*d*) "land", for the purpose of sub-section (1)(*a*)(*i*), includes any interest in land.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Capital expenditure of specified business.

46. (1) An assessee, at his option, shall be allowed a deduction of the whole of the capital expenditure incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the tax year in which such expenditure is incurred.

(2) Where the expenditure referred to in sub-section (1) is incurred prior to the commencement of its operations and such expenditure is capitalised in the books of account as on the date of commencement of its operations, it shall be allowed during the tax year in which such business is commenced.

(3) This section shall apply to the specified business fulfilling all of the following conditions:—

(*a*) it is not set up by splitting up, or the reconstruction, of an already existing business;

(*b*) it is not set up by the transfer of machinery or plant previously used for any purpose to the specified business;

(*c*) if the business is of the nature referred to in sub-section (11)(*d*)(*iii*) and such business—

(*i*) is owned by a company formed and registered in India under the Companies Act, 2013 (18 of 2013) or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central Act or State Act;

(*ii*) has been approved by the Petroleum and Natural Gas Regulatory Board established under section 3(1) of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006) and notified by the Central Government in this behalf;

(*iii*) has made not less than such proportion of its total pipeline capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under section 3(1) of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006) available for use on common carrier basis by any person other than the assessee or an associated person; and

(*iv*) fulfils any other condition as may be prescribed;

(*d*) if the business is of the nature referred to in sub-section (11)(*d*)(*xiv*), such business,—

(*i*) is owned by a company registered in India or by a consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central Act or State Act;

(*ii*) entity referred to in sub-clause (*i*) has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing or operating and maintaining or developing, operating and maintaining a new infrastructure facility.

(4) No deduction shall be allowed under the provisions of Chapter VIII-C in relation to such specified business for the same or any other tax year, if a deduction under sub-section (1) is claimed and allowed.

(5) No deduction in respect of the expenditure referred to in sub-section (1) shall be allowed to the assessee under any other section in any tax year or under this section in any other tax year, if the deduction has been claimed and allowed to him under this section.

(6) The provisions of this section shall apply to the specified business referred to in column B of the Table below if it commences its operations as specified in column C thereof.

Table

Sl. No.	*Nature of specified business*	*Date of commencement of operations being on or after*
A	*B*	*C*
1.	Laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network.	1st April, 2007.
2.	Building and operating a new hotel of two star or above category as classified by the Central Government.	1st April, 2010.
3.	Building and operating a new hospital with at least 100 beds for patients.	1st April, 2010.
4.	Developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed.	1st April, 2010.
5.	Developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed.	1st April, 2011.
6.	A new plant or a newly installed capacity in an existing plant for production of fertilizer.	1st April, 2011.
7.	Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962).	1st April, 2012.
8.	Bee-keeping and production of honey and beeswax.	1st April, 2012.
9.	Setting up and operating a warehousing facility for storage of sugar.	1st April, 2012.
10.	Laying and operating a slurry pipeline for the transportation of iron ore.	1st April, 2014.
11.	Setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed.	1st April, 2014.

Sl. No.	*Nature of specified business*	*Date of commencement of operations being on or after*
A	*B*	*C*
12.	Developing, or operating and maintaining, or developing, operating and maintaining, any infrastructure facility.	1st April, 2017.
13.	In all other cases.	1st April, 2009.

(7) Where the assessee builds a hotel of two star or above category as classified by the Central Government and subsequently, transfers the hotel operation thereof to another person while retaining its ownership, the assessee shall be deemed to be carrying on the specified business referred to in sub-section (11)(*d*)(*iv*).

(8) The provisions contained in sections 122(6) and 140(8) and (13) shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(9) Any asset for which a deduction is claimed and allowed under this section—

(*a*) shall be used only for the specified business for a period of eight years beginning with the tax year in which such asset is acquired or constructed;

(*b*) is used for the purpose other than specified business during the period referred to in clause (*a*), and is not chargeable to tax under section 26(2)(*k*), then the total amount of deduction so claimed and allowed in one or more tax years, as reduced by the amount of depreciation allowable under section 33, as if no deduction under this section was allowed, shall be deemed to be the income chargeable under the head "Profits and gains of business or profession" of the tax year in which the asset is so used.

(10) The provisions of sub-section (9)(*b*) shall not apply to a company which has become a sick industrial company under section 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), as it stood before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004) during the period specified in sub-section (9)(*a*).

(11) For the purposes of this section,—

(*a*) "associated person", in relation to the assessee, means a person,—
- (*i*) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;
- (*ii*) who holds, directly or indirectly, shares carrying at least 26% of the voting power in the capital of the assessee;
- (*iii*) who appoints more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or
- (*iv*) who guarantees at least 10% of the total borrowings of the assessee;

(*b*) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(*c*) "infrastructure facility" means—
- (*i*) a road including toll road, a bridge or a rail system;
- (*ii*) a highway project including housing or other activities being an integral part of the highway project;
- (*iii*) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;
- (*iv*) a port, airport, inland waterway, inland port or navigational channel in the sea;

(*d*) "specified business" means any one or more of the following businesses:—
- (*i*) setting up and operating a cold chain facility;
- (*ii*) setting up and operating a warehousing facility for storage of agricultural produce;
- (*iii*) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;
- (*iv*) building and operating, anywhere in India, a hotel of two star or above category as classified by the Central Government;
- (*v*) building and operating, anywhere in India, a hospital with at least 100 beds for patients;
- (*vi*) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed;
- (*vii*) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed;
- (*viii*) production of fertilizer in India;
- (*ix*) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);
- (*x*) bee-keeping and production of honey and beeswax;
- (*xi*) setting up and operating a warehousing facility for storage of sugar;
- (*xii*) laying and operating a slurry pipeline for the transportation of iron ore;
- (*xiii*) setting up and operating a semi-conductor wafer fabrication manufacturing unit which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed;
- (*xiv*) developing, or maintaining and operating, or developing, maintaining and operating, a new infrastructure facility;

(*e*) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—
- (*i*) such machinery or plant was not, at any time before the date of the installation by the assessee, used in India;
- (*ii*) such machinery or plant is imported into India; and
- (*iii*) no deduction of depreciation for such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before the date of installation of the machinery or plant by the assessee;

(*f*) if any machinery or plant or its part previously used for any purpose is transferred to the specified business and its total value does not exceed 20% of the total value of the machinery or plant used in such business, then the conditions specified in sub-section (3)(*b*) shall be deemed to be complied with;

(*g*) any expenditure of capital nature shall not include any expenditure—
- (*i*) for which the payment or aggregate of payments made to a person in a day, is not through specified banking or online mode, exceeds ₹ 10000; or

(*ii*) incurred on the acquisition of any land or goodwill or financial instrument.

Expenditure on agricultural extension project and skill development project.

47. (1) Any expenditure (excluding cost of any land or building) incurred, on—

(*a*) agricultural extension project by any assessee; or

(*b*) any skill development project by a company,

shall be allowed as a deduction, in the tax year in which such expenditure is incurred provided such project is notified by the Board as per the guidelines issued by it.

(2) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tea development account, coffee development account and rubber development account.

48. (1) Where an assessee is carrying on business of growing and manufacturing tea or coffee or rubber in India, such assessee shall be allowed a deduction on the basis of deposits into the special account or deposit account and computed as per the provisions of the Schedule IX.

(2) Any amount withdrawn or utilised or released from the aforesaid accounts at the time of closure or otherwise shall be charged to tax as per the provisions of the Schedule IX.

(3) Where any asset acquired as per the special scheme or the deposit scheme, as referred to in the Schedule IX, is sold or otherwise transferred in any tax year, it shall be charged to tax in accordance with the provisions of the said Schedule.

Site Restoration Fund.

49. (1) An assessee carrying on a business of prospecting, extracting, or producing petroleum or natural gas, or both, in India, and who has an agreement with the Central Government for this business, shall be allowed a deduction on the basis of deposit to special account or site restoration account and computed as per the provisions of the Schedule X.

(2) Any amount withdrawn or transferred from the aforesaid accounts at the time of closure or otherwise shall be charged to tax in the year in which the amount is transferred or withdrawn as per the provisions of the Schedule X.

(3) Where any asset acquired as per the special scheme, or the deposit scheme, as referred to in Schedule X, is sold or otherwise transferred in any tax year, it shall be charged to tax in accordance with the provisions of the said Schedule.

Special provision in case of trade, profession or similar association.

50. (1) Irrespective of anything to the contrary contained in this Act, if, during the tax year, the amount received by a specified association from its members falls short of the expenditure incurred by such association solely for the protection or advancement of common interest of its members, then the amount so falling short shall be allowed as deduction from the income of such association under the head "Profits and gains of business or profession" and the remaining amount, if any, shall be allowed deduction from its income under any other head.

(2) For the purposes of sub-section (1),—

(*a*) "specified association" means any trade, professional or similar association, not covered in Schedule III (Table: Sl. No. 24), whose income or its part is not distributed to its members (other than as grants to any associations or institutions affiliated to it);

(*b*) the amount received by the specified association from its members shall include amount by way of subscription or otherwise, and shall not include any remuneration received by the association for rendering any specific services to such members;

(*c*) expenditure incurred by specified association shall not include—

(*i*) expenditure deductible under any other provision of this Act; and

(*ii*) any capital expenditure.

(3) The effect of other provisions of this Act relating to carry forward and set off of brought forward losses or allowances shall be given before allowing deduction under sub-section (1).

(4) The maximum allowable deduction under this section shall not exceed 50% of the total income as computed before allowing deduction under this section.

Amortisation of expenditure for prospecting certain minerals.

51. (1) An assessee, being an Indian company or a person (other than a company) who is resident in India, who is engaged in any operations relating to prospecting for, or extraction or production of, any mineral, shall be allowed a deduction of an amount equal to one-tenth of the amount of expenditure referred to in sub-section (2), in each of the relevant tax years.

(2) The expenditure referred to in sub-section (1) is the expenditure incurred by the assessee at any time during the year of commercial production and any one or more of the four tax years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Schedule XII or on the development of a mine or other natural deposit of any such mineral or group of associated minerals.

(3) The expenditure under sub-section (2) shall be reduced by such expenditure which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(4) The following expenditure shall be excluded from the expenditure referred to in sub-section (2):—

(*a*) any expenditure on the acquisition of the site of the source of any mineral or group of associated minerals referred to in the said sub-section or of any rights in or over such site; or

(*b*) any expenditure on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or

(*c*) any expenditure of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 33.

(5) The deduction to be allowed under sub-section (1) for any relevant tax year shall be—

(*a*) an amount equal to one-tenth of the expenditure specified in sub-section (2) as reduced by the expenditure mentioned in sub-sections (3) and (4) (such one-tenth being herein referred to as the instalment); or

(*b*) such amount as is sufficient to reduce to *nil* the income (as computed before making the deduction under this section) of that tax year arising from the commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in sub-sections (2) and (3)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals under this section in respect of which the expenditure was incurred,

whichever is less.

(6) If any part of the instalment for a relevant tax year is not fully allowed, it shall be carried forward to the subsequent tax year, becoming part of the instalment of that tax year and such carrying forward may continue for each following tax year, but no instalment shall be carried forward beyond the tenth tax year from the tax year in which commercial production began.

(7) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless,—

(*a*) the accounts of the assessee for the tax year or years in which the expenditure specified in sub-section (2) are incurred have been audited by an accountant, before the specified date referred to in section 63; and

(*b*) the assessee furnishes for the first tax year in which the deduction under this section is claimed, the report of such audit, by such date, in such form and duly signed and verified by such accountant, as may be prescribed.

(8) If an undertaking of an Indian company, entitled for deduction under sub-section (1), is transferred before ten years specified in the said sub-section in a scheme of amalgamation or demerger, to another Indian company, then,—

(*a*) no deduction shall be allowed to the amalgamating or demerged company for the year in which such amalgamation or demerger takes place; and

(*b*) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the amalgamation or demerger had not taken place.

(9) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (2), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

(10) For the purposes of this section,—

(*a*) "operation relating to prospecting" means any operation undertaken for the purposes of exploring, locating or proving deposits of any mineral and includes any such operation which proves to be infructuous or abortive;

(*b*) "year of commercial production" means the tax year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of Schedule XII, commences;

(*c*) "relevant tax years" means the ten tax years beginning with the year of commercial production.

Amortisation of expenditure for telecommunications services, amalgamation, demerger, scheme of voluntary retirement, etc.

52. (1) Where an expenditure of the nature specified in column B of the Table given below is incurred during the tax year, a deduction or part thereof shall be allowed in equal instalments in each of the successive tax years as mentioned in column D of the said Table, beginning from the initial tax year specified in column C thereof.

Table

Sl. No.	*Nature of expenditure*	*Initial tax year*	*Number of tax years over which deduction of expenditure is allowable in equal instalments*
A	*B*	*C*	*D*
1.	Expenditure incurred by an Indian company, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking.	Tax year in which such amalgamation or demerger takes place.	Five tax years.
2.	Amount paid to an employee in connection with his voluntary retirement as per any scheme of voluntary retirement.	Tax year in which such payment is made.	Five tax years.
3.	Capital expenditure incurred and actually paid for acquiring any right to use spectrum for telecommunication services (spectrum fee).	Tax year in which,— (*a*) the business to operate telecom services is commenced; or (*b*) spectrum fee is actually paid, whichever is later.	Number of years commencing from the initial tax year and ending in the tax year up to which the spectrum for which the fee is paid remains in force.
4.	Capital expenditure incurred and actually paid for acquiring any right to operate telecommunication services (herein referred to as licence fee).	Tax year in which,— (*a*) the business to operate telecom services is commenced; or (*b*) licence fee is actually paid, whichever is later.	Number of years commencing from the initial tax year and ending in the tax year up to which the licence for which the fee is paid remains in force.

(2) Where the licence or spectrum referred to in sub-section (1) (Table: Sl. No. 3 or 4)—

(*a*) is transferred, and the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure though incurred, but remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the tax year in which the licence or spectrum is transferred;

(*b*) is transferred, whether in whole or in part, and the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure though incurred, but remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence or spectrum and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the tax year in which the licence or spectrum has been transferred;

(*c*) is transferred under clause (*b*) in a tax year in which the business is no longer in existence, the provisions of said clause shall apply as if the business is in existence in that tax year;

(*d*) is transferred, whether in whole or in part, and the proceeds of the transfer (so far as they consist of capital sums) are equal or greater than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (1) in respect of the tax year in which the licence or spectrum is transferred or in respect of any subsequent tax year or years;

(*e*) is sold or otherwise transferred by the amalgamating company or demerged company, as the case may be, in a scheme of amalgamation or demerger, to the amalgamated company or resulting company, being an Indian company,—

(*i*) the provisions of clauses (*a*), (*b*), (*c*) and (*d*) shall not apply to the amalgamating or demerged company; and

(*ii*) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the transfer had not taken place.

(3) Where a part of licence or spectrum referred to in sub-section (1) (Table: Sl. No. 3 or 4) is transferred in a tax year and sub-section (2)(*b*) and (*c*) does not apply, the deduction to be allowed under sub-section (1) for the expenditure though incurred but remaining unallowed shall be arrived at by—

(*a*) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(*b*) dividing the remainder by the number of relevant tax years which have not expired at the beginning of the tax year during which the licence or spectrum is transferred.

(4) No deduction shall be allowed—

(*a*) for depreciation under section 33(1) to (10) in respect of expenditure mentioned in sub-section (1) (Table: Sl. No. 3 or 4), where deduction under this section is claimed and allowed for any tax year;

(*b*) under any other provision of this Act in respect of the expenditure mentioned in sub-section (1) (Table: Sl. No. 1 or 2).

(5) In case any deduction has been claimed and granted in respect of an expenditure referred to in sub-section (1) (Table: Sl. No. 3) in a tax year and subsequently there is failure on part of the assessee to comply with any of the provisions of this section, then,—

(*a*) the deduction shall be deemed to have been wrongly allowed;

(*b*) the Assessing Officer may, irrespective of any other provisions of this Act, recompute the total income of the assessee for the said tax year by making necessary rectification;

(*c*) the provisions of section 287 shall, so far as may be, apply; and

(*d*) the period of four years specified in section 287(8) shall be counted from the end of the tax year in which such failure takes place.

(6) Where a specified business reorganisation takes place before the expiry of the period specified in sub-section (1) (Table: Sl. No. 2.D), in case of an expenditure referred against serial number 2 thereof, then,—

(*a*) the provisions of this section, as far as may be, shall continue to apply to the successor entity as they would have applied to the predecessor entity if such reorganisation had not taken place; and

(*b*) no deduction shall be allowed to the predecessor entity under this section for the tax year in which such reorganisation takes place.

(7) For the purposes of this section,—

(*a*) "actually paid" means the actual payment of expenditure irrespective of the tax year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner, as may be prescribed;

(*b*) "equal instalments" shall be calculated by taking numerator as 1 and denominator as the tax years mentioned in column D of the Table in sub-section (1);

(*c*) "specified business reorganisation" means—

(*i*) amalgamation of an Indian company and its undertaking with another Indian company; or

(*ii*) demerger of an undertaking of an Indian company to another company; or

(*iii*) succession of a firm or proprietorship concern to a company fulfilling conditions as laid down in section 70(1)(*zd*); or

(*iv*) conversion of a private company or unlisted public company to a limited liability partnership fulfilling conditions laid down in section 70(1)(*ze*).

Full value of consideration for transfer of assets other than capital assets in certain cases.

53. (1) In case of transfer of an asset (other than a capital asset), being land or building or both, if the consideration received or accrued from such transfer is less than the stamp duty value, then such stamp duty value for computing profits and gains from transfer of such asset shall be deemed to be the full value of consideration.

(2) The provisions of sub-section (1) shall not apply if the stamp duty value does not exceed 110% of the consideration received or accrued and in such a case, the consideration received or accrued shall be deemed to be the full value of consideration.

(3) If the date of agreement fixing the value of consideration for transfer of asset and date of registration for transfer of such asset are different, then the stamp duty value as on date of agreement may be taken to be the full value of consideration under sub-section (1).

(4) The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received by specified banking or online mode on or before the date of agreement for transfer of such asset.

(5) For the determination of the stamp duty value under sub-section (1), the provisions of section 78(2) and (3) shall apply.

Business of prospecting for mineral oils.

54. (1) Where the assessee undertakes specified oil exploration business, then deduction specified in sub-sections (3) and (4) shall be allowed while computing the income under the head "Profits and gains of business or profession".

(2) For the purposes of this section, "specified oil exploration business" means business consisting of prospecting for or extraction or production of mineral oils where the following conditions are fulfilled:—

(*a*) the Central Government has entered into an agreement with the assessee;

(*b*) such agreement is entered for association or participation of the Central Government or any person authorised by it; and

(*c*) such agreement is laid before each House of Parliament.

(3) The deduction referred to in sub-section (1) shall be—

(*a*) for the period before the beginning of commercial production, expenditure towards infructuous or abortive exploration incurred in respect of any surrendered area;

(*b*) for the period after the commencement of commercial production, expenditure (whether before or after such production) in respect of drilling or exploration activities or services or in respect of physical assets used in that connection;

(*c*) for the tax year of commencement of commercial production and such succeeding tax years as specified in the agreement, towards depletion of mineral oil in the mining area.

(4) The deductions referred to in sub-section (1) shall be—

(*a*) either *in lieu* of, or in addition to, any allowance admissible under this Act as specified in the agreement; and

(*b*) computed and made in the manner specified in the agreement and the other provisions of this Act shall be deemed to have been modified to such extent.

(5) Where the business or any interest therein as referred to in sub-section (1) is wholly or partly transferred as per the provisions of the agreement, the profit shall be charged to tax or deduction shall be allowed in the following manner:—

(*a*) where A is less than C, then (C-A) shall be allowed as deduction in the tax year in which such business or interest is transferred;

(*b*) where A is greater than C,—

(*i*) but less than B, then (A-C) shall be the profit chargeable under the head "Profits and gains of business or profession" for the tax year in which such transfer takes place;

(*ii*) in any other case, only (B-C) shall be the profit chargeable under the said head for the tax year in which such transfer takes place; and

(*iii*) no deduction shall be allowed for the expenditure incurred remaining unallowed in the tax year in which such transfer takes place or any subsequent tax year,

where,—

A = proceeds of the transfer (so far as they consist of capital sums);

B = total amount of expenditure incurred in connection with the business or to obtain interest therein;

C = amount of expenditure incurred remaining unallowed.

(6) If the business or interest therein is no longer in existence in the year of transfer, the provisions of sub-section (5) shall apply as if such business is in existence during the said year.

(7) Where the business or interest therein is sold or otherwise transferred in a scheme of amalgamation or demerger and the amalgamated entity or the resulting entity being an Indian company, then the provisions of sub-section (5) shall—

(*a*) not apply to the amalgamating or demerged company; and

(*b*) continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company as if the transfer had not taken place.

Insurance business.

55. Irrespective of anything to the contrary contained in the provisions of this Act for computing income under the head “Income from house property”, “Capital gains” or “Income from other sources”, or in section 390(5) and (6), or in sections 26 to 54, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed as per the provisions of Schedule XIV.

Special provision in case of interest income of specified financial institutions.

56. (1) Irrespective of anything to the contrary contained in this Act, the interest income in relation to bad or doubtful debts of a specified financial institution shall be chargeable to tax under the head "Profits and gains of business or profession" in the tax year in which such interest is—

(*a*) credited to the profit and loss account; or

(*b*) actually received,

whichever is earlier.

(2) For the purposes of this section,—

(*a*) "specified financial institution" means—

(*i*) a public financial institution; or

(*ii*) a scheduled bank; or

(*iii*) a co-operative bank, other than—

(*A*) a primary agricultural credit society; or

(*B*) a primary co-operative agricultural and rural development bank; or

(*iv*) a State Financial Corporation; or

(*v*) a State Industrial Investment Corporation; or

(*vi*) any such class of non-banking financial companies, as may be notified by the Central Government;

(*b*) "bad or doubtful debts" shall be such categories of debts, as may be prescribed, having regard to the guidelines issued in relation to such debts by the Reserve Bank of India.

Revenue recognition for construction and service contracts.

57. (1) The profits and gains arising from a construction contract or a contract for providing services, shall be determined on the basis of percentage of completion method, subject to provisions of sub-section (2), as per the income computation and disclosure standards notified under section 276(2).

(2) For the purposes of sub-section (1), the profits and gains arising from a contract for providing services shall be determined—

(*a*) on the basis of project completion method, if the duration of such contract is not more than ninety days;

(*b*) on the basis of straight line method, if the contract involves indeterminate number of acts over a specified period of time.

(3) For the purposes of percentage of completion method, project completion method or straight line method under this section,—

(*a*) the contract revenue shall include retention money;

(*b*) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

Special provision for computing profits and gains of business or profession on presumptive basis in case of certain residents.

58. (1) The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the manner of computation of profits and gains of the specified business or profession in sub-section (2).

(2) The profits and gains of any specified business or profession as mentioned in column B of the Table below, carried on by an assessee specified in column C of the said Table, having total turnover or gross receipts of business or profession during the tax year specified in column D and computed in the manner specified in column E thereof, shall be deemed to be the profits and gains of such business or profession chargeable to tax under the head "Profits and gains of business or profession".

Table

Sl. No.	*Specified business or profession*	*Assessee*	*Total turnover or, as the case may be, gross receipts of business or profession during tax year*	*Manner of computation*
A	*B*	*C*	*D*	*E*
1.	Any business other than the business specified against serial number 2.	Eligible assessee.	(*a*) Does not exceed two crore rupees; or (*b*) does not exceed three crore rupees, where the amount or aggregate of amounts received, in cash, does not exceed 5% of the total turnover or gross receipts.	(*A*) The aggregate of— (*i*) 6% of total turnover or gross receipts which is received by specified banking or online mode during the tax year or before the due date specified in section 263(1) in respect of that tax year; (*ii*) 8% of total turnover or gross receipts as reduced by the turnover or gross receipts covered in (*i*); or (*B*) profit claimed to have been actually earned, whichever is higher.
2.	Business of plying, hiring or leasing goods carriage.	An assessee, who owns not more than ten goods carriages at any time during the tax year.		(*A*) The aggregate of income from goods carriage:— (*i*) being a heavy goods vehicle, calculated at the rate of ₹ 1000 per ton of gross vehicle weight or unladen weight, as the case may be, for each vehicle, for every month or part of a month during which such vehicle is owned by the assessee in the tax year; (*ii*) being a vehicle other than heavy goods vehicle, calculated at the rate of ₹ 7,500 for each goods carriage for every month or part of a month during which the vehicle is owned by the assessee in the tax year; or (*B*) profit claimed to have been actually earned, whichever is higher.
3.	Specified profession as referred to in section 62(4).	Specified assessee.	(*a*) Does not exceed fifty lakh rupees; or (*b*) does not exceed seventy-five lakh rupees, where the amount or aggregate of amounts received in cash does not exceed 5% of the gross receipts.	50% of the gross receipts or profit claimed to have been actually earned, whichever is higher.

(3) Any assessee mentioned in column C of the Table in sub-section (2), who claims that—

(*a*) the profits or gains actually earned from the specified business or profession are lower than the profits or gains computed in the manner mentioned in column E of the said Table; and

(*b*) whose total income exceeds the maximum amount which is not chargeable to tax,

shall be required to—

(*i*) keep and maintain such books of account and other documents as required under section 62; and

(*ii*) get the accounts audited and furnish a report of such audit as required under section 63.

(4) Any loss, allowance or deduction allowable under the provisions of this Act, shall not be allowed against the income computed in the manner specified in sub-section (2).

(5) For the purposes of sub-section (2) (Table: Sl. No. 2), where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in section 35(*e*).

(6) The written down value of any asset used for the purposes of specified business or profession shall be computed as if the assessee mentioned in column C of the Table in sub-section (2) had claimed and was actually allowed deduction in respect of depreciation thereon for each of the relevant tax years.

(7) Where an eligible assessee declares profit for any tax year as per the provisions of sub-section (2) (Table: Sl. No. 1) and he declares profit for any of the five tax years succeeding such tax year in contravention of the provisions of sub-section (1), then he shall not be eligible to claim the benefit of the provisions of this section for five tax years subsequent to the tax year in which the profit has not been declared as per the provisions of the said sub-section.

(8) Irrespective of anything contained in foregoing provision of this section, where provisions of sub-section (7) are applicable to an eligible assessee and his total income exceeds the maximum amount which is not chargeable to income-tax, he shall be required to keep and maintain such books of account and other documents as required under section 62 and get them audited and furnish a report of such audit as required under section 63.

(9) For the purposes of sub-section (2) (Table: Sl. Nos. 1 and 3), the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.

(10) The provisions of sections 62 and 63 shall not apply in so far as they relate to the business referred to in sub-section (2)(Table: Sl. No. 2) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(11) For the purposes of this section,—

(*a*) “eligible assessee” means an individual, a Hindu undivided family, or a firm other than a limited liability partnership, who is resident in India, and who —

- (*i*) has not claimed any deduction under section 144;
- (*ii*) has not claimed any deduction under Chapter VIII-C for the relevant tax year;
- (*iii*) does not carry on specified profession as defined in section 62(4);
- (*iv*) does not earn any income in the nature of commission or brokerage;
- (*v*) does not carry on any agency business;

(*b*) “specified assessee” means an individual or a firm, other than a limited liability partnership, who is a resident in India;

(*c*) “limited liability partnership” shall have the same meaning as assigned to it in section 2(1)(*n*) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(*d*) the expressions “goods carriage”, “gross vehicle weight” and “unladen weight” shall have the same meaning as respectively assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(*e*) “heavy goods vehicle” means any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms; and

(*f*) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Computation of royalty and fee for technical services in hands of non-residents.

59. (1) Income in the nature of royalty or fees for technical services received by a specified assessee during a tax year, shall be computed under the head "Profits and gains of business or profession" under this Act, if the following conditions are satisfied:—

(*a*) income is received from the Government or an Indian concern;

(*b*) income is in pursuance to an agreement made by the specified assessee with the Government or the Indian concern;

(*c*) the specified assessee carries on business in India through a permanent establishment, or performs professional services from a fixed place of profession, situated in India; and

(*d*) the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession.

(2) No deduction shall be allowed against the income computed under sub-section (1) in respect of the following amounts:—

(*a*) any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(*b*) amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

(3) The provisions of section 61 in so far as it relates to business referred to in section 61(2) (Table: Sl. No. 5), shall not apply in respect of the income referred to in this section.

(4) The specified assessee shall keep and maintain books of account and other documents as per the provisions of section 62, get his accounts audited on or before the specified date referred to in section 63 by an accountant, and furnish report of audit in the prescribed form, duly signed and verified by the accountant.

(5) For the purposes of this section, the expression "specified assessee" means a non-resident (not being a company) or a foreign company.

Deduction of head office expenditure in case of non-residents.

60. (1) Irrespective of anything to the contrary contained in sections 26 to 54, in the case of a non-resident assessee, deduction of head office expenditure incurred by such assessee as is attributable to his business or profession in India, shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" subject to provisions of sub-section (2).

(2) The deduction allowable under sub-section (1) shall be restricted—

(*a*) if the adjusted total income of the assessee is a loss, to an upper monetary limit of 5% of the average adjusted total income of the assessee; or

(*b*) in any other case, to an upper monetary limit of 5% of the adjusted total income of the assessee.

(3) For the purposes of this section,—

(*a*) "adjusted total income" means the total income computed under this Act, without giving effect to the allowance referred to in this section or in section 33(11) or the deduction referred to in section 32(*i*)(*A*) or any loss carried forward under section 111(1) or 112(1) or 113(2) or 115(2) or the deductions under Chapter VIII;

(*b*) "average adjusted total income" means,—

(*i*) if the assessee is assessable for each of the three tax years immediately preceding the relevant tax year, the arithmetic mean of his adjusted total income over those three tax years;

(*ii*) if the assessee is assessable only for two of the said three tax years, the arithmetic mean of his adjusted total income over those two tax years;

(*iii*) if the assessee is assessable only for one of the said three tax years, his adjusted total income for that tax year;

(*c*) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—

(*i*) rent, rates, taxes, repairs or insurance of any premises outside India used for the business or profession;

(*ii*) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits *in lieu* of, or in addition to, salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;

(*iii*) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and

(*iv*) such other matters connected with executive and general administration, as may be prescribed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Special provision for computation of income on presumptive basis in respect of certain business activities of certain non-residents.

61. (1) The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the manner of computation of profits and gains of the specified business in sub-section (2).

(2) The profits and gains of any specified business as mentioned in column B of the Table below, carried on by a specified assessee as mentioned in column C of the said Table during a tax year, shall be computed in the manner specified in column D thereof, and shall be deemed to be the profits and gains of such business of such assessee chargeable to tax for the said tax year under the head "Profits and gains of business or profession".

Table

Sl No.	*Specified business*	*Specified assessee*	*Profits and gains of business or profession*
A	*B*	*C*	*D*
1.	Business of operation of ships, other than cruise ships referred to in Serial number 2.	Non resident.	7.5% of (A+B), where,— A = sum on account of carriage of passengers, livestock, mail or goods shipped at any port in India, whether paid or payable, in or outside India, to the assessee or any other person on his behalf (including demurrage, handling or other similar charges); B = sum on account of carriage of passengers, livestock, mail or goods shipped at any port outside India, whether received or deemed to be received in India, by the assessee or any other person on his behalf (including demurrage, handling or other similar charges).
2.	Business of operation of cruise ships (subject to the conditions as may be prescribed).	Non-resident.	20% of (A+B), where,— A = sum on account of carriage of passengers, paid or payable to the assessee or any other person on his behalf; B = sum on account of carriage of passengers received or deemed to be received by the assessee or any other person on his behalf.
3.	Business of operation of aircraft.	Non-resident.	5% of (A+B), where,— A = sum on account of carriage of passengers, livestock, mail or goods from any place in India, paid or payable (in or outside India) to the assessee or any other person on his behalf; B = sum on account of carriage of passengers, livestock, mail or goods from any place outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
4.	Business of civil construction or erection or testing or commissioning, of plant or machinery, in connection with a turnkey power project, approved by the Central Government.	Foreign company.	10% of the amount towards such civil construction, erection, testing, or commissioning, paid or payable, to the assessee or to any other person on his behalf, whether in or outside India.
5.	Business of providing services or facilities (including supply of plant and machinery on hire) for prospecting, extraction or production of mineral oils.	Non-resident.	10% of (A+B), where,— A = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils in India, paid or payable (in or outside India), to the assessee or any other person on his behalf; B = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
6.	Business of providing services or technology in India, for the purposes of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India to a resident company.	Non-resident.	25% of (A + B), where,— A = the amount paid or payable to the non-resident assessee or to any person on his behalf on account of providing services or technology; B = the amount received or deemed to be received by the non-resident assessee or on behalf of non-resident assessee on account of providing services or technology.

(3) For the purposes of sub-section (2) (Table: Sl. Nos. 4 and 5) the specified assessee may claim that the profits actually earned from the specified business are lower than the business profits computed under sub-section (2), if —

(*a*) he keeps and maintains such books of account and other documents as required under section 62; and

(*b*) gets his accounts audited and furnish a report of such audit as required under section 63.

(4) Any loss, allowance or deduction allowable under the provisions of this Act shall not be allowed against the income computed in the manner specified in sub-section (2).

(5) The written down value of any asset used for the purposes of specified business or profession shall be computed, as if the assessee mentioned in column C of the Table in sub-section (2) had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

(6) For the purposes of sub-section (2) (Table: Sl. No. 5) the provisions of this section shall not apply where the provisions of section 54 or 59 or 207 or 527 apply for the purposes of computing profits and gains or any other income referred to in the said sections.

(7) For the purposes of sub-section (2) (Table: Sl. No. 5), "plant" includes ships, aircrafts, vehicles, drilling units, scientific apparatuses and equipments used for the purposes of the specified business.

(8) For the purposes of sub-section (2) (Table: Sl. No. 6), resident company shall satisfy the following:—

(*a*) it is establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronic goods, article or thing in India, under a scheme notified by the Central Government in the Ministry of Electronics and Information Technology; and

(*b*) it satisfies the conditions as may be prescribed in this behalf.

(9) The provisions of sections 59 and 207 shall not apply to amounts referred to in sub-section (2) (Table: Sl. No. 6).

Maintenance of books of account.

62. (1)(*a*) Any person carrying on specified profession; or

(*b*) any person carrying on, business; or any profession [not being a profession referred to in clause (*a*)] and satisfying the conditions referred to in sub-section (2),

shall keep and maintain such books of account and other documents to enable the Assessing Officer to compute his total income under this Act.

(2) The conditions in respect of persons referred to in sub-section (1)(*b*) shall be the following:—

(*a*) where the income from business or profession exceeds ₹ 120000 or its total sales, turnover or gross receipts from such business or profession exceeds ten lakh rupees in any one of the three years immediately preceding the tax year; or

(*b*) where business or profession is newly set up in the tax year, the income from business or profession is likely to exceed ₹ 120000 or its total sales, turnover or gross receipts from such business or profession is likely to exceed ten lakh rupees during such tax year; or

(*c*) where during the tax year, the assessee referred to in section 58(2) or 61(2) (Table: Sl. Nos. 4 and 5), has claimed income from business or profession to be lower than the deemed profits as referred to in section 58(2) or section 61(2); or

(*d*) in case of an individual or Hindu undivided family, clauses (*a*) and (*b*) shall be modified to the extent of income from such business or profession exceeding ₹ 250000 and its total sales, turnover or gross receipts from such business or profession exceeding twenty-five lakh rupees.

(3) For the purposes of this section, the Board may prescribe—

(*a*) the books of account and other documents (including inventories, wherever necessary) to be kept and maintained;

(*b*) particulars to be contained therein;

(*c*) the form, manner and place at which they shall be kept and maintained; and

(*d*) the period for which such books of account and other documents are to be retained.

(4) For the purposes of this section, the expression “specified profession” means—

(*a*) legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, information technology or company secretary; or

(*b*) any other profession, as may be notified by the Board in this behalf.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tax audit.

63. (1) Every person, carrying on the business or profession fulfilling any of the conditions specified in column B of the Table below, shall get his accounts of the tax year audited by an accountant, before the specified date.

Table

Sl. No.	*Conditions for getting books of account audited*
A	*B*
1.	Every person— (*a*) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any tax year, subject to the provisions of clause (*b*); (*b*) In case of a person whose— (*i*) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the tax year, in cash, does not exceed 5% of the said amount; and (*ii*) aggregate of all payments made including amount incurred for expenditure, in cash, during the tax year does not exceed 5% of the said payment, clause (*a*) shall have effect as if for the words "one crore rupees", the words "ten crore rupees" had been substituted; (*c*) carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any tax year.
2.	If the person is carrying on business or profession, referred to in section 58(2) or 61(2) (Table: Sl. Nos. 4 and 5) and the profits and gains from such business or profession are claimed to be lower than the deemed profits as referred to in the said sections.

(2) The provisions of this section shall not apply where profits and gains of business or profession, declared by the assessee are as per section 58(2) or 61(2).

(3) The assessee shall furnish by the specified date, the report of such audit in such form, duly signed and verified by the accountant and setting forth such particulars, as may be prescribed.

(4) Where a person is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of this section, if such person—

(*a*) gets the accounts of such business or profession audited under such law before the specified date; and

(*b*) furnishes by that specified date the report of such audit along with the report of the accountant in the form as may be prescribed.

(5) For the purposes of this section,—

(*a*) "specified date" in relation to the accounts of the assessee of the tax year, means the date one month prior to the due date for furnishing the return of income under section 263(1).

(*b*) the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Special provision for computing deductions in case of business reorganisation of co-operative banks.

64. (1) The deduction under section 33 or 44 or 52(1) (Table: Sl. No. 1 or 2) shall, in a case where business reorganisation of a co-operative bank has taken place during the tax year, be allowed as per provisions of this section.

(2) The amount of deduction allowable to the predecessor co-operative bank or to the successor co-operative bank or to the converted banking company under section 33 or 44 or 52(1) (Table: Sl. No. 1 or 2) shall be determined as per the formula—

(*i*) for predecessor co-operative bank:—

$$\frac{A \times B}{C}$$

(*ii*) for successor co-operative bank or converted banking company:—

$$\frac{A \times D}{C}$$

where,—

A = the amount of deduction allowable to the predecessor co-operative bank, if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the tax year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the tax year in which the business reorganisation has taken place.

D = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the tax year.

(3) The provisions of section 44 or 52(1) (Table: Sl. No. 1 or 2) shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank or to a converted banking company on account of business reorganisation, apply to the successor co-operative bank or to the converted banking company in the tax years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

Interpretation for purposes of section 64.

65. For the purposes of section 64,—

(*a*) "amalgamation" means the merger of an amalgamating co-operative bank with an amalgamated co-operative bank, if—

(*i*) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(*ii*) the members holding 75% or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(*iii*) the shareholders holding 75% or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

(*b*) "amalgamating co-operative bank" means—

(*i*) a co-operative bank which merges with another co-operative bank; or

(*ii*) every co-operative bank merging to form a new co-operative bank;

(*c*) "amalgamated co-operative bank" means—

(*i*) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(*ii*) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;

(*d*) "business reorganisation" means reorganisation of business involving the amalgamation or demerger of a co-operative bank or conversion of a primary co-operative bank;

(*e*) "conversion" means transition of a primary co-operative bank to a banking company under the scheme of the Reserve Bank of India as may be notified *vide* its circular number DCBR. CO. LS. PCB. Cir. No. 5/07.01.000/2018-19, dated 27th September, 2018;

(*f*) "converted banking company" means a banking company formed as a result of conversion from primary co-operative bank;

(*g*) "demerger" means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—

(*i*) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;

(*ii*) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;

(*iii*) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;

(*iv*) the shareholders holding 75% or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting co-operative bank, otherwise than as a result of the acquisition of the assets of the demerged co-operative bank or any undertaking thereof by the resulting co-operative bank;

(*v*) the transfer of the undertaking is on a going concern basis; and

(*vi*) the transfer is as per the conditions specified by the Central Government, by notification, having regard to the necessity to ensure that the transfer is for genuine business purposes;

(*h*) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;

(*i*) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, or the primary co-operative bank, which has been succeeded as a result of conversion;

(*j*) "primary co-operative bank" shall have the meaning assigned to it in clause (*ccv*) of section 56 of the Banking Regulation Act, 1949 (10 of 1949);

(*k*) "resulting co-operative bank" means—

(*i*) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or

(*ii*) any co-operative bank formed as a result of demerger;

(*l*) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank.

Interpretation.

66. For the purposes of Part D of this Chapter,—

(*1*) "agreement", for the purposes of section 26(2)(*h*), includes any arrangement or understanding or action in concert,—

(*A*) whether or not such arrangement, understanding or action is formal or in writing; or

(*B*) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

(*2*) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(*3*) "commission or brokerage" shall have the meaning assigned to it in section 402(7);

(*4*) "commodities transaction tax" shall have the same meaning as assigned to it under Chapter VII of the Finance Act, 2013 (17 of 2013);

(*5*) "fees for technical services" shall have the meaning assigned to it in section 9(7)(*b*);

(*6*) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(*7*) "Indian Institute of Technology" shall have the same meaning as that of "Institute" defined in section 3(*g*) of the Institutes of Technology Act, 1961 (59 of 1961);

(*8*) "Keyman insurance policy" shall have the meaning assigned to it in Schedule II (Note 1);

(*9*) "limited liability partnership" shall have the same meaning as assigned to it in section 2(1)(*n*) of the Limited Liability Partnership Act, 2008 (6 of 2009);

(*10*) "long-term finance", for the purposes of section 32(*e*), means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*11*) "micro enterprise" shall be an enterprise classified as such under the notification in this behalf by the Central Government under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);

(*12*) "mineral oil" includes petroleum and natural gas;

(*13*) "moneys payable" in respect of any tangible asset [as referred to in section 33(12)(*a*)(*i*)] includes—

(*a*) any insurance, salvage or compensation moneys payable in respect thereof;

(*b*) where the asset is sold, the price for which it is sold;

(*14*) "non-scheduled bank" means a banking company as defined in section 5(*c*) of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;

(*15*) "paid" means, except for section 37, actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession";

(*16*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(*17*) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the business or profession but does not include tea bushes or livestock or buildings or furniture and fittings;

(*18*) "predecessor entity" means—

(*a*) the amalgamating Indian company in the case of amalgamation;

(*b*) the demerged Indian company, in the case of demerger;

(*c*) a firm, in the case of a succession of a firm by a company as referred to in section 70(1)(*zd*);

(*d*) a private company or unlisted public company, in case of conversion as referred to in section 70(1)(*ze*);

(*19*) "primary agricultural credit society" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(*20*) "primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a *taluk* and the principal object of which is to provide for long-term credit for agricultural and rural development activities;

(*21*) "professional services" shall have the meaning assigned to it in section 402(28);

(*22*) "public company" shall have the same meaning as assigned to it in section 2(*71*) of the Companies Act, 2013 (18 of 2013);

(*23*) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013 (18 of 2013);

(*24*) "rate of exchange" means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(*25*) "royalty" shall have the same meaning as assigned to it in section 9(6)(*b*);

(*26*) "rural branch" means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than ten thousand according to the last preceding census, of which the relevant figures have been published before the first day of the tax year;

(*27*) "scientific research" means—

(*a*) any activity for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries; and

(*b*) the references to expenditure incurred on scientific research shall include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but does not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research,

and the references to scientific research related to a business or class of business shall include any scientific research—

(*i*) which may lead to or facilitate an extension of that business or, all businesses of that class;

(*ii*) of a medical nature which has a special relation to the welfare of workers employed in that business or, all businesses of that class;

(*28*) "securities transaction tax" shall have the meaning assigned to it under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

(*29*) "service", for the purposes of section 26(2)(*h*), means a service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as—

(*a*) accounting;

(*b*) banking;

(*c*) communication;

(*d*) conveying of news or information;

(*e*) advertising;

(*f*) entertainment;

(*g*) amusement;
(*h*) education;
(*i*) financing;
(*j*) insurance;
(*k*) chit funds;
(*l*) real estate;
(*m*) construction;
(*n*) transport;
(*o*) storage;
(*p*) processing;
(*q*) supply of electrical or other energy; and
(*r*) boarding and lodging;

(*30*) "small enterprise" shall be an enterprise classified as such under the notification in this behalf by the Central Government under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);

(*31*) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips, other than the following transactions:—

(*a*) a specified derivative transaction as defined in clause (*33*);
(*b*) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured, or merchandise sold by him;
(*c*) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;
(*d*) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage, to guard against loss which may arise in the ordinary course of his business as such member;

(*32*) "Specified Banking or Online Mode" shall mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as may be prescribed;

(*33*) "specified derivative transaction" means any transaction in respect of trading in derivatives referred to in section 2(*ac*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or in respect of trading in commodity derivatives (other than agricultural commodity derivatives) which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013) or in respect of trading in agricultural commodity derivatives, if such transactions are—

(*a*) is carried out—
(*i*) through a stock broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) and the rules, regulations or bye-laws made or directions issued under those Acts; or
(*ii*) by banks or mutual funds,
electronically on screen-based systems of a recognised stock exchange; and
(*b*) supported by a time stamped contract note issued by the intermediary to every client indicating in the contract note—
(*i*) the unique client identity number allotted under any law in force; and
(*ii*) the Permanent Account Number allotted under this Act;

(*34*) "State Government undertaking" includes—

(*a*) a corporation established by or under any State Act;
(*b*) a company in which more than 50% of the paid-up equity share capital is held by the State Government;
(*c*) a company in which more than 50% of the paid-up equity share capital is held by the entity referred to in clause (*a*) or (*b*) (whether singly or taken together);
(*d*) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;
(*e*) an authority, a board or an institution or a body established or constituted by or under any State Act, or owned or controlled by the State Government;

(*35*) "State Industrial Investment Corporation" means a Government company within the meaning of section 2(*45*) of the Companies Act, 2013 (18 of 2013), engaged in the business of providing long-term finance for industrial projects;

(*36*) "State Financial Corporation" means a Financial Corporation established under section 3 or 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(*37*) "successor entity" means—

(*a*) the amalgamated Indian company, in the case of amalgamation;
(*b*) the resulting Indian company, in the case of demerger;
(*c*) a company, in case of a succession of a firm by a company as referred to in section 70(1)(*zd*);
(*d*) a limited liability partnership, in case of conversion of private company or unlisted public company to a limited liability partnership, as referred to in section 70(1)(*ze*);

(*38*) "taxable commodities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2013 (17 of 2013);

(*39*) "taxable securities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2004 (13 of 2004);

(*40*) "University" shall have the meaning assigned to it in section 70(2) (Table: Sl. No. 7).

E.-Capital gains

Capital gains.

67. (1) Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 85, 86, 87, 88 and 89, be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of the tax year in which the transfer took place.

(2) Irrespective of anything contained in sub-section (1), if a person receives during any tax year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of circumstances mentioned in sub-section (3), then,—

(*a*) any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the tax year in which such money or other asset was received; and

(*b*) for the purposes of section 72, the value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(3) The following shall be the circumstances referred to in sub-section (2):—

(*a*) flood, typhoon, hurricane, cyclone, earthquake or any other convulsion of nature; or

(*b*) riot or civil disturbance; or

(*c*) accidental fire or explosion; or

(*d*) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war).

(4) In sub-section (2), "insurer" shall have the same meaning as assigned to it in section 2(9) of the Insurance Act, 1938 (4 of 1938).

(5) Irrespective of anything contained in sub-section (1), if any profits or gains arises to a person from receipt of any amount, including a bonus, under a unit linked insurance policy to which the exemption specified at Schedule II (Table: Sl. No. 2) does not apply, then,—

(*a*) such profits and gains shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person in the tax year in which such amount was received; and

(*b*) the income taxable shall be calculated in such manner, as may be prescribed.

(6) Irrespective of anything contained in sub-section (1), if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner as, stock-in-trade of a business carried on by him, then,—

(*a*) such profits and gains shall be chargeable to income-tax as his income in the tax year in which such stock-in-trade is sold or otherwise transferred by him; and

(*b*) for the purposes of section 72, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(7) If any person, at any time during the tax year, had any beneficial interest in any securities and any profits or gains arise from transfer made by the depository or participant of such beneficial interest in respect of securities, then,—

(*a*) such profits and gains shall be chargeable to income-tax as the income of the beneficial owner of the tax year in which such transfer took place;

(*b*) such profits and gains shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of section 10(1) of the Depositories Act, 1996 (22 of 1996); and

(*c*) for the purposes of section 72 and section 2(*101*)(*b*), the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

(8) In sub-section (7), "beneficial owner", "depository" and "security" shall have the same meanings as respectively assigned to them in section 2(1)(*a*), (*e*) and (*l*) of the Depositories Act, 1996 (22 of 1996).

(9) If any profits or gains arise from the transfer of a capital asset by a person, to a firm or other association of persons or body of individuals (not being a company or co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, then,—

(*a*) such profits and gains shall be chargeable to tax as his income of the tax year of such transfer; and

(*b*) for the purposes of section 72 the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(10) Irrespective of anything contained in sub-section (1), if a specified person receives during the tax year, any money or capital asset, or both, from a specified entity in connection with the reconstitution of such specified entity, then,—

(*a*) any profits or gains arising from such receipt shall be deemed as income of the specified entity of the tax year of such receipt by the specified person and chargeable to income-tax under the head "Capital gains"; and

(*b*) such profits or gains shall be determined irrespective of anything to the contrary contained in this Act as follows:—

$$A = B + C — D,$$

where,

A = income chargeable to income-tax under this sub-section as income of the specified entity under the head "Capital gains";
B = value of any money received by the specified person from the specified entity on the date of such receipt;
C = amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and
D = amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution;

(*c*) for the purposes of clause (*b*),—

(*i*) if the value of "A" as computed is negative, such value shall be deemed to be zero;

(*ii*) the balance in the capital account of the specified person in the books of account of the specified entity shall be calculated without considering any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset; and

(*d*) the provisions of this sub-section shall operate in addition to the provisions of section 8 and the taxation under the said section shall be worked out independently, when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity.

(11) In sub-section (10),—

(*a*) "reconstitution of the specified entity", "specified entity" and "specified person" shall have the meanings respectively assigned to them in section 8;

(*b*) "self-generated goodwill" and "self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

(12) Irrespective of anything contained in sub-section (1), if the capital gain arises from the transfer of a capital asset by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, tribunal or other authority, the capital gain shall be dealt with in the following manner:—

(*a*) the capital gains computed with reference to the compensation awarded in the first instance or as the case may be, consideration determined or approved by the Central Government or the Reserve Bank of India in the first instance, shall be chargeable as income under the head "Capital gains" of the tax year in which such compensation or part thereof, or such consideration or part thereof, was first received;

(*b*) the amount by which the compensation or consideration is enhanced or further enhanced by the court, tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the tax year in which such amount is received;

(*c*) any compensation as referred to in clause (*b*) received in pursuance of an interim order of a court, tribunal or other authority shall be deemed as income chargeable under the head "Capital gains" of the tax year in which the final order of such court, tribunal or other authority is made; and

(*d*) the capital gain assessed for any tax year under clause (*a*) or (*b*) shall be recomputed where the compensation or consideration referred to in clauses (*a*) to (*c*) is reduced by any court, tribunal or other authority, and such reduced value shall be taken to be the full value of the consideration.

(13) In relation to the amount referred to in sub-section (12)(*b*) and (*c*),—

(*a*) the cost of acquisition and the cost of improvement shall be taken as *nil*; and

(*b*) in a case, where the enhanced compensation or consideration is received by any other person due to the death of the person who made the transfer, or for any other reason, such amount shall be deemed as the income chargeable to tax under the head "Capital gains" in the hands of such other person.

(14) Irrespective of anything contained in sub-section (1), if the capital gains arises to a person (being an individual or a Hindu undivided family), from the transfer of a capital asset, being land or building or both, under a specified agreement, then,—

(*a*) such capital gains shall be chargeable to income-tax for the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and

(*b*) for the purposes of section 72, the stamp duty value, on the date of issue of the said certificate, of the share of such person, being land or building or both, in the project, as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(15) In sub-section (14),—

(*a*) "competent authority" means the authority empowered to approve the building plan under any law;

(*b*) "specified agreement" means a registered agreement in which a person owning land or building, or both, agrees to allow another person to develop a real estate project on such land or building, or both, in consideration of a share, being land or building or both, in such project, whether with or without payment of part of the consideration in cash.

(16) The provisions of sub-section (14) shall not apply, if the person transfers his share in the project on or before the date of issue of the certificate of completion, and then,—

(*a*) the capital gains shall be deemed to be the income of the tax year of such transfer; and

(*b*) the provisions of this Act, other than sub-section (14), shall apply for the purpose of determination of full value of consideration.

(17) Irrespective of anything contained in sub-section (1), the difference between the repurchase price of the units referred to in section 80CCB(2) of the Income-tax Act, 1961 (43 of 1961) and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the tax year in which—

(*a*) such repurchase takes place; or

(*b*) the plan referred to in that section is terminated.

(18) For the purposes of sub-section (17), "capital value of such units" means any amount invested by the assessee in the units referred to in section 80CCB(2) of the Income-tax Act, 1961 (43 of 1961).

Capital gains on distribution of assets by companies in liquidation.

68. (1) Irrespective of anything contained in section 67, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of the said section.

(2) If a shareholder, on the liquidation of a company, receives any money or other assets from the company, then,—

(*a*) such shareholder shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of section 2(*40*)(*c*); and

(*b*) the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 72.

Capital gains on purchase by company of its own shares or other specified securities.

69. (1) If a shareholder or a holder of other specified securities receives any consideration from any company for the purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 72, the difference between the cost of acquisition and the value of consideration so received shall be deemed to be the "Capital gains" arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which the company purchases the shares or other specified securities.

(2) If the shareholder receives any consideration of the nature referred to in section 2(*40*)(*f*), from any company in respect of buy-back of shares, then for the purposes of this section, the value of such consideration shall be deemed to be *nil*.

(3) For the purposes of this section, "specified securities" shall have the same meaning as assigned to it in *Explanation 1* to section 68 of the Companies Act, 2013 (18 of 2013).

Transactions not regarded as transfer.

70. (1) The provisions of section 67 shall not apply to transfer—

(*a*) by way of distribution of capital assets on the total or partial partition of a Hindu undivided family;

(*b*) of a capital asset by an individual or a Hindu undivided family, under a will or a gift or an irrevocable trust;

(*c*) of a capital asset, not being stock-in-trade, by a company to its subsidiary company, if—

(*i*) the parent company or its nominees hold the whole of the share capital of the subsidiary company; and

(*ii*) the subsidiary company is an Indian company;

(*d*) of a capital asset, not being stock-in-trade, by a subsidiary company to the holding company, if—

(*i*) the whole of the share capital of the subsidiary company is held by the holding company; and

(*ii*) the holding company is an Indian company;

(*e*) in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company, if the amalgamated company is an Indian company;

(*f*) by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if—

(*i*) the transfer is made in consideration of allotment to him of any share or shares in the amalgamated company except when the shareholder itself is the amalgamated company; and

(*ii*) the amalgamated company is an Indian company;

(*g*) in a scheme of amalgamation, to him of a capital asset being a share or shares held in an Indian company by the amalgamating foreign company to the amalgamated foreign company, if—

(*i*) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(*ii*) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;

(*h*) in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in section 9(10)(*a*), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—

(*i*) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(*ii*) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;

(*i*) of a capital asset by a banking company to a banking institution under a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under section 45(7) of the Banking Regulation Act, 1949 (10 of 1949);

(*j*) in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(*k*) of shares by the resulting company or issue of shares by such company, in a scheme of demerger to the shareholders of the demerged company, if the transfer or issue is made in consideration of demerger of the undertaking;

(*l*) of a capital asset in a demerger, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—

(*i*) the shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(*ii*) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated,

and in such a case the provisions of sections 230 to 232 of the Companies Act, 2013 (18 of 2013) shall not apply;

(*m*) of a capital asset in a demerger, being a share of a foreign company, referred to in section 9(10)(*a*), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if—

(*i*) the shareholders, holding not less than 75% in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

(*ii*) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated,

and in such a case the provisions of sections 230 to 232 of the Companies Act, 2013 (18 of 2013) shall not apply;

(*n*) in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company;

(*o*) by a shareholder, in a business reorganisation, of capital asset being share or shares held by him in the predecessor co-operative bank, if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank or the converted banking company;

(*p*) of a capital asset, being bonds or Global Depository Receipts as referred to in section 209(1), made outside India by a non-resident to another non-resident;

(*q*) made outside India, of a capital asset, being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;

(*r*) of a capital asset made by a non-resident on a recognised stock exchange located in any International Financial Services Centre, where the consideration for such transaction is paid or payable in foreign currency, and such capital asset is—

(*i*) bond or Global Depository Receipt referred to in section 209(1); or

(*ii*) rupee denominated bond of an Indian company; or

(*iii*) derivative; or

(*iv*) such other securities as may be notified by the Central Government;

(*s*) of a capital asset, being a Government security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident;

(*t*) in a relocation, of a capital asset by the original fund to the resulting fund;

(*u*) by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund;

(*v*) of a capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause;

(*w*) of a capital asset, under a plan approved by the Central Government, by a public sector company, to—

(*i*) another public sector company notified by the Central Government for the purposes of this clause; or

(*ii*) the Central Government; or
(*iii*) a State Government;

(*x*) of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an individual;

(*y*) of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold;

(*z*) by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;

(*za*) by way of conversion of bonds referred to in section 209(1) (Table: Sl. No. 1) into shares or debentures of any company;

(*zb*) by way of conversion of preference shares of a company into equity shares of that company;

(*zc*) of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to—
(*i*) the Government; or
(*ii*) a University; or
(*iii*) the National Museum, National Art Gallery or National Archives; or
(*iv*) such other public museum or institution as may be notified by the Central Government to be of national importance or of renown throughout any State;

(*zd*) of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, if —
(*i*) all the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;
(*ii*) all the partners of the firm, immediately before the succession, become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession;
(*iii*) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and
(*iv*) the aggregate of the shareholding of the partners in the company is not less than 50% of the total voting power and such shareholding continues to not less than 50% for five years from the date of succession;

(*ze*) of a capital asset or intangible asset by a private company or unlisted public company (herein referred to as the company) to a limited liability partnership or transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership under the provisions of section 56 or 57 of the Limited Liability Partnership Act, 2008 (6 of 2009), if—
(*i*) all the assets and liabilities of the company, immediately before the conversion, become the assets and liabilities of the limited liability partnership;
(*ii*) all the shareholders of the company, immediately before the conversion, become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;
(*iii*) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, other than by way of share in profit and capital contribution in the limited liability partnership;
(*iv*) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than 50% at any time during five years from the date of conversion;
(*v*) the total sales, turnover or gross receipts in the business of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed sixty lakh rupees;
(*vi*) the total value of the assets, as appearing in the books of account of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed five crore rupees; and
(*vii*) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for three years from the date of conversion;

(*zf*) of a capital asset or intangible asset (by way of sale or otherwise) by a sole proprietorship concern to a company in case of succession of the sole proprietorship concern by the company in the business carried on by it, if—
(*i*) all the assets and liabilities related to the business of the sole proprietary concern, immediately before the succession, become the assets and liabilities of the company;
(*ii*) the shareholding of the sole proprietor in the company is not less than 50% of the total voting power and such shareholding continues to be not less than 50% for five years from the date of the succession; and
(*iii*) the sole proprietor does not receive any consideration or benefit, directly or indirectly, except through allotment of shares in the company;

(*zg*) in a scheme for lending of any securities under an agreement or arrangement, entered into by the assessee with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India or the Reserve Bank of India;

(*zh*) of a capital asset in a transaction of reverse mortgage under a scheme notified by the Central Government;

(*zi*) of a capital asset, being share or shares of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor;

(*zj*) of a capital asset by a unit holder, being a unit or units, held by him in the consolidating scheme of a mutual fund, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund subject to the condition that the consolidation is of two or more schemes—
(*i*) of an equity-oriented fund; or
(*ii*) of a fund other than equity-oriented fund;

(*zk*) of a capital asset by a unit holder, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund;

(*zl*) of a capital asset, being an interest in a joint venture, held by a public sector company, in exchange for shares of a company incorporated outside India by the government of a foreign State, as per the laws of that foreign State.

(2) In sub-section (1), the definitions mentioned in column C of the Table below shall apply to the corresponding clauses of the said sub-section mentioned in column B of the said Table.

Table

Sl. No.	*Clause*	*Definitions*
A	*B*	*C*

1.	(*i*)	The expressions,—
		(*a*) "banking company" shall have the same meaning as assigned to it in section 5(*c*) of the Banking Regulation Act, 1949 (10 of 1949);
		(*b*) "banking institution" shall have the same meaning as assigned to it in section 45(15) of the Banking Regulation Act, 1949 (10 of 1949).
2.	(*n*) and (*o*)	"business reorganisation", "converted banking company", "predecessor co-operative bank" and "successor co-operative bank" shall have the meanings respectively assigned to them in section 65.
3.	(*r*)	(*a*) "derivative" shall have the same meaning as assigned to it in section 2(*ac*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
		(*b*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).
4.	(*s*)	"Government Security" shall have the same meaning as assigned to it in section 2(*b*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).
5.	(*t*) and (*u*)	(*a*) "original fund" means—
		(*A*) a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:—
		(*i*) the fund is not a person resident in India;
		(*ii*) the fund is a resident of a country or a specified territory with which an agreement referred to in section 159(1) or (2) has been entered into; or is established or incorporated or registered in a country or a specified territory as may be notified by the Central Government;
		(*iii*) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and
		(*iv*) fulfils other conditions as may be prescribed;
		(*B*) an investment vehicle, in which Abu Dhabi Investment Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi; or
		(*C*) a fund notified by the Central Government subject to conditions as specified;
		(*b*) "relocation" means transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before the 31st March, 2030, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to—
		(*i*) a shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, *in lieu* of their shares or units or interests in the original fund; or
		(*ii*) the original fund, in the same proportion as referred to in sub-clause (*i*), in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder;
		(*c*) "resultant fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which is located in an International Financial Services Centre as referred to in section 147 and has been granted—
		(*i*) a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund; or
		(*ii*) a certificate as a retail scheme or an Exchange Traded Fund as per Schedule VI (Note 1) and which fulfils the conditions specified in Schedule VI (Table: Sl. No. 1),
		and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019).
6.	(*y*)	"Electronic Gold Receipt" and "Vault Manager" shall have the same meanings as respectively assigned to them in regulation 2(1)(*h*) and (*l*) of the Securities and Exchange Board of India (Vault Managers) Regulations, 2021 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).
7.	(*zc*)	"University" means a University established or incorporated by or under a Central Act or State Act or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.
8.	(*ze*)	"private company" and "unlisted public company" shall have the same meanings as respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009).
9.	(*zi*)	"special purpose vehicle" shall have the meaning assigned to it in Schedule V (Note 2).
10.	(*zj*)	(*a*) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;
		(*b*) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
		(*c*) "equity oriented fund" means a fund—
		(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund, for which the percentage of equity shareholding shall be computed with reference to the annual average of the monthly averages of the opening and closing figures; and
		(*ii*) which has been set up under a scheme of Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21);
		(*d*) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21).

11. (*zk*) (*a*) "consolidating plan" means the plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*b*) "consolidated plan" means the plan with which the consolidating plan merges or which is formed as a result of such merger;

(*c*) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21).

12. (*zl*) "joint venture" means a business entity, as may be notified by the Central Government.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Withdrawal of exemption in certain cases.

71. (1) The profits or gains arising from the transfer of capital asset not charged under section 67 by virtue of section 70(1)(*c*) and (*d*) shall, irrespective of anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the tax year in which such transfer took place, if at any time before the expiry of eight years from the date of such transfer,—

(*a*) the transferee company converts the capital asset into, or treats it as, stock-in-trade of its business; or

(*b*) the parent company or its nominees or the holding company, ceases or cease to hold the whole of the share capital of the subsidiary company.

(2) If any of the conditions laid down in section 70(*zd*) or (*zf*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains" of the successor company for the tax year in which such conditions are not complied with.

(3) If any of the conditions laid down in section 70(*ze*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains" of the successor limited liability partnership or the shareholder of the predecessor company, for the tax year in which such conditions are not complied with.

Mode of computation of capital gains.

72. (1) Income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset, the following amounts:—

(*a*) expenditure incurred wholly and exclusively in connection with such transfer; and

(*b*) the cost of acquisition of the asset and the cost of any improvement thereto.

(2) For the purposes of item B of the formula in section 197(3), the provisions of sub-section (1) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted.

(3) In computing the income chargeable under the head "Capital gains", the following amounts shall not be allowed as a deduction:—

(*a*) the interest claimed as deduction under section 22(1)(*b*) or under Chapter VIII;

(*b*) any sum paid as securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).

(4) If a unit holder receives any amount from a business trust with respect to a unit that is not in the nature of income under Schedule V (Table: Sl. No. 3 or 4) and is not chargeable to tax under section 92(2)(*k*) or 223(2), then,—

(*a*) such amount shall be reduced from the cost of acquisition of such unit; and

(*b*) if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, the amount received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition.

(5) In case of value of any money or capital asset received by a specified person from a specified entity, as referred to in section 67(10), the specified entity, in addition to deductions under sub-section (1), shall also be entitled to a deduction calculated in such manner, as may be prescribed for computing the amount chargeable to income-tax in its hands under that sub-section which is attributable to the transfer of such capital asset.

(6) In the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company (other than equity shares referred to in section 198) shall be computed—

(*a*) by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures; and

(*b*) the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the said manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every re-investment thereafter in, and sale of, shares in, or debentures of, an Indian company.

(7) In the case of an assessee who is a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by the assessee, shall be ignored for computing the full value of consideration under this section.

(8) For the purposes of this section,—

(*a*) "Cost Inflation Index", in relation to a tax year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding tax year to such tax year, by notification, specify, in this behalf;

(*b*) "indexed cost of acquisition" means an amount which bears to the cost of acquisition, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on 1st April, 2001, whichever is later;

(*c*) "indexed cost of any improvement" means an amount which bears to the cost of improvement, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place; and

(*d*) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at such rate of exchange as may be prescribed in this behalf.

Cost with reference to certain modes of acquisition.

73. (1) In the case of a capital asset specified in column B of the Table below,the cost of acquisition of the asset shall be deemed to be the cost as mentioned in column C of the said Table.

Table

Sl. No.	*Description of the capital asset*	*Cost of acquisition*
A	*B*	*C*
1.	If the capital asset became the property of the assessee— (*a*) under a gift or will; or (*b*) by succession, inheritance or devolution; or (*c*) on any distribution of assets on the liquidation of a company; or (*d*) under a transfer to a revocable or an irrevocable trust; or (*e*) being a Hindu undivided family, by the mode referred to in section 99(3) after the 31st December, 1969; or (*f*) under any such transfer as is referred to in section 70(1)(*a*), (*c*), (*d*), (*e*), (*g*), (*h*), (*i*), (*j*), (*l*), (*m*), (*n*), (*o*), (*t*), (*u*), (*v*), (*w*), (*zd*), (*ze*) or (*zf*).	The cost for which the previous owner of the property acquired it, as increased by the cost of any improvement incurred or borne by the previous owner or the assessee.
2.	Capital asset, being a share or shares in an amalgamated company which is an Indian company that became the property of the assessee in consideration of a transfer referred to in section 70(1)(*f*).	The cost of acquisition to him of the share or the shares in the amalgamating company.
3.	Capital asset being a share or debenture of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(*z*) or (*za*).	That part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.
4.	Capital asset, being specified security or sweat equity shares, referred to in section 17(1)(*d*).	Fair market value taken into account for the purposes of the said clause.
5.	Capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), which became the property of the assessee on conversion as referred to in section 70(1)(*ze*).	The cost of acquisition to him of the share or shares in the company immediately before its conversion.
6.	Capital asset, being share or shares of a company acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in section 209(1) (Table: Sl. No. 2) held by such assessee.	The price of the said share or shares prevailing on any recognised stock exchange on the date on which a request for redemption was made.
7.	Capital asset, being a unit of a business trust, which became the property of the assessee in consideration of a transfer as referred to in section 70(1)(*zi*).	The cost of acquisition to him of the share referred to in the said clause.
8.	Capital asset, being a unit or units in a consolidated scheme of a mutual fund, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(*zj*).	The cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.
9.	Capital asset, being equity share of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(*zb*).	That part of the cost of the preference shares in relation to which such asset is acquired.
10.	Capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(*zk*).	The cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.
11.	Capital asset being a unit or units in the segregated portfolio.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of the unit or units in segregated portfolio; A = cost of acquisition of unit or units in the total portfolio; B = Net Asset Value of the asset transferred to the segregated portfolio; and C = Net Asset Value of the total portfolio immediately before segregation of portfolios.
12.	Capital asset being original units held by the unit holder in the main portfolio.	The cost of acquisition of such original units as reduced by the amount as so arrived at under serial number 11.
13.	Capital asset, being shares as referred to in section 70(1)(*zl*) which became the property of the assessee.	The cost of acquisition to it of the interest in the joint venture referred to in the said clause.

14.	Shares in the resulting company as a result of demerger.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of shares in the resulting company; A = cost of acquisition of shares in demerged company; B = net book value of assets transferred in demerger; and C = net worth of demerged company immediately before demerger.
15.	Original shares held by the shareholder in the demerged company.	The cost of acquisition of such original shares as reduced by the amount so arrived at under serial number 14.
16.	Capital asset deemed to be chargeable to tax according to the provisions of section 71(1).	Cost for which such asset was acquired by the transferee company.
17.	Capital asset being property, where the capital gain arises from the transfer of such property the value of which has been subject to income-tax under section 92(2)(*m*).	The value taken into account under section 92(2)(*m*).
18.	Capital asset declared under the Income Declaration Scheme, 2016, where the tax, surcharge and penalty have been paid as per the provisions of such Scheme on the fair market value as on the date of the commencement of that Scheme.	The fair market value of the asset taken into account for the purposes of the said Scheme.
19.	Specified capital asset referred to in clause (*c*) of the *Explanation* to section 10(*37A*) of the Income-tax Act, 1961 (43 of 1961), which has been transferred after the expiry of two years from the end of the tax year in which the possession of such asset was handed over to the assessee.	The stamp duty value as on the last day of the second tax year after the end of the tax year in which the possession of the said specified capital asset was handed over to the assessee.
20.	Capital asset, being share in the project, in the form of land or building, or both, under section 67(14), not being a capital asset referred to in section 67(16).	The amount deemed as full value of consideration under section 67(14).
21.	Capital asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and tax paid thereon as per section 352.	The fair market value of the asset considered for computation of accreted income as on specified date as per section 352(2).
22.	Capital asset referred to in section 26(2)(*j*).	The fair market value for section 26(2)(*j*).
23.	Capital asset, being an Electronic Gold Receipt issued by a Vault Manager, which became the property of the person as consideration of a transfer, as referred to in section 70(1)(*y*).	The cost of gold for the person in whose name Electronic Gold Receipt is issued.
24.	Capital asset being gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer as referred to in section 70(1)(*y*).	The cost of the Electronic Gold Receipt for such person.

(2) For the purposes of the Table in sub-section (1), in respect of the entries against—

(*a*) serial number 1, "previous owner of the property" for any capital asset owned by an assessee, means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in column B thereof;

(*b*) serial numbers 11 and 12, "main portfolio", "segregated portfolio" and "total portfolio" shall have the same meanings as respectively assigned to them in the Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/160, dated the 28th December, 2018, issued by the Securities and Exchange Board of India;

(*c*) serial numbers 14 and 15, "net worth" means the total of the paid-up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger;

(*d*) serial numbers 2, 14 and 15, the provisions as contained therein, shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 64.

Special provision for computation of capital gains in case of depreciable assets.

74. (1) Irrespective of anything contained in section 2(*101*), for a capital asset forming part of a block of assets on which depreciation has been allowed under the Indian Income-tax Act, 1922 (11 of 1922) or under the Income-tax Act, 1961 (43 of 1961) or under this Act, the provisions of sections 72 and 73 shall be subject to the provisions of sub-sections (2) and (3).

(2) If, during the tax year, the full value of consideration received or accruing for the transfer of one or more assets in a block of assets exceeds the total of the following:—

(*a*) expenditure incurred wholly and exclusively in connection with such transfer;

(*b*) the written down value of the block of assets at the start of the tax year; and

(*c*) the actual cost of any asset falling within the block of assets acquired during the tax year,

such excess shall be deemed to be capital gains arising from the transfer of short-term capital assets.

(3) If any block of assets ceases to exist for the reason that all the assets in that block are transferred during the tax year, then,—

(*a*) the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the tax year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the tax year; and

(*b*) the income received or accruing as a result of such transfer or transfers shall be deemed to be capital gains arising from the transfer of short-term capital assets.

Special provision for cost of acquisition in case of depreciable asset.

75. If depreciation has been obtained under section 33(2) for a capital asset in any tax year, the provisions of sections 72 and 73 shall apply subject to the modification that the written down value, as defined in section 41, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

Special provision for computation of capital gains in case of Market Linked Debenture.

76. (1) Irrespective of anything contained in section 2(*101*) or section 72, the gains on the transfer or redemption or maturity, of a capital asset as mentioned in sub-section (2) shall be treated as short-term capital gains and shall be computed as per sub-section (3).

(2) For the purposes of sub-section (1), the capital asset shall be—

(*a*) a unit of a Specified Mutual Fund acquired on or after the 1st April, 2023 or a Market Linked Debenture; or

(*b*) an unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rd July, 2024.

(3) For the purposes of sub-section (1), the short-term capital gains shall be computed as per the following formula:—

X = AB - C,

where,—

X = short-term capital gains;
A = full value of consideration received or accruing as a result of the transfer or redemption or maturity of the debenture or unit or bond;
B = the cost of acquisition of the debenture or unit or bond; and
C = the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity.

(4) In computing capital gains under sub-section (3), no deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).

(5) For the purposes of this section,—

(*a*) "Market Linked Debenture" means a security, by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices, and include any security classified or regulated as a market linked debenture by the Securities and Exchange Board of India;

(*b*) "Specified Mutual Fund" means a Mutual Fund, by whatever name called, which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of such Mutual Fund, subject to the following:—

(*i*) the percentage of investment in debt and money market instruments or in units of a fund shall be computed with reference to the annual average of the daily closing figures;

(*ii*) "debt and money market instruments" shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Special provision for computation of capital gains in case of slump sale.

77. (1) Any profits or gains arising from the slump sale effected in the tax year shall be chargeable to income-tax as long-term capital gains and shall be deemed to be the income of the tax year in which the transfer took place, subject to the provisions of sub-section (2).

(2) The profits and gains arising from a slump sale involving the transfer of a capital asset, being one or more undertakings or divisions owned and held by an assessee for thirty-six months or less, immediately before the date of its transfer, shall be treated as short-term capital gains.

(3) In relation to capital assets, being an undertaking or division transferred by way of slump sale,—

(*a*) the "net worth" of the undertaking or division shall be deemed to be the cost of acquisition and the cost of improvement for sections 72 and 73; and

(*b*) the fair market value of the capital assets on the date of transfer, calculated in such manner, as may be prescribed, shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

(4) Every assessee, in the case of a slump sale, shall furnish in the prescribed form a report of an accountant, before the specified date referred to in section 63, and the report shall—

(*a*) include the computation of the net worth of the undertaking or division; and

(*b*) certify that the net worth has been correctly arrived at as per the provisions of this section.

(5) For the purposes of this section,—

(*a*) the "net worth" shall be the "aggregate value of total assets" of the undertaking or division, as reduced by the value of its liabilities as appearing in the books of account, and for computing net worth, any change in the value of assets due to revaluation shall be ignored;

(*b*) the "aggregate value of total assets" shall,—

(*i*) for depreciable assets, be the written down value of the block of assets determined under section 41(1)(*c*);

(*ii*) for capital asset being goodwill of a business or profession, which was not acquired by the assessee by purchase from a previous owner, be *nil*;

(*iii*) for capital assets for which the entire expenditure has been allowed or is allowable as a deduction under section 46, be *nil*; and

(*iv*) for other assets, be the book value.

Special provision for full value of consideration in certain cases.

78. (1) If the consideration received or accruing from the transfer of a capital asset, being land or building or both, is less than the stamp duty value, then, for the purposes of section 72, the stamp duty value shall be deemed to be the full value of the consideration received or accruing as a result of such transfer, subject to the following:—

(*a*) the stamp duty value on the date of agreement may be taken as the full value of consideration, if—

(*i*) the date of the agreement fixing the consideration and the date of registration for the transfer of the capital asset are not the same; and

(*ii*) part or full consideration is received on or before the date of the agreement in "specified banking or online mode" as defined in section 66(*32*);

(*b*) if the stamp duty value does not exceed 110% of the consideration received or accruing from such transfer, such consideration shall be deemed to be the full value of the consideration for section 72.

(2) Without prejudice to the provisions of sub-section (1), the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer, and the provisions of section 269(3) to (8), shall, with necessary modifications, apply in relation to such reference, where—

(*a*) the assessee claims that the stamp duty value exceeds the fair market value of the property as on the date of transfer; and

(*b*) the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

(3) If the value determined by the Valuation Officer on a reference made under sub-section (2) exceeds the stamp duty value, such stamp duty value shall be taken as the full value of consideration.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Special provision for full value of consideration for transfer of share other than quoted share.

79. (1) If the consideration received or accruing from the transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in the manner as may be prescribed, the value so determined shall be deemed to be the full value of consideration received or accruing as a result of such transfer for the purposes of section 72.

(2) The provisions of sub-section (1) shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions, as may be prescribed.

(3) For the purposes of this section, the expression “quoted share” means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

Fair market value deemed to be full value of consideration in certain cases.

80. If the consideration received or accruing from the transfer of a capital asset is not ascertainable or cannot be determined, its fair market value on the date of transfer shall be deemed to be the full value of consideration received or accruing as a result of such transfer for the purposes of computing income under the head “Capital gains”.

Advance money received.

81. Where any capital asset was, on any previous occasion, the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations—

(*a*) shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition;

(*b*) shall not be deducted from the said cost, where such advance or other money has been included in the total income of the assessee for any tax year as per the provisions of section 92(2)(*h*) of this Act or section 56(2)(*ix*) of the Income-tax Act, 1961 (43 of 1961).

Profit on sale of property used for residence.

82. (1) Where an individual or Hindu undivided family—

(*a*) has long-term capital gains arising from the transfer of a capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (original asset); and

(*b*) has within one year before or two years after the date of such transfer purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceeds the cost of the new asset, such excess shall be charged under section 67, and for computing capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(2) If the capital gains referred to in sub-section (1) is not used by the assessee to purchase the new asset within one year before the date of transfer of the original asset, or is not utilised for the purchase or construction of the new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(*c*) the proof of deposit shall be submitted along with such return.

(3) For the purposes of sub-section (1), the amount, already utilised for purchasing or constructing the new asset, together with the deposited amount under sub-section (2) shall, subject to sub-section (7), be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (2) is not fully utilised for purchasing or constructing the new asset within the period specified in sub-section (1), then,—

(*a*) the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

(5) If the capital gains under sub-section (1) does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—

(*a*) for the purposes of sub-section (1)(*b*), "one residential house in India" shall be read as "two residential houses in India"; and

(*b*) for the purposes of sub-sections (1)(*b*) and (2), "new asset" shall mean two residential houses in India.

(6) If during any tax year, the assessee has exercised the option mentioned in sub-section (5), he shall not be entitled to exercise such option for the same tax year or any other tax year.

(7) If the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (1).

(8) If the capital gains on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (2).

सत्यमेव जयते
INCOME TAX DEPARTMENT

Capital gains on transfer of land used for agricultural purposes not to be charged in certain cases.

83. (1) Where an assessee, being an individual or a Hindu undivided family,—

(*a*) has capital gains arising from the transfer of a capital asset, being land, which was used by the assessee or his parent, or the Hindu undivided family for agricultural purposes (original asset), in two years immediately preceding the date of transfer; and

(*b*) has, within two years after that date, purchased any other land for being used for agricultural purposes (new asset),

then, instead of the capital gains being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceed the cost of the new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be reduced by the amount of the capital gains.

(2) If the capital gains referred to in sub-section (1) is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(*c*) the proof of deposit shall be submitted along with such return.

(3) For the purposes of sub-section (1), the amount already utilised for purchasing the new asset together with the deposited amount under sub-section (2), shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (2) is not fully utilised for purchase of the new asset within the period specified in sub-section (1), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which two years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

Capital gains on compulsory acquisition of lands and buildings not to be charged in certain cases.

84. (1) Where an assessee has—

(*a*) capital gains arising from the transfer by way of compulsory acquisition under any law, of a capital asset being land or building or any right in land or building, forming part of an industrial undertaking belonging to him, which was being used by the assessee for the business of the said undertaking in the two years immediately preceding the date of transfer (original asset); and

(*b*) within three years after that date, purchased any other land or building or any right in any other land or building or constructed any other building for shifting or re-establishing the said undertaking or setting up another industrial undertaking (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceeds the cost of new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(2) If the capital gains referred to in sub-section (1) is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made before the filing of the return not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(*c*) the proof of deposit shall be submitted along with such return.

(3) For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2), shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (2) is not fully utilised for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Capital gains not to be charged on investment in certain bonds.

85. (1) Where an assessee has—

(*a*) long-term capital gains arising from the transfer of land or building, or both, (original asset); and

(*b*) within six months after the date of such transfer, invested whole or part of the capital gains in a long-term specified asset (new asset),

then, the capital gains shall be dealt with as follows:—

(*i*) if the capital gains exceed the investment in the new asset, the amount of capital gains as exceeds such investment shall be charged under section 67; or

(*ii*) if the capital gains are equal to or less than the investment in the new asset, the whole of such capital gains shall not be charged under section 67.

(2) For the purposes of sub-section (1), investment made in the long-term specified asset from capital gain arising from transfer of one or more original asset shall not exceed fifty lakh rupees,—

(*a*) during any tax year; or

(*b*) in the year of transfer of the original asset or assets and in the subsequent tax year.

(3) If the new asset is transferred or converted (otherwise than by transfer) into money within five years of its acquisition, the capital gains not charged under section 67 as per sub-section (1), shall be deemed to be income chargeable as long-term capital gains in the tax year of its transfer or conversion.

(4) Any loan or advance taken on the security of the new asset shall be deemed to have converted the new asset into money on the date of such loan or advance.

(5) Where the investment in the new asset has been taken into account for sub-section (1), no deduction under section 123 for any tax year shall be allowed for such investment.

(6) For the purposes of sub-section (1), “long-term specified asset” means any bond, redeemable after five years and issued on after the 1st April 2018 by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988) or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 2013 (18 of 2013) or any other bond as may be notified by the Central Government for the purposes of this section.

Capital gains on transfer of certain capital assets not to be charged in case of investment in residential house.

86. (1) If an individual or a Hindu undivided family has—

(*a*) capital gains arising from the transfer of any long-term capital asset, not being a residential house (original asset); and

(*b*) within one year before, or two years after, the date of such transfer, purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, the capital gains shall be dealt with as follows:—

(*i*) if the net consideration is more than the cost of the new asset, so much of the capital gains as bears to the whole of the capital gains, the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 67; or

(*ii*) if the net consideration is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67.

(2) If the net consideration referred to in sub-section (1) is not utilised by the assessee to purchase the new asset within one year before the date of transfer of the original asset, or is not utilised for the purchase or construction of the new asset before filing the return of income under section 263, then,—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263; and

(*c*) the proof of deposit shall be submitted along with such return.

(3) For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2) shall, subject to sub-section (8), be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (2) is not wholly or partly utilised for purchasing or constructing the new asset within the period specified in sub-section (1), then,—

(*a*) the amount determined as per the following formula shall be charged under section 67 as income of the tax year in which three years from the date of the transfer of the original asset expires:—

X - Y,

where,—

X = the capital gains not charged under section 67 as per sub-section (1).

Y = the capital gains that would not have been charged under section 67, if the cost of the new asset had been taken to be the amount actually utilised for purchase or construction of the new asset;

(*b*) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

(5) The provisions of sub-section (1) shall not apply, if—

(*a*) the assessee—

(*i*) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(*ii*) purchases any residential house, other than the new asset, within one year of transfer of the original asset; or

(*iii*) constructs any residential house, other than the new asset, within three years of transfer of the original asset; and

(*b*) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head “Income from house property”.

(6) If the assessee purchases, within two years after the date of transfer of the original asset, or constructs, within three years after such date, any residential house, the income from which is chargeable under the head “Income from house property”, other than the new asset, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (1), shall be charged as long-term capital gains of the tax year in which such residential house is purchased or constructed.

(7) If the new asset is transferred within three years from the date of purchase or its construction, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (1) shall be charged as long-term capital gains of the tax year in which such new asset is transferred.

(8) If the cost of the new asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (1).

(9) If the net consideration on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (2).

(10) For the purposes of this section, “net consideration” means the full value of the consideration received or accruing as a result of the transfer of the original asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.

87. (1) If the assessee has—

(*a*) capital gains arising from the transfer of capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the case of shifting of an industrial undertaking situated in an urban area (original asset) to any area [other than an urban area (new area)]; and

(*b*) within one year before or three years after the date of such transfer,—

(*i*) purchased new machinery or plant for business of the industrial undertaking in the new area;

(*ii*) acquired building or land or constructed building for his business in the said area;

(*iii*) shifted the original asset and transferred the establishment of such undertaking to such area; and

(*iv*) incurred expenses on such other purpose as specified in a scheme notified by the Central Government for this section,

then, instead of the capital gains being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*A*) if the cost and expenses incurred on all or any of the purposes mentioned in sub-clauses (*i*) to (*iv*) referred to as "new asset",—

(*I*) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(*II*) is equal to or more than the capital gain, no capital gain shall be charged under section 67; and

(*B*) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of sub-clause (*A*)(*II*) or shall be reduced by the amount of the capital gain in case of sub-clause (*A*)(*I*).

(2) If the capital gain is not used by the assessee for the new asset within one year before the date of transfer of the original asset, or before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(*c*) the proof of deposit shall be submitted along with such return.

(3) For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2) shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (2) is not wholly or partly utilised for the new asset within the period specified in sub-section (1), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

(5) For the purposes of this section, the expression "urban area" means any area within the limits of a municipal corporation or municipality, declared to be an urban area by the Central Government for the purposes of this section, having regard to—

(*a*) the population;

(*b*) concentration of industries; and

(*c*) need for proper planning of the area and other relevant factors.

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone

88. (1) Irrespective of anything contained in section 87, if the assessee has—

(*a*) capital gains arising from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the course of or in consequence of shifting of such industrial undertaking (original asset) to any Special Economic Zone in any urban or any other area; and

(*b*) has within one year before or three years after the date of such transfer,—

(*i*) purchased machinery or plant for the business of the industrial undertaking in such Special Economic Zone;

(*ii*) acquired building or land or constructed building for his business in such Special Economic Zone;

(*iii*) shifted the original asset and transferred the establishment of such undertaking to such Special Economic Zone; and

(*iv*) incurred expenses on such other purposes specified by a scheme notified by the Central Government in this behalf,

then, instead of capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*A*) if the cost and expenses incurred in on all or any of the purposes mentioned sub-clauses (*i*) to (*iv*) referred to as "new asset",—

(*I*) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(*II*) is equal to or more than the capital gains, no capital gain shall be charged under section 67;

(*B*) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of sub-clause (*A*)(*II*), or shall be reduced by the amount of the capital gain in case of sub-clause (*A*)(*I*).

(2) If the capital gain referred to in sub-section (1) is not utilised by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then,—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(*c*) the proof of deposit shall be submitted along with such return.

(3) For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2) shall be deemed to be the cost of the new asset.

(4) If the amount deposited under sub-section (2) is not wholly or partly utilised for the new asset within the period specified in sub-section (1), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

(5) For the purpose of this section, the expression "urban area" shall have the meaning assigned to it in section 87.

Extension of time for acquiring new asset or depositing or investing amount of capital gains.

89. Irrespective of anything contained in sections 82, 83, 84, 85 and 86,—

(*a*) if the transfer of the original asset mentioned in those sections is by way of compulsory acquisition under any law; and

(*b*) if the compensation awarded for such acquisition is not received by the assessee on the date of transfer, then, the period available to him under those sections for acquisition of the new asset or investment or deposit of capital gain in specified bank or institution shall be reckoned from the date of receipt of compensation.

Meaning of "adjusted", "cost of improvement" and "cost of acquisition".

90. (1) For the purposes of sections 72 and 73, "cost of improvement",—

(*a*) in relation to a capital asset being goodwill or any intangible asset of a business, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or any other right, shall be taken to be *nil*; and

(*b*) in relation to any other capital asset,—

(*i*) if the capital asset became the property of the previous owner or the assessee before the 1st April, 2001, means all expenditure of a capital nature incurred on or after the said date in making any additions or alterations to the capital asset by the previous owner or the assessee; and

(*ii*) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), by the previous owner.

(2) For the purposes of sub-section (1)(*b*), the cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from house property", "Profits and gains of business or profession" or "Income from other sources".

(3) For the purposes of sections 72 and 73, "cost of acquisition" of a capital asset (being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or any other intangible asset, or a right to manufacture, produce or process any article or thing, or a right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours, or any other right) means—

(*a*) the purchase price, if acquisition of such asset by the assessee is by purchase from the previous owner; and

(*b*) the purchase price for the previous owner, in the case covered in section 73 (Table: Sl. No. 1), where such asset was acquired by purchase by the previous owner as defined in sub-section (2) of the said section; and

(*c*) *nil*, in any other case.

(4) For the purposes of sub-section (3)(*a*) or (*b*), if—

(*a*) the capital asset is goodwill of a business or profession; and

(*b*) the assessee has obtained a deduction on account of depreciation under section 32(1) of the Income-tax Act, 1961 (43 of 1961) in a tax year preceding the tax year commencing on the 1st April, 2020,

then the total amount of depreciation obtained before the tax year commencing on the 1st April, 2020 shall be reduced from the amount of purchase price.

(5) For the purposes of sections 72 and 73, and subject to the provisions of sub-section (9)(*a*) and (*b*), "cost of acquisition" shall be as per sub-section (6), in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (herein referred to as the financial asset), the assessee—

(*a*) becomes entitled to subscribe to any additional financial asset; or

(*b*) is allotted any additional financial asset without any payment.

(6) In a case referred to in sub-section (5), "cost of acquisition", in relation to—

(*a*) the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset;

(*b*) any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be *nil* in the case of such assessee;

(*c*) the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset;

(*d*) the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be *nil*; and

(*e*) any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the total amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, for acquiring such financial asset.

(7) For the purposes of sections 72 and 73, "cost of acquisition", subject to sub-section (9)(*a*) and (*b*), in relation to a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 198, acquired before the 1st February, 2018, shall be higher of—

(*a*) the cost of acquisition of such asset; and

(*b*) lower of—

(*i*) the fair market value of such asset; and

(*ii*) the full value of consideration received or accruing as a result of the transfer of the capital asset.

(8) For the purposes of sub-section (7),—

(*a*) "Cost Inflation Index", shall have the meaning assigned to it in section 72(8)(*a*);

(*b*) "fair market value" means,—

(*i*) in a case where the capital asset is listed on any recognised stock exchange as on the 31st January, 2018, the highest price of the capital asset quoted on such exchange on that date;

(*ii*) in a case where there is no trading in such asset on such exchange on the 31st January, 2018, as mentioned in sub-clause (*i*) the highest price of such asset on such exchange on a date immediately preceding the 31st January, 2018 when such asset was traded on such exchange shall be the fair market value;

(*iii*) if the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st January, 2018, the net asset value of such unit as on that date;

(*iv*) if the capital asset is an equity share in a company which is—

(*A*) not listed on a recognised stock exchange as on the 31st January, 2018 but listed on such exchange on the date of transfer;

(*B*) not listed on a recognised stock exchange as on the 31st January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction not regarded as transfer mentioned in section 70, but listed on such exchange subsequent to the date of transfer (where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer);

(*C*) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction not regarded as transfer mentioned in section 70,

an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the tax year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st April, 2001, whichever is later.

(9) For the purposes of sections 72 and 73, cost of acquisition in relation to any other capital asset,—

(*a*) if the capital asset became the property of the assessee before the 1st April, 2001, subject to sub-section (10), shall be the cost of acquisition of the asset to the assessee or its fair market value on the 1st April, 2001, at the option of the assessee;

(*b*) if the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), and the capital asset became the property of the previous owner before the 1st April, 2001, subject to sub-section (10), shall be the cost of the capital asset to the previous owner or its fair market value on the 1st April, 2001, at the option of the assessee;

(*c*) if the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 68, means the fair market value of the asset on the date of distribution;

(*d*) if the capital asset, being a share or a stock of a company, became the property of the assessee on—

(*i*) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares; or

(*ii*) the conversion of any shares of the company into stock; or

(*iii*) the re-conversion of any stock of the company into shares; or

(*iv*) the sub-division of any of the shares of the company into shares of smaller amount; or

(*v*) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.

(10) In case of a capital asset referred to in sub-section (9)(*a*) and (*b*), being land or building, or both, the fair market value of such asset on the 1st April, 2001 for the said sub-section (9)(*a*) and (*b*) shall not exceed the stamp duty value, wherever available, of such asset as on the 1st April, 2001.

(11) If the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner shall be the fair market value on the date on which the capital asset became the property of the previous owner.

(12) For the purposes of sections 72 and 73, cost of acquisition in relation to a capital asset—

(*a*) being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall be the cost of acquisition of his original membership of the exchange;

(*b*) bring trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*.

Reference to Valuation Officer.

91. (1) For ascertaining the fair market value of a capital asset for this Chapter, the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer,—

(*a*) if the value of the asset claimed by the assessee is as per the estimate by a registered valuer, but the Assessing Officer is of the opinion that the value so claimed is at variance with its fair market value;

(*b*) in any other case, if the Assessing Officer is of the opinion that—

(*i*) the fair market value of the asset exceeds the value claimed by the assessee by more than the percentage of value of such asset or amount, as may be prescribed; or

(*ii*) having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

(2) The provisions of section 269(3) to (8) shall, with necessary modifications, apply in relation to such reference made under sub-section (1).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

F.-Income from other sources

Income from other sources.

92. (1) Income of every kind which is not to be excluded from the total income under this Act, shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 13(*a*) to (*d*).

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes shall be chargeable to income-tax under the head "Income from other sources":—

(*a*) any dividend;

(*b*) any winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;

(*c*) any sum received by the assessee from employees as contributions to any provident fund, superannuation fund, any fund set up under the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*d*) any sum received under a Keyman insurance policy, as defined in Schedule II (Note 1) including the bonus allocated on such policy, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" or under the head "Salaries";

(*e*) any income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*f*) any income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*g*) any income from letting on hire of machinery, plant or furniture, belonging to the assessee and also buildings, where the letting of the buildings is inseparable from the letting of such machinery, plant or furniture, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*h*) any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset, if—

(*i*) such sum is forfeited; and

(*ii*) the negotiations do not result in transfer of such capital asset;

(*i*) any income by way of interest received on compensation or on enhanced compensation referred to in section 278(1);

(*j*) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment, or the modification of its terms and conditions;

(*k*) any specified sum received by a unit holder from a business trust during the tax year with respect to a unit held by him at any time during such tax year, the computation of which shall be—

specified sum = ABC (which shall be deemed to be zero, if the sum of B and C is greater than A), where—

A = aggregate of the sum distributed by the business trust with respect to such unit, during the tax year or during any earlier tax year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is—

(*a*) not in the nature of income referred to in Schedule V (Table: Sl. No. 3 or 4); and

(*b*) not chargeable to tax under section 223(2);

B = amount at which such unit was issued by the business trust; and

C = amount charged to tax under this clause in any earlier tax year;

(*l*) where any sum, including bonus allocated, is received, during a tax year, under a life insurance policy, other than—

(*a*) sums received under a unit linked insurance policy; or

(*b*) income referred to in clause (*d*),

and such sum is not to be excluded from the total income of that tax year under Schedule II (Table: Sl. No. 2), the sum exceeding the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as a deduction under this Act, computed in such manner, as may be prescribed;

(*m*) where any person receives in any tax year, from any person or persons—

(*i*) any sum of money without consideration, the total of which exceeds ₹ 50000, the whole of such sum;

(*ii*) any immovable property—

(*A*) without consideration, the stamp duty value of which exceeds ₹ 50000, the stamp duty value of such property;

(*B*) for a consideration, the stamp duty value of such property that exceeds such consideration, if this excess amount is more than the higher of the following amounts:—

(*I*) ₹ 50000; or

(*II*) 10% of the consideration;

(*iii*) any property, other than immovable property,—

(*A*) without consideration, the aggregate fair market value of which exceeds ₹ 50000, the whole of the aggregate fair market value of such property;

(*B*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding ₹ 50000, the aggregate fair market value of such property as exceeds such consideration.

(3) The provisions of sub-section (2)(*m*) shall not apply to any sum of money or any property received—

(*a*) from any relative; or

(*b*) on the occasion of marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer or donor; or

(*e*) from any local authority as defined in Schedule III (Note 6); or

(*f*) from or by any registered non-profit organisation as defined in section 355(*g*), except when received by any person referred to in section 355(*h*); or

(*g*) by way of a transaction not regarded as transfer under section 70(1)(*a*), (*c*), (*d*), (*e*), (*f*), (*g*), (*i*), (*j*), (*k*), (*l*), (*n*), (*o*), (*t*), (*u*), (*v*) or (*w*); or

(*h*) from an individual by a trust created or established solely for the benefit of relative of the individual; or

(*i*) from such class of persons and subject to such conditions, as may be prescribed.

(4) For the purposes of sub-section (2)(*m*)(*ii*),—

(*a*) if the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement shall apply, provided the consideration, in whole or in part, has been paid in specified banking or online mode as defined in section 66(*32*) on or before the date of agreement for transfer of such immovable property;

(*b*) if the stamp duty value of immovable property is disputed by the assessee on the grounds mentioned in section 78(2), the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of sections 78(2) and 288(1) (Table: Sl. No. 8) shall, as far as may be, apply to the stamp duty value of such property as they apply for valuation of capital asset under those sections.

(5) For the purposes of this section,—

(*a*) "assessable" shall have the meaning assigned to it in section 2(*105*);

(*b*) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, where people compete to win prizes or any similar game;

(*c*) "fair market value" of a property, other than an immovable property, means the value determined by such method as may be prescribed;

(*d*) "jewellery" shall have the meaning assigned to it in section 2(*22*);

(*e*) "lottery" includes winnings from prizes awarded by draw of lots, by chance, or in any other manner under any scheme or arrangement by whatever named called;

(*f*) "property" means the following capital asset of the assessee:—

(*i*) immovable property being land or building or both;
(*ii*) shares and securities;
(*iii*) jewellery;
(*iv*) archaeological collections;
(*v*) drawings;
(*vi*) paintings;
(*vii*) sculptures;
(*viii*) any work of art;
(*ix*) bullion; or
(*x*) virtual digital asset;

(*g*) "relative" means—

(*i*) in case of an individual—

(*A*) spouse;
(*B*) brother or sister;
(*C*) brother or sister of the spouse;
(*D*) brother or sister of either of the parents;
(*E*) any lineal ascendant (maternal as well as paternal) or descendant;
(*F*) any lineal ascendant (maternal as well as paternal) or descendant of the spouse;
(*G*) spouse of the person referred to in items (*B*) to (*F*); and

(*ii*) for a Hindu undivided family, any member thereof;

(*h*) "unit linked insurance policy" shall have the meaning assigned to it in Schedule II (Note 1).

सत्यमेव जयते
INCOME TAX DEPARTMENT

Deductions.

93. (1) The income chargeable under the head "Income from other sources" shall be computed after making the following deductions:—

(*a*) for dividends [excluding those referred to in section 2(*40*)(*f*)] or interest on securities, any reasonable sum paid as commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee;

(*b*) for income of the nature referred to in section 92(2)(*c*), so far as may be, an amount as per section 29(1)(*e*);

(*c*) for income of the nature referred to in section 92(2)(*f*) and (*g*), so far as may be, an amount as per section 28(1)(*a*), (*b*), (*d*), section 33, and subject to the provisions of section 28(2);

(*d*) for income in the nature of family pension (a regular monthly amount payable by the employer to a family member of an employee upon the death of such employee),—

(*i*) an amount equal to one-third of such income or ₹ 25000, whichever is less, where income-tax is computed under section 202(1); and

(*ii*) an amount equal to one-third of such income or ₹ 15000, whichever is less, in any other case;

(*e*) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for making or earning such income;

(*f*) for income of the nature referred to in section 92(2)(*i*), an amount equal to 50% of such income and no other deduction shall be allowed under this section;

(*g*) for income in the nature of commutation of pension received from a fund as specified in Schedule VII (Table: Sl. No. 3), the entire amount;

(*h*) for income in the nature of gratuity as referred in section 19(2)(*g*), received on the death of the employee, the entire amount.

(2) In respect of—

(*a*) dividend income of the nature referred to in section 2(*40*)(*f*), no deduction shall be allowed;

(*b*) any other dividend income [other than in clause (*a*)], or income from units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21) or income from units of a specified company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002), only deduction allowed shall be interest expense which, for any tax year, shall be limited to 20% of such income (included in the total income for that year, without deduction under this section).

Amounts not deductible.

94. (1) Irrespective of anything contained in section 93, the following amounts shall not be deductible in computing the income of any assessee chargeable under the head "Income from other sources":—

(*a*) any personal expenses of the assessee; or

(*b*) any interest chargeable under this Act, payable outside India, on which tax has not been paid or deducted under Chapter XIX-B; or

(*c*) any payment chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid or deducted under Chapter XIX-B.

(2) The provisions of sections 29, 35(*b*)(*i*) and 36 shall apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(3) For an assessee, being a foreign company, the provisions of section 59 shall apply in computing the income chargeable under the head "Income from other sources", as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(4) In computing the income from winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, or from gambling or betting of any form or nature, no deduction for any expenditure or allowance related to such income shall be allowed under this Act.

(5) Sub-section (4) shall not apply in computing the income of an assessee, being the owner of horses maintained for running in horse races, from the activity of owning and maintaining such horses.

(6) For the purposes of this section, the expression "horse race" means a horse race upon which wagering or betting may be lawfully made.

Profits chargeable to tax.

95. The provision of section 38(1), (2), (3) and (4) shall apply in computing the income of an assessee under section 92, as they apply in computing the income of an assessee under the head “Profits and gains of business or profession”.

CHAPTER V

INCOME OF OTHER PERSONS INCLUDED IN TOTAL INCOME OF ASSESSEE

Transfer of income without transfer of assets.

96. All income arising to any person by virtue of a transfer,—

(*a*) whether revocable or not, and whether effected before or after the commencement of this Act; and

(*b*) where there is no transfer of assets from which such income arises,

shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Chargeability of income in transfer of assets.

97. (1) All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as income of the transferor and shall be included in his total income.

(2) The provisions of sub-section (1) shall not apply,—

(*a*) where a transfer is by way of trust which is not revocable during the lifetime of the beneficiary and in case of any other transfer, is not revocable during the lifetime of the transferee; and

(*b*) the transferor does not derive any direct or indirect benefit from such income in cases referred to in clause (*a*).

(3) Irrespective of the provisions of sub-section (2), all income arising to any person by virtue of such transfer shall be chargeable to income-tax as income of the transferor as and when the power to revoke such transfer arises, and shall then be included in his total income.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

“Transfer” and “revocable transfer” defined.

98. For the purposes of sections 96 and 97, and this section,—

(*a*) “transfer” includes any settlement, trust, covenant, agreement or arrangement;

(*b*) a transfer shall be deemed to be revocable, if—

(*i*) it contains any provision for the direct or indirect re-transfer of the whole or any part of the income or assets to the transferor; or

(*ii*) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Income of individual to include income of spouse, minor child, etc.

99. (1) The total income of any individual, for a tax year, shall include the income arising directly or indirectly,—

(*a*) to the spouse of such individual,—

(*i*) by way of salary, commission, fees or any other form of remuneration, whether in cash or kind, from a concern in which such individual has a substantial interest but shall not include income solely attributable to the application of technical or professional knowledge, experience and technical or professional qualification of the spouse;

(*ii*) from assets transferred directly or indirectly to him or her by such individual otherwise than for adequate consideration or in connection with an agreement to live apart, subject to the provisions of section 25(*a*);

(*b*) to the son's wife of such individual from assets transferred directly or indirectly on or after the 1st June, 1973, to her by such individual, otherwise than for adequate consideration;

(*c*) to the minor child of the such individual, but shall not include income accruing or arising—

(*i*) on account of work done by such child; or

(*ii*) from activities where his skill, talent, specialised knowledge or experience is applied; or

(*iii*) where such minor child is suffering from disability of the nature specified in section 154;

(*d*) to any person or association of persons from assets transferred directly or indirectly, otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse or his son's wife, as the case may be, other than the assets transferred before 1st June 1973, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife.

(2) If the asset transferred under sub-section (1)(*a*)(*i*) or (*b*) is invested by the spouse or son's wife, in any business or in the nature of capital contributed as a partner in a firm, or, as the case may be, for being admitted to the benefits of partnership in a firm, then, the income to be included in the hands of the individual for the tax year shall be as follows:—

$$A = B \times \left(\frac{C}{D}\right)$$

where ,—

A = Income to be included in the hands of individual for the tax year;

B = Income and interest or both, arising to the spouse or son's wife from the business or the firm, as applicable during the tax year;

C = Value of such assets invested, or contributed as capital by the spouse or son's wife as on the first day of the tax year;

D = Total investment or total capital contribution, as the case may be, by the spouse or son's wife as on the first day of the tax year.

(3) Where a property owned by an individual is converted into property belonging to the Hindu undivided family of which he is a member, through—

(*a*) the act of impressing such separate property with the character of property belonging to the family; or

(*b*) throwing it into the common stock of the family; or

(*c*) transfer, directly or indirectly to the family,

without adequate consideration, then, irrespective of any other provision of this Act or any other law in force for computing the total income of such individual,—

(*i*) the individual shall be deemed to have transferred such property, through the family, to the members of such family for being held jointly, and the income derived from such property or part thereof, shall be deemed to be income of the individual;

(*ii*) where the property so converted has been the subject-matter of partition (whether partial or total) amongst the member of the family, the income derived from such property as is received by the spouse of the individual on partition, shall be deemed to arise to the spouse from assets transferred indirectly to the spouse and the provisions of sub-section (1)(*a*) shall apply,

and the income referred to in clauses (*i*) and (*ii*) shall, on being included in the total income of the individual, be excluded from the total income of the family or the spouse.

(4) The provisions of sub-section (3) shall not apply where the property of the individual has been converted into property belonging to the family on or before the 31st December, 1969.

(5) For the purposes of this section,—

(*a*) for sub-section (1)(*a*)(*i*),—

(*i*) the income referred to in that clause shall be included in the hands of either of the spouse whose total income before such inclusion is greater; and

(*ii*) such income, once included in the total income of either spouse, for a tax year, shall not be included in the income of the other spouse for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other spouse an opportunity of being heard;

(*iii*) an individual shall be deemed to have a substantial interest in a concern,—

(*A*) in case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the tax year, owned beneficially by the individual or jointly with one or more of his relatives;

(*B*) in any other case, if such person is entitled, or such person and one or more of his relatives are jointly entitled, to at least 20% of the profits of such concern at any time during the tax year;

(*b*) for sub-section (1)(*c*), income of minor child shall be included—

(*i*) in the income of that parent whose total income before such inclusion is greater, in case where the marriage of his parents subsists; or

(*ii*) in the income of the parent who maintains such child during the tax year, in case where marriage of his parents does not subsist,

and such income, once included in the total income of either of the parent, for a tax year, shall not be included in the income of the other parent for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other parent an opportunity of being heard;

(*c*) for sub-section (3), "property" includes—

(*i*) interest in property; or

(*ii*) movable or immovable property; or
(*iii*) proceeds of sale of such property and any money, property or investment representing such proceeds; or
(*iv*) where property is converted into any other property by any method, such other property;

(*d*) for this section, “income” includes loss.

Liability of person in respect of income included in income of another person.

100. Where, income of a person, other than the assessee, arising from any asset, or income from membership of a firm, is included in the total income of the assessee under this Chapter or under section 25(*a*), then, irrespective of anything to the contrary contained in any other law in force,—

(*a*) such person, in whose name such asset stands, or who is a member of the firm, shall be liable to pay, that portion of the tax levied on the assessee which is attributable to the income so included, upon service of notice of demand by the Assessing Officer in this behalf;

(*b*) where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay such tax; and

(*c*) the provisions of Chapter XIX-D shall apply accordingly.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

CHAPTER VI

AGGREGATION OF INCOME

Total income.

101. In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter XVII-A4.

Unexplained credits.

102. (1) Where any sum is found credited in the books of an assessee maintained for any tax year, and—

(*a*) the assessee offers no explanation about the nature and source of such credit; or

(*b*) the explanation offered about the nature and source of such credit by assessee is not satisfactory in the opinion of the Assessing Officer,

then, the sum so credited shall be charged to income-tax as income of the assessee of that tax year.

(2) For the purposes of sub-section (1), where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, the explanation offered by such assessee shall be deemed to be not satisfactory, unless,—

(*a*) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and

(*b*) such explanation in the opinion of the Assessing Officer has been found to be satisfactory.

(3) For the purposes of sub-section (1), where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount, by whatever name called, the explanation offered by such assessee company shall be deemed to be not satisfactory, unless—

(*a*) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(*b*) such explanation, in the opinion of the Assessing Officer has been found to be satisfactory.

(4) Nothing contained in sub-section (2) or (3) shall apply if the person, in whose name the sum referred to in those sub-sections is recorded, is a venture capital fund or a venture capital company as referred to in Schedule V (Table: Sl. No. 6).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Unexplained investment.

103. Where in any tax year, any investment has been made by the assessee which is not recorded in the books of account, if any, maintained by such assessee for any source of income, or, the Assessing Officer finds that the amount of such investment exceeds the amount recorded in such books of account and—

(*a*) the assessee offers no explanation about the nature and source of such investment, or such excess amount, as the case may be; or

(*b*) the explanation offered about the nature and source of such investment by the assessee, is not satisfactory in the opinion of the Assessing Officer,

then, the value of such investment, or such excess amount, as the case may be, shall be deemed to be the income of the assessee of that tax year.

Unexplained asset.

104. (1) Where in any tax year, any asset has been found to be owned by or belonging to the assessee which is not recorded in the books of account, if any, maintained by such assessee for any source of income, or the Assessing Officer finds that the amount expended in acquiring such asset exceeds the amount recorded in such books of account and—

(*a*) the assessee offers no explanation about the nature and source of acquisition of such asset, or such excess amount, as the case may be; or

(*b*) the explanation offered about the nature and source of acquisition of such asset by the assessee, is not satisfactory in the opinion of the Assessing Officer,

then, the value of such asset, or such excess amount, as the case may be, shall be deemed to be the income of the assessee of the tax year in which such asset has been found to be owned by, or belonging to, the assessee.

(2) For the purposes of this section, "asset" includes money, bullion, jewellery, virtual digital asset or other valuable article.

Unexplained expenditure.

105. (1) Where any expenditure has been incurred by the assessee in any tax year, and—

(*a*) the assessee offers no explanation about the source of such expenditure or part thereof; or

(*b*) the explanation offered about the source of such expenditure by the assessee is not satisfactory in the opinion of the Assessing Officer,

then, the amount covered by such expenditure or part thereof, shall be deemed to be the income of the assessee for that tax year.

(2) Irrespective of any other provision of this Act, the amount deemed as income in sub-section (1) shall not be allowed as a deduction under this Act.

Amount borrowed or repaid through negotiable instrument, *hundi*, etc.

106. (1) Where any amount (including interest thereof) is borrowed or repaid through a negotiable instrument or on a *hundi*, otherwise than an account payee cheque, or through any mode as specified by the Board in this behalf, the amount so borrowed or repaid (including interest paid on the borrowed amount) shall be deemed to be the income of the person borrowing or repaying, as the case may be, for the tax year in which the amount was borrowed or repaid.

(2) Where the amount borrowed under sub-section (1) has been deemed to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under that sub-section on repayment of such amount.

Charge of tax.

107. Income referred to in sections 102, 103, 104, 105 and 106 shall be charged to tax as per the provisions of section 195.

CHAPTER VII

SET OFF, OR CARRY FORWARD AND SET OFF OF LOSSES

Set off of losses under same head of income.

108. (1) Unless provided otherwise in this Act, for any tax year, if net result of computation from any source under any head of income (other than "Capital gains") is a loss, then assessee shall be entitled to set off such loss against his income from any other source under the same head for that tax year.

(2) Where the net result of computation of income made for any tax year under sections 72 to 90 in respect of—

(*a*) any short-term capital asset is a loss, such loss shall be set off against the income, computed in respect of any other capital asset for that year;

(*b*) any long-term capital asset is a loss, such loss shall be set off against the income computed in respect of any other long-term capital asset for that year.

Set off of losses under any other head of income.

109. (1) Subject to the provisions of this Chapter, for any tax year, if income computed under any head of income (other than "Capital gains") is a loss, such loss shall be set off against income of the assessee under any other head, including "Capital gains", if any, assessable for that tax year, subject to the following conditions:—

(*a*) loss under the head "Profits and gains of business or profession" shall not be set off against income assessable under the head "Salaries"; and

(*b*) loss under the head "Income from house property" shall be set off to the extent of ₹ 200000 against income under any other head.

(2) For any tax year, the loss under the head "Capital gains" shall not be set off against income under any other head.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Carry forward and set off of loss from house property.

110. (1) Where for any tax year, loss computed under the head “Income fromhouse property” cannot be wholly set off against the income under any other head as per section 109, so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

(*a*) be set off only against the income from house property, if any, assessable for that tax year; and

(*b*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

(2) No loss shall be carried forward under this section for more than eight tax years immediately succeeding the tax year for which the loss was first computed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Carry forward and set off of loss from Capital gains.

111. (1)(*a*) Where for any tax year, loss computed under the head "Capital gains" cannot be wholly set off against the income under the head "Capital gains" as per section 108, so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and shall be set off in the following manner—

(*i*) if such loss relates to a short-term capital asset, it shall be set off only against the income under the head "Capital gains", if any, assessable for that tax year in respect of any other capital asset;

(*ii*) if such loss relates to a long-term capital asset, it shall be set off only against the income under the head "Capital gains", if any, assessable for that tax year in respect of any other long-term capital asset; and

(*b*) if the loss cannot be wholly so set off under clause (*a*), the amount of loss not so set off shall be carried forward to the following tax year and so on.

(2) No loss shall be carried forward under this section for more than eight tax years immediately succeeding the tax year for which the loss was first computed.

Carry forward and set off of business loss.

112. (1) Where for any tax year, loss computed under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) cannot be wholly set off against the income under any other head as per section 109, so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

(*i*) be set off against the profits and gains, if any, of any business or profession carried on by him for that tax year; and

(*ii*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

(2) No loss shall be carried forward under this section for more than eight tax years immediately succeeding the tax year for which the loss was first computed.

(3) Where any allowance of part thereof under section 33(11) or 45(7) is to be carried forward, effect shall first be given to the provision of this section.

Set off and carry forward of losses computed in respect of speculation business.

113. (1) Any loss, computed in respect of a speculation business carried on by the assessee shall be set off only against profits and gains of another speculation business.

(2) Where for any tax year, loss computed in respect of a speculation business cannot be wholly set off under sub-section (1), so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

(*i*) be set off against the profits and gains, if any, of any speculation business carried on by him for such tax year; and

(*ii*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

(3) No loss shall be carried forward under this section for more than four tax years immediately succeeding the tax year for which the loss was first computed.

(4) Where any allowance of part thereof under section 33(11) or 45(7) related to the speculation business is to be carried forward, effect shall first be given to the provision of this section.

(5) In this section, where any part of the business of the assessee (being a company) consists of purchase and sale of shares of other companies, then the assessee shall be deemed to be carrying on a speculation business, to the extent to which its business consists of purchase and sale of such shares.

(6) The provisions of sub-section (5) shall not apply to an assessee, being a company, if—

(*a*) its gross total income consists mainly of income which is chargeable under the heads “Income from house property”, “Capital gains” or “Income from other sources”; or

(*b*) its principal business is of trading in shares or banking or the granting of loans and advances.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Set off and carry forward of losses computed in respect of specified business.

114. (1) Any loss, computed in respect of a specified business, referred to in section 46, shall be set off only against profits and gains of another specified business.

(2) Where for any tax year, loss computed in respect of a specified business cannot be wholly set off under sub-section (1), so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

(*i*) be set off against the profits and gains, if any, of any specified business carried on by him for such tax year; and

(*ii*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

Set off and carry forward of losses from specified activity.

115. (1) Any loss incurred by the assessee in specified activity in any tax year shall be set off only against income from specified activity.

(2) Where for any tax year, loss computed in respect of a specified activity cannot be wholly set off under sub-section (1), so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

(*i*) be set off against the income, if any, of the specified activity carried on by him for such tax year; and

(*ii*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

(3) No loss shall be carried forward under this section for more than four tax years immediately succeeding the tax year for which the loss was first computed.

(4) For the purposes of this section—

(*a*) "horse race" means a horse race upon which wagering or betting may be lawfully made;

(*b*) "income by way of stake money" means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning a particular position in horse race;

(*c*) "loss incurred by the assessee in specified activity" means the amount by which the income by way of stake money, if any, falls short of the expenditure, not being capital expenditure, incurred wholly and exclusively for maintaining race horses;

(*d*) "race horses" means horses owned and maintained by assessee for running in a horse race;

(*e*) "specified activity" means the activity of owning and maintaining race horses.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Treatment of accumulated losses and unabsorbed depreciation in amalgamation or demerger, etc.

116. (1) Where there has been an amalgamation of,—

(*a*) a company owning an industrial undertaking or a ship or a hotel with another company; or

(*b*) a banking company referred to in section 5(*c*) of the Banking Regulation Act, 1949 (10 of 1949) with a specified bank; or

(*c*) one or more public sector company with one or more other public sector company; or

(*d*) an erstwhile public sector company with one or more company or companies, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company and the amalgamation is carried out within five years from the end of the tax year in which the restriction on amalgamation in the share purchase agreement ends,

then, irrespective of anything contained in any other provision of this Act, the accumulated loss and unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, allowance for unabsorbed depreciation of the amalgamated company for the tax year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) The accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in sub-section (1)(*d*), which is deemed to be the loss or, as the case may be, the unabsorbed depreciation of the amalgamated company, shall not exceed the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which it ceases to be a public sector company due to such strategic disinvestment.

(3) For the purposes of sub-section (1)(*d*),—

(*a*) "control" shall have the same meaning as assigned to it in section 2(*27*) of the Companies Act, 2013 (18 of 2013);

(*b*) "erstwhile public sector company" means a company which was a public sector company in earlier tax years and ceases to be so due to strategic disinvestment by the Government;

(*c*) (*i*) "strategic disinvestment" means sale of shareholding by the Central Government or State Government or a public sector company, in a public sector company or in a company, which results in—

(*A*) reduction of its shareholding to below 51%; and

(*B*) transfer of control to the buyer;

(*ii*) for clause (*c*)(*i*)(*A*), the reduction of shareholding shall apply only where shareholding of the Central Government or the State Government or the public sector company exceeded 51% before the sale of shareholding;

(*iii*) the transfer of control referred to in clause (*c*)(*i*)(*B*) may be effected by the Central Government or the State Government or the public sector company or any two or all of them.

(4) Irrespective of anything contained in sub-sections (1), (2) and (3), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless,—

(*a*) the amalgamating company—

(*i*) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years;

(*ii*) has held continuously as on the date of the amalgamation, at least three-fourths of the book value of fixed assets held by it two years preceding the date of amalgamation;

(*b*) the amalgamated company—

(*i*) holds continuously for a minimum of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;

(*ii*) continues the business of the amalgamating company for a minimum of five years from the date of amalgamation;

(*iii*) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.

(5) If any of the conditions laid down in sub-section (4) are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the amalgamated company shall be deemed to be the income of the amalgamated company chargeable to tax for the year in which the non-compliance occurs.

(6) Irrespective of anything contained in any other provisions of this Act, in the case of a demerger, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall,—

(*a*) if directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;

(*b*) if not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and shall be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as applicable.

(7) The Central Government may, by notification, specify such conditions to ensure that the demerger is for genuine business purposes.

(8) If there has been reorganisation of business where, a firm is succeeded by a company fulfilling the conditions laid down in section 70(1)(*zd*) or a proprietary concern is succeeded by a company fulfilling the conditions laid down in section 70(1)(*zf*), then, irrespective of anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, shall be deemed to be the loss or allowance for depreciation of the successor company for the tax year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly, subject to provisions of sub-section (9).

(9) If any of the conditions laid down in section 70(1)(*zd*) or (*zf*), as the case may be, are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which the non-compliance occurs.

(10) If there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in section 70(1)(*ze*), then, irrespective of anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership

for the tax year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly, subject to provisions of sub-section (11).

(11) If any of the conditions laid down in section 70(1)(*ze*) are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the successor limited liability partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which the non-compliance occurs.

(12) For any amalgamation referred to in sub-section (1) or reorganisation of business referred to in sub-section (8) or (10) effected on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being—

(*i*) the amalgamating company; or

(*ii*) the firm or proprietary concern; or

(*iii*) the private company or unlisted public company,

as the case may be, which is deemed to be the loss of the successor entity, being—

(*a*) the amalgamated company; or

(*b*) the successor company; or

(*c*) the successor limited liability partnership,

as the case may be, shall be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity.

(13) For the purposes of this section,—

(*a*) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, under the head "Profits and gains of business or profession" (excluding loss in a speculation business) which would have been eligible for carry forward and set off to such predecessor entity under section 112, had the reorganisation of business or conversion or amalgamation or demerger not occurred;

(*b*) "industrial undertaking" means any undertaking which is engaged in—

(*i*) the manufacture or processing of goods; or

(*ii*) the manufacture of computer software; or

(*iii*) the business of generation or distribution of electricity or any other form of power; or

(*iv*) the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services; or

(*v*) mining; or

(*vi*) the construction of ships, aircrafts or rail systems;

(*c*) "original predecessor entity" means predecessor entity in respect of the first amalgamation for sub-section (1) or first reorganisation of business for sub-sections (8) and (10), as the case may be;

(*d*) "specified bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

(*e*) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, which remains to be allowed and which would have been allowed to such predecessor entity under this Act, had the reorganisation of business or conversion or amalgamation or demerger not occurred.

Treatment of accumulated losses and unabsorbed depreciation in scheme of amalgamation in certain cases.

117. (1) Irrespective of anything contained in section 2(*6*)(*a*) to (*c*) or section 116, where there has been an amalgamation of,—

(*a*) one or more banking company with—

(*i*) any other banking institution under a scheme sanctioned and brought into force by the Central Government under section 45(7) of the Banking Regulation Act, 1949 (10 of 1949); or

(*ii*) any other banking institution or a company following a strategic disinvestment, wherein the amalgamation occurs within five years from the end of the tax year during which such disinvestment is carried out; or

(*b*) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or both; or

(*c*) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972),

the accumulated loss and unabsorbed depreciation of such banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies, shall be deemed to be the loss or, allowance for depreciation of the banking institution or company or amalgamated corresponding new bank or amalgamated Government company for the tax year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) Where any scheme of amalgamation as referred to in sub-section (1) is brought into force on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being—

(*i*) the banking company or companies;

(*ii*) the amalgamating corresponding new bank or banks; or

(*iii*) the amalgamating Government company or companies,

as the case may be, which is deemed to be the loss of the successor entity, being—

(*a*) the banking institution or company; or

(*b*) the amalgamated corresponding new bank or banks; or

(*c*) the amalgamated Government company or companies,

as the case may be, shall be carried forward in the hands of the successor entity for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for original predecessor entity.

(3) For the purposes of this section,—

(*a*) "accumulated loss" means so much of the loss of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies under the head "Profits and gains of business or profession" (excluding losses of a speculation business) which such predecessor entity would have been entitled to carry forward and set off under section 112 had the amalgamation not occurred;

(*b*) "banking company" shall have the same meaning as assigned to it in section 5(*c*) of the Banking Regulation Act, 1949 (10 of 1949);

(*c*) "banking institution" shall have the same meaning as assigned to it in section 45(15) of the Banking Regulation Act, 1949 (10 of 1949);

(*d*) "corresponding new bank" shall have the same meaning as assigned to it in section 2(*d*) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or section 2(*b*) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

(*e*) "general insurance business" shall have the same meaning as assigned to it in section 3(*g*) of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

(*f*) "Government company" means a Government company as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013), engaged in the general insurance business and established under section 4 or 5 or 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

(*g*) "original predecessor entity" means predecessor entity in respect of the first amalgamation;

(*h*) "strategic disinvestment" shall have the meaning assigned to it in section 116(3)(*c*)(*i*);

(*i*) "unabsorbed depreciation" means the allowance for depreciation of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies which remains to be allowed and which would have been allowed to such predecessor entity, had the amalgamation not occurred.

Carry forward and set off of losses and unabsorbed depreciation in business reorganization of co-operative banks.

118. (1) The assessee, being a successor co-operative bank, shall, in a case where the amalgamation has taken place during the tax year, be allowed to set off the accumulated loss and the unabsorbed depreciation, if any, of the predecessor co-operative bank as if the amalgamation had not taken place, and all the other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) In case of a co-operative bank where demerger takes place during the tax year, and where the accumulated loss or unabsorbed depreciation of the demerged co-operative bank—

(*a*) is directly relatable to the undertaking transferred, the whole of such accumulated loss or unabsorbed depreciation shall be allowed to be carried forward and set off against the income of the resulting co-operative bank; and

(*b*) is not directly relatable to the undertaking transferred, then such accumulated loss or unabsorbed depreciation shall first be apportioned between the demerged co-operative bank and the resulting co-operative bank in the same proportion in which assets of the undertaking are distributed between the demerged co-operative bank and the resulting co-operative bank, and be allowed to be carried forward and set off against their respective incomes.

(3) The provisions of this section shall apply, if—

(*a*) the predecessor co-operative bank—

(*i*) has been engaged in the business of banking for three or more years; and

(*ii*) has held at least three-fourths of the book value of fixed assets as on the date of the business reorganisation, continuously for two years before the date of business reorganisation;

(*b*) the successor co-operative bank,—

(*i*) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum five years immediately succeeding the date of business reorganisation;

(*ii*) continues the business of the predecessor co-operative bank for a minimum five years from the date of business reorganisation; and

(*iii*) fulfils such other conditions, as may be prescribed, to ensure the revival of the business of the predecessor co-operative bank or to ensure that the business reorganisation is for genuine business purpose.

(4) The Central Government may, by notification, specify such other conditions as it may consider necessary, other than the condition referred to in sub-section (3)(*b*)(*iii*), for the purposes of ensuring that the business reorganisation is for genuine business purposes.

(5) In a case where any of the conditions referred to in sub-section (3) or notified under sub-section (4) are not complied with, the set off of accumulated business loss or unabsorbed depreciation made in any tax year in the hands of the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which such conditions are not complied with.

(6) The period commencing from the beginning of the tax year and ending on the date immediately preceding the date of business reorganisation, and the period commencing from the date of such business reorganisation and ending with the tax year, shall be deemed to be two different tax years for the purposes of set off and carry forward of loss and allowance for depreciation.

(7) For the purposes of this section,—

(*a*) "accumulated loss" means so much of the loss of amalgamating co-operative bank or demerged co-operative bank as referred to in section 112 in the hands of predecessor co-operative bank, which such predecessor co-operative bank would have been entitled to carry forward and set off under the said section, as if the business reorganisation had not taken place;

(*b*) "amalgamated co-operative bank", "amalgamating co-operative bank", "amalgamation", "business reorganisation", "demerged co-operative bank", "demerger", "predecessor co-operative bank", "successor co-operative bank" and "resulting co-operative bank" shall have the meanings respectively assigned to them in section 65;

(*c*) "unabsorbed depreciation" means so much of the allowance for depreciation in the hands of amalgamating co-operative bank or demerged co-operative bank, which remains to be allowed and which would have been allowed to such banks, if the business reorganisation had not taken place.

Carry forward and set off of losses not permissible in certain cases.

119. (1) In case of change in constitution of a firm during a tax year, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the tax year.

(2) If any person carrying on any business or profession has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

(3) Irrespective of anything contained in this Chapter, in case of a change in shareholding during the tax year of a company (not being a company in which the public are substantially interested),—

- (*a*) no loss incurred in any year prior to the tax year shall be carried forward and set off against the income of the tax year unless on the last day of the tax year, the shares of the company carrying not less than 51% of the voting power were beneficially held by the persons who beneficially held shares of the company carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred; and
- (*b*) regardless of the change in percentage of shareholding, where the company is an eligible start up referred to in section 140, the loss incurred in any year prior to the tax year shall be allowed to be carried forward and set off against the income of the tax year, if—
  - (*i*) all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such tax year; and
  - (*ii*) such loss has been incurred during the period of ten years beginning from the year in which such company is incorporated.

(4) The provisions of sub-section (3) shall not apply—

- (*a*) where a change in the voting power and shareholding takes place in the tax year referred to in that sub-section due to death of shareholder or transfer of shares by way of gift to any relative of the shareholder; or
- (*b*) where change in shareholding of Indian company, being a subsidiary of foreign company, takes place due to amalgamation or demerger of the foreign company and 51% of the shareholders of amalgamating or demerged foreign company are shareholders of amalgamated or resulting foreign company; or
- (*c*) where change in shareholding takes place in a tax year consequent to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and a reasonable opportunity of being heard was afforded to the jurisdictional Principal Commissioner or Commissioner; or
- (*d*) to a company, its subsidiary and subsidiary of such subsidiary, if—
  - (*i*) the Board of Directors of such company were suspended by the Tribunal on an application moved by the Central Government under section 241 of the Companies Act, 2013 (18 of 2013) and new directors were appointed by the Central Government under section 242 of the said Act; and
  - (*ii*) the change in shareholding of such company and its subsidiary, and subsidiary of such subsidiary has taken place consequent to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 (18 of 2013) and a reasonable opportunity of being heard was afforded to the jurisdictional Principal Commissioner or Commissioner; or
- (*e*) to a company to the extent that a change in the shareholding has taken place during the tax year on account of relocation referred to in section 70(2) (Table: Sl. No. 5.C); or
- (*f*) to an erstwhile public sector company where ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of such company in aggregate.

(5) Irrespective of anything contained in sub-section (4), if the conditions specified in sub-section (4)(*f*) is not complied with in any tax year after the completion of strategic disinvestment, the provisions of sub-section (3) shall apply for such tax year and subsequent tax years.

(6) For the purposes of this section,—

- (*a*) a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company;
- (*b*) the expression “erstwhile public sector company” shall have the meaning assigned to it in section 116(3)(*b*);
- (*c*) “strategic disinvestment” shall have the meaning assigned to it in section 116(3)(*c*)(*i*);
- (*d*) “Tribunal” shall have the same meaning as assigned to it in section 2(*90*) of the Companies Act, 2013 (18 of 2013).

No set off of losses against undisclosed income consequent to search, requisition and survey.

120. (1) Irrespective of anything contained in any other provision of this Act, any loss, whether brought forward or otherwise or unabsorbed depreciation, shall not be allowed to be set off against any undisclosed income which is included in the total income of any tax year, consequent to a search conducted under section 247 or a requisition under section 248 or a survey conducted under section 253, not being a survey under section 253(4).

(2) For the purposes of this section, the expression “undisclosed income” for any tax year shall have the meaning as referred to in section 301.

Submission of return for losses.

121. Irrespective of anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed under section 263(1), shall be carried forward and set off under section 111(1) or 112(1) or 113(2) or 114(2) or 115(2).

CHAPTER VIII

Deductions to be made in Computing Total Income

A.-General

Deductions to be made in computing total income.

122. (1) In computing the total income of an assessee, the deduction specified in this Chapter shall be allowed from his gross total income, as per and subject to the provisions of this Chapter.

(2) The aggregate amount of the deductions under this Chapter shall not, in any case, exceed the gross total income of the assessee.

(3) If the deduction under section 133 or 135 or 137 or 138 or 141 or 142 or 143 is admissible in computing the total income of an association of persons or a body of individuals, no deduction under the same section shall be made in relation to the share of income of a member of such association of persons or body of individuals in computing the total income of such member.

(4) Irrespective of anything to the contrary contained in any of the provisions of Part C of this Chapter, where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under those provisions for any tax year,—

(*a*) deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provision of this Act for such tax year; and

(*b*) shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

(5) Deduction under the provisions of Part C of this Chapter shall not be allowed to an assessee, who fails to—

(*a*) furnish a return of income on or before the due date specified under section 263(1); or

(*b*) make a claim of deduction in a return furnished under section 263(1).

(6) For the purposes of any deduction under this Chapter, irrespective of anything to the contrary contained in Part C of this Chapter, if any goods or services held for the purposes of—

(*a*) the undertaking, unit, enterprise or eligible business carried on by the assessee are transferred to any other business carried on by the assessee; or

(*b*) any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business of the assessee,

and the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of transfer, then the profits and gains of such undertaking or unit or enterprise or eligible business carried on by the assessee shall be computed as if the transfer, in clause (*a*) or (*b*), had been made at the market value of such goods or services as on that date.

(7) For the purposes of sub-section (6), "market value",—

(*a*) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(*b*) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any; and

(*c*) in relation to any goods or services sold, supplied or acquired, means the arm's length price of such goods or services as defined in section 173(*a*), if it is a specified domestic transaction referred to in section 164.

(8) Where a deduction under Part C of this Chapter, is claimed and allowed in respect of profits of a specified business as referred to in section 46(11)(*d*) for any tax year, no deduction shall be allowed for such specified business under section 46 for the same or any other tax year.

(9) Where any deduction is required to be made or allowed under Part C of this Chapter, in respect of any income of the nature specified in that section and included in the gross total income of the assessee, then, irrespective of anything contained in that section, for the purpose of computing the deduction under that section, the amount of income of that nature as computed under the provisions of this Act (before making any deduction under this Chapter) shall alone be deemed to be the amount of income of that nature which is derived or received by the assessee and which is included in his gross total income.

(10) For the purposes of this Chapter, the expression "gross total income" means the total income computed as per the provisions of this Act, before making deduction under this Chapter.

B.-Deductions in respect of certain payments

Deduction for life insurance premia, deferred annuity, contributions to provident fund, etc.

123. An individual or a Hindu undivided family, shall be allowed a deduction of the whole of the amount paid or deposited in the tax year, being the aggregate of the sums enumerated in Schedule XV, as does not exceed ₹ 150000, while computing the total income for that year, subject to the conditions specified in that Schedule.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of employer and assessee contribution to pension scheme of Central Government.

124. (1) Where in the case of an assessee, being an individual employed by any employer, if the employer makes any contribution in his account under a pension scheme notified by the Central Government, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by such employer as does not exceed—

(*a*) 14%, where such contribution is made by the employer being the Central Government or the State Government; and

(*b*) 10%, where such contribution is made by an employer other than an employer referred to in clause (*a*),

of his salary in the tax year.

(2) Where the total income of the assessee is chargeable to tax under section 202(1), the provisions of sub-section (1) shall have effect as if for "10%" referred to in clause (*b*) of that sub-section, "14%" had been substituted.

(3) An assessee referred to in sub-section (1), or any other assessee, being an individual, shall be allowed a deduction not exceeding ₹ 50000, in computation of his total income of the whole of the amount paid or deposited in the tax year by such individual in his account under a pension scheme notified or as may be notified by the Central Government.

(4) The deduction under sub-section (3) shall also be allowed where any payment or deposit is made to the account of a minor under the said pension scheme, by the assessee, being the parent or guardian of such minor, subject to the condition that the aggregate amount of deduction under sub-section (3) and this sub-section shall not exceed ₹ 50000.

(5) No deduction under sub-sections (3) and (4) shall be allowed in respect of the amount on which a deduction has been claimed and allowed under section 123.

(6) Any amount standing to the credit of the assessee or a minor, in his account or the account of a minor, as the case may be, referred to in sub-sections (1), (3) and (4) and paragraph 1(*y*) of Schedule XV, in respect of which a deduction has been allowed together with the amount accrued thereon, received by the assessee or his nominee, in whole or in part, in any tax year,—

(*a*) on account of closure or his opting out of the pension scheme referred to in sub-sections (1) and (3); or

(*b*) as pension received from the annuity plan purchased or taken on such closure or opting out,

the whole of the amount referred to in clause (*a*) or (*b*) shall be deemed to be the income of the individual or his nominee, in the tax year in which such amount is received, and shall accordingly be charged to tax as income of that tax year.

(7) The amount received by the nominee, on the death of the assessee, under the circumstances referred to in sub-section (6)(*a*), shall not be deemed to be the income of the nominee.

(8) The amount received by a person, being the parent or guardian or nominee of a minor on account of closure of the pension scheme, due to the death of the minor, referred to in sub-section (4), shall not be deemed to be the income of such person.

(9) For the purposes of this section, the assessee shall not be deemed to have received any amount in the tax year, if such amount is used for purchasing an annuity plan in the same tax year.

(10) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (3), no deduction with reference to such amount shall be allowed under section 123 for that tax year.

(11) Any amount standing to the credit of the assessee, being a subscriber to Unified Pension Scheme, in his account referred to in sub-sections (1) and (3), and paragraph 1(*y*) of Schedule XV, in respect of which a deduction has been allowed together with the amount accrued thereon, received by the assessee or his nominee, in whole or in part, in any tax year on account of his superannuation or voluntary retirement or retirement under Fundamental Rule 56(*j*) (which is not treated as penalty under the Central Civil Services (Classification, Control and Appeal) Rules, 1965), the whole of the amount shall be deemed to be the income of the assessee or his nominee, as the case may be, in the tax year in which such amount is received, and shall accordingly be charged to tax as income of that tax year.

(12) For the purposes of sub-section (11), the assessee shall be deemed not to have received any amount in the tax year if such amount is transferred to pool corpus from individual corpus on account of his superannuation or voluntary retirement or retirement under Fundamental Rule 56(*j*) (which is not treated as penalty under the Central Civil Services (Classification, Control and Appeal) Rules, 1965), as may be applicable.

(13) For the purposes of this section,—

(*a*) "pool corpus" and "individual corpus" shall have the same meaning as in Notification F. No. FX-1/3/2024-PR of the Department of Financial Services, dated the 24th January, 2025.

(*b*) "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

Deduction in respect of contribution to *Agnipath* Scheme.

125. (1) An assessee, being an individual who has enrolled in the *Agnipath* Scheme and subscribes to the *Agniveer* Corpus Fund on or after the 1st November, 2022, shall be allowed a deduction in the computation of his total income, of the whole of the amount paid or deposited in his account in the said Fund during the tax year.

(2) Where the Central Government makes any contribution to the account of an assessee in the Fund referred to in sub-section (1), the assessee shall be allowed a deduction in the computation of his total income of the whole of the amount so contributed.

(3) For the purposes of this section,—

(*a*) "*Agnipath* Scheme" means the scheme for enrolment in the Indian Armed Forces introduced *vide* letter No. 1(23)2022/D(Pay/Services), dated the 29th December, 2022, of the Government of India in the Ministry of Defence;

(*b*) "*Agniveer* Corpus Fund" means a fund in which consolidated contributions of all the *Agniveers* and matching contributions of the Central Government along with interest on both these contributions are held.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of health insurance premia.

126. (1) An assessee, being an individual or a Hindu undivided family, shall be allowed a deduction of a sum as specified in sub-sections (2) to (8), payment of which is made by any mode as specified in sub-section (9), out of his income chargeable to tax in the tax year.

(2) In the case of an assessee, being an individual, the sum referred to in sub-section (1), shall be the aggregate of the whole of the amount paid—

(*a*) to effect or keep in force an insurance on the health (herein referred to as health insurance) of the assessee or his family, or any contributions made to the Central Government Health Scheme or such other scheme, as may be notified by the Central Government in this behalf, or any payment made for preventive health check-up of the assessee or his family, up to ₹ 25000 in aggregate;

(*b*) to effect or to keep in force the health insurance, or any payment made for preventive health check-up, for the parent or parents of the assessee, up to ₹ 25000 in aggregate;

(*c*) on account of medical expenditure incurred on the health of the assessee or any member of his family, up to ₹ 50000 in aggregate; and

(*d*) on account of medical expenditure incurred on the health of any parent of the assessee, up to ₹ 50000 in aggregate.

(3) The deduction in respect of amounts referred to in sub-section (2)(*a*) or (2)(*b*), which are paid on account of preventive health check-up, shall be allowed up to ₹ 5000 in aggregate.

(4) The amount of sum referred to in sub-section (2) shall not exceed ₹ 50000 in aggregate of the sum specified under sub-section (2)(*a*) and (*c*) or aggregate of the sum specified under sub-section (2)(*b*) and (*d*).

(5) In the case of an assessee, being a Hindu undivided family, the sum referred to in sub-section (1), shall be the aggregate of the whole of the amount paid—

(*a*) to effect or keep in force an insurance on the health of any member of such Hindu undivided family, up to ₹ 25000 in the aggregate; and

(*b*) on account of medical expenditure incurred on the health of any member of such Hindu undivided family, up to ₹ 50000 in the aggregate.

(6) The amount of sum under sub-section (5) shall not exceed ₹ 50000 in the aggregate of the sum specified under sub-section (5)(*a*) and (*b*).

(7) For the purposes of this section, where the amount is paid on account of medical expenditure incurred on the health of a senior citizen under sub-section (2)(*c*) or (*d*) or (5)(*b*), deduction shall be allowed, if no amount has been paid to effect or to keep in force the health insurance of such person.

(8) Where the sum specified in sub-section (2)(*a*) or (*b*) or (5)(*a*) is paid to effect or keep in force the health insurance of any person specified therein, and—

(*a*) such person is a senior citizen, the amount of sum as provided in such clauses, shall be substituted with ₹ 50000 for ₹ 25000; and

(*b*) such sum is paid in lump sum in the tax year for more than a year, a deduction shall be allowed for each of the relevant tax year equal to the appropriate fraction of such amount.

(9) For the purposes of deduction under sub-section (1), the payment shall be made by any mode,—

(*a*) including cash, in respect of any sum paid on account of preventive health check-up; or

(*b*) other than cash in all other cases not falling under clause (*a*).

(10) For the purposes of this section,—

(*a*) "appropriate fraction" means the fraction where the numerator is one, and the denominator is the total number of relevant tax years;

(*b*) "family" means the spouse and dependant children of the assessee;

(*c*) "relevant tax year" means the tax year beginning with the tax year in which such lump sum amount is paid and the subsequent tax year or years during which the health insurance remains in force.

(11) The health insurance referred to in this section shall be as per the scheme made in this behalf by—

(*a*) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government in this behalf; or

(*b*) any other insurer and approved by the Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

127. (1) An assessee being an individual or a Hindu undivided family, who is a resident in India, shall be allowed a deduction up to ₹ 75000 from his gross total income of a tax year, subject to the provisions of this section, if during that year he has—

(*a*) incurred expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or

(*b*) paid or deposited any amount under a scheme framed by the Life Insurance Corporation or any other insurer or the Administrator, or the specified company, for the maintenance of a dependant, being a person with disability, subject to the conditions specified in sub-section (2) and approved by the Board in this behalf.

(2) The deduction under sub-section (1)(*b*) shall be allowed only if the following conditions are fulfilled:—

(*a*) the scheme referred to in sub-section (1)(*b*) provides for payment of an annuity or lump sum amount for the benefit of a dependant, being a person with disability—

(*i*) on the death of the individual or the member of the Hindu undivided family, in whose name the scheme was subscribed; or

(*ii*) on attaining the age of sixty years or more by such individual or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued;

(*b*) the assessee nominates the dependant, being a person with disability or any other person or a trust to receive the payments on behalf of and for the benefit of such dependant.

(3) If the dependant as referred to in sub-section (1) is a person with severe disability, the amount of deduction as referred to in sub-section (1) shall be substituted with "₹ 125000" for "₹ 75000".

(4) In the event of death of the dependant, being a person with disability, before the individual or the member of the Hindu undivided family mentioned in sub-section (2), the amount paid or deposited under sub-section (1)(*b*) shall be deemed to be the income of the assessee of the tax year in which it is received and shall accordingly be chargeable to tax.

(5) The provisions of sub-section (4) shall not apply to the amount received by the dependant, being a person with disability, before his death, as an annuity or lump sum by application of the condition referred to in sub-section (2)(*a*)(*ii*).

(6) The assessee claiming deduction under this section, shall furnish a copy of the medical certificate issued by the medical authority in such form and manner as may be prescribed, along with the return of income under section 263 for the tax year in which the deduction is claimed.

(7) If the certificate referred to in sub-section (6), specifies that the condition of disability requires reassessment of its extent after a period stipulated in it, the deduction under this section shall not be allowed for any tax year succeeding the tax year in which the said certificate expires, unless a new certificate is obtained from the medical authority in such form and manner as may be prescribed, and a copy thereof is submitted along with the return of income under section 263.

(8) The dependant mentioned in this section shall not include a person who has claimed deduction under section 154 in computing his total income for the tax year.

(9) For the purposes of this section,—

(*a*) "Administrator" means the Administrator as referred to in section 2(*a*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*b*) "dependant" means—

(*i*) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;

(*ii*) in the case of a Hindu undivided family, a member of the Hindu undivided family,

dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance;

(*c*) "disability" shall have the same meaning as assigned to it in section 2(*i*) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) and includes "autism", "cerebral palsy" and "multiple disability" respectively referred to in section 2(*a*), (*c*) and (*h*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*d*) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(*e*) "medical authority" means the medical authority as referred to in section 2(*p*) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" respectively referred to in section 2(*a*), (*c*), (*h*), (*j*) and (*o*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*f*) "person with disability" means a person as referred to in section 2(*t*) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) or section 2(*j*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*g*) "person with severe disability" means—

(*i*) a person with 80% or more of one or more disabilities, as referred to in section 56(4) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996); or

(*ii*) a person with severe disability referred to in section 2(*o*) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

(*h*) "specified company" means a company as referred to section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002).

Deduction in respect of medical treatment, etc.

128. (1) An assessee who is resident in India, shall be allowed a deduction of the amount actually paid during the tax year or a sum of ₹ 40000, whichever is less, from income chargeable to tax of that tax year, for the medical treatment of such disease or ailment as may be prescribed—

(*a*) for himself or a dependant, in case the assessee is an individual; or

(*b*) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family.

(2) A deduction shall be allowed under this section only if the assessee obtains the prescription for the medical treatment from a neurologist, oncologist, urologist, haematologist, immunologist, or any other specialist, as may be prescribed.

(3) The deduction under this section shall be reduced by any amount received under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person as referred to in sub-section (1)(*a*) or (*b*).

(4) If the amount actually paid is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is senior citizen, the amount of deduction as referred to in sub-section (1) shall be substituted with "₹ 100000" for "₹ 40000".

(5) For the purposes of this section,—

(*a*) "dependant" shall have the meaning as assigned to it in section 127(9);

(*b*) "insurer" shall have the meaning assigned to it in section 2(*9*) of the Insurance Act, 1938 (4 of 1938).

Deduction in respect of interest on loan taken for higher education.

129. (1) An assessee, being an individual, shall be allowed a deduction of amount paid as interest during a tax year, subject to the provisions of this section, on a loan taken by him from any financial institution or any approved charitable institution, if the—

(*a*) loan taken is for the purpose of pursuing higher education of himself or his relative; and

(*b*) payment is made out of his income chargeable to tax.

(2) The deduction referred to in sub-section (1) shall be allowed in computing the total income in respect of the initial tax year and seven tax years immediately succeeding the initial tax year, or until the interest referred to in sub-section (1) is fully paid by the assessee, whichever is earlier.

(3) For the purposes of this section,—

(*a*) "approved charitable institution" means a registered non-profit organisation where it was approved earlier under the provisions of section 10(*23C*) of the Income-tax Act, 1961 (43 of 1961), or an institution referred to in section 80G(2)(*a*) of the said Act;

(*b*) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act) or any other financial institution which the Central Government may, by notification, specify;

(*c*) "higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from a school, board, or University recognised by the Central Government or State Government, local authority, or by any authority authorised by the Central Government or State Government or local authority to do so;

(*d*) "initial tax year" means the tax year in which the assessee starts paying the interest on the loan;

(*e*) "relative", in relation to an individual, means the spouse and children of that individual, or the student for whom the individual is the legal guardian.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of interest on loan taken for residential house property.

130. (1) An assessee, being an individual, shall be allowed a deduction of interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property as per the provisions of this section.

(2) The deduction under sub-section (1) shall not exceed ₹ 50000 and shall be allowed in computing the total income of the individual for the tax year beginning on the 1st April, 2016 and subsequent tax years.

(3) The deduction under sub-section (1) shall be subject to the following conditions:—

(*a*) the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2016 and ending on the 31st March, 2017;

(*b*) the amount of loan sanctioned for acquisition of the residential house property does not exceed thirty-five lakh rupees;

(*c*) the value of residential house property does not exceed fifty lakh rupees; and

(*d*) the assessee does not own any residential house property on the date of sanction of loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(5) For the purposes of this section,—

(*a*) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies, or any bank or banking institution referred to in section 51 of that Act or a housing finance company;

(*b*) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of interest on loan taken for certain house property.

131. (1) An assessee, being an individual not eligible to claim deduction under section 130, shall be allowed a deduction of interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property, subject to a maximum limit of ₹ 150000 in a tax year and on fulfilment of conditions specified in sub-section (2), for the tax year beginning on the 1st April, 2019 and subsequent tax years.

(2) The conditions referred in sub-section (1) shall be the following:—

(*a*) the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2019 and ending on the 31st March, 2022;

(*b*) the stamp duty value of residential house property does not exceed forty-five lakh rupees; and

(*c*) the assessee does not own any residential house property on the date of sanction of loan.

(3) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(4) For the purposes of this section, the expression “financial institution” shall have the meaning assigned to it in section 130(5)(*a*).

Deduction in respect of purchase of electric vehicle.

132. (1) An assessee, being an individual, shall be allowed a deduction of interest payable on loan taken by him from any financial institution for the purpose of purchase of an electric vehicle, as per the provisions of this section.

(2) The deduction under sub-section (1) shall be subject to the condition that the loan has been sanctioned by the financial institution during the period beginning on the 1st April, 2019 and ending on the 31st March, 2023.

(3) The deduction under sub-section (1) shall not exceed ₹ 150000 and shall be allowed in computing the total income of the individual for the tax year beginning on the 1st April, 2019 and subsequent tax years.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other tax year.

(5) For the purposes of this section,—

(*a*) "electric vehicle" means a vehicle powered exclusively by an electric motor, whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy;

(*b*) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies, or any bank or banking institution referred to in section 51 of that Act and includes a non-banking financial company.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of donations to certain funds, charitable institutions, etc.

133. (1) In computing the total income of an assessee, there shall be deducted, as per and subject to the provisions of this section,—

(*a*) the whole of the aggregate of the sum or the sums paid by the assessee, in the tax year as donations to—

(*i*) the National Defence Fund set up by the Central Government; or

(*ii*) the Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND); or

(*iii*) the Prime Minister's Armenia Earthquake Relief Fund; or

(*iv*) the Africa (Public Contributions-India) Fund; or

(*v*) the National Children's Fund; or

(*vi*) the National Foundation for Communal Harmony; or

(*vii*) a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf; or

(*viii*) any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat; or

(*ix*) any *Zila Saksharta Samiti* constituted in any district under the chairmanship of the Collector of that district for improving primary education in villages and towns having a population up to one lakh according to the last census of which figures are published before the first day of the relevant tax year, in such district and for literacy and post-literacy activities; or

(*x*) the National Blood Transfusion Council or any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks; or

(*xi*) any fund set up by a State Government to provide medical relief to the poor; or

(*xii*) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or

(*xiii*) the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996; or

(*xiv*) the National Illness Assistance Fund; or

(*xv*) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund, if the fund meets all the following conditions:—

(*A*) it is the only fund of its kind established in the State or the Union territory;

(*B*) it is under the overall control of the Chief Secretary or the Department of Finance of the respective State or the Union territory;

(*C*) it is administered in a manner specified by the State Government or the Lieutenant Governor; or

(*xvi*) the National Sports Development Fund set up by the Central Government; or

(*xvii*) the National Cultural Fund set up by the Central Government; or

(*xviii*) the Fund for Technology Development and Application set up by the Central Government; or

(*xix*) the National Trust for Welfare of Persons with Autism Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under section 3(1) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999); or

(*xx*) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under section 135(5) of the Companies Act, 2013 (18 of 2013); or

(*xxi*) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under section 135(5) of the Companies Act, 2013 (18 of 2013); or

(*xxii*) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(*xxiii*) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning; or

(*xxiv*) the Indian Olympic Association or any other association or institution established in India, as the Central Government may, having regard to the guidelines issued in this behalf, by notification, specify for the development of infrastructure for sports and games in India or the sponsorship of sports and games in India, by an assessee being a company;

(*b*) an amount equal to 50% of the aggregate of the sums paid as donation by an assessee during the tax year to—

(*i*) the Prime Minister's Drought Relief Fund;

(*ii*) any fund or any institution to which this section applies, if:—

(*A*) it is established in India for a charitable purpose; and

(*B*) it is a registered non-profit organisation or an institution or fund mentioned in Schedule VII (Table: Sl. No. 1) and approved under section 354;

(*iii*) the Government or any local authority, to be utilised for any charitable purpose other than the purpose of promoting family planning;

(*iv*) an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;

(*v*) a corporation established by the Central Government or any State Government for promoting the interests of the members of such minority community, as may be notified by the Central Government;

(*vi*) any entity, for the renovation or repair of any temple, mosque, gurudwara, church or other place which is notified by the Central Government to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States.

(2) Where the aggregate of the sums referred to in sub-section (1)(*a*)(*xxiii*) and (*xxiv*), and sub-section (1)(*b*)(*ii*) to (*vi*) exceeds 10% of the adjusted gross total income, then the amount in excess of 10% of the adjusted gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1).

(3) Where deduction under this section is claimed and allowed for any tax year in respect of any sum specified in sub-section (1), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other tax year.

(4) The deduction under this section shall be allowed only for donation made as a sum of money.

(5) Any deduction for a donation over ₹ 2000 shall be allowed only if the payment is made by a mode other than cash.

(6) Any claim of deduction by the assessee in his return of income filed for any tax year in case of a donation made to an institution or fund referred in sub-section (1)(*b*)(*ii*), shall be allowed—

(*a*) only on the basis of the information relating to such donation furnished by such institution or fund to the prescribed authority or person authorised by such authority; and

(*b*) subject to verification as per the risk management strategy formulated by the Board from time to time.

(7) For the purposes of this section,—

(*a*) "adjusted gross total income" means gross total income as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter;

(*b*) "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature;

(*c*) "National Blood Transfusion Council" means a society registered under the Societies Registration Act, 1860 (21 of 1860) and has an officer of the rank of an Additional Secretary to the Government of India or higher to deal with the AIDS Control Project as its Chairman;

(*d*) "State Blood Transfusion Council" means a society registered, in consultation with the National Blood Transfusion Council, under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India and has a Secretary to the Government of that State dealing with the Department of Health, as its Chairman;

(*e*) an association or institution having as its object the control, supervision, regulation or encouragement in India of such games or sports as may be notified by the Central Government, shall be deemed to be an institution established in India for a charitable purpose.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deductions in respect of rents paid.

134. (1) In computing the total income of an assessee, subject to other provisions of this section, there shall be deducted any expenditure incurred by him towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence.

(2) The deduction under sub-section (1) shall be allowable on payment of such rent exceeding 10% of his total income, subject to a maximum of ₹ 5000 per month, or 25% of total income for tax year, whichever is less.

(3) For the purposes of deduction under sub-section (1), such other conditions or limitations having regard to the area or place in which such accommodation is situated and other relevant consideration, as may be prescribed, shall be taken into account.

(4) No deduction under this section shall be allowed to an assessee in any case, where—

- (*a*) any residential accommodation is—
  - (*i*) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such family at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or
  - (*ii*) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under section 21(6) or (7)(*a*); or
- (*b*) the assessee has any income falling in Schedule III (Table: Sl. No. 11).

(5) For the purposes of this section, the expressions “10% of his total income” and “25% of his total income” shall mean 10% or 25%, as the case may be, of the total income of the assessee before allowing deduction for any expenditure under this section.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of certain donations for scientific research or rural development.

135. (1) In computing the total income of an assessee, there shall be deducted, as per the provisions of this section, any sum paid by the assessee in the tax year to,—

(*a*) a research association which has as its object the undertaking of scientific research, or a University, college or other institution approved for the purposes of section 45(3)(*a*)(*i*) to be used for scientific research;

(*b*) a research association which has as its object the undertaking of research in social science or statistical research, or a University, college or other institution approved for the purposes of section 45(3)(*a*)(*ii*) to be used for research in social science or statistical research.

(2) Deduction for contributions made as per sub-section (1) shall not be allowed, if—

(*a*) the gross total income of the assessee includes income which is chargeable under the head "Profits and gains of business or profession"; or

(*b*) the contribution is made in cash exceeding ₹ 2000.

(3) Deduction under sub-section (1)(*a*) and (*b*) shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, approval to such association, University, college, other institution referred therein has been withdrawn.

(4) The claim of the assessee for a deduction in respect of any sum referred to in sub-section (1) in the return of income for any tax year filed by him, shall be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or the person authorised by such authority, subject to verification as per the risk management strategy formulated by the Board from time to time.

(5) Where a deduction for any tax year has been claimed and allowed in respect of any payment of the nature referred to in this section, no deduction in respect of such payment shall be allowed under any other provision of this Act in any tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of contributions given by companies to political parties.

136. (1) An assessee, being an Indian company, shall be allowed a deduction for the amount contributed by it, other than by way of cash, during a tax year to a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951) or an electoral trust.

(2) For the purposes of this section, the term “contribute”, with its grammatical variations and cognate expressions shall have the same meaning as assigned to it in section 182 of the Companies Act, 2013 (18 of 2013).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of contributions given by any person to political parties.

137. An assessee, (other than a local authority and an artificial juridical person wholly or partly funded by the Government), shall be allowed a deduction for the amount contributed by him, other than by way of cash, during a tax year to a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951), or an electoral trust.

C.-Deductions in respect of certain incomes

Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

138. In respect of any tax year, where—

(*a*) the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in section 80-IA of the Income-tax Act, 1961 (43 of 1961); and

(*b*) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(*i*) the amount of deduction is calculated as per the provisions of section 80-IA of the Income-tax Act, 1961 (43 of 1961); and

(*ii*) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IA of the Income-tax Act, 1961 (43 of 1961), as if the said Act had not been repealed.

Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.

139. In respect of any tax year, where—

(*a*) the gross total income of an assessee, being a Developer, includes any profits and gains derived by an undertaking or an enterprise from any business of developing a Special Economic Zone, notified on or after the 1st April, 2005 under the Special Economic Zones Act, 2005 (28 of 2005) referred to in section 80-IAB of the Income-tax Act, 1961 (43 of 1961); and

(*b*) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(*i*) the amount of deduction is calculated as per the provisions of section 80-IAB of the Income-tax Act, 1961 (43 of 1961); and

(*ii*) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IAB of the Income-tax Act, 1961 (43 of 1961), as if the said Act had not been repealed.

Special provision in respect of specified business.

140. (1) Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, as per and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for three consecutive tax years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any three consecutive tax years out of ten years beginning from the year in which the eligible start-up is incorporated.

(3) This section applies to a start-up which fulfils the following conditions:—

(*a*) it is not formed by splitting up, or the reconstruction, of a business already in existence;

(*b*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

(4) Where the business of any undertaking carried on in India is discontinued in any tax year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business as a direct result of—

(*a*) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(*b*) riot or civil disturbance; or

(*c*) accidental fire or explosion; or

(*d*) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

and thereafter, at any time before the expiry of three years from the end of such tax year, the business of such undertaking is re-established, reconstructed or revived by the assessee, the condition referred to in sub-section (3)(*a*) shall not apply to such undertaking which is so re-established, reconstructed or revived.

(5) For the purposes of sub-section (3)(*b*), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled:—

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

(6) Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used in the business, then, for the purposes of sub-section (3)(*b*), the condition specified therein shall be deemed to have been complied with.

(7) Irrespective of anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the tax year immediately succeeding the initial tax year or any subsequent tax year, be computed as if such eligible business was the only source of income of the assessee during the initial tax year and to every subsequent tax year up to and including the tax year for which the determination is to be made.

(8) The deduction under sub-section (1) from profits and gains derived from an eligible business shall not be admissible unless the accounts of the eligible business for the tax year for which the deduction is claimed have been audited by an accountant, before the specified date referred to in section 63 and the assessee furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant.

(9) In a case where, any goods or services held—

(*i*) for the purposes of the eligible business are transferred to any other business carried on by the assessee; or

(*ii*) for the purposes of any other business carried on by the assessee are transferred to the eligible business,

and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

(10) For the purposes of sub-section (9), where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

(11) For the purposes of sub-section (9), "market value", in relation to any goods or services, means—

(*i*) the price that such goods or services would ordinarily fetch in the open market; or

(*ii*) the arm's length price as defined in section 173(*a*), where the transfer of such goods or services is a specified domestic transaction referred to in section 164.

(12) Where any amount of profits and gains of an undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any tax year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of Part C of this Chapter and shall in no case exceed the profits and gains of such eligible business of undertaking or enterprise, as the case may be.

(13) Where it appears to the Assessing Officer that owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(14) Where the arrangement as mentioned in sub-section (13) involves a specified domestic transaction referred to in section 164, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in section 173(*a*).

(15) The Central Government may, after making such inquiry as it may think fit, direct, by notification, that the exemption conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.

(16) For the purposes of this section,—

(*a*) "eligible business" means a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation;

(*b*) "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions:—

(*i*) it is incorporated on or after the 1st April, 2016 but before the 1st April, 2030;

(*ii*) the total turnover of its business does not exceed one hundred crore rupees in the tax year relevant to the tax year for which deduction under sub-section (1) is claimed; and

(*iii*) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as may be notified by the Central Government;

(*c*) "limited liability partnership" means a partnership referred to in section 2(1)(*n*) of the Limited Liability Partnership Act, 2008 (6 of 2009).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of profits and gains from certain industrial undertakings.

141. In respect of any tax year, where—

(*a*) the gross total income of an assessee, includes any profits and gains derived from any business referred to in section 80-IB of the Income-tax Act, 1961 (43 of 1961); and

(*b*) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(*i*) the amount of deduction is calculated as per the provisions of section 80-IB of the Income-tax Act, 1961 (43 of 1961); and

(*ii*) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IB of the Income-tax Act, 1961 (43 of 1961), as if the said Act had not been repealed.

Deductions in respect of profits and gains from housing projects.

142. In respect of any tax year, where—

(*a*) the gross total income of an assessee, includes any profits and gains derived from the business of developing and building housing projects or rental housing projects referred to in section 80-IBA of the Income-tax Act, 1961 (43 of 1961); and

(*b*) such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(*i*) the amount of deduction is calculated as per the provisions of section 80-IBA of the Income-tax Act, 1961 (43 of 1961); and

(*ii*) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 80-IBA of the Income-tax Act, 1961 (43 of 1961), as if the said Act had not been repealed.

Special provisions in respect of certain undertakings in North-Eastern States.

143. (1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking, to which this section applies, from any business referred to in sub-section (2), there shall be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for ten consecutive tax years commencing with the initial tax year.

(2) This section applies to any undertaking which during the period beginning on the 1st April, 2007 and ending before the 1st April, 2017, has begun or begins, in any of the North-Eastern States,—

(*a*) to manufacture or produce any eligible article or thing; or

(*b*) to undertake substantial expansion to manufacture or produce any eligible article or thing; or

(*c*) to carry on any eligible business.

(3) This section applies to any undertaking which fulfils all the following conditions:—

(*a*) it is not formed by splitting up, or the reconstruction, of a business already in existence (other than an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 140(4), in the circumstances and within the period specified therein);

(*b*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

(4) For the purposes of sub-section (3)(*b*), the provisions of section 140(5) and (6) shall apply.

(5) Irrespective of anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in this Chapter in relation to the profits and gains of the undertaking.

(6) Irrespective of anything contained in this Act, no deduction shall be allowed to any undertaking under this section, where the total period of deduction inclusive of the period of deduction under this section or under second proviso to section 80-IB(4) of the Income-tax Act, 1961 (43 of 1961) exceeds ten tax years.

(7) The provisions contained in section 140(7) to (15) shall, so far as may be, apply to the eligible undertaking under this section.

(8) For the purposes of this section,—

(*a*) "eligible article or thing" means the article or thing other than the following:—

(*i*) goods falling under Chapter 24 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), which pertains to tobacco and manufactured tobacco substitutes;

(*ii*) pan masala as covered under Chapter 21 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);

(*iii*) plastic carry bags of less than twenty microns as specified by the Ministry of Environment and Forests *vide* notification numbers S.O. 705(E), dated the 2nd September, 1999 and S.O. 698(E), dated the 17th June, 2003; and

(*iv*) goods falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), produced by petroleum oil or gas refineries;

(*b*) "eligible business" means the business of—

(*i*) hotel (not below two star category);

(*ii*) adventure and leisure sports including ropeways;

(*iii*) providing medical and health services in the nature of nursing home with a minimum capacity of twenty-five beds;

(*iv*) running an old-age home;

(*v*) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;

(*vi*) running information technology related training centre;

(*vii*) manufacturing of information technology hardware; and

(*viii*) bio-technology;

(*c*) "initial tax year" means the tax year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion;

(*d*) "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(*e*) "substantial expansion" means increase in the investment in the plant and machinery by at least 25% of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the tax year in which the substantial expansion is undertaken.

Special provisions in respect of newly established Units in Special Economic Zones.

144. In respect of any tax year, where—

(*a*) in computing the total income of an assessee, being an entrepreneur as referred to in section 2(*j*) of the Special Economic Zones Act, 2005 (28 of 2005), who begins to manufacture or produce articles or things or provide any services, as referred to in section 10AA of the Income-tax Act, 1961 (43 of 1961); and

(*b*) such assessee is eligible to claim a deduction from the profits and gains derived from the export, of such articles or things or from services for such tax year under the provisions of the said section, if the said Act had not been repealed,

there shall be allowed, in computing the total income of the assessee, a deduction from the profits and gains derived from such business, subject to the conditions that—

(*i*) the amount of deduction is calculated as per the provisions of section 10AA of the Income-tax Act, 1961 (43 of 1961); and

(*ii*) the deduction under this Act shall be allowed only for such tax years, as would have been allowed under section 10AA of the Income-tax Act, 1961 (43 of 1961), as if the said Act had not been repealed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction for businesses engaged in collecting and processing of bio-degradable waste.

145. If the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for,—

(*a*) generating power; or
(*b*) producing bio-fertilizers, bio-pesticides or other biological agents; or
(*c*) producing bio-gas; or
(*d*) making pellets or briquettes for fuel or organic manure,

there shall be allowed a deduction equal to the whole amount of such profits and gains for five consecutive tax years, beginning with the tax year in which such business commences.

Deduction in respect of additional employee cost.

146. (1) Subject to the conditions specified in sub-sections (2) and (3), if the gross total income of an assessee, to whom section 63 applies, includes any profits and gains derived from business, a deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the tax year shall be allowed.

(2) The deduction referred to in sub-section (1) shall be allowed for three consecutive tax years, beginning from the tax year in which the employment is provided.

(3) The deduction under sub-section (1) shall not be allowed, if—

(*a*) the business is formed by splitting up, or the reconstruction, of an existing business; or

(*b*) the business is acquired by the assessee through transfer from any other person or as a result of any business reorganisation; or

(*c*) the assessee does not furnish the report of an accountant, before the specified date as referred to in section 63, giving the particulars in the report, as may be prescribed.

(4) The condition referred to in sub-section (3)(*a*) shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section, in the circumstances and within the period specified in said section 410(4).

(5) For the purposes of this section,—

(*a*) "additional employee cost" means—

(*i*) the total emoluments paid or payable to additional employees employed during the tax year; or

(*ii*) emoluments paid or payable to employees employed during the tax year, where that year is the first year of a new business,

and it shall be *nil* in the case of an existing business, if—

(*A*) there is no increase in the number of employees from the total number employed as on the last day of the preceding tax year; or

(*B*) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode, as may be prescribed;

(*b*) "additional employee" means an employee who has been employed during the tax year and whose employment increases the total number of employees employed by the employer as on the last day of the preceding tax year, but does not include any employee—

(*i*) whose total emoluments exceed ₹ 25000 per month;

(*ii*) for whom the Government pays the entire contribution under the Employees' Pension Scheme notified as per the provisions of the Employees, Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(*iii*) employed for less than one hundred and fifty days in case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year and the provisions of this section shall apply accordingly;

(*iv*) employed for less than two hundred and forty days during the tax year in case of any other assessee, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year and the provisions of this section shall apply accordingly; and

(*v*) who does not participate in a recognised provident fund;

(*c*) "emoluments" means any sum paid or payable to an employee *in lieu* of his employment, by whatever name called, but does not include—

(*i*) employer contributions paid or payable to any pension or provident fund or any other fund for the benefit of the employee as mandated by any law; and

(*ii*) lump sum payments paid or payable to an employee at the time of termination of his service, superannuation, or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

Deductions for income of Offshore Banking Units and Units of International Financial Services Centre.

147. (1) Where the following assessee has any income of the nature referred to in sub-section (3), there shall be allowed a deduction equal to 100% of such income:—

(*a*) a scheduled bank, or a bank incorporated under the laws of a country outside India, and having an Offshore Banking Unit in a Special Economic Zone; or

(*b*) a unit of an International Financial Services Centre.

(2) The deduction shall be allowed—

(*a*) for ten consecutive tax years beginning from the relevant tax year in the case of an entity mentioned in sub-section (1)(*a*);

(*b*) for ten consecutive tax years out of fifteen years beginning from the relevant tax year, at the option of an assessee, in the case of an entity mentioned in sub-section (1)(*b*).

(3) The income referred to in sub-section (1) shall be the income from—

(*a*) an Offshore Banking Unit located in a Special Economic Zone; or

(*b*) the business activities referred to in section 6(1) of the Banking Regulation Act, 1949 (10 of 1949), with undertakings in a Special Economic Zone or entities that develop, develop and operate, or develop, operate and maintain Special Economic Zone; or

(*c*) the approved business activities of any Unit of an International Financial Services Centre set up in a Special Economic Zone; or

(*d*) transfer of an asset being, an aircraft or a ship, leased by a unit referred to in clause (*c*) if such unit commenced its business operations by 31st March, 2030.

(4) The deduction under this section shall be allowed only if the assessee submits along with the return of income—

(*a*) a report in the form as may be prescribed, from an accountant certifying the correctness of claim of deduction; and

(*b*) a copy of the—

(*i*) permission obtained under section 23(1)(*a*) of the Banking Regulation Act, 1949 (10 of 1949); or

(*ii*) permission or registration obtained under the International Financial Services Centres Authority Act, 2019 (50 of 2019).

(5) For the purposes of this section,—

(*a*) "relevant tax year" shall be,—

(*i*) in case of an entity mentioned in sub-section (1)(*a*), the tax year in which permission under section 23(1)(*a*) of the Banking Regulation Act, 1949 (10 of 1949), or permission or registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or any other relevant law was obtained; or

(*ii*) in case of an entity mentioned in sub-section (1)(*b*), the tax year in which permission under section 23(1)(*a*) of the Banking Regulation Act, 1949 (10 of 1949), or permission or registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992), or permission or registration under the International Financial Services Centre Authority Act, 2019 (50 of 2019) was obtained;

(*b*) "Unit" shall have the same meaning as assigned to it in section 2(*zc*) of the Special Economic Zones Act, 2005 (28 of 2005) ;

(*c*) "aircraft" and "ship" shall have the meanings respectively assigned to them in Schedule VI (Note 3).

Deduction in respect of certain inter-corporate dividends.

148. (1) If the gross total income of a domestic company in any tax year includes any income by way of dividends from—

(*a*) any other domestic company; or

(*b*) a foreign company; or

(*c*) a business trust,

such domestic company shall be allowed a deduction of an amount equal to so much of the income by way of dividends received from the person mentioned in clause (*a*) or (*b*) or (*c*) as does not exceed the amount of dividend distributed by it at least one month before the due date for filing the return of income under section 263(1).

(2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-section (1) in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of income of co-operative societies.

149. (1) If the gross total income of an assessee, being a co-operative society, includes any income referred to in sub-section (2), the sums specified in the said sub-section shall, in accordance with and subject to the provisions of this section, be allowed as deduction in computing the total income of such assessee.

(2) The sums referred to in sub-section (1) shall be the following:—

(*a*) in the case of a co-operative society engaged in—

(*i*) carrying on the business of banking or providing credit facilities to its members; or
(*ii*) a cottage industry; or
(*iii*) the marketing of agricultural produce grown by its members; or
(*iv*) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or
(*v*) the processing, without the aid of power, of the agricultural produce of its members; or
(*vi*) the collective disposal of the labour of its members; or
(*vii*) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,

the whole of the amount of profits and gains of business attributable to any one or more of such activities;

(*b*) in the case of a co-operative society, being a primary society engaged in supplying milk, oilseeds, fruits, or vegetables raised or grown by its members to—

(*i*) a federal co-operative society, being a society, engaged in the business of supplying milk, oilseeds, fruits or vegetables; or
(*ii*) the Government or a local authority; or
(*iii*) a Government company, as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013), or a corporation established by or under a Central Act or State Act or Provincial Act, engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public,

the whole of the amount of profits and gains of such business;

(*c*) in the case of a co-operative society engaged in activities other than those specified in clause (*a*) or (*b*), (either independently of, or in addition to, all or any of the activities so specified), that amount of profits and gains attributable to such activities as does not exceed—

(*i*) ₹ 100000, if the society is a consumers' co-operative society; and
(*ii*) ₹ 50000, in any other case;

(*d*) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

(*e*) in respect of any income derived by the co-operative society from the letting of godowns or warehouses for storage, processing, or facilitating the marketing of commodities, the whole of such income;

(*f*) in the case of a co-operative society, not being—

(*i*) a housing society; or
(*ii*) an urban consumers' society (being a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area, or cantonment); or
(*iii*) a society carrying on transport business; or
(*iv*) a society engaged in performing manufacturing operations with the aid of power,

where the gross total income does not exceed ₹ 20000, the amount of income by way of interest on securities; any income from house property chargeable under section 20.

(3) In the case of a co-operative society as referred to in sub-section (2)(*a*)(*vi*) or (*vii*), provisions of sub-section (1) shall only apply when the rules and bye-laws of the society restrict the voting rights to the following classes of its members:—

(*i*) the individuals who contribute their labour or carry on fishing or allied activities;
(*ii*) the co-operative credit societies which provide financial assistance to the society;
(*iii*) the State Government.

(4) The deduction under sub-section (1) in relation to the sums specified in sub-section (2)(*a*) or (*b*) or (*c*) or sub-section (3), shall be allowed with reference to the income referred to in those sub-sections included in the gross total income after reducing the deduction under section 138, if the assessee is also entitled to such deduction.

(5) The provision of this section shall not apply to any co-operative bank which is not a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Interpretation for purposes of section 149.

150. For the purposes of section 149,—

(*a*) "consumers' co-operative society" means a society for the benefit of the consumers;

(*b*) "primary agricultural credit society" has the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949); and

(*c*) "primary co-operative agricultural and rural development bank" means a society having an area of operation confined to a taluk, the principal object of which is to provide long-term credit for agricultural and rural development activities.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of royalty income, etc., of authors of certain books other than text-books.

151. (1) Where, in the case of an individual, being an author resident in India, the gross total income includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, there shall, as per and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in sub-section (2).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (1), or an amount of ₹ 300000, whichever is less.

(3) Where the income by way of such royalty or the copyright fee is not a lump sum consideration *in lieu* of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of 15% of the value of such books sold during the tax year shall be ignored for the purposes of deduction under this section.

(4) In respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within six months from the end of the tax year in which such income is earned or within such further period as the competent authority may allow in this behalf.

(5) Deduction under this section shall not be allowed unless the assessee furnishes a certificate in such form and manner, as may be prescribed, duly verified by any person responsible for making such payment to the assessee as referred to in sub-section (1), along with the return of income, setting forth such particulars as may be prescribed.

(6) Deduction under this section shall not be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

(7) Where a deduction for any tax year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any tax year.

(8) For the purposes of this section,—

(*a*) "author" includes a joint author;

(*b*) "books" shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text-books for schools, tracts and other publications of similar nature, by whatever name called;

(*c*) "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law in force for regulating payments and dealings in foreign exchange;

(*d*) "lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Deduction in respect of royalty on patents.

152. (1) An assessee, being an individual, who is—

(*a*) resident in India;

(*b*) a patentee;

(*c*) in receipt of income by way of royalty in respect of a patent registered on or after the 1st April, 2003 under the Patents Act, 1970 (39 of 1970); and

(*d*) having gross total income for the tax year which includes royalty,

shall be allowed a deduction from such income computed in the manner specified in sub-sections (2) to (7).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (1) or ₹ 300000, whichever is less.

(3) Where a compulsory licence is granted in respect of any patent under the Patents Act, 1970 (39 of 1970), the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act.

(4) In respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within six months from the end of the tax year in which such income is earned or within such further period as the competent authority referred to in section 151(8)(*c*) may allow in this behalf.

(5) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the authority as may be prescribed, along with the return of income setting forth such particulars as may be prescribed.

(6) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in such form, from the authority or authorities, as may be prescribed, along with the return of income.

(7) Where a deduction for any tax year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any tax year.

(8) For the purposes of this section,—

(*a*) "Controller" means the authority as defined in section 2(1)(*b*) of the Patents Act, 1970 (39 of 1970);

(*b*) "lump sum" includes a non-returnable advance payment for royalties;

(*c*) "patent" means any patent granted, including a patent of addition, under the Patents Act, 1970 (39 of 1970);

(*d*) "patentee" means the true and first inventor recorded as the patentee under the Patents Act, 1970 (39 of 1970), including joint patentees recorded as such true and first inventors;

(*e*) "patent of addition" shall have the same meaning as assigned to it in section 2(1)(*q*) of the Patents Act, 1970 (39 of 1970);

(*f*) "patented article" and "patented process" shall have the same meanings as assigned to them in section 2(1)(*o*) of the Patents Act, 1970 (39 of 1970);

(*g*) "royalty" in respect of a patent, means consideration for—

(*i*) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(*ii*) the imparting of any information concerning the working of, or the use of, a patent; or

(*iii*) the use of any patent; or

(*iv*) the rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*), but does not include any consideration,—

(*A*) which would be the income of the recipient chargeable under the head "Capital gains"; or

(*B*) for sale of product manufactured with the use of patented process or of the patented article for commercial use;

(*h*) "true and first inventor" shall have the same meaning as assigned to it in section 2(1)(*y*) of the Patents Act, 1970 (39 of 1970).

D.-Deductions in respect of other incomes

Deduction for interest on deposits.

153. (1) An assessee who is—

(*a*) an individual, not being a senior citizen; or

(*b*) an individual, being a senior citizen; or

(*c*) a Hindu undivided family,

shall be allowed a deduction from the gross total income, subject to conditions specified in sub-section (2), where it includes income by way of interest on deposits with—

(*i*) a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); or

(*ii*) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(*iii*) a Post Office as defined in section 2(*d*) of the Post Office Act, 2023.

(2) The deduction under sub-section (1) shall be allowed for a tax year as follows:—

(*a*) in case of an assessee mentioned in sub-section (1)(*a*) or (*c*), the whole of the interest up to a maximum amount of ₹ 10000 on deposits in a savings account, excluding time deposits;

(*b*) in case of an assessee mentioned in sub-section (1)(*b*), the whole of the interest up to a maximum amount of ₹ 50000 on deposits in any account, including time deposits.

(3) Where the income referred to in sub-section (2)(*a*) is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of such association or any individual of such body of individuals.

(4) Where the income referred to in sub-section (2)(*b*) is derived from any deposit held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of such association or any individual of such body of individuals.

(5) For the purposes of this section, the expression “time deposits” means the deposits repayable on expiry of fixed periods.

E.-Other deductions

Deduction in case of a person with disability.

154. (1) An individual, being resident in India, who is certified by a medical authority, at any time during the tax year, as a person with disability or person with severe disability, shall be allowed a deduction of ₹ 75000 or ₹ 125000, respectively, while computing his total income.

(2) The deduction under sub-section (1) shall be allowed only if all of the following conditions are fulfilled:—

(*a*) the individual furnishes a copy of the certificate issued by the medical authority;

(*b*) if the certificate specifies that the disability needs reassessment of its extent after a period stipulated in it, the deduction shall not be allowed for any tax year succeeding the tax year in which the certificate expires, unless a new disability certificate is obtained and furnished; and

(*c*) the certificate referred to in clauses (*a*) and (*b*) of this sub-section is furnished in the form and manner, as may be prescribed, along with the return of income under section 263 for the tax year in which the deduction is claimed.

(3) For the purposes of this section, “disability”, “medical authority”, “person with disability” or “person with severe disability” shall have the same meanings as provided in section 127.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

CHAPTER IX

Rebates and reliefs

A.-Rebates and reliefs

Rebate to be allowed in computing income-tax.

155. (1) In computing income-tax on the total income of an assessee with which he is chargeable for any tax year, there shall be allowed from income-tax (as computed before allowing the deductions under this Part), subject to the provisions of section 156, the deductions specified therein.

(2) The deduction under section 156, shall not, in any case, exceed income-tax (as computed before allowing the deductions under this Part) on the total income of the assessee with which he is chargeable for any tax year.

Rebate of income-tax in case of certain individuals.

156. (1) An assessee, being an individual resident in India, shall be entitled to a deduction of 100% of income-tax payable or ₹ 12500, whichever is less, from the income-tax (computed before allowing the deduction under this section) chargeable on the total income for any tax year if such total income does not exceed ₹ 500000.

(2) Where the total income of a resident individual assessee for any tax year is chargeable to tax under section 202(1), then from income-tax (computed before allowing the deduction under this section) following deductions shall be allowed, if—

(*a*) the income does not exceed twelve lakh rupees, 100% of the income-tax payable or ₹ 60000, whichever is less;

(*b*) the total income exceeds twelve lakh rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of twelve lakh rupees, an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds twelve lakh rupees.

(3) The deduction under sub-section (2), shall not exceed income-tax payable as per the rates provided in section 202(1).

Relief when salary, etc., is paid in arrears or in advance.

157. (1) Where the total income of an assessee is assessed at a rate higher than the rate at which it would otherwise have been assessed, due to the following receipts,—

(*a*) a sum in the nature of arrear or advance salary; or
(*b*) salary for more than twelve months in any one tax year; or
(*c*) a payment in the nature of "profits in lieu of salary" under section 18(1); or
(*d*) arrears of "family pension" as defined in section 93(1)(*d*),

the Assessing Officer shall on an application made to him by the assessee in this behalf, grant such relief, as may be prescribed.

(2) No relief shall be granted on any income on which deduction has been claimed by the assessee in section 19(1) (Table: Sl. No. 12) for any amount mentioned therein, for such, or any other, tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Relief from taxation in income from retirement benefit account maintained in a notified country.

158. (1) The income accrued to a specified person in a specified account shall be taxed in such manner and in such tax year, as may be prescribed.

(2) For the purposes of this section,—

(*a*) "notified country" means a country as may be notified by the Central Government;

(*b*) "specified account" means an account maintained in a notified country by the specified person for his retirement benefits, the income from which is taxed by that notified country at the time of withdrawal or redemption and, not on accrual basis;

(*c*) "specified person" means a person resident in India having opened a specified account in a notified country while being non-resident in India and resident in that country.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

B.-Double taxation relief

Agreement with foreign countries or specified territories and adoption by Central Government of agreement between specified associations for double taxation relief.

159. (1) The Central Government may enter into an agreement with the Government of—

(*a*) any other country; or

(*b*) any specified territory,

for the purposes mentioned in sub-section (3), and may, by notification, make such provisions as necessary for implementing the agreement.

(2) Any specified association in India may enter into an agreement with any specified association in the specified territory for the purposes mentioned in sub-section (3) and the Central Government may, by notification, make such provisions as may be necessary for adopting and implementing such agreement.

(3) The agreement mentioned in sub-section (1) or (2) may be entered for—

(*a*) the granting of relief in respect of—

(*i*) income on which income-tax under this Act and income-tax in that country or specified territory, as the case may be have been paid;

(*ii*) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment; or

(*b*) the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory);

(*c*) exchange of information for—

(*i*) the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be; or

(*ii*) investigation of cases of such evasion or avoidance; or

(*d*) recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be.

(4) Where,—

(*a*) the Central Government has entered into an agreement with the Government of any country or specified territory, as the case may be, under sub-section (1); or

(*b*) a specified association in India has entered into an agreement with a specified association of any specified territory under sub-section (2) and such agreement has been notified under that sub-section,

for granting relief of tax, or avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

(5) The charge of tax,—

(*a*) in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable; or

(*b*) in respect of a company incorporated in the specified territory at a rate higher than the rate at which a domestic company is chargeable,

shall not be regarded as less favourable charge or levy of tax in respect of such foreign company or such company incorporated in the specified territory, as the case may be.

(6) Irrespective of anything contained in sub-section (4), the provisions of Chapter XI shall apply to the assessee, even if such provisions are not beneficial to him.

(7) Where, any—

(*a*) term used in an agreement entered into under sub-section (1) or (2), is defined under the said agreement, the said term shall have the same meaning as assigned to it in that agreement and where the term is not defined in that agreement, but defined in this Act, it shall have the same meaning as assigned to it in this Act and the explanation, if any, given to it by the Central Government; or

(*b*) term is used but not defined in this Act or in the agreement referred to in sub-section (1) or (2), it shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the said agreement, have the same meaning as assigned to it in the notification issued by the Central Government in this behalf, and the meaning assigned to such term shall be deemed to have effect from the date on which that agreement came into force; or

(*c*) term is used in any agreement entered into under sub-section (1) or (2), and not defined under the said agreement or this Act, or in any notification issued under clause (*b*), then, unless the context otherwise requires, it shall have the same meaning as assigned to it—

(*i*) in any Act of the Central Government related to taxes; and

(*ii*) in any other case, in any other law of the Central Government,

and shall be deemed to have effect from the date on which the said agreement came into force.

(8) An assessee, not being a resident, shall be entitled to claim any relief under an agreement mentioned in sub-section (1) or (2), only when—

(*a*) a certificate of his being a resident in any country or specified territory, is obtained by him from the Government of that country or Government of that specified territory, as the case may be; and

(*b*) he provides such other documents and information, as may be prescribed.

(9) For the purposes of this section,—

(*a*) "specified associations" means any institution, association or body, whether incorporated or not—

(*A*) functioning under any law for the time being in force in India or the laws of the specified territory; and

(*B*) which may be notified as such by the Central Government for the purposes of this section;

(*b*) "specified territory" means any area outside India which may be notified as such by the Central Government.

Countries with which no agreement exists.

160. (1) If any person who is resident in India in any tax year proves that, in respect of his income which accrued or arose during that tax year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 159 for the relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income,—

(*a*) at the Indian rate of tax or the rate of tax of the said country, whichever is the lower; or

(*b*) at the Indian rate of tax if both the rates are equal.

(2) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any tax year and such share includes any income accruing or arising outside India during that tax year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 159 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income so included,—

(*a*) at the Indian rate of tax or the rate of tax of the said country, whichever is the lower; or

(*b*) at the Indian rate of tax if both the rates are equal.

(3) For the purposes of this section,—

(*a*) "income-tax" in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country;

(*b*) "Indian income-tax" means income-tax charged as per this Act;

(*c*) "Indian rate of tax" means the rate determined by dividing Indian income-tax after deduction of any relief due under the provisions of this Act but before deduction of any relief due under this Part, by the total income; and

(*d*) "rate of tax of the said country" means income-tax and super-tax actually paid in the said country as per the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country.

CHAPTER X

Special provisions relating to avoidance of tax

Computation of income from international transaction and specified domestic transaction having regard to arm's length price.

161. (1) Any income arising from an international transaction or a specified domestic transaction shall be determined having regard to the arm's length price.

(2) Any allowance for any expense or interest arising from an international transaction or a specified domestic transaction shall also be determined having regard to the arm's length price.

(3) If in an international transaction or specified domestic transaction, two or more associated enterprises enter into a mutual agreement or arrangement for—

(*a*) allocation or apportionment of any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises; or

(*b*) any contribution to any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises,

the cost or expense allocated or apportioned to, or, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility.

(4) The provisions of this section shall not apply if the determination under sub-section (1) or (2) or (3) has the effect of reducing the income chargeable to tax or increasing the loss, computed on the basis of entries made in the books of account in respect of the tax year in which the international transaction or specified domestic transaction was entered.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Meaning of associated enterprise.

162. (1) For the purposes of this Chapter, the expression "associated enterprise", in relation to another enterprise, means an enterprise—

(*a*) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise in the following manner,—

(*i*) one or more persons who participate, directly or indirectly, or through one or more intermediaries, in management or control or capital of one enterprise, also participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or

(*ii*) one enterprise holds, at any time during the tax year, directly or indirectly, shares carrying not less than 26% of the voting power in the other enterprise; or

(*iii*) any person or enterprise holds, at any time during the tax year, directly or indirectly, shares carrying not less than 26% of the voting power in each of such enterprises; or

(*b*) which has advanced a loan to the other enterprise and such loan constitutes not less than 51% of the book value of the total assets of the other enterprise; or

(*c*) which guarantees not less than 10% of the total borrowings of the other enterprise; or

(*d*) whose more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board, are appointed by the other enterprise; or

(*e*) whose more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, are appointed by the same person or persons, who has or have done so for the other enterprise; or

(*f*) in case of which, manufacturing or processing of goods or articles or business carried out by such enterprise is wholly dependent on the use of know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(*g*) in case of which, 90% or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by such enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or

(*h*) in case of which, the goods or articles manufactured or processed by such enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or

(*i*) which is controlled by an individual, and the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or

(*j*) which is controlled by a Hindu undivided family, and the other enterprise is controlled by a member of such Hindu undivided family or by a relative of a member of such Hindu undivided family or jointly by such member and his relative; or

(*k*) which is a firm, association of persons or body of individuals, and the other enterprise holds not less than 10% interest in such firm, association of persons or body of individuals; or

(*l*) which has any relationship of mutual interest with the other enterprise, as may be prescribed.

(2) In relation to a specified domestic transaction entered into by an assessee, associated enterprise shall also include—

(*a*) other units or undertakings or businesses of such assessee in respect of a transaction referred to in section 122 or 140(9);

(*b*) any other person referred to in section 140(13) or 205(4) in respect of a transaction referred to therein; and

(*c*) other units, undertakings, enterprises or business of such assessee, or other person referred to in section 140(13) in respect of a transaction referred to in section 144 or the transactions referred to in Chapter VIII to which the provisions of section 140(9) or (13) of this Act or section 80-IA(8) or (10) of the Income-tax Act, 1961 (43 of 1961) are applicable.

Meaning of international transaction.

163. (1) For the purposes of this Chapter, the expression "international transaction" means a transaction between two or more associated enterprises, one of which is necessarily a non-resident, and includes—

(*a*) the purchase, sale, transfer, lease or use of tangible property, including building, transportation vehicle, machinery, equipment, tools, plant, furniture, commodity or any other article, product or thing;

(*b*) the purchase, sale, transfer, lease or use of intangible property, including the transfer of ownership or the provision of use of rights regarding land use, copyrights, patents, trademarks, licences, franchises, customer list, marketing channel, brand, commercial secret, know-how, industrial property right, exterior design or practical and new design or any other business or commercial rights of similar nature;

(*c*) capital financing, lending or borrowing of money, including,—

(*i*) any type of long-term or short-term borrowing, lending or guarantee; or

(*ii*) purchase or sale of marketable securities; or

(*iii*) any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business;

(*d*) provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service;

(*e*) a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has any bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

(*f*) a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises;

(*g*) any other transaction having a bearing on the profits, income, losses or assets of such enterprises.

(2) A transaction entered into by an enterprise with a person other than an associated enterprise ("other person") shall, for sub-section (1), be deemed to be an international transaction entered into between two associated enterprises, if—

(*a*) there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise; or

(*b*) the terms of the relevant transaction are determined, in substance, between such other person and the associated enterprise,

and the enterprise or the associated enterprise or both of them are non-residents, irrespective of whether the other person is a non-resident or not.

(3) The expression "intangible property" shall include:—

(*a*) marketing related intangible assets, such as, trademarks, trade names, brand names, logos;

(*b*) technology related intangible assets, such as, process patents, patent applications, technical documentation such as laboratory notebooks, technical know-how;

(*c*) artistic related intangible assets, such as, literary works and copyrights, musical compositions, copyrights, maps, engravings;

(*d*) data processing related intangible assets, such as, proprietary computer software, software copyrights, automated databases, and integrated circuit masks and masters;

(*e*) engineering related intangible assets, such as, industrial design, product patents, trade secrets, engineering drawing and schematics, blueprints, proprietary documentation;

(*f*) customer related intangible assets, such as, customer lists, customer contracts, customer relationship, open purchase orders;

(*g*) contract related intangible assets, such as, favourable supplier, contracts, licence agreements, franchise agreements, non-compete agreements;

(*h*) human capital related intangible assets, such as, trained and organised work force, employment agreements, union contracts;

(*i*) location related intangible assets, such as, leasehold interest, mineral exploitation rights, easements, air rights, water rights;

(*j*) goodwill related intangible assets, such as, institutional goodwill, professional practice goodwill, personal goodwill of professional, celebrity goodwill, general business going concern value;

(*k*) methods, programmes, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists, or technical data;

(*l*) any other similar item that derives its value from its intellectual content rather than its physical attributes.

Meaning of specified domestic transaction.

164. For the purposes of this Chapter, the expression "specified domestic transaction" in case of an assessee means any of the following transactions (not being an international transaction),—

(*a*) any transaction referred to in section 122;

(*b*) any transfer of goods or services referred to in section 140(9);

(*c*) any business transacted between the assessee and other person as referred to in section 140(13);

(*d*) any transaction, referred to in any other section under Chapter VIII or section 144, to which provisions of section 140(9) or (13) of this Act or section 80-IA(8) or (10) of the Income-tax Act, 1961 (43 of 1961) are applicable;

(*e*) any business transacted between the persons referred to in section 205(4);

(*f*) any other transaction as may be prescribed,

and where the aggregate of such transactions entered into by the assessee in a tax year exceeds a sum of twenty crore rupees.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Determination of arm's length price.

165. (1) The arm's length price in relation to an international transaction or specified domestic transaction shall be determined by any of the following methods, being the most appropriate method—

(*a*) comparable uncontrolled price method;
(*b*) resale price method;
(*c*) cost plus method;
(*d*) profit split method;
(*e*) transactional net margin method;
(*f*) such other method as may be prescribed by the Board.

(2) The most appropriate method referred to in sub-section (1) shall be,—

(*a*) selected having regard to the nature of transaction or class of transaction or class of associated enterprise or functions performed by such enterprises or such other relevant factors as the Board may prescribe;
(*b*) applied for determination of arm's length price in such manner as may be prescribed.

(3) The arm's length price shall be—

(*a*) in case, only one price is determined by the most appropriate method,—
  (*i*) the price determined by that method; or
  (*ii*) the price at which the international transaction or specified domestic transaction has actually been undertaken, if the variation between the arm's length price so determined and price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding 3% of the latter, notified by the Central Government in this behalf; or
(*b*) in case, more than one price is determined by the most appropriate method, the price determined in such manner as may be prescribed.

(4) The Assessing Officer, during the course of any proceeding for the assessment of income, may proceed to determine the arm's length price in relation to an international transaction or specified domestic transaction as per sub-sections (1), (2) and (3) if, on the basis of material or information or document in his possession, he is of the opinion that—

(*a*) the price charged or paid in an international transaction or specified domestic transaction has not been determined as per sub-sections (1), (2) and (3); or
(*b*) any information and document relating to an international transaction or specified domestic transaction has not been kept and maintained by the assessee as per section 171(1); or
(*c*) the information or data used in determination of the arm's length price by the assessee is not reliable or correct; or
(*d*) the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under section 171(2) and (3).

(5) The Assessing Officer, before determining the arm's length price under sub-section (4), shall issue a notice calling upon the assessee to show cause, on the date and time to be specified in the notice, why the arm's length price should not be determined on the basis of material or information or document in the possession of the Assessing Officer.

(6) The Assessing Officer, on determination of arm's length price under sub-section (4), may compute the total income of the assessee having regard to the arm's length price so determined.

(7) No deduction shall be allowed under section 144 or under Chapter VIII in respect of income by which the total income of the assessee is enhanced after computation of income under sub-section (6).

(8) When the total income of an associated enterprise is computed under sub-section (6) on determination of the arm's length price paid to another associated enterprise from which tax has been deducted or was deductible under the provisions of Chapter XIX-B, the income of the other associated enterprise shall not be recomputed by reason of such determination of arm's length price in the case of the first mentioned enterprise.

Reference to Transfer Pricing Officer.

166. (1) Where,—

(*a*) the assessee has entered into an international transaction or specified domestic transaction in any tax year; and

(*b*) the Assessing Officer considers it necessary or expedient so to do,

he may refer the determination of the arm's length price in relation to such transaction to the Transfer Pricing Officer, with the previous approval of the Principal Commissioner or Commissioner.

(2) No reference under sub-section (1) for computation of the arm's length price in relation to an international transaction or a specified domestic transaction shall be made, if the Transfer Pricing Officer has declared that option exercised by the assessee in sub-section (9) in relation to such transaction is valid for such tax year.

(3) If any reference for an international transaction or a specified domestic transaction under sub-section (1), in respect of a tax year, for which the option is declared valid under sub-section (9) is made before or after such declaration by the Transfer Pricing Officer, the provisions of sub-section (1) shall have the effect as if no reference is made for such transaction.

(4) Where a reference is made under sub-section (1), the Transfer Pricing Officer shall serve a notice on the assessee requiring him to produce or cause to be produced on a date specified therein, any evidence on which the assessee may rely in support of the determination made by him of the arm's length price in relation to such transaction.

(5) Where,—

(*a*) any international transaction or specified domestic transaction, other than an international transaction or a specified domestic transaction referred under sub-section (1); or

(*b*) any international transaction or a specified domestic transaction that the assessee has not included in the report under section 172,

comes to the notice of the Transfer Pricing Officer during the course of the proceedings before him, the provisions of this Chapter shall apply as if such transaction is a transaction referred to him under sub-section (1).

(6) On the date specified in the notice under sub-section (4), or as soon thereafter as may be,—

(*a*) after hearing such evidence as the assessee may produce, including any information or documents referred to in section 171(2);

(*b*) after considering such evidence as the Transfer Pricing Officer may require on any specified points; and

(*c*) after taking into account all relevant materials which he has gathered,

the Transfer Pricing Officer shall, by order in writing, determine the arm's length price in relation to the international transaction or specified domestic transaction as per section 165(4) and send a copy of his order to the Assessing Officer and to the assessee.

(7) Where a reference was made under sub-section (1), an order under sub-section (6) may be made at any time sixty days before the expiry of the limitation period referred to in section 286 or 296, for making the order of assessment or reassessment or recomputation or fresh assessment.

(8) If the period of limitation available to the Transfer Pricing Officer for making an order under sub-section (6) is less than sixty days in the circumstances referred to in section 286(3)(*b*) or (*h*), such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to have been extended accordingly.

(9) The arm's length price, being determined in relation to the international transaction or the specified domestic transaction under sub-section (6) for any tax year shall apply to similar international transaction or specified domestic transaction for the two consecutive tax years immediately following such tax year, on fulfilment of the following conditions namely:—

(*a*) the assessee exercises an option or options to the above effect for the said two consecutive tax years;

(*b*) such option or options are exercised in such form, manner and within such period as may be prescribed; and

(*c*) the Transfer Pricing Officer shall, within one month from the end of the month in which such option or options are exercised, by an order in writing, declare that such option or options are valid subject to the conditions, as may be prescribed.

(10) The provisions of sub-section (9) shall not apply to any proceedings under Chapter XVI-B.

(11) On receipt of the order under sub-section (6), the Assessing Officer shall compute the total income of the assessee under section 165(6) in conformity with the arm's length price as so determined by the Transfer Pricing Officer.

(12) Irrespective of anything contained in sub-section (11), where the Transfer Pricing Officer has declared an option exercised by the assessee as valid option under sub-section (9), he shall examine and determine the arm's length price in relation to such similar transaction for two consecutive tax years immediately following such tax year, in the order referred to in sub-section (6) and on receipt of such order, the Assessing Officer shall proceed to recompute the total income of the assessee for the said two consecutive tax years as per the provisions of section 288(2).

(13) For rectifying any mistake apparent from the record, the Transfer Pricing Officer,—

(*a*) may amend any order passed by him under sub-section (6), and the provisions of section 287 shall, so far as may be, apply accordingly; and

(*b*) shall send a copy of such order to the Assessing Officer who shall thereafter amend the order of assessment in conformity with such order of the Transfer Pricing Officer.

(14) The Transfer Pricing Officer may exercise all or any of the powers specified in section 246(1)(*a*) to (*d*) or 252(1)(*a*) or 253 for the purposes of determining the arm's length price under this section.

(15) If any difficulty arises in giving effect to the provisions of sub-sections (9) and (12), the Board may, with the prior approval of the Central Government, issue guidelines for the purpose of removing such difficulty.

(16) Every guideline issued by the Board under sub-section (15) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline 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 guideline.

(17) For the purposes of this section, “Transfer Pricing Officer” means a Joint Commissioner or Deputy Commissioner or Assistant Commissioner authorised by the Board to perform all or any of the functions of an Assessing Officer specified in sections 165 and 171 in respect of any person or class of persons.

Power of Board to make safe harbour rules.

167. (1) The determination of—

(*a*) income referred to in section 9(2); or

(*b*) arm's length price under section 165 or 166,

shall be subject to safe harbour rules.

(2) For the purposes of sub-section (1), the Board may make rules for safe harbour.

(3) For the purposes of this section, "safe harbour" means circumstances in which the income-tax authorities shall accept,—

(*a*) the transfer price; or

(*b*) the income, deemed to accrue or arise under section 9(2),

declared by the assessee.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Advance pricing agreement.

168. (1) The Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person, determining the—

(*a*) arm's length price or specifying the manner in which the arm's length price is to be determined, in relation to an international transaction to be entered into by that person;

(*b*) income referred to in section 9(2), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations carried out in India by or on behalf of that person, being a non-resident.

(2) The manner of determination of the arm's length price referred to in sub-section (1)(*a*) or the income referred to in sub-section (1)(*b*) may include, respectively,—

(*a*) the methods referred to in section 165(1); or

(*b*) the methods provided by rules made under this Act,

with such adjustments or variations, as may be necessary or expedient so to do.

(3) Irrespective of anything contained in section 165 or 166 or the methods provided by rules made under this Act,—

(*a*) the arm's length price of any international transaction; or

(*b*) the income referred to in sub-section (1)(*b*),

in respect of which the advance pricing agreement has been entered into, shall be determined as per the advance pricing agreement so entered.

(4) The agreement referred to in sub-section (1) shall be valid for such period not exceeding five consecutive tax years as specified in the agreement.

(5) The advance pricing agreement entered into shall be binding—

(*a*) on the person in whose case, and in respect of the transaction in relation to which, the agreement has been entered into; and

(*b*) on the Principal Commissioner or Commissioner, and the income-tax authorities subordinate to him, in respect of the said person and the said transaction.

(6) The agreement referred to in sub-section (1) shall not be binding if there is a change in law or facts having bearing on the agreement so entered.

(7) The Board may, with the approval of the Central Government, by an order, declare an agreement to be *void ab initio*, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts.

(8) Upon declaring the agreement *void ab initio*,—

(*a*) all the provisions of this Act shall apply to the person as if such agreement had never been entered into; and

(*b*) irrespective of anything contained in the Act, the period beginning with the date of such agreement and ending on the date of order under sub-section (7) shall be excluded for the purpose of computing any period of limitation under this Act and if immediately after the exclusion of the aforesaid period, the period of limitation, referred to in any provision of this Act, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(9) The agreement referred to in sub-section (1), may, subject to such conditions, procedure and manner as may be prescribed, also provide for determining the —

(*a*) arm's length price or specify the manner in which the arm's length price shall be determined in relation to the international transaction entered into by the person;

(*b*) income referred to in section 9(2), or specifying the manner in which the said income is to be determined, as is reasonably attributable to the operations, transactions and activities carried out in India by or on behalf of that non-resident person,

during any period not exceeding four tax years preceding the first of the tax years referred to in sub-section (4) and the arm's length price of such international transaction or the income of such person shall be determined in accordance with the said agreement.

(10) Where an application is made by a person for entering into an agreement referred to in sub-section (1), the proceedings shall be deemed to be pending in the case of the person for the purposes of this Act till such agreement is entered into, or such proceedings are closed as may be prescribed.

(11) For the purposes of this section, the Board may prescribe a scheme specifying therein the manner, form, procedure and any other matter in respect of the advance pricing agreement.

Effect to advance pricing agreement.

169. (1) If a return of income for any tax year covered by an advance pricing agreement has been furnished by any person, before the date of entering into the said agreement, he shall, irrespective of anything to the contrary contained in section 263, furnish a modified return, in accordance with and limited to the agreement, in respect of such tax years, within three months from the end of the month in which the agreement was entered into.

(2) Except as provided in this section, all other provisions of this Act shall apply accordingly as if the modified return is a return furnished under section 263.

(3) Where a modified return is furnished under sub-section (1), and assessment or reassessment proceedings, in respect of a tax year to which the agreement applies, were initiated before the filing of such return then,—

(*a*) if such proceedings have been completed before the filing of such return, the Assessing Officer shall pass an order modifying the total income of the relevant tax year; or

(*b*) if such proceedings are pending on the date of filing of modified return, the Assessing Officer shall proceed to complete them,

as per the agreement after taking into consideration the modified return so furnished.

(4) Irrespective of anything contained in section 275 or 286 or 296,—

(*a*) the order in respect of a case falling under sub-section (3)(*a*) shall be passed within one year from the end of the financial year in which the modified return under sub-section (1) is furnished;

(*b*) in respect of a case falling under sub-section (3)(*b*), the period of limitation as provided in section 275 or 286 or section 296 for completion of pending assessment or reassessment proceedings shall be extended by twelve months.

(5) For the purposes of this section,—

(*a*) "agreement" means an agreement referred to in section 168(1);

(*b*) the assessment or reassessment proceedings for a tax year shall be deemed to have been completed where—

(*i*) an assessment or reassessment order has been passed; or

(*ii*) no notice has been issued under section 270(8) till the expiry of the limitation period provided under the said section.

Secondary adjustment in certain cases.

170. (1) An assessee shall make a secondary adjustment in every case where primary adjustment of one crore rupees or more to the transfer price—

(*a*) has been made by the assessee on his own in his return of income;

(*b*) made by the Assessing Officer has been accepted by him;

(*c*) is determined by an advance pricing agreement entered into by him under section 168;

(*d*) is made as per the safe harbour rules made under section 167; or

(*e*) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 159 for avoidance of double taxation.

(2) The excess money or part thereof available with its associated enterprise shall be deemed to be an advance made by the assessee to such associated enterprise if—

(*a*) as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee; and

(*b*) such excess money or part thereof is not repatriated to India within the time as may be prescribed.

(3) The excess money or part thereof referred to in sub-section (2) may be repatriated from any of the associated enterprises of the assessee which is not a resident in India.

(4) The interest on advance as referred to in sub-section (2) shall be computed in such manner as may be prescribed.

(5) Without prejudice to the provisions of sub-section (2), where the excess money or part thereof has not been repatriated within the prescribed time, the assessee may, at his option, pay additional income-tax at the rate of 18% on such excess money or part thereof, as the case may be.

(6) The tax on the excess money or part thereof so paid by the assessee under sub-section (5) shall be treated as the final payment of tax in respect of the excess money or part thereof not repatriated and no further credit thereof shall be claimed by the assessee or by any other person in respect of tax so paid.

(7) Deduction under any other provision of this Act shall not be allowed to the assessee in respect of the amount on which tax has been paid as per sub-section (5).

(8) In a case where the additional income-tax referred to in sub-section (5) is paid by the assessee, he shall not be required to make secondary adjustment under sub-section (1) and compute interest under sub-section (4) from the date of payment of such tax.

(9) For the purposes of this section,—

(*a*) "arm's length price" shall have the meaning assigned to it in section 173(*a*);

(*b*) "excess money" means the difference between the arm's length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

(*c*) "primary adjustment" to a transfer price, means the determination of transfer price as per the arm's length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee;

(*d*) "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.

Maintenance, keeping and furnishing of information and document by certain persons.

171. (1) Every person, who—

(*a*) has entered into an international transaction or specified domestic transaction; or

(*b*) is a constituent entity of an international group,

shall keep and maintain such information and document in respect thereof and for such period and in such manner, as may be prescribed.

(2) The Assessing Officer or the Commissioner (Appeals) may, during any proceeding under this Act, require any person referred to in sub-section (1)(*a*) to furnish any information or document referred therein within ten days from the date of receipt of a notice issued in this regard.

(3) For the purposes of sub-section (2), the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of ten days by a further period not exceeding thirty days.

(4) Every person referred to in sub-section (1)(*b*) shall furnish the information and document referred to in sub-section (1) to the authority prescribed under section 511(1), in such manner, on or before such date, as may be prescribed.

(5) For the purposes of this section,—

(*a*) "constituent entity" shall have the meaning assigned to it in section 511(10)(*d*);

(*b*) "international group" shall have the meaning assigned to it in section 511(10)(*g*).

सत्यमेव जयते
कोष मूलो दण्डः
INCOME TAX DEPARTMENT

Report from an accountant to be furnished by persons entering into international transaction or specified domestic transaction.

172. Every person who has entered into an international transaction or specified domestic transaction during a tax year shall obtain a report from an accountant and furnish such report on or before the specified date in the prescribed form duly signed and verified in the manner as may be prescribed by such accountant and setting forth such particulars as may be prescribed.

Definitions of certain terms relevant to determination of arm's length price, etc.

173. For the purposes of this section and sections 161, 162, 163, 165, 171 and 172, unless the context otherwise requires,—

(*a*) "arm's length price" means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions;

(*b*) "enterprise" means a person (including a permanent establishment of such person) who is, or has been, or is proposed to be, engaged in any activity relating to—

(*i*) the production, storage, supply, distribution, acquisition or control of articles or goods; or

(*ii*) know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature; or

(*iii*) any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(*iv*) provision of services of any kind; or

(*v*) carrying out any work in pursuance of a contract; or

(*vi*) investment or providing loan; or

(*vii*) business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate,

whether such activity or business is carried on, directly or through one or more of its units or divisions or subsidiaries, or whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or places;

(*c*) "permanent establishment", referred to in clause (*b*), includes a fixed place of business through which the business of the enterprise is wholly or partly carried on;

(*d*) "specified date" means the date one month before the due date for furnishing the return of income under section 263(1) for the relevant tax year;

(*e*) "transaction"includes an arrangement, understanding or action in concert,—

(*i*) whether or not such arrangement, understanding or action is formal or in writing; or

(*ii*) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceeding.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Avoidance of income-tax by transactions resulting in transfer of income to non-residents.

174. (1) Where there is a transfer of assets before and after the commencement of this Act, and by virtue or in consequence of it,—

(*a*) either alone; or

(*b*) in conjunction with associated operations,

any income becomes payable to a non-resident, the provisions of this section shall apply.

(2) If any person ("first mentioned person"), by means of any transfer referred to in sub-section (1), either alone or in conjunction with associated operations, acquires any rights,—

(*a*) by virtue of which he has, within the meaning of this section, power to enjoy, whether forthwith or in the future, any income of a non-resident; and

(*b*) such income would have been chargeable to income-tax if it were such first mentioned person's income,

then, that income shall, whether or not it would have been chargeable to income-tax under any other provisions of this Act, be deemed to be the income of such first mentioned person for all the purposes of this Act.

(3) If any such first mentioned person receives or is entitled to receive any capital sum,—

(*a*) the payment of which is in any way connected with the transfer or any associated operations; and

(*b*) whether before or after any such transfer,

then any income, which has become the income of a non-resident by virtue or in consequence of such transfer, either alone or in conjunction with associated operations, shall be deemed to be the income of such first mentioned person for all the purposes of this Act, whether or not it would have been chargeable to income-tax under any other provisions of this Act.

(4) Where any person has been charged to income-tax on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

(5) The provisions of this section shall not apply if the first mentioned person in sub-section (2) or (3) shows to the satisfaction of the Assessing Officer that—

(*a*) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation; or

(*b*) the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

(6) In this section,—

(*a*) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred;

(*b*) any body corporate incorporated outside India shall be treated as if it were a non-resident;

(*c*) a person shall be deemed to have power to enjoy the income of a non-resident if—

(*i*) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first mentioned person in sub-section (2) or (3); or

(*ii*) the receipt or accrual of the income operates to increase the value to such first mentioned person of any assets held by him or for his benefit; or

(*iii*) such first mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or shall be available for the purpose by reason of the effect or successive effects of the associated operations on that income and assets which represent that income; or

(*iv*) such first mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income; or

(*v*) such first mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income;

(*d*) in determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(7) For the purposes of this section,—

(*a*) "assets" includes property or rights of any kind and "transfer" in relation to rights includes the creation of those rights;

(*b*) "associated operation" in relation to any transfer, means an operation of any kind effected by any person in relation to—

(*i*) any of the assets transferred; or

(*ii*) any assets representing, whether directly or indirectly, any of the assets transferred; or

(*iii*) the income arising from any such assets; or

(*iv*) any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets;

(*c*) "benefit" includes a payment of any kind;

(*d*) "capital sum" means—

(*i*) any sum paid or payable by way of a loan or repayment of a loan; and

(*ii*) any other sum paid or payable otherwise than as income, being a sum, which is not paid or payable for full consideration in money or money's worth.

Avoidance of tax by certain transactions in securities.

175. (1) Where the owner of any securities (herein referred to as "the owner") sells or transfers such securities and buys back or reacquires them or buys or acquires any similar securities, any interest that becomes payable in respect of such securities,—

(*a*) is receivable by a person other than the owner, shall be deemed, for all purposes of this Act, to be the income of the owner; and

(*b*) shall not be the income of the other person,

irrespective of whether it would have been chargeable to income-tax under any other provision of this Act.

(2) Where similar securities as referred to in sub-section (1) are bought or acquired, the owner shall not be under greater liability to income-tax than he would if the original securities had been bought back or reacquired.

(3) If any person has had a beneficial interest in any securities at any time during a tax year, and the result of any transaction relating to such securities or the income from it is that, in respect of such securities within such year,—

(*a*) either no income is received by him; or

(*b*) the income received by him is less than what would have been if the income from such securities had accrued from day to day and been apportioned accordingly,

the income from such securities for such year shall be deemed to be the income of such person.

(4) The provisions of sub-sections (1), (2) and (3) shall not apply if the owner, or the person who has had a beneficial interest in the securities, proves to the satisfaction of the Assessing Officer that—

(*a*) there has been no avoidance of income-tax; or

(*b*) the avoidance of income-tax was exceptional and not systematic and also that in any of the three preceding years any avoidance of income-tax by a transaction of the nature referred to in sub-section (1), (2) or (3) was not there in his case.

(5) If a person carrying on a business which consists wholly or partly in dealing in securities, buys or acquires any securities and sells back or retransfers the securities, then, if the result of the transaction is that interest in respect of the securities receivable by him is not deemed to be his income by reason of the provisions contained in sub-section (1), no account shall be taken of the transaction in computing the profits arising from or loss sustained in the business for any of the purposes of this Act.

(6) The provisions of sub-section (5) shall have effect, subject to any necessary modifications, as if references to selling back or retransferring the securities included references to selling or transferring similar securities.

(7) The Assessing Officer may, by notice in writing, require any person to provide within specified time, which shall not be less than twenty-eight days, details in respect of all securities of which such person was the owner or in which he had a beneficial interest at any time during the period specified in the notice, for the purposes of this section and for the purpose of discovering whether income-tax has been borne in respect of the interest on all those securities.

(8) If—

(*a*) any person buys or acquires any securities or unit within three months before the record date;

(*b*) such person sells or transfers—

(*i*) such securities within three months after such date; or

(*ii*) such unit within nine months after such date;

(*c*) the dividend or income on such securities or unit received or receivable by such person is exempt,

then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed the dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.

(9) If—

(*a*) any person buys or acquires any securities or unit within three months before the record date;

(*b*) such person is allotted additional securities or unit without any payment on the basis of holding of such securities or unit on such date;

(*c*) such person sells or transfers all or any of the securities or unit referred to in clause (*a*) within nine months after such date, while continuing to hold all or any of the additional securities or unit referred to in clause (*b*),

then, the loss, if any, arising to him on account of such purchase and sale of all or any of such securities or unit shall be ignored for the purposes of computing his income chargeable to tax.

(10) Irrespective of any other provision of this Act, loss ignored as per sub-section (9) shall be deemed to be the cost of purchase or acquisition of such additional securities or unit referred to in sub-section (9)(*b*) as are held by him on the date of such sale or transfer.

(11) For the purposes of this section,—

(*a*) "interest" includes a dividend;

(*b*) "record date" means such date as may be fixed by—

(*i*) a company;

(*ii*) a Mutual Fund or the Administrator of the specified undertaking or the specified company, where—

(*A*) "Administrator" means the Administrator as referred to in clause (*a*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*B*) "specified company" means a company as referred to in clause (*h*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002); or

(*iii*) a business trust defined in section 2(*21*); or

(*iv*) an Alternative Investment Funddefined in regulation 2(1)(*b*) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992),

for the purposes of entitlement of the holder of the securities or units to receive dividend, income, or additional securities or units without any consideration;

(*c*) "securities" includes stocks and shares;

(*d*) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, irrespective of any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred;

(*e*) "unit" shall mean,—

(*i*) a unit of a business trust defined in section 2(*21*);

(*ii*) a unit defined in section 208(3)(*c*); or

(*iii*) beneficial interest of an investor in an Alternative Investment Fund, referred to in clause (*b*)(*iv*), and shall include shares or partnership interests.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Special measures in respect of transactions with persons located in notified jurisdictional area.

176. (1) The Central Government may, by notification specify any country or territory outside India, as a notified jurisdictional area in relation to transactions entered into by any assessee, having regard to the lack of effective exchange of information with such jurisdiction.

(2) Irrespective of anything contrary in this Act, if an assessee enters into a transaction where one of the parties to the transaction is a person located in a notified jurisdictional area, then,—

(*a*) all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 162;

(*b*) any transaction of the nature described in section 163(1) and (2) shall be deemed to be an international transaction within the meaning of section 163,

and the provisions of sections 161, 162, 163, 165 [except the benefit of variation specified in section 165(3)(*a*)(*ii*)], 166, 167, 171, 172 and 173 shall apply accordingly.

(3) Irrespective of anything to the contrary in this Act, no deduction shall be allowed—

(*a*) for any payment made to any financial institution located in a notified jurisdictional area, unless the assessee furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution on behalf of such assessee; and

(*b*) for any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional area, unless the assessee maintains such other documents and furnishes such information as may be prescribed, in this behalf.

(4) Irrespective of anything to the contrary in this Act, if, in any tax year, the assessee has received or credited any sum from any person located in a notified jurisdictional area and—

(*a*) the assessee does not provide any explanation about the source of the said sum in the hands of such person or in the hands of the beneficial owner (if such person is not the beneficial owner of the said sum); or

(*b*) the explanation provided by the assessee, in the opinion of the Assessing Officer, is not satisfactory,

then such sum shall be deemed to be the income of the assessee for that tax year.

(5) Irrespective of anything to the contrary in this Act, if any person located in a notified jurisdictional area is entitled to receive any sum or income or amount on which tax is deductible under Chapter XIX-B, the tax shall be deducted at the highest of the following rates—

(*a*) at the rate or rates in force;

(*b*) at the rate specified in the relevant provisions of this Act;

(*c*) at the rate of 30%.

(6) For the purposes of this section,—

(*a*) "person located in a notified jurisdictional area" shall include,—

(*i*) a person who is resident of the notified jurisdictional area;

(*ii*) a person, not being an individual, which is established in the notified jurisdictional area; or

(*iii*) a permanent establishment of a person not falling in sub-clause (*i*) or (*ii*), in the notified jurisdictional area;

(*b*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(*c*) "transaction" shall have meaning assigned to it in section 173(*e*).

Limitation on interest deduction in certain cases.

177. (1) Irrespective of anything contrary in this Act, any expenditure by way of interest or similar payment in respect of excess interest, as specified in sub-section (4), shall not be deductible in computation of income chargeable under the head "Profits and gains of business or profession", if,—

(*a*) it is paid or payable by an Indian company or a permanent establishment of a foreign company in India, in respect of any debt issued by an associated enterprise which is a non-resident; and

(*b*) the sum of such expenditure in a tax year exceeds one crore rupees.

(2) Where a lender, not being an associated enterprise, has issued a debt referred to in sub-section (1), such debt shall be deemed to have been issued by an associated enterprise if an associated enterprise has—

(*a*) provided an implicit or explicit guarantee to the lender in respect of such debt; or

(*b*) deposited a corresponding and matching funds with such lender.

(3) The provisions of this section shall not apply to—

(*a*) interest paid in respect of a debt issued by a lender which is a permanent establishment in India of a non-resident engaged in the business of banking;

(*b*) an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance or a Finance Company located in any International Financial Services Centre, or such class of non-banking financial companies as may be notified by the Central Government in this behalf.

(4) For the purposes of sub-section (1), the expression "excess interest" means the total interest paid or payable in excess of 30% of earnings before interest, taxes, depreciation and amortisation of the borrower in the tax year or the interest paid or payable to associated enterprises for that tax year, whichever is less.

(5) Interest expenditure not wholly deducted against income under the head "Profits and gains of business or profession" for any tax year shall be—

(*a*) carried forward to the following tax year or years; and

(*b*) allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and assessable for such tax year, to the extent of maximum allowable interest expenditure as per sub-section (4).

(6) The interest expenditure referred to in sub-section (5) shall not be carried forward for more than eight tax years immediately succeeding the tax year for which the excess interest expenditure was first computed.

(7) For the purposes of this section,—

(*a*) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";

(*b*) "Finance Company" means a finance company as defined in regulation 2(1)(*e*) of the International Financial Services Centres Authority (Finance Company) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019) and which satisfies such conditions and carries on such activities, as may be prescribed;

(*c*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*).

CHAPTER XI

General Anti-Avoidance Rule

Applicability of General Anti-Avoidance Rule.

178. (1) Irrespective of anything contained in this Act, an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising from it may be determined subject to the provisions of this Chapter.

(2) The provisions of this Chapter may be applied to any step in, or a part of, the arrangement as they are applicable to the arrangement.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Impermissible avoidance arrangement.

179. (1) An impermissible avoidance arrangement means an arrangement, the main purpose of which is to obtain a tax benefit, and it—

(*a*) creates rights, or obligations, which are not ordinarily created between persons dealing at arm's length;

(*b*) results, directly or indirectly, in the misuse, or abuse, of the provisions of this Act;

(*c*) lacks commercial substance or is deemed to lack commercial substance under section 180, in whole or in part; or

(*d*) is entered into, or carried out, by means, or in a manner, which are not ordinarily employed for *bona fide* purposes.

(2) An arrangement shall be presumed, unless it is proved to the contrary by the assessee, to have been entered into, or carried out, for the main purpose of obtaining a tax benefit, if the main purpose of a step in, or a part of, the arrangement is to obtain a tax benefit, irrespective of the fact that the main purpose of the whole arrangement is not to obtain a tax benefit.

Arrangement to lack commercial substance.

180. (1) An arrangement shall be deemed to lack commercial substance, if—

(*a*) the substance or effect of the arrangement as a whole, is inconsistent with, or differs significantly from, the form of its individual steps or a part; or

(*b*) it involves or includes—

(*i*) round trip financing;

(*ii*) an accommodating party;

(*iii*) elements that have effect of offsetting or cancelling each other;

(*iv*) a transaction which is conducted through one or more persons and disguises the value, location, source, ownership or control of funds which is the subject matter of such transaction;

(*c*) it involves the location of an asset or of a transaction or of the place of residence of any party which is without any substantial commercial purpose other than obtaining a tax benefit (but for the provisions of this Chapter) for a party; or

(*d*) it does not have a significant effect upon the business risks or net cash flows of any party to the arrangement apart from any effect attributable to the tax benefit that would be obtained (but for the provisions of this Chapter).

(2) In sub-section (1), round trip financing includes any arrangement in which, through a series of transactions—

(*a*) funds are transferred among the parties to the arrangement; and

(*b*) such transactions do not have any substantial commercial purpose other than obtaining the tax benefit (but for the provisions of this Chapter),

without having any regard to—

(*A*) whether or not the funds involved in the round trip financing can be traced to any funds transferred to, or received by, any party in connection with the arrangement;

(*B*) the time, or sequence, in which the funds involved in the round trip financing are transferred or received; or

(*C*) the means by, or manner in, or mode through, which funds involved in the round trip financing are transferred or received.

(3) The following may be relevant but shall not be sufficient for determining whether an arrangement lacks commercial substance or not:—

(*a*) the period or time for which the arrangement (including operations therein) exists;

(*b*) the fact of payment of taxes, directly or indirectly, under the arrangement;

(*c*) the fact that an exit route (including transfer of any activity or business or operations) is provided by the arrangement.

Consequences of impermissible avoidance arrangement.

181. (1) If an arrangement is declared to be an impermissible avoidance arrangement, then, the consequences, in relation to tax, of the arrangement, including denial of tax benefit or a benefit under a tax treaty, shall be determined, in the manner as deemed appropriate in the circumstances of the case.

(2) The consequences of an arrangement declared to be an impermissible avoidance arrangement as referred to in sub-section (1) shall include but shall not be limited to the following:—

(*a*) disregarding, combining or recharacterising any step in, or a part or whole of, the impermissible avoidance arrangement;

(*b*) treating the impermissible avoidance arrangement as if it had not been entered into or carried out;

(*c*) disregarding any accommodating party or treating any accommodating party and any other party as one and the same person;

(*d*) deeming persons who are connected persons in relation to each other to be one and the same person for the purposes of determining tax treatment of any amount;

(*e*) reallocating amongst the parties to the arrangement—

(*i*) any accrual, or receipt, of a capital nature or revenue nature; or

(*ii*) any expenditure, deduction, relief or rebate;

(*f*) treating—

(*i*) the place of residence of any party to the arrangement; or

(*ii*) the situs of an asset or of a transaction,

at a place other than the place of residence, location of the asset or location of the transaction as provided under the arrangement; or

(*g*) considering or looking through any arrangement by disregarding any corporate structure.

(3) In this section,—

(*a*) any equity may be treated as debt or *vice versa*;

(*b*) any accrual, or receipt, of a capital nature may be treated as of revenue nature or *vice versa*; or

(*c*) any expenditure, deduction, relief or rebate may be recharacterised.

Treatment of connected person and accommodating party.

182. In this Chapter, in determining whether a tax benefit exists,—

(*a*) the parties who are connected persons in relation to each other may be treated as one and the same person;

(*b*) any accommodating party may be disregarded;

(*c*) the accommodating party and any other party may be treated as one and the same person;

(*d*) the arrangement may be considered or looked through by disregarding any corporate structure.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Application of this Chapter.

183. The provisions of this Chapter shall apply—

(*a*) in addition to, or in lieu of, any other basis for determination of tax liability;

(*b*) as per such guidelines and subject to such conditions, as may be prescribed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Interpretation.

184. For the purposes of this Chapter, unless the context otherwise requires,—

(*1*) "accommodating party" means a party to an arrangement, if the main purpose of the direct or indirect participation of that party in the arrangement, in whole or in part, is to obtain, directly or indirectly, a tax benefit (but for the provisions of this Chapter) for the assessee whether or not the party is a connected person in relation to any party to the arrangement;

(*2*) "arrangement" means any step in, or a part or whole of, any transaction, operation, scheme, agreement or understanding, whether enforceable or not, and includes the alienation of any property in such transaction, operation, scheme, agreement or understanding;

(*3*) "asset" includes property, or right, of any kind;

(*4*) "benefit" includes a payment of any kind whether in tangible or intangible form;

(*5*) "connected person" means any person who is connected directly or indirectly to another person and includes,—

(*a*) any relative of the person, if such person is an individual;

(*b*) any director of the company or any relative of such director, if the person is a company;

(*c*) any partner or member of a firm or association of persons or body of individuals or any relative of such partner or member, if the person is a firm or association of persons or body of individuals;

(*d*) any member of the Hindu undivided family or any relative of such member, if the person is a Hindu undivided family;

(*e*) any individual who has a substantial interest in the business of the person or any relative of such individual;

(*f*) a company, firm or an association of persons or a body of individuals, whether incorporated or not, or a Hindu undivided family having a substantial interest in the business of the person or any director, partner, or member of the company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member;

(*g*) a company, firm or association of persons or body of individuals, whether incorporated or not, or a Hindu undivided family, whose director, partner, or member has a substantial interest in the business of the person, or family or any relative of such director, partner or member;

(*h*) any other person who carries on a business, if—

(*i*) the person being an individual, or any relative of such person, has a substantial interest in the business of that other person; or

(*ii*) the person being a company, firm, association of persons, body of individuals, whether incorporated or not, or a Hindu undivided family, or any director, partner or member of such company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member, has a substantial interest in the business of that other person;

(*6*) "fund" includes—

(*a*) any cash;

(*b*) cash equivalents; and

(*c*) any right, or obligation, to receive or pay, the cash or cash equivalent;

(*7*) "party" includes a person or a permanent establishment which participates or takes part in an arrangement;

(*8*) "relative" shall have the meaning assigned to it in section 92(5)(*g*);

(*9*) a person shall be deemed to have a substantial interest in the business, if,—

(*a*) in a case where the business is carried on by a company, such person is, at any time during the financial year, the beneficial owner of equity shares carrying at least 20% of the voting power; or

(*b*) in any other case, such person is, at any time during the financial year, beneficially entitled to at least 20% of the profits of such business;

(*10*) "step" includes a measure or an action, particularly one of a series taken in order to deal with or achieve a particular thing or object in the arrangement;

(*11*) "tax benefit" includes,—

(*a*) a reduction or avoidance or deferral of tax or other amount payable under this Act; or

(*b*) an increase in a refund of tax or other amount under this Act; or

(*c*) a reduction or avoidance or deferral of tax or other amount that would be payable under this Act, as a result of a tax treaty; or

(*d*) an increase in a refund of tax or other amount under this Act as a result of a tax treaty; or

(*e*) a reduction in total income; or

(*f*) an increase in loss,

in the relevant tax year or any other tax year;

(*12*) "tax treaty" means an agreement referred to in section 159(1) or (2).

CHAPTER XII

Mode of payment in certain cases, etc.

Mode of taking or accepting certain loans, deposits and specified sum.

185. (1) No person shall take or accept from another person any loan or deposit or specified sum, except through—

(*a*) an account payee cheque; or

(*b*) account payee bank draft; or

(*c*) electronic clearing system through a bank account; or

(*d*) any other prescribed electronic mode,

if,—

(*i*) the amount or the aggregate amount of such loan, deposit, or specified sum; or

(*ii*) the amount or the aggregate amount of any previously taken or accepted loan or deposit or specified sum by such person from such another person, which is remaining unpaid, whether due for repayment or not, as on the date of taking or accepting such amount as referred to in clause (*i*); or

(*iii*) the aggregate of the amounts referred to in clauses (*i*) and (*ii*),

is ₹ 20000 or more.

(2) Sub-section (1) shall not apply to loans or deposits or specified sums taken or accepted from or by,—

(*a*) the Government;

(*b*) any banking company, post office savings bank, or co-operative bank;

(*c*) any corporation established by a Central, State or Provincial Act;

(*d*) any Government company as defined under section 2(*45*) of the Companies Act, 2013 (18 of 2013);

(*e*) any institution, association, or body or class of institutions, associations or bodies notified by the Central Government.

(3) The provisions of sub-section (1) shall not apply to any loan or deposit or specified sum where, the person taking or accepting such loan or deposit or specified sum and person from whom such loan or deposit or specified sum is taken or accepted, both, have agricultural income and neither has any income chargeable to tax under this Act.

(4) In sub-section (1), "₹ 200000" shall be substituted for "₹ 20000" in the case of any deposit or loan, where—

(*a*) such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member; or

(*b*) such loan is taken from a primary agricultural credit society or primary co-operative agricultural and development bank by its member.

(5) For the purposes of this section, the expression "loan or deposit" means loan or deposit of money.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Mode of undertaking transactions.

186. (1) No person shall receive an amount of ₹ 200000 or more—

(*a*) in aggregate from a person in a day; or

(*b*) in respect of a single transaction; or

(*c*) in respect of transactions relating to one event or occasion from a person,

except through—

(*i*) an account payee cheque; or

(*ii*) account payee bank draft; or

(*iii*) electronic clearing system through a bank account; or

(*iv*) any other electronic mode, as may be prescribed.

(2) Sub-section (1) shall not apply to—

(*a*) any receipt by Government, any banking company, post office savings bank or co-operative bank;

(*b*) transactions of the nature referred to in section 185;

(*c*) such other persons or class of persons or receipts, as may be notified by the Central Government.

Acceptance of payment through prescribed electronic modes.

187. Every person shall provide facility for accepting payment, through electronic modes as may be prescribed, in addition to other electronic modes, if any, being provided by him, where—

(*a*) such person is carrying on business or profession; and

(*b*) total sales, turnover or gross receipts in such business or profession exceeds fifty crore rupees during the immediately preceding tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Mode of repayment of certain loans or deposits or specified advances.

188. (1) No branch of a banking company or co-operative bank and no other company or co-operative society and no firm or other person shall repay—

(*a*) any loan or deposit made with it; or

(*b*) any specified advance received by it,

except through—

(*i*) an account payee cheque;

(*ii*) account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified advance; or

(*iii*) by use of electronic clearing system through a bank account, or any other prescribed electronic mode,

if, —

(*A*) the loan or the deposit or specified advance, together with the interest, if any, payable thereon; or

(*B*) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm or other person (either individually or jointly) on the date of such repayment together with interest, if any, payable thereon; or

(*C*) the aggregate amount of the specified advances received by such person (either individually or jointly) on the date of such repayment together with the interest, if any, payable thereon,

is ₹ 20000 or more.

(2) Irrespective of the provision in sub-section (1), a branch of a banking company or co-operative bank, may also make the repayment by crediting such loan or deposit to the savings bank account or current account, if any, with such branch of the person to whom such loan or deposit has to be repaid.

(3) Sub-section (1) shall not apply to repayment of any loan, deposit, or specified advance taken or accepted from—

(*a*) Government;

(*b*) any banking company, post office savings bank, or co-operative bank;

(*c*) any corporation established by a Central, State, or Provincial Act;

(*d*) any Government company as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013);

(*e*) any institution, association, or body or class of institutions, associations or bodies notified by the Central Government.

(4) In sub-section (1), "₹ 200000" shall be substituted for "₹ 20000" in the case of any deposit or loan where—

(*a*) such deposit is repaid to a member by a primary agricultural credit society or a primary co-operative agricultural and rural development bank; or

(*b*) such loan is repaid by a member to a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

(5) For the purposes of this section, the expression "loan or deposit" means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature.

Interpretation.

189. For the purposes of this Chapter, unless the context otherwise requires,—

(*a*) "banking company" means a company to which the provisions of the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(*b*) "primary agricultural credit society", and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in section 150;

(*c*) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place;

(*d*) "specified advance" means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

CHAPTER XIII

Determination of tax in special cases

A.-Determination of tax in certain special cases

Determination of tax where total income includes income on which no tax is payable.

190. Where there is included in the total income of an assessee any income on which no income-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction, from income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no income-tax is payable.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tax on accumulated balance of recognised provident fund.

191. Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of paragraph 8 of Part A of Schedule XI not being applicable, the Assessing Officer shall calculate the total of the various sums of tax as per the provisions of paragraph 9 thereof.

Tax in case of block assessment of search cases.

192. (1) Irrespective of anything contained in any other provisions of this Act, the total undisclosed income of the block period, determined under section 294 shall be chargeable to tax at the rate of 60%.

(2) The tax chargeable under sub-section (1) shall be increased by a surcharge, if any, levied by any Central Act.

Tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

193. (1) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee), includes income specified in column B of the Table below, the income-tax payable shall be the aggregate of income-tax computed at the rate specified in the column C applied on the corresponding income specified in column B.

Table

Sl. No.	*Income*	*Rate of Income-tax payable*
A	*B*	*C*
1.	Income from dividend on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued as per such Employees' Stock Option Scheme as the Central Government may, by notification, specify in this behalf and purchased by him in foreign currency.	10%
2.	Income from long-term capital gains arising from the transfer of Global Depository Receipts referred to in serial number 1.	12.5%
3.	Total income as reduced by income referred to in serial numbers 1 and 2.	Rates in force.

(2) Where the gross total income of the resident employee—

(*a*) consists only of income by way of dividends in respect of Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 1), no deduction shall be allowed to him under any other provision of this Act;

(*b*) includes any income referred to in sub-section (1) (Table: Sl. No. 1 or 2)—

(*i*) the gross total income shall be reduced by such income; and

(*ii*) the deduction under any provision of this Act shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(3) The section 72(6) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset, being Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 2).

(4) For the purposes of this section,—

(*a*) "Global Depository Receipts" means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India or in an International Financial Services Centre and issued to investors against the issue of,—

(*i*) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or

(*ii*) foreign currency convertible bonds of issuing company; or

(*iii*) ordinary shares of issuing company, being a company incorporated outside India, if such depository receipt or certificate is listed and traded on any International Financial Services Centre;

(*b*) "information technology service" means any service which results from the use of any information technology software over a system of information technology products for realising value addition;

(*c*) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form and capable of being manipulated or providing inter-activity to a user, by means of an automatic data processing machine falling under heading information technology products but does not include non-information technology products;

(*d*) "Overseas Depository Bank" means a bank authorised by the issuing company to issue Global Depository Receipts against issue of Foreign Currency Convertible Bonds or ordinary shares of the issuing company;

(*e*) "specified knowledge based industry or service" means—

(*i*) information technology software; or

(*ii*) information technology service; or

(*iii*) entertainment service; or

(*iv*) pharmaceutical industry; or

(*v*) bio-technology industry; or

(*vi*) any other industry or service, as specified by the Central Government, by notification;

(*f*) "subsidiary" shall have the same meaning as assigned to it in section 2(*87*) of the Companies Act, 2013 (18 of 2013) and includes subsidiary incorporated outside India.

Tax on certain incomes.

194. (1) Irrespective of anything contained in any other provision of this Act, where the total income of an assessee as mentioned in column B of the Table below, includes income of the nature specified in column C of the said Table, the income-tax payable by such assessee, for a tax year, shall be the aggregate of —

(*a*) income-tax calculated on income mentioned in column C, at the rate mentioned in column D, subject to the conditions specified in column E; and

(*b*) income-tax with which the assessee would have been chargeable had his total income been reduced by income mentioned in column C thereof.

Table

Sl. No.	*Assessee*	*Income*	*Rate of tax*	*Conditions*
A	*B*	*C*	*D*	*E*
1.	Any person.	Winnings (other than from any online game) from— (*a*) lottery; or (*b*) crossword puzzle; or (*c*) race including horse race (not being income from the activity of owning and maintaining race horses); or (*d*) card game and other game of any sort; or (*e*) gambling or betting of any form or nature.	30%	*Nil.*
2.	A person, resident in India and who is a patentee (herein referred to as an eligible assessee).	Royalty in respect of a patent developed and registered in India.	10%	(*a*) No deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee under any provision of this Act in computing his income referred to in column C; (*b*) an option for taxation of income by way of royalty in respect of a patent developed and registered in India is exercised in the prescribed manner, on or before the due date specified under section 263(1) for furnishing the return of income for the relevant tax year; (*c*) where an option is exercised under clause (*b*) and the eligible assessee does not offer its income for taxation as per the provisions of columns C and D for any of the five tax years, succeeding such tax year, then such assessee shall not be eligible to claim the benefit of the provisions of columns C and D for five tax years subsequent to the tax year in which such income has not been offered to tax as per such provisions.
3.	Any person.	Income by way of transfer of carbon credits.	10%	No deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to column C.
4.	Any person.	Any income from the transfer of any virtual digital asset.	30%	(*a*) No deduction in respect of any expenditure (other than cost of acquisition, if any) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in column C; and (*b*) no set off of loss from transfer of the virtual digital asset computed herein shall be allowed against income computed under any provision of this Act to the assessee and such loss shall not be allowed to be carried forward to succeeding tax years.

5.	Any person.	Any income by way of net winnings from any online game, computed in the manner, as may be prescribed.	30%	*Nil.*
6.	Any person.	Any profits and gains from life insurance business.	12.5%	*Nil.*

(2) For the purposes of this section,—

(*a*) "carbon credit", in respect of one unit, means reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price;

(*b*) "computer resource" shall have the same meaning as assigned to it in section 2(1)(*k*) of the Information Technology Act, 2000 (21 of 2000);

(*c*) "developed" means at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970 (39 of 1970) (herein referred to as the Patents Act);

(*d*) "horse race" shall have the meaning assigned to it in section 94(6);

(*e*) "internet" means the combination of computer facilities and electromagnetic transmission media including related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission;

(*f*) "invention" shall have the same meaning as assigned to it in section 2(1)(*j*) of the Patents Act;

(*g*) "lump sum" includes an advance payment on account of such royalties which is not returnable;

(*h*) "online game" means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device;

(*i*) "patent" shall have the same meaning as assigned to it in section 2(1)(*m*) of the Patents Act;

(*j*) "patented article" and "patented process" shall have the same meanings as respectively assigned to them in section 2(1)(*o*) of the Patents Act;

(*k*) "patentee" means the person, being the true and first inventor of the invention, whose name is entered in the patent register as the patentee, as per the Patents Act, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent;

(*l*) "royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the—

(*i*) transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(*ii*) imparting of any information concerning the working of, or the use of, a patent; or

(*iii*) use of any patent; or

(*iv*) rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*);

(*m*) "true and first inventor" shall have the same meaning as assigned to it in section 2(1)(*y*) of the Patents Act; and

(*n*) for the purposes of sub-section (1) (Table: Sl. No. 4), the term "transfer" as defined in section 2(*109*), shall apply to any virtual digital asset, whether capital asset or not.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tax on income referred to in sections 102 to 106.

195. (1) Where the total income of an assessee—

(*a*) includes any income referred to in section 102 or 103 or 104 or 105 or 106 and reflected in the return of income furnished under section 263; or

(*b*) determined by the Assessing Officer includes any income referred to in any of the said section 102 or 103 or 104 or 105 or 106, if such income is not covered under clause (*a*),

the income-tax payable shall be the aggregate of—

(*i*) income-tax calculated on the income referred to in clauses (*a*) and (*b*), at the rate of 60%; and

(*ii*) income-tax with which the assessee would have been chargeable had his total income been reduced by income referred to in clause (*i*).

(2) Irrespective of anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in sub-section (1)(*a*) and (*b*).

B.-Special provisions relating to tax on capital gains

Tax on short-term capital gains in certain cases.

196. (1) Where the total income of an assessee includes any income chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset—

(*a*) being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust; and

(*b*) the transaction of sale of such equity share or unit is chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004), then,

the tax payable by the assessee on the total income, subject to the provisions of sub-section (2), shall be the aggregate of—

(*i*) income-tax calculated on such short-term capital gains at the rate of 20%;

(*ii*) income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee.

(2) In the case of an individual or a Hindu undivided family, being a resident, where the total income, as reduced by short-term capital gains computed under sub-section (1), is below the maximum amount which is not chargeable to income-tax, then,—

(*a*) such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(*b*) the tax on the balance of such short-term capital gains shall be computed at the rate as applicable in sub-section (1)(*i*).

(3) The provisions of sub-section (1)(*b*) shall not apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

(4) Where the gross total income of an assessee includes any short-term capital gains referred to in sub-section (1), the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(5) For the purposes of this section, the expression "equity oriented fund" shall have the meaning assigned to it in section 198.

Tax on long-term capital gains.

197. (1) Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset which is chargeable under the head "Capital gains", the tax payable by the assessee on the total income, subject to sub-sections (2), (3) and (4), shall be the aggregate of—

(*a*) income-tax payable on the total income as reduced by such long-term capital gains, had the total income, as so reduced, been his total income; and

(*b*) income-tax calculated on such long-term capital gains at the rate of 12.5%.

(2) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (1) is below the maximum amount which is not chargeable to income-tax, then,—

(*a*) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and

(*b*) the tax on the balance of such long-term capital gains shall be computed at the rate as referred in sub-section (1).

(3) In the case of an individual or a Hindu undivided family, being a resident, in the case of transfer of a long-term capital asset, being land or building, or both, which was acquired before the 23rd July, 2024, the excess income-tax computed as per the following formula shall be ignored:—

E = A — B

where—

E = excess income-tax to be ignored;

A = income-tax computed under sub-section (1)(*b*);

B = income-tax computed under sub-section (1)(*b*) taking the rate as 20% and the capital gains is computed by taking the cost of acquisition as "indexed cost of acquisition" and the cost of improvement as "indexed cost of improvement".

(4) In the case of an assessee being a non-resident (not being a company) or a foreign company, the long-term capital gains arising from the transfer of a capital asset, being unlisted securities or shares of a company not being a company in which the public are substantially interested, shall be computed without giving effect to the provisions under section 72(6).

(5) Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by such income and the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(6) For the purposes of this section,—

(*a*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*b*) "listed securities" means the securities which are listed on any recognised stock exchange in India;

(*c*) "unlisted securities" means securities other than listed securities;

(*d*) "indexed cost of acquisition" and "indexed cost of improvement" shall have the meanings respectively assigned to them in section 72.

Tax on long-term capital gains in certain cases.

198. (1) Irrespective of anything contained in section 197, the tax payable by an assessee on his total income shall be determined as per the provisions of sub-section (2), if—

- (*a*) the total income includes any income chargeable under the head "Capital gains";
- (*b*) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;
- (*c*) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004) has—
  - (*i*) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or
  - (*ii*) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.

(2) The tax payable by the assessee on the total income referred to in sub-section (1) shall be the aggregate of—

- (*a*) income-tax calculated on such long-term capital gains exceeding ₹ 125000 at the rate of 12.5%; and
- (*b*) income-tax payable on the total income as reduced by long-term capital gains referred to in sub-section (1) as if the total income so reduced were the total income of the assessee.

(3) In the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by long-term capital gains computed under sub-section (1) is below the maximum amount which is not chargeable to income-tax, then,—

- (*a*) such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax; and
- (*b*) the tax on the balance of such long-term capital gains shall be computed at the rate as referred to in sub-section (2).

(4) The condition specified in sub-section (1)(*c*) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

(5) The Central Government may, by notification, specify the nature of acquisition in respect of which the provisions of sub-section (1)(*c*)(*i*) shall not apply.

(6) Where the gross total income of an assessee includes any long-term capital gains referred to in sub-section (1), the deduction under Chapter VIII shall be allowed from the gross total income as reduced by such capital gains.

(7) Where the total income of an assessee includes any long-term capital gains referred to in sub-section (1), the rebate under section 156 shall be allowed from the income-tax on the total income as reduced by tax payable on such capital gains.

(8) For the purposes of this section, the expression "equity oriented fund" means a fund set up under a scheme of a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21) or under a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No. 2) does not apply and—

- (*i*) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—
  - (*A*) a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and
  - (*B*) such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and
- (*ii*) in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange,

and, for the purposes of this clause,—

- (*I*) the percentage of equity shareholding or unit held in respect of the fund, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;
- (*II*) in case of a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table: Sl. No. 2) does not apply, the minimum requirement of 90% or 65%, as the case may be, is required to be satisfied throughout the term of such insurance policy.

C.—New tax regime

Tax on income of certain manufacturing domestic companies.

199. (1) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B, E and this Part (other than sections 200 and 201) of this Chapter, the income-tax payable in respect of the total income of a person, being a domestic company, for any tax year, shall, at the option of such person, be computed at the rate of 25% subject to the following conditions:—

(*a*) the company has been set-up and registered on or after the 1st March, 2016;

(*b*) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(*c*) the total income of the company has been computed,—

(*i*) without any deduction under—

(*A*) section 45(2) or 47(1)(*b*); or

(*B*) Chapter VIII-C, other than the provisions of section 146; or

(*C*) sections specified in section 205(1)(*a*) to (*g*);

(*ii*) without set off of any loss carried forward from any earlier tax year, if such loss is attributable to any of the deductions referred to in sub-clause (*i*).

(2) The loss referred to in sub-section (1)(*c*)(*ii*) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(3) The provisions of this section shall not apply unless an option is exercised by the person in the manner as may be prescribed on or before the due date specified under section 263(1) for furnishing the first of the returns of income which such person is required to furnish and such option once exercised, shall apply to subsequent tax years.

(4) Once the option under sub-section (3) has been exercised for any tax year, it cannot be subsequently withdrawn for the same or any other tax year, except where the person exercises option under section 200.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tax on income of certain domestic companies.

200. (1) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B, E and this Part (other than sections 199 and 201) of this Chapter, the income-tax payable for a tax year shall be at the rate of 22%, at the option of a person being a domestic company, in respect of the total income of such person computed in the following manner:—

(*a*) without any deduction under—
  (*i*) section 45(2) or 47(1)(*b*); or
  (*ii*) Chapter VIII other than provisions of section 146 or 148; or
  (*iii*) sections specified in section 205(1)(*a*) to (*g*);

(*b*) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*);

(*c*) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 116, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(2) Where the person fails to satisfy the requirements contained in sub-section (1) in any tax year, the option shall become invalid in respect of the said tax year and subsequent years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent years.

(3) The loss and depreciation referred to in sub-section (1)(*b*) and (*c*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(4) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under sub-section (5), the requirements contained in sub-section (1) shall be modified to the extent that the deduction as referred to in section 147 shall be available to such Unit subject to fulfilment of the conditions contained in that section.

(5) The provisions of this section shall not apply unless the option is exercised by the person in such manner as may be prescribed on or before the due date specified under section 263(1) for furnishing the return of income and such option once exercised, shall apply to subsequent tax years.

(6) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

(7) In case of a person, being a domestic company, where the option exercised by it under section 201, has been rendered invalid due to violation of the conditions contained in section 205(2)(*b*) or (*c*) or (*d*), such person may exercise the option under this section.

Tax on income of new manufacturing domestic companies.

201. (1) Irrespective of anything contained in this Act, but subject to the provisions of Parts A, B, E and this Part (other than sections 199 and 200) of this Chapter, the income-tax payable in respect of the total income of an assessee, being a domestic company, specified in column B of the Table below, shall, at the option of such assessee, be computed at the rates specified in column C, if the conditions contained in column D thereof are fulfilled.

TABLE

Sl. No.	*Assessee*	*Total income and rate of tax*	*Conditions*
A	*B*	*C*	*D*
1.	A domestic company engaged in business of manufacture or production of any article or thing.	(*a*) 15% on the total income other than the income mentioned in clauses (*b*), (*c*) and (*d*); (*b*) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (*i*) which has neither been derived from nor is incidental to manufacturing or production of an article or thing; and (*ii*) in respect of which no specific rate of tax has been provided separately under Parts A, B, E and this Part of this Chapter; (*c*) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (*d*) 30% on the income deemed so under section 205(4).	Such domestic company— (*a*) exercises the option in the manner provided in sub-section (2); (*b*) has been set-up and registered on or after the 1st October, 2019; (*c*) has commenced manufacturing or production of an article or thing on or before the 31st March, 2024; (*d*) the total income of which is computed as per the provisions of sub-section (3); and (*e*) fulfils all the conditions provided in sub-section (5) of this section and section 205(2).

(2) The option under this section shall be exercised by the assessee in the manner prescribed subject to the following conditions:—

(*a*) it shall be exercised on or before the due date specified under section 263(1) for furnishing first of the returns of income for any tax year;

(*b*) such option, once exercised, shall apply to subsequent tax years;

(*c*) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year; and

(*d*) where the assessee fails to fulfil the conditions contained in sub-section (1) (Table: Sl. No. 1.D) in any tax year,—

(*i*) the option shall become invalid in respect of such tax year and subsequent tax years; and

(*ii*) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(3) For the purposes of sub-section (1), the total income of the assessee shall be computed,—

(*a*) without any deduction under—

(*i*) section 45(2) or 47(1)(*b*); or

(*ii*) Chapter VIII other than section 146 or 148; or

(*iii*) sections specified in section 205(1)(*a*) to (*g*);

(*b*) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 116, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(4) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (3)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

(5) In case of an amalgamation, option under this section shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (1) (Table: Sl. No. 1.D) are continued to be fulfilled by such company.

New tax regime for individuals, Hindu undivided family and others.

202. (1) Irrespective of anything contained in this Act other than Chapter XVII-B but subject to Parts A, B, E and this Part of this Chapter, the income-tax payable by a person, being—

(*a*) an individual; or
(*b*) a Hindu undivided family; or
(*c*) an association of persons (other than a co-operative society); or
(*d*) a body of individuals, whether incorporated or not; or
(*e*) an artificial juridical person referred to in section 2(*77*)(*g*),

in respect of the total income for a tax year, shall, unless the person exercises the option in the manner provided under sub-section (4), be computed at the rate of tax given in the following Table:—

Table

Sl. No.	*Total income*	*Rate of tax*
A	*B*	*C*
1.	Upto ₹ 400000	*Nil*
2.	From ₹ 400001 to ₹ 800000	5%
3.	From ₹ 800001 to ₹ 1200000	10%
4.	From ₹ 1200001 to ₹ 1600000	15%
5.	From ₹ 1600001 to ₹ 2000000	20%
6.	From ₹ 2000001 to ₹ 2400000	25%
7.	Above ₹ 2400000	30%

(2) For the purposes of sub-section (1), the total income of the assessee shall be computed—

(*a*) without any exemption or deduction under—
  (*i*) Schedule III (Table: Sl. No. 5 or 6 or 7 or 8 or 11 or 17);
  (*ii*) Schedule III (Table: Sl. No. 12 or 13) (other than those as may be prescribed for this purpose);
  (*iii*) section 144;
  (*iv*) section 19(1) (Table: Sl. No. 1);
  (*v*) section 22(1)(*b*), in respect of properties referred to in section 21(6);
  (*vi*) section 33(8);
  (*vii*) section 48;
  (*viii*) section 49;
  (*ix*) section 45(3)(*a*) or (*b*) or (*c*);
  (*x*) section 46;
  (*xi*) section 47(1)(*a*); and
  (*xii*) Chapter VIII other than the provisions of sections 124(1) and 124(2), or 125(2) or 146; and
(*b*) without set off of—
  (*i*) any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*); or
  (*ii*) any loss under the head "Income from house property" with any other head of income; and
(*c*) without any exemption or deduction for allowances or perquisite, called by any name, provided under any other law in force.

(3) The loss and depreciation referred to in sub-section (2)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(4) Nothing contained in sub-section (1) shall apply to a person, where an option is exercised by such person under this section, in such manner as may be prescribed, for any tax year, and such option is exercised,—

(*a*) in case of a person having income from business or profession,—
  (*i*) on or before the due date specified under section 263(1) for furnishing the returns of income for such tax year;
  (*ii*) such option, once exercised, shall apply to subsequent tax years;
  (*iii*) such option, once exercised, may be withdrawn only once for a tax year other than the tax year for which it was exercised; and
  (*iv*) after such withdrawal, the person shall never be eligible to exercise the option under this sub-section, except where such person ceases to have any income from business or profession, and in such a case the option under clause (*b*) shall be available;
(*b*) in case of a person not having income from business or profession, along with the return of income to be furnished under section 263(1) for the tax year.

(5) In case of a person, having a Unit in the International Financial Services Centre, the provisions of sub-section (2) shall be modified to the extent that deduction under section 147 shall be available to such Unit subject to fulfilment of the conditions contained in that section.

Tax on income of certain resident co-operative societies.

203. (1) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B, E and this Part (other than section 204) of this Chapter, the income-tax payable for a tax year shall be at the rate of 22%, at the option of a person being a co-operative society resident in India, in respect of the total income of such person computed in the following manner:—

(*a*) without any deduction under—

(*i*) Chapter VIII other than the provisions of section 146; or

(*ii*) sections specified in section 205(1)(*a*) to (*g*);

(*b*) without set off of any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(2) Where a person fails to satisfy the requirements contained in sub-section (1) in any tax year, the option shall become invalid in respect of the said tax year and subsequent tax years and other provisions of the Act shall apply, as if the option had not been exercised for such tax year and for subsequent tax years.

(3) The loss and depreciation referred to in clause (*b*) of sub-section (1) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent tax year.

(4) In case of a person, having a Unit in the International Financial Services Centre, which has exercised option under sub-section (5), the requirements contained in sub-section (1) shall be modified to the extent that the deduction under section 147 shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

(5) The provisions of this section shall not apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under section 263(1) for furnishing the return of income and such option once exercised shall apply to subsequent tax years.

(6) Once the option under this section has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tax on income of certain new manufacturing co-operative societies.

204. (1) Irrespective of anything contained in this Act but subject to the provisions of Parts A, B, E and this Part (other than section 203) of this Chapter, the income-tax payable in respect of the total income of an assessee, being a co-operative society, resident in India, engaged in the business of manufacture or production of any article or thing, shall at the option of such assessee, be computed at the rates specified in column A of the said Table, if the conditions contained in column B thereof are fulfilled.

Table

Total income and rate of tax	*Conditions*
A	*B*
(*a*) 15% on the total income other than the income mentioned in clauses (*b*), (*c*) and (*d*); (*b*) 22% (without any deduction or allowance in respect of any expenditure or allowance) on such income,— (*i*) which has neither been derived from nor is incidental to manufacturing or production of an article or thing; and (*ii*) in respect of which no specific rate of tax has been provided separately under this Part; (*c*) 22% on short-term capital gains derived from transfer of a capital asset on which no depreciation is allowable under this Act; (*d*) 30% on the income deemed so under section 205(4).	Such co-operative society— (*a*) exercises the option in the manner provided in sub-section (2); (*b*) has been set-up and registered on or after the 1st April, 2023; (*c*) has commenced manufacturing or production of an article or thing on or before the 31st March, 2024; (*d*) the total income of which is computed as per the provisions of sub-section (3); and (*e*) fulfils all the conditions provided in section 205(2).

(2) The option under this section shall be exercised by the assessee in the manner as may be prescribed subject to the following conditions:—

(*a*) it shall be exercised on or before the due date specified under section 263(1) for furnishing the first of the returns of income for any tax year; and

(*b*) such option, once exercised, shall apply to subsequent tax years;

(*c*) once the option has been exercised for any tax year, it shall not be subsequently withdrawn for the same or any other tax year;

(*d*) where the assessee fails to fulfil the conditions contained in sub-section (1) (Table: Sl. No. 1.B) in any tax year,—

(*i*) the option shall become invalid in respect of such tax year and subsequent tax years; and

(*ii*) the other provisions of this Act shall apply, as if the option had not been exercised for that tax year and subsequent tax years.

(3) For the purposes of sub-section (1), the total income of the assessee shall be computed,—

(*a*) without any deduction under—

(*i*) Chapter VIII other than the provisions of section 146; or

(*ii*) sections specified in section 205(1)(*a*) to (*g*);

(*b*) without set off of any loss carried forward or depreciation from earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*a*).

(4) While computing the income of the assessee, the loss and depreciation, or both, as specified in sub-section (3)(*b*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation, or both, shall be allowed for any subsequent year.

Conditions for tax on income of certain companies and co-operative societies.

205. (1) For the purposes of sections 199(1)(*c*)(*i*)(*C*), 200(1)(*a*)(*iii*), 201(3)(*a*)(*iii*), 203(1)(*a*)(*ii*) and 204(3)(*a*)(*ii*), the total income shall be computed without any deduction or exemption, under the following provisions:—

(*a*) Section 33(8);

(*b*) section 45(3)(*a*) or (*b*) or (*c*);

(*c*) section 46;

(*d*) section 47(1)(*a*);

(*e*) section 48;

(*f*) section 49; and

(*g*) section 144.

(2) For the purposes of section 201 or 204, the following conditions shall apply to the assessee:—

(*a*) its business is not formed by splitting up, or the reconstruction, of a business already in existence, unless it is formed as a result of the re-establishment, reconstruction or revival of the business of any such undertaking as is referred to in section 140(4) in the circumstances and within the period specified in the said section;

(*b*) it does not use any machinery or plant, previously used for any purpose, other than—

(*i*) permitted machinery or plant used outside India;

(*ii*) machinery or plant or any part thereof previously used for any purpose and the total value of such machinery or plant or any part thereof put to use by the assessee does not exceed 20% of the total value of the machinery or plant used by such assessee;

(*c*) in case of a domestic company, it does not use any building previously used as a hotel or a convention centre, in respect of which deduction under section 80-ID of the Income-tax Act, 1961 (43 of 1961) has been claimed and allowed;

(*d*) it is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it,

and, if any difficulty arises in fulfilling any of the conditions contained in clause (*b*) or (*c*) or (*d*), the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(3) Every guideline issued by the Board under sub-section (2) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline 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 guideline.

(4) For the purposes of sections 201 and 204,—

(*a*) where it appears to the Assessing Officer that, owing to the close connection between the person to which the said section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, then the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take profits as may be reasonably deemed to have been derived therefrom, and where the said arrangement involves a specified domestic transaction referred to in section 164, profits from such transaction shall be determined having regard to the arm's length price as defined in section 173(*a*); and

(*b*) the amount, being profits in excess of the profits determined by the Assessing Officer under clause (*a*), shall be deemed to be the income of the person and shall be chargeable at the rates specified in section 201(1) [Table: Sl. No. 1.C(*d*)] or 204(1) [Table: Sl. No. 1.A(*d*)], as the case may be.

(5) For the purposes of this Part,—

(*a*) the business of manufacture or production of any article or thing shall include the business of generation of electricity but shall not include business of —

(*i*) development of computer software in any form or in any media; or

(*ii*) mining; or

(*iii*) conversion of marble blocks or similar items into slabs; or

(*iv*) bottling of gas into cylinder; or

(*v*) printing of books or production of cinematograph film; or

(*vi*) any other business as may be notified by the Central Government in this behalf; and

(*b*) the expressions,—

(*i*) "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (*b*) and clause (*a*) of section 80-ID(6) of the Income-tax Act, 1961 (43 of 1961);

(*ii*) "permitted machinery and plant used outside India" means the machinery or plant, which was previously used outside India by any other person, if the following conditions are fulfilled:—

(*A*) such machinery or plant was not, at any time previous to the date of the installation, used in India;

(*B*) such machinery or plant is imported into India from any country outside India; and

(*C*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before the date of installation of machinery or plant by the person;

(*iii*) "unabsorbed depreciation" shall have the meaning assigned to it in section 116(13)(*e*); and

(*iv*) "Unit" shall have the same meaning as assigned to it in section 2(*zc*) of the Special Economic Zones Act, 2005 (28 of 2005).

D.-Special provisions relating to minimum alternate tax and alternate minimum tax

Special provision for minimum alternate tax and alternate minimum tax.

206. (1)(*a*) Irrespective of anything contained in any other provision of this Act, where in the case of an assessee being a company, the income-tax payable on the total income as computed under this Act for a tax year is less than the minimum alternate tax payable for such tax year, then—

(*i*) the book profit shall be deemed to be the total income of that assessee for such tax year; and

(*ii*) the assessee shall be liable to pay income-tax equal to the minimum alternate tax.

(*b*) For the purposes of clause (*a*), the expressions "minimum alternate tax" means the amount of tax computed on the book profit—

(*i*) in case of a company being a unit located in an International Financial Services Centre and deriving its income solely in convertible foreign exchange, at the rate of 9%;

(*ii*) in case of any other company, at a rate of 15%.

(*c*) For the purposes of this section, "book profit" means the profit as shown in the statement of profit and loss for the relevant tax year prepared as per clause (*f*), as increased by—

(*i*) income-tax paid or payable and the provision therefor, if any such amount is debited to the statement of profit and loss, where income-tax shall include —

(*A*) any interest charged under this Act;

(*B*) surcharge, if any, as levied under the Central Acts;

(*C*) Education Cess on income-tax, if any, as levied under the Central Acts; and

(*D*) Secondary and Higher Education Cess on income-tax, if any, as levied under the Central Acts;

(*ii*) the amounts carried to any reserves, called by any name, if any such amount is debited to the statement of profit and loss;

(*iii*) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities, if any such amount is debited to the statement of profit and loss;

(*iv*) the amount by way of provision for losses of subsidiary companies, if any such amount is debited to the statement of profit and loss;

(*v*) dividends paid or proposed, if any such amount is debited to the statement of profit and loss;

(*vi*) expenditure relatable to any income to which provisions of section 11 apply or any expenditure out of regular income of a registered non-profit organisation referred in section 335, if any such amount is debited to the statement of profit and loss;

(*vii*) depreciation, if any such amount is debited to the statement of profit and loss;

(*viii*) deferred tax and the provision therefor, if any such amount is debited to the statement of profit and loss;

(*ix*) the amount or amounts set aside as provision for diminution in the value of any asset, if any such amount is debited to the statement of profit and loss;

(*x*) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset, if any such amount is not credited to the statement of profit and loss,

and as reduced by—

(*xi*) the amount withdrawn from any reserve or provision (excluding a reserve created before the 1st April, 1997 otherwise than by way of a debit to the statement of profit and loss), where,—

(*A*) any such amount is credited to the statement of profit and loss; and

(*B*) the book profit of such year has been increased by those reserves or provisions out of which the said amount was withdrawn;

(*xii*) income to which any of the provisions of section 11 apply or any regular income of a registered non-profit organisation referred in section 335, if any such amount is credited to the statement of profit and loss;

(*xiii*) depreciation debited to the statement of profit and loss excluding the depreciation on account of revaluation of assets;

(*xiv*) the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed depreciation on account of revaluation of assets referred to in sub-clause (*xiii*);

(*xv*) deferred tax, if any such amount is credited to the statement of profit and loss;

(*xvi*) loss brought forward (excluding depreciation) or unabsorbed depreciation, whichever is less, as per books of account, except, where either of such amount is *nil*, in case of a company other than the company referred to in clause (*d*)(*vi*) and (*vii*),

and as further adjusted by the amounts referred to in clause (*d*).

(*d*) While computing the book profit under this section, the following amounts shall be further adjusted:—

(*i*) in case of a company being a member of association of persons or body of individuals having income being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable as per the provisions of section 310, then—

(*A*) the amount or amounts of expenditure relatable to such income if debited to the statement of profit and loss, is to be added; and

(*B*) the amount being income if credited to the statement of profit and loss, is to be reduced;

(*ii*) in case of a foreign company having income accruing or arising from—

(*A*) capital gains arising on transactions in securities; or

(*B*) the interest, dividend, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XIII,

and the income-tax payable thereon as per the provisions of this Act, other than the provisions of this Part, is at a rate less than the rate specified in clause (*b*), then—

(*I*) the amount or amounts of expenditure relatable to such income if debited to the statement of profit and loss, is to be added; and

(*II*) the amount being income if credited to the statement of profit and loss, is to be reduced;

(*iii*) in case of a company, which has transferred any capital asset, being share of a special purpose vehicle to a business trust,—

(*I*) the following amounts, if debited to the statement of profit and loss, are to be added:—

(*A*) the amount representing the notional loss on transfer of such capital asset, to a business trust in exchange of units allotted by the trust referred to in section 70(1)(*zi*); or

(*B*) the amount representing the notional loss resulting from any change in carrying amount of the said units; or

(*C*) the loss on transfer of units referred to in section 70(1)(*zi*);

(*II*) the following amounts, if credited to the statement of profit and loss, are to be reduced:—

(*A*) the amount representing the notional gain on transfer of such capital asset, to a business trust in exchange of units allotted by the trust referred to in section 70(1)(*zi*); or

(*B*) the amount representing the notional gain resulting from any change in carrying amount of the said units; or

(*C*) the gain on transfer of units referred to in section 70(1)(*zi*);

(*iv*) in case of a company that has transferred units referred to in section 70(1)(*zi*) and, where the gain or loss on such transfer has been computed by taking into account—

(*A*) the cost of the shares exchanged with units referred to in section 70(1)(*zi*); or

(*B*) the carrying amount of the shares at the time of exchange, if such shares are carried at a value other than the cost through statement of profit and loss,

then, the gain on transfer of such units is to be added, and the loss on transfer of such units is to be reduced;

(*v*) in case of a company whose total income includes income by way of royalty in respect of a patent which is chargeable to tax under section 194(1)—

(*A*) the amount or amounts of expenditure relatable to such royalty income, if any such amount is debited to the statement of profit and loss, is to be added; and

(*B*) the income by way of such royalty, is to be reduced;

(*vi*) in case of a company, where the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 (18 of 2013) has after suspension of the Board of Directors of such company has nominated new directors under section 242 of the said Act, the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward of such company and its subsidiary and the subsidiary of such subsidiary, is to be reduced;

(*vii*) in case of a company against whom corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward, is to be reduced;

(*viii*) in case of a company being a sick industrial company under section 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004), the profits for the period commencing from the tax year in which such company has become a sick industrial company and ending with the tax year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses, is to be reduced;

(*ix*) in case of a company, whose financial statements are drawn up in compliance with the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 made under the Companies Act, 2013 (18 of 2013), the amounts mentioned in column A of the Table below shall be added and the amounts mentioned in column B of the said Table below are to be reduced:

Table

Amounts (to be added)	*Amounts (to be reduced)*
(A)	*(B)*
(1) Amounts credited to the statement of profit and loss as referred in clause (*e*)(*i*).	(1) Amounts debited to the statement of profit and loss as referred in clause (*e*)(*i*).
(2) The amounts or aggregate of the amounts debited to the statement of profit and loss on distribution as referred in clause (*e*)(*ii*).	(2) The amounts or aggregate of the amounts credited to the statement of profit and loss on distribution as referred in clause (*e*)(*ii*).
(3) Amount being one-fifth of the transition amount in the year of convergence and each of the following four tax years.	(3) Amount being one-fifth of the transition amount in the year of convergence and each of the following four tax years.
(4) The amount or the aggregate of the amounts referred to in clause (*e*)(*iii*), if such amount is not decreased.	(4) The amount or the aggregate of the amounts referred to in clause (*e*)(*iii*), if such amount is not increased.
(5) The amount or the aggregate of the amounts referred to in clause (*e*)(*iv*), if such amount is not decreased.	(5) The amount or the aggregate of the amounts referred to in clause (*e*)(*iv*), if such amount is not increased.

(*e*) For the purposes of the Table in clause (*d*)(*ix*),—

(*i*) the amount referred to in columns A and B of serial number 1 of the said Table shall be the other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss", excluding—

(*A*) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(*B*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109,

and the amount or the aggregate of the amounts referred to in sub-clause (*i*)(*A*) and (*B*) for the tax year or any of the preceding tax years, and relatable to such investment or asset, in the tax year in which the said investment or asset is retired, disposed, realised or otherwise transferred;

(*ii*) the distribution referred to in columns A and B of serial number 2 of the said Table shall be the distribution of non-cash assets to shareholders in a demerger as per Appendix A of the Indian Accounting Standards 10;

(*iii*) the amount referred to in columns A and B of serial number 4 of the said Table shall be the amount which is relatable to the asset or investment referred to in clause (*t*)(*vi*)(*B*) to (*E*) for the tax year in which such asset or investment is retired, disposed, realised or otherwise transferred;

(*iv*) the amount referred to in columns A and B of serial number 5 of the said Table shall be the transition amount which is relatable to the foreign operations referred to in clause (*t*)(*vi*)(F) for the tax year in which such foreign operation is disposed or otherwise transferred.

(*f*) For the purposes of book profit under clause (*c*), every company shall prepare its statement of profit and loss for the relevant tax year in the following manner:—

(*i*) in case of an insurance or banking company, or a company engaged in the generation or supply of electricity, or any other class of company for which a form of financial statement has been specified under the enactment governing such class of company, as per the provisions of such enactment;

(*ii*) in all other cases, as per the provisions of Schedule III to the Companies Act, 2013 (18 of 2013).

(*g*) While preparing the annual accounts including statement of profit and loss by the company, the—

(*i*) accounting policies;

(*ii*) accounting standards adopted for preparing such accounts including statement of profit and loss; and

(*iii*) method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including statement of profit and loss and laid before the company at its annual general meeting as per the provisions of section 129 of the Companies Act, 2013 (18 of 2013), or correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including statement of profit and loss for, such financial year or part of such financial year falling within the relevant tax year, where the company has adopted or adopts the financial year which is different from the tax year under this Act.

(*h*) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from the values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this sub-section.

(*i*) In the case of an assessee being a company, where—

(*i*) there is an increase in book profit of the tax year due to income of past year or years included in the book profit on account of—

(*A*) an advance pricing agreement entered into by the assessee under section 168; or

(*B*) a secondary adjustment required to be made under section 170; and

(*ii*) the assessee has not utilised the credit of tax paid under this sub-section in any subsequent tax year under clauses (*m*), (*n*), (*o*) and (*p*),

the Assessing Officer shall, on an application made to him in this behalf by the assessee,—

(*I*) recompute the book profit of the past year or years and tax payable under this sub-section, if any, by the assessee during the tax year in such manner, as may be prescribed; and

(*II*) the provisions of section 287 shall, so far as may be, apply and the period of four years specified in sub-sections (7) and (8) of that section shall be reckoned from the end of the tax year in which the said application is received by the Assessing Officer.

(*j*) Irrespective of anything contained in any other provisions of this Act, no interest shall be payable to an assessee on the refund arising on account of clause (*i*).

(*k*) Nothing contained in clause (*a*) shall affect the determination of the amounts, in relation to the relevant tax year, to be carried forward to the subsequent year or years under the provisions of section 33(11) or 111 or 112(1) or 113 or 115.

(*l*) The provisions of this sub-section shall not be applicable to any assessee, being a foreign company, where—

(*i*) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in section 159(1) or the Central Government has adopted any agreement under section 159(2) and the assessee does not have a permanent establishment in India as per the provisions of such agreement; or

(*ii*) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in sub-clause (*i*) and the assessee is not required to seek registration under any law for the time being in force relating to companies; or

(*iii*) the total income of the assessee comprises solely of profits and gains from business referred to in section 61(2) (Table: Sl. Nos. 1, 3, 4 and 5), and such income has been offered to tax at the rates specified in the respective sections.

(*m*) Where any tax is paid under clause (*a*) by an assessee, then, credit shall be allowed to him of an amount in excess of such minimum alternate tax over the tax payable by such assessee on his total income computed as per the other provisions of this Act for that tax year.

(*n*) While allowing credit under clause (*m*),—

(*i*) no interest shall be payable on the tax credit so allowed; and

(*ii*) where tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 159(1) or (2), allowed against the minimum alternate tax exceeds such tax credit admissible against the tax payable by the assessee on its income as per the other provisions of this Act, then, while computing the credit under clause (*m*), such excess amount shall be ignored.

(*o*) (*i*) The tax credit determined under clause (*m*) shall be carried forward, and—

(*A*) set off in a year, when tax payable on the total income computed as per the provisions of this Act exceeds the minimum alternate tax; and

(*B*) such set off in respect of brought forward tax credit shall be allowed for any tax year to the extent of the difference between the tax on his total income and the minimum alternate tax for that tax year;

(*ii*) such carry forward of tax credit shall not be allowed beyond the fifteenth tax year immediately succeeding the tax year in which the tax credit becomes allowable under clause (*m*).

(*p*) Where as a result of any order passed under this Act, tax payable under this Act is decreased or increased, as the case may be, tax credit allowed under clause (*m*) shall also be decreased or increased accordingly.

(*q*) The provisions of this section shall not apply to a person,—

(*i*) being a company having income accruing or arising from life insurance business referred to in section 194(1) (Table: Sl. No. 6); or

(*ii*) who has exercised the option under section 200(5) or section 201(2).

(*r*) In case of conversion of a private company or unlisted public company into a limited liability partnership under the Limited Liability Partnership Act, 2008 (6 of 2009), the provisions of clauses (*m*) to (*p*) shall not apply to the successor limited liability partnership.

(*s*) Every company to which this section applies, shall furnish a report in the prescribed form from an accountant, certifying that the book profit in its case has been computed as per the provisions of this section—

(*i*) before the specified date referred to in section 63; or

(*ii*) along with the return of income furnished in response to a notice under section 268(1).

(*t*) For the purposes of this sub-section,—

(*i*) "Adjudicating Authority" shall have the same meaning as assigned to it in section 5(1) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(*ii*) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(*iii*) "net worth" shall have the meaning assigned to it in section 3(1)(*ga*) of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004);

(*iv*) "private company" and "unlisted public company" shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009);

(*v*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*vi*) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date, but not including the following:—

(*A*) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(*B*) revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(*C*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109 adjusted on the convergence date;

(*D*) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost as per paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(*E*) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost as per paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(*F*) adjustments relating to cumulative translation differences of a foreign operation as per paragraph D13 of the Indian Accounting Standards 101 on the convergence date;

(*vii*) "Tribunal" shall have the same meaning as assigned to it in section 2(*90*) of the Companies Act, 2013 (18 of 2013);

(*viii*) "Unit" means a unit established in an International Financial Services Centre;

(*ix*) "year of convergence" means the tax year within which the convergence date falls; and

(*x*) a company shall be a subsidiary of another company, if such other company holds more than half in the nominal value of equity share capital of the company.

(2) (*a*) Irrespective of anything contained in this Act, where the regular income-tax payable for a tax year by a person, other than a company, is less than the alternate minimum tax payable for such tax year, then,—

(*i*) the adjusted total income shall be deemed to be the total income of that person for such tax year; and

(*ii*) he shall be liable to pay income-tax equal to the alternate minimum tax.

(*b*) For the purposes of this sub-section,—

(*i*) "adjusted total income" shall be the total income before giving effect to clause (*a*), as increased by deductions claimed, if any, under—

(*I*) any section (other than section 149) included in Chapter VIII-C;

(*II*) section 46 as reduced by depreciation allowable as per the provisions of section 33, as if no deduction was allowed in respect of the assets on which the deduction under that section is claimed;

(*ii*) "alternate minimum tax" means the amount of tax computed on adjusted total income,—

(*I*) in case of an assessee being a unit located in an International Financial Services Centre and deriving its income solely in convertible foreign exchange, at the rate of 9%;

(*II*) in case of an assessee being a co-operative society, at the rate of 15%;

(*III*) in any other case, at a rate of 18.5%;

(*iii*) "regular income-tax" means the income-tax payable for a tax year by a person on his total income in accordance with the provisions of this Act other than the provisions of this sub-section;

(*iv*) "Unit" means a unit established in an International Financial Services Centre.

(*c*) The provisions of this sub-section shall apply to a person who has claimed any deduction under any section (other than section 149) included in Chapter VIII-C or section 46.

(*d*) The provisions of this sub-section shall not apply to—

(*i*) a person, who has exercised the option under section 203(5) or section 204(2);

(*ii*) a person, whose income-tax payable in respect of the total income of such person is computed under section 202(1);

(*iii*) an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in section 2(*77*)(*g*), if the adjusted total income of such person does not exceed twenty lakh rupees; or

(*iv*) any specified fund referred to in Schedule VI (Note 1).

(*e*) Where any tax is paid under clause (*a*) by an assessee, then, credit shall be allowed to him of an amount which shall be the excess of alternate minimum tax over the regular income tax payable of that year.

(*f*) While allowing credit under clause (*e*),—

(*i*) no interest shall be payable on the tax credit so allowed; and

(*ii*) where tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 159(1) or (2), allowed against the alternate minimum tax payable exceeds such tax credit admissible against the regular income-tax payable by the assessee, then, while computing the credit under clause (*e*), such excess amount shall be ignored.

(*g*) Tax credit determined under clause (*e*) shall be carried forward and—

(*i*) set off in a year, when the regular income-tax exceeds the alternate minimum tax; and

(*ii*) such set off in respect of brought forward tax credit shall be allowed for any tax year to the extent of the excess of regular income-tax over the alternate minimum tax for that tax year,

and such carry forward shall not be allowed beyond the fifteenth tax year immediately succeeding the tax year in which the tax credit becomes allowable under clause (*e*).

(*h*) Where as a result of any order passed under this Act, tax payable under this Act is reduced or increased, tax credit allowed under clause (*e*) shall also be reduced or increased accordingly.

(*i*) Irrespective of anything contained in clause (*c*) or clause (*d*), the credit for tax paid under clause (*a*) shall be allowed in accordance with the provisions of clauses (*e*), (*f*), (*g*) and (*h*).

(*j*) Every person to which this sub-section applies, shall furnish a report in the prescribed form from an accountant, certifying that the adjusted total income and alternate minimum tax in its case have been computed as per the provisions of this sub-section before the specified date referred to in section 63.

(3) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee mentioned in this section.

E.-Special provisions relating to non-residents and foreign companies

Tax on dividends, royalty and fees for technical service in case of foreign companies.

207. (1) The income-tax payable on the total income of a non-resident (not being a company) or of a foreign company, which includes any income specified in the column B of the Table below, shall be the aggregate of income-tax computed at the rate specified in the column C applied on the corresponding income specified in column B.

Table

Sl. No.	*Income*	*Rate of Incometax payable*
A	*B*	*C*
1.	Dividend [other than dividends specified against serial number 2],	20%
2.	Dividend received from a unit in an International Financial Services Centre.	10%
3.	Interest received from Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency not being interest referred to against serial numbers 4 and 5.	20%
4.	Interest received from an infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%
5.	Interest of the nature and extent referred to in section 393(2) (Table: Sl. Nos. 2, 3 and 4).	Rates specified in section 393(2) (Table: Sl. Nos. 2, 3 and 4).
6.	Distributed income being interest referred to in section 393(2) (Table: Sl. No. 6).	Rate specified in section 393(2) (Table: Sl. No. 6).
7.	Income received in respect of units, purchased in foreign currency, of a Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21) or of the Unit Trust of India.	20%
8.	Total income as reduced by income referred to against serial numbers 1 to 7.	Rates in force.

(2) Where the total income of a non-resident (not being a company) or of a foreign company, includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made with Government or an Indian concern after the 31st March, 1976, other than income referred to in section 59(1), and—

(*a*) the agreement is approved by the Central Government where such agreement is with an Indian concern; or

(*b*) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, it is as per that policy,

then, subject to the provisions of sub-section (3), the income-tax payable shall be the aggregate of income-tax computed at the rate specified in the column C applied on the corresponding income specified in column B of the Table below:—

Table

Sl. No.	*Income*	*Rates of income-tax payable*
A	*B*	*C*
1.	Royalty other than income referred to in section 59(1).	20%
2.	Fees for technical services other than income referred to in section 59(1).	20%
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Rates in force.

(3) Where the royalty referred to in sub-section (2) is in consideration for the transfer or grant of all or any rights (including the granting of a licence)—

(*a*) in respect of copyright in any book to an Indian concern; or

(*b*) in respect of any computer software to a person resident in India,

then the provisions of sub-section (2) shall apply in relation to such royalty without application of provisions of clause (*a*) or (*b*) of that sub-section.

(4) For the purposes of this section,—

(*a*) "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device; or any customised electronic data or any product or service of similar nature as may be notified by the Board, which is transmitted or exported from India to a place outside India by any means;

(*b*) "fees for technical services" shall have the meaning assigned to it in section 9;

(*c*) "royalty" shall have the meaning assigned to it in section 9.

(5) No deduction in respect of any expenditure or allowance shall be allowed under sections 28 to 58, 60 and 61 and section 93 for computing income referred to in sub-sections (1) and (2).

(6) Where the gross total income of an assessee—

(*a*) consists only of the income referred to in sub-section (1) (Table: Sl. Nos. 1 to 7), no deduction shall be allowed under Chapter VIII and Schedule XV;

(*b*) includes any income referred to in sub-section (1) (Table: Sl. Nos. 1 to 7), the gross total income shall be reduced by such income and the deduction under Chapter VIII shall be allowed as if such reduced amount were the gross total income of the assessee.

(7) The provisions of sub-section (6) shall not apply to a deduction allowed to Unit of an International Financial Services Centre under section 147.

(8) It shall not be necessary for an assessee to furnish a return of income under section 263(1), if—

(*a*) the total income during the tax year consisted only of income referred to in sub-section (1) (Table: Sl. Nos. 1 to 7) and sub-section (2) (Table: Sl. Nos. 1 and 2); and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income at a rate not less than the rate specified in sub-sections (1) and (2).

Tax on income from units purchased in foreign currency or capital gains arising from their transfer.

208. (1) The income-tax payable on the total income of an assessee, being an overseas financial organisation (herein referred to as Offshore Fund), which includes income specified in column B of the Table below, shall be the aggregate of income-tax computed at the rate specified in the column C applied on the corresponding income specified in column B.

TABLE

Sl. No.	*Income*	*Rate of income-tax payable*
A	*B*	*C*
1.	Income received in respect of units purchased in foreign currency.	10%
2.	Long-term capital gains arising from the transfer of units purchased in foreign currency.	12.5%
3.	Total income as reduced by income referred against serial numbers 1 and 2.	Rates in force.

(2) Where the gross total income of the Offshore Fund—

(*a*) consists only of income from units or income by way of long-term capital gains arising from the transfer of units, or both, no deduction shall be allowed to the assessee under sections 28 to 58, 60 and 61 or section 93(1)(*a*) or (*e*) or under Chapter VIII;

(*b*) includes any income referred to in clause (*a*),—

(*i*) the gross total income shall be reduced by such income; and

(*ii*) the deduction under Chapter VIII shall be allowed as if the gross total income so reduced were the gross total income of the assessee.

(3) For the purposes of this section,—

(*a*) "overseas financial organisation" means any fund, institution, association or body, whether incorporated or not, established under the laws of a country outside India,—

(*i*) which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21); and

(*ii*) such arrangement is approved by the Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992 (15 of 1992), for this purpose;

(*b*) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013 (18 of 2013);

(*c*) "unit" means unit of,—

(*i*) a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21); or

(*ii*) the Unit Trust of India.

Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

209. (1) The income-tax payable, on the total income of an assessee, being a non- resident, which includes income specified in column B of the Table below, shall be the aggregate of income-tax computed at the rate specified in the column C applied on the corresponding income specified in column B.

TABLE

Sl. No.	*Income*	*Rate of income-tax payable*
A	*B*	*C*
1.	From interest on— (*a*) bonds of an Indian company issued as per such scheme as may be notified by the Central Government; or (*b*) bonds of a public sector company sold by the Government, and purchased in foreign currency.	10%
2.	From dividends on Global Depository Receipts— (*a*) issued as per such scheme as may be notified by the Central Government against the initial issue of shares of an Indian company and purchased in foreign currency through an approved intermediary; or (*b*) issued against the shares of a public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or (*c*) issued or re-issued as per a scheme as may be notified by the Central Government, against the existing shares of an Indian company purchased in foreign currency through an approved intermediary.	10%
3.	Long-term capital gains arising from the transfer of bonds referred to against serial number 1 or Global Depository Receipts referred to against serial number 2.	12.5%
4.	Total income as reduced by income referred to against serial numbers 1 to 3.	Rates in force.

(2) Where the gross total income of the non-resident—

(*a*) consists only of income by way of interest or dividends in respect of—

(*i*) bonds referred to in sub-section (1) (Table: Sl. No. 1); or

(*ii*) Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 2),

no deduction shall be allowed under sections 28 to 58, 60 and 61 or section 93(1)(*a*) or (*e*) or under Chapter VIII;

(*b*) includes any income referred to in sub-section (1) (Table: Sl. No. 1) to (Table: Sl. No. 3),—

(*i*) the gross total income shall be reduced by the such income; and

(*ii*) the deduction under Chapter VIII shall be allowed as if the gross total income so reduced, were the gross total income of the assessee.

(3) The provisions of section 72(6) shall not apply for computation of long-term capital gains arising out of the transfer of long-term capital asset being bonds or Global Depository Receipts referred to in sub-section (1) (Table: Sl. No. 3).

(4) It shall not be necessary for a non-resident to furnish a return of his income under section 263(1), if—

(*a*) his total income during the tax year consisted only of income referred to in sub-section (*1*) (Table: Sl. No. 1) and (Table: Sl. No. 2); and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

(5) Where the assessee acquired Global Depository Receipts or bonds in an amalgamated or resulting company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company, as the case may be, as per the provisions of sub-section (1), the provisions of that sub-section shall apply to such Global Depository Receipts or bonds.

(6) For the purposes of this section,—

(*a*) "approved intermediary" means an intermediary which is approved as per a scheme as may be notified by the Central Government; and

(*b*) "Global Depository Receipts" shall have the meaning assigned to it in section 193(4)(*a*).

Tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer.

210. (1) The income-tax payable on the total income of an assessee, being a specified fund or Foreign Institutional Investor, which includes income referred to in column B of the Table below, shall be the aggregate of income-tax computed at the rate specified in the column C applied on the corresponding income specified in column B.

TABLE

Sl. No.	*Income*	*Rate of Income-tax payable*
A	*B*	*C*
1.	Income in respect of securities other than units referred to in section 208.	(*a*) 20% in case of Foreign Institutional Investor; (*b*) 10% in case of specified fund.
2.	Short-term capital gains (not being short-term capital gains referred to in section 196) arising from the transfer of such securities.	30%
3.	Short-term capital gains referred to in section 196 arising from the transfer of such securities.	20%
4.	Long-term capital gains (not being long-term capital gains referred to in section 198 arising from the transfer of such securities).	12.5%
5.	Long-term capital gains referred to in section 198 arising from the transfer of such securities which exceeds ₹ 125000.	12.5%
6.	Total income as reduced by income referred to against serial numbers 1 to 5.	Rates in force.

(2) In case of specified fund, provisions of this section shall apply only to the extent of income that is attributable to units held by non-resident (not being a permanent establishment of such non-resident in India) calculated in the manner as may be prescribed, irrespective of the provisions of sub-section (1).

(3) Irrespective of anything contained in sub-section (1), where the specified fund is an investment division of an offshore banking unit, the provisions of this section shall apply to the extent of income that is attributable to such investment division referred to in clause (*g*)(*ii*) of Note 1 of the Table in Schedule VI as a Category-I portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), calculated in such manner as may be prescribed.

(4) Where the gross total income of the specified fund or Foreign Institutional Investor—

(*a*) consists only of income in respect of securities referred in sub-section (1) (Table: Sl. No. 1), no deduction shall be allowed to it under sections 28 to 58, 60 and 61 or section 93(1)(*a*) or (*e*) or under Chapter VIII;

(*b*) includes any income referred to in sub-section (1) (Table: Sl. No. 1) to (Table: Sl. No. 5),—

(*i*) the gross total income shall be reduced by the amount of such income; and

(*ii*) the deduction under Chapter VIII shall be allowed as if the gross total income as so reduced, were the gross total income of the specified fund or Foreign Institutional Investor.

(5) The provisions of section 72(6) shall not apply for the computation of capital gains arising out of the transfer of securities referred to in sub-section (1) (Table: Sl. No. 2) to (Table: Sl. No. 5).

(6) For the purposes of this section,—

(*a*) "Foreign Institutional Investor" means such investor as specified in a notification by the Central Government;

(*b*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(*c*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*d*) "specified fund" shall have the meaning assigned to it in Schedule VI [Note 1].

Tax on non-resident sportsmen or sports associations.

211. (1) Where the total income of an assessee,—

(*a*) being a sportsman (including an athlete), who is not a citizen of India and is a non-resident, includes any income received or receivable by way of—

(*i*) participation in India in any game [other than a game the winnings from which are taxable as specified in section 194(1) (Table: Sl. No. 1)] or sport; or

(*ii*) advertisement; or

(*iii*) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or

(*b*) being a non-resident sports association or institution, includes any amount guaranteed to be paid or payable to such association or institution in relation to any game, other than a game the winnings from which are taxable as specified in section 194(1) (Table: Sl. No. 1) or sport played in India; or

(*c*) being an entertainer, who is not a citizen of India and is a non-resident, includes any income received or receivable from his performance in India,

then, the aggregate of income-tax payable by the assessee shall be computed at the rate specified in the column C applied on the corresponding income specified in column B:—

TABLE

Sl. No.	*Income*	*Rate of Income-tax payable*
A	*B*	*C*
1.	Income referred to in clause (*a*) or (*b*) or (*c*).	20%
2.	Total income as reduced by income referred to in clause (*a*) or (*b*) or (*c*).	Rates in force.

(2) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the income referred to in sub-section (1).

(3) It shall not be necessary for the assessee to furnish a return of his income under section 263(1), if—

(*a*) his total income during the tax year consisted only of income referred to in sub-section (1); and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

Interpretation.

212. In sections 213 to 218,—

(*a*) "foreign exchange asset" means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(*b*) "investment income" means any income derived from a foreign exchange asset;

(*c*) "long-term capital gains" means income chargeable under the head "Capital gains" relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset;

(*d*) "non-resident Indian" means an individual, who is not a resident and is—

(*i*) a citizen of India; or

(*ii*) a person of Indian origin;

(*e*) "specified asset" means any of the following assets:—

(*i*) shares in an Indian company; or

(*ii*) debentures issued by an Indian company which is not a private company as defined in the Companies Act, 2013 (18 of 2013); or

(*iii*) deposits with an Indian company which is not a private company as defined in the Companies Act, 2013 (18 of 2013); or

(*iv*) any security of the Central Government as defined in section 2(*f*) of the Government Securities Act, 2006 (38 of 2006); or

(*v*) such other assets as the Central Government may specify in this behalf by notification.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Special provision for computation of total income of non-residents.

213. (1) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the investment income of a non-resident Indian.

(2) In the case of an assessee, being a non-resident Indian, where—

(*a*) the gross total income consists only of investment income or income by way of long-term capital gains or both, then no deduction shall be allowed under Chapter VIII;

(*b*) the gross total income includes any income referred to in clause (*a*),—

(*i*) the gross total income shall be reduced by such income; and

(*ii*) the deductions under Chapter VIII shall be allowed as if the gross total income as so reduced was the gross total income of the assessee.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tax on investment income and long-term capital gains.

214. The income-tax payable on the total income of an assessee, being a nonresident Indian, which includes income specified in column B of the Table below, shall be the aggregate of income-tax computed at the rate specified in the column C applied on the corresponding income specified in column B.

TABLE

Sl. No.	*Income*	*Rate of Income-tax payable*
A	*B*	*C*
1.	Income from investment.	20%
2.	Income from long-term capital gains on specified asset.	12.5%
3.	Total income as reduced by income referred to against serial numbers 1 and 2.	Rates in force.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Capital gains on transfer of foreign exchange assets not to be charged in certain cases.

215. (1) Where, in case of an assessee, being a non-resident Indian,—

(*a*) any long-term capital gains arises from the transfer of a foreign exchange asset (herein referred to as original asset); and

(*b*) within six months after the date of such transfer, he has invested the whole or any part of the net consideration in any specified asset (herein referred to as new asset),

then the capital gains shall be dealt with in the following manner:—

(*i*) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 67;

(*ii*) if the cost of the new asset is less than the net consideration in respect of the original asset, then the capital gain computed by the followiing formula shall not be charged under section 67:—

$$A = B \times \left(\frac{C}{D}\right)$$

Where,

A = the capital gains not to be charged under section 67;
B = whole of the capital gain;
C = cost of acquisition of the new asset;
D = net consideration in respect of the original asset.

(2) For the purposes of sub-section (1),—

(*a*) "cost", in relation to any new asset, being a deposit referred to in section 212(*e*)(*iii*) or (*v*), means the amount of such deposit;

(*b*) "net consideration" in relation to the transfer of the original asset, means the full value of the consideration received or accruing as a result of the transfer of such asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(3) Where the new asset is transferred or converted (otherwise than by transfer) into money, within three years from date of its acquisition, the capital gain arising from transfer of original asset not so charged under section 67 on the basis of the cost of such new asset as provided in sub-section (1)(*i*) or (*ii*), shall be deemed to be income by way of capital gains relating to capital assets other than short-term capital assets of the tax year in which the new asset is transferred or converted (otherwise than by transfer) into money.

Return of income not to be furnished in certain cases.

216. It shall not be necessary for a non-resident Indian to furnish a return of his income under section 263(1), if—

(*a*) his total income during the tax year consisted only of investment income or income by way of long-term capital gains or both; and

(*b*) the tax deductible at source under the provisions of Chapter XIX-B has been deducted from such income.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Benefit under Chapter to be available in certain cases even after assessee becomes resident.

217. Where a non-resident Indian in any tax year,—

(*a*) becomes assessable as a resident in India in respect of total income in a subsequent year; and

(*b*) furnishes a declaration in writing to the Assessing Officer along with his return of income under section 263 for the tax year for which he is so assessable, to the effect that provisions of sections 212 to 218 shall continue to apply to him in relation to the investment income derived from any foreign exchange asset referred to in section 212(*e*) other than shares in an Indian company,

then the provisions of sections 212 to 218 shall continue to apply in relation to such income for that tax year and every subsequent tax year until the transfer or conversion (otherwise than by transfer) of such assets into money.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Chapter not to apply if the assessee so chooses.

218. A non-resident Indian may choose not to be governed by the provisions of sections 212 to 217 for any tax year by declaring it in his return of income under section 263 for such tax year, and if he does so,—

(*a*) the provisions of sections 212 to 217 shall not apply to him for that tax year, and

(*b*) his total income for that tax year shall be computed and charged to tax according to the other provisions of this Act.

Conversion of an Indian branch of foreign company into subsidiary Indian company.

219. (1) Where a foreign company is engaged in the business of banking in India through its branch situated in India and such branch is converted into a subsidiary Indian company as per the scheme framed by the Reserve Bank of India, then, irrespective of anything contained in this Act and subject to the conditions as may be notified by the Central Government,—

(*a*) the capital gains arising from such conversion shall not be chargeable to tax in the tax year in which such conversion takes place; and

(*b*) the provisions of this Act relating to—

(*i*) treatment of unabsorbed depreciation, set off or carry forward and set off of losses;

(*ii*) tax credit in respect of tax paid on deemed income relating to certain companies; and

(*iii*) computation of income of the foreign company and subsidiary Indian company,

shall apply with such exceptions, modifications and adaptations as specified in that notification.

(2) In case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (1), all the provisions of this Act shall apply to the foreign company and the said subsidiary Indian company without any benefit, exemption or relief under the said sub-section.

(3) Where, in a tax year, any benefit, exemption or relief has been claimed and granted as per the provisions of sub-section (1) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under the said sub-section then,—

(*a*) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(*b*) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment; and

(*c*) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (8) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (1) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament.

Foreign company said to be resident in India.

220. (1) Where a foreign company is said to be a resident in India in any tax year and such company has not been a resident in India in earlier tax years, then, irrespective of anything in this Act and subject to the conditions as may be notified by the Central Government in this behalf, the provisions of this Act relating to—

(*a*) the computation of total income;
(*b*) treatment of unabsorbed depreciation;
(*c*) set off or carry forward and set off of losses;
(*d*) collection and recovery; and
(*e*) special provisions relating to avoidance of tax,

shall apply with such exceptions, modifications and adaptations as specified in that notification for such tax year.

(2) Where the determination regarding foreign company to be resident in India has been made in the assessment proceedings for any tax year, then, the provisions of sub-section (1) shall also apply to any other tax year succeeding such tax year, which ends on or before the date of completion of such assessment proceeding.

(3) Where, in a tax year, any benefit, exemption or relief has been claimed and granted to the foreign company as per the provisions of sub-section (1), and, subsequently, there is failure to comply with any of the conditions specified in the notification issued under the said sub-section, then,—

(*a*) such benefit, exemption or relief shall be deemed to have been wrongly allowed;
(*b*) the Assessing Officer may, irrespective of anything in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment as if the exceptions, modifications and adaptation referred to in sub-section (1) did not apply; and
(*c*) the provisions of section 287 shall, so far as may be, apply thereto and the period of four years specified in sub-section (8) of that section being reckoned from the end of the tax year in which the failure to comply with the condition referred to in sub-section (1) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

F.-Special provisions relating to pass-through entities

Tax on income from securitisation trusts.

221. (1) Irrespective of anything contained in this Act, where a person being an investor of a securitisation trust, receives any income or any income accrues or arises to him, out of investments made in the securitisation trust, such income shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

(2) The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1), as if it had been received by, or had accrued or arisen to, the securitisation trust during the tax year.

(3) The income accruing or arising to, or received by, the securitisation trust during a tax year, if not paid or credited to the person referred to in sub-section (1), shall be deemed to have been credited to the account of the said person—

(*a*) on the last day of the tax year; and

(*b*) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(4) The person responsible for crediting or making payment of the income on behalf of securitisation trust, and the securitisation trust, shall furnish, within such period, as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as may be prescribed.

(5) Any income which has been included in the total income of the person referred to in sub-section (1) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the securitisation trust.

(6) For the purposes of this section,—

(*a*) "investor" means a person who is holder of any securitised debt instrument or securities or security receipt issued by the securitisation trust;

(*b*) "securities" means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(*c*) "securitised debt instrument" shall have the same meaning as assigned to it in regulation 2(1)(s) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*d*) "securitisation trust" means a trust, being a—

(*i*) "special purpose distinct entity" as defined in regulation 2(1)(*u*) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and regulated under the said regulations; or

(*ii*) "Special Purpose Vehicle" as defined in, and regulated by, the guidelines on securitisation of standard assets issued by the Reserve Bank of India; or

(*iii*) trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India,

which fulfils such conditions, as may be prescribed;

(*e*) "security receipt" shall have the same meaning as assigned to it in section 2(1)(*zg*) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002).

Tax on income in case of venture capital undertakings.

222. (1) Irrespective of anything contained in any other provision of this Act, where a person, out of investments made in a venture capital company or venture capital fund, receives any income, or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person, had he made investments directly in the venture capital undertaking.

(2) The person responsible for crediting or making payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time, as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as may be prescribed.

(3) The income paid or credited by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) as it had been received by, or had accrued or arisen to, the venture capital company or the venture capital fund, as the case may be, during the tax year.

(4) The provisions of Chapter XIX-B shall not apply to the income paid by a venture capital company or venture capital fund under this Chapter.

(5) The income accruing or arising to or received by the venture capital company or venture capital fund during a tax year from investments made in venture capital undertaking, if not paid or credited to the person referred to in sub-section (1), shall be deemed to have been credited to the account of the said person —

(*a*) on the last day of the tax year; and

(*b*) in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(6) Any income which has been included in total income of the person referred to in sub-section (1) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the venture capital company or the venture capital fund.

(7) Nothing contained in this section shall apply in respect of any income accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in section 224(10)(*a*).

(8) For the purposes of this section, “venture capital company”, “venture capital fund” and “venture capital undertaking” shall have the meanings respectively assigned to them in Schedule V (Note 4).

Tax on income of unit holder and business trust.

223. (1) Irrespective of anything contained in any other provisions of this Act, any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

(2) Subject to the provisions of sections 196, 197 and 198, the total income of a business trust shall be charged to tax at the maximum marginal rate.

(3) If in any tax year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in Schedule V (Table: Sl. No. 3) or (Table: Sl. No. 4), then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the tax year.

(4) The provisions of sub-section (1) shall not apply in respect of any sum referred to in section 92(2)(*k*) received by a unit holder from a business trust.

(5) Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder, shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner, as may be prescribed, giving the details of the nature of the income paid during the tax year and such other details, as may be prescribed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tax on income of investment fund and its unit holders.

224. (1) Irrespective of anything contained in any other provision of this Act and subject to the provisions of this section, where a person, being a unit holder of an investment fund, out of investments made in the investment fund, receives any income or any income accrues or arises to him, such income shall be chargeable to income-tax in the same manner as if, it were the income accruing or arising to, or received by, such person, had the investments made by the investment fund been made directly by him.

(2) Where in any tax year, the net result of computation of total income of the investment fund, without giving effect to the provisions of Schedule V (Table: Sl. No. 1), is a loss under any head of income and such loss cannot be or is not wholly set off against income under any other head of income of the said tax year, then out of such loss,—

(*a*) the loss arising to the investment fund as a result of the computation under the head "Profits and gains of business or profession", if any, shall be—

(*i*) allowed to be carried forward and it shall be set off by the investment fund as per the provisions of Chapter VII; and

(*ii*) ignored for the purposes of sub-section (1);

(*b*) the loss other than the loss referred to in clause (*a*), if any, shall also be ignored for the purposes of sub-section (1), if such loss has arisen in respect of a unit which has not been held by the unit holder for at least twelve months.

(3) The loss other than the loss under the head "Profits and gains of business or profession", if any, accumulated at the level of investment fund as on the 31st March, 2019, shall be—

(*a*) deemed to be the loss of a unit holder who held the unit on the 31st March, 2019 in respect of the investments made by him in the investment fund, in the same manner as provided in sub-section (1); and

(*b*) allowed to be carried forward by such unit holder for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set off by him as per the provisions of Chapter VII.

(4) The loss so deemed under sub-section (3) shall not be available to the investment fund on or after the 1st April, 2019.

(5) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1), as if it had been received by, or had accrued or arisen to, the investment fund during the tax year subject to the provisions of sub-section (2).

(6) The total income of the investment fund shall be charged to tax—

(*a*) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or

(*b*) at maximum marginal rate, in any other case.

(7) The income accruing or arising to, or received by, the investment fund, during a tax year, if not paid or credited to the person referred to in sub-section (1), shall subject to the provisions of sub-section (2), be deemed to have been credited to the account of the said person on the last day of the tax year in the same proportion in which such person would have been entitled to receive the income had it been paid in the tax year.

(8) Any income, which has been included in total income of the person referred to in sub-section (1) in a tax year, on account of it having accrued or arisen in the said tax year, shall not be included in the total income of such person in the tax year in which such income is actually paid to him by the investment fund.

(9) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time, as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the tax year and such other relevant details, as may be prescribed.

(10) For the purposes of this section,—

(*a*) "investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the—

(*i*) Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under Securities and Exchange Board of India Act, 1992 (15 of 1992); or

(*ii*) International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(*b*) "trust" means a trust established under the Indian Trusts Act, 1882 (2 of 1882) or under any other law in force; and

(*c*) "unit" means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

G.-Special provisions relating to income of shipping companies

Income from business of operating qualifying ships.

225. Irrespective of anything contained in sections 26 to 54 (except 50 and 53), in the case of a company, the income from the business of operating qualifying ships—

(*a*) may, at its option, be computed as per provisions of this Part; and

(*b*) such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Tonnage tax scheme.

226. (1) In this Part, a company shall—

(*a*) be regarded as operating a ship or inland vessel, as the case may be, if it operates any ship or inland vessel, as the case may be, whether owned or chartered by it and includes a case where even a part of the ship or inland vessel, as the case may be, has been chartered in by it in an arrangement such as slot charter, space charter or joint charter;

(*b*) not be regarded as operating a ship or inland vessel, as the case may be, which has been chartered out by it on bareboat charter—*cum*-demise terms or on bareboat charter terms for a period exceeding three years.

(2) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(3) The tonnage tax business shall be considered as a separate business distinct from all other activities or business carried on by the company.

(4) The profits referred to in sub-section (2) shall be computed separately from the profits and gains from any other business.

(5) The tonnage tax scheme shall apply only if an option to that effect is made as per section 231.

(6) Where a company engaged in the business of operating qualifying ships,—

(*a*) is not covered under the tonnage tax scheme; or

(*b*) has not made an option in respect of the tonnage tax scheme as per section 231,

the profits and gains of such company from such business shall be computed as per other provisions of this Act.

(7) Subject to the other provisions of this Part,—

(*a*) the tonnage income, shall be—

(*i*) computed as per section 227; and

(*ii*) deemed to be the profits chargeable under the head "Profits and gains of business or profession"; and

(*b*) the relevant shipping income referred to in section 228(1) shall not be chargeable to tax.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Computation of tonnage income.

227. (1) The tonnage income of a tonnage tax company for a tax year shall be the aggregate of the tonnage income of each qualifying ship computed as per sub-sections (2) and (3).

(2) For the purposes of sub-section (1), the tonnage income of each qualifying ship shall be computed as per the following formula:—

TI= DTI × N

where,—

TI = the tonnage income of each qualifying ship;
DTI = the daily tonnage income of each qualifying ship;
N = the number of days in the tax year or in part of the tax year in case the ship is operated by the company as a qualifying ship for only part of the tax year.

(3) For the purposes of sub-section (2), the daily tonnage income of a qualifying ship having tonnage referred to in column B of the Table below shall be the amount specified in the corresponding entry in column C thereof.

TABLE

Sl. No.	*Qualifying ship having net tonnage*	*Amount of daily tonnage income*
A	*B*	*C*
1.	Up to 1000.	₹ 70 for each 100 tons.
2.	Exceeding 1000 but not more than 10000.	₹ 700 *plus* ₹ 53 for each 100 tons exceeding 1000 tons.
3.	Exceeding 10000 but not more than 25000.	₹ 5470 *plus* ₹ 42 for each 100 tons exceeding 10000 tons.
4.	Exceeding 25000.	₹ 11770 *plus* ₹ 29 for each 100 tons exceeding 25000 tons.

(4) For the purposes of this Part of the Chapter, the tonnage shall—

(*a*) mean the tonnage of a ship or inland vessel, as the case may be, indicated in the certificate referred to in sub-section (9); and

(*b*) include the deemed tonnage, being the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel, computed in the manner, as may be prescribed.

(5) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and if the tonnage so rounded off is not a multiple of hundred, then, if the last figure in that amount is,—

(*a*) fifty tons or more, the tonnage shall be increased to the next higher tonnage;

(*b*) less than fifty tons, the tonnage shall be reduced to the next lower tonnage,

which is a multiple of hundred and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(6) No deduction or set off shall be allowed in computing the tonnage income under this Part of the Chapter, irrespective of anything contained in any other provision of this Act.

(7) Where a qualifying ship is operated by two or more companies by way of—

(*a*) joint interest in the ship; or

(*b*) an agreement for the use of the ship,

and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

(8) Subject to the provisions of sub-section (7), where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

(9) For the purposes of this Part,—

(*a*) the tonnage of a ship or inland vessel, as the case may be, shall be determined as per the valid certificate indicating its tonnage;

(*b*) "valid certificate" means,—

(*i*) in case of ships registered in India,—

(*A*) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958 (44 of 1958);

(*B*) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969, as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the said Act;

(*ii*) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or 407 of the Merchant Shipping Act, 1958 (44 of 1958) specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration, where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship;

(*iii*) in case of inland vessel registered in India, a certificate issued under the Inland Vessels Act, 2021 (24 of 2021).

Relevant shipping income and exclusion from book profit.

228. (1) For the purposes of this Part, the relevant shipping income of a tonnage tax company means—

(*a*) its profits from core activities referred to in sub-section (3); and

(*b*) its profits from incidental activities referred to in sub-section (7).

(2) Where the aggregate of all such incomes specified in sub-section (1)(*b*) exceeds 0.25% of the turnover from core activities referred to in sub-section (3), such excess shall not form part of the relevant shipping income for the purposes of this Part and shall be taxable under the other provisions of this Act.

(3) The core activities of a tonnage tax company shall be—

(*a*) its activities from operating qualifying ships; and

(*b*) other ship-related or inland vessel related activities, as the case may be, as follows:—

(*i*) shipping contracts in respect of—

(*A*) earning from pooling arrangements;

(*B*) contracts of affreightment;

(*ii*) specific shipping trades, being—

(*A*) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on-board;

(*B*) slot charters, space charters, joint charters, feeder services and container box leasing of container shipping.

(4) For the purposes of sub-section (3)(*b*)(*i*),—

(*a*) "pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships or inland vessels as the case may be, and sharing earnings or operating profits on the basis of mutually agreed terms;

(*b*) "contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period.

(5) The Central Government, if it considers necessary or expedient so to do, may, by notification, exclude any activity referred to in sub-section (3)(*b*) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(6) Every notification issued under this Part shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(7) The incidental activities shall be the activities which are incidental to the core activities and as may be prescribed for the purpose.

(8) Where a tonnage tax company operates any ship or inland vessels as the case may be, which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed under other provisions of this Act.

(9) Where any goods or services held for the purposes of—

(*a*) tonnage tax business are transferred to any other business carried on by a tonnage tax company; or

(*b*) any other business carried on by such tonnage tax company are transferred to the tonnage tax business,

and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

(10) In sub-section (9), "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(11) Where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner specified in sub-section (9) presents exceptional difficulties, he may compute such income on such reasonable basis as he considers fit.

(12) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Part, take income as may reasonably be deemed to have been derived therefrom.

(13) In this Part, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income.

(14) Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis.

(15) Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purposes of the tonnage tax business and for the other business.

(16) The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section (1), shall be excluded from the book profit of the company for the purposes of section 206(1)(*c*).

Depreciation and gains relating to tonnage tax assets.

229. (1) For the purposes of computing depreciation under section 230(1)(*d*), the depreciation for the first tax year of the tonnage tax scheme (herein referred to as the first tax year) shall be computed on the written down value of the qualifying ships as specified under sub-section (2).

(2) The written down value of the block of assets, being ships or inland vessels, as the case may be, as on the first day of the first tax year, shall be divided in the ratio of the book written down value of the qualifying ships (herein referred to as the qualifying assets) and the book written down value of the non-qualifying ships (herein referred to as the other assets), as per the following formula:—

$$D = A \times \frac{B}{B+C}$$

$$E = A \times \frac{C}{B+C}$$

where,—

D = the written down value of the block of qualifying assets as on the first day of the tax year;

E = the written down value of the block of other assets as on the first day of the tax year;

A = the written down value of the existing block of assets, being ships or inland vessel, as the case may be, as on the first day of the tax year;

B = the aggregate of book written down value of qualifying assets as on the last day of the preceding tax year; and

C = the aggregate of the book written down value of other assets as on the last day of the preceding tax year.

(3) The block of qualifying assets as determined under sub-section (2) shall constitute a separate block of assets for the purposes of this Part.

(4) Where an asset forming part of a block of,—

(*a*) qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets as per the following formula:—

$$A = B \times \left(\frac{C}{D}\right)$$

where,—

A = the appropriate portion of the written down value allocable to the asset which begins to be used for purposes other than the tonnage tax business;

B = the written down value of block of qualifying assets as on the first day of the tax year;

C = the book written down value of qualifying asset which begins to be used for purpose other than the tonnage tax business; and

D = the aggregate of book written down value of all the assets forming the block of qualifying assets;

(*b*) other assets, begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset as per the following formula:—

$$E = F \times \frac{G}{I}$$

where,—

E = the appropriate proportion of the written down value allocable to the asset which begins to be used for purposes of tonnage tax business;

F = the written down value of block of other assets as on the first day of the tax year;

G = book written down value of the other asset which begins to be used for tonnage tax business; and

I = the aggregate of book written down value of all the assets forming the block of other assets.

(5) For the purposes of computing depreciation under section 230(1)(*d*) in respect of an asset mentioned in sub-sections (4)(*a*) and (*b*), the depreciation computed for the tax year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

(6) For the purposes of this Act, the depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section (2) had been brought forward from the preceding tax year.

(7) For the purposes of this section, the expression “book written down value” means the written down value as per books of account.

(8) Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax as per sections 67 and 74, and the capital gains so arising shall be computed as per sections 67 to 81.

(9) For the purposes of computing such profits or gains, as referred to in sub-section (8), the provisions of section 74 shall have effect as if for the words “written down value of the block of assets”, the words “written down value of the block of qualifying assets” had been substituted.

(10) For the purposes of this Chapter, the expression “written down value of the block of qualifying assets” means the written down value computed as per sub-section (2).

Exclusion of deduction, loss, set off, etc.

230. (1) Irrespective of anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any tax year (herein referred to as the "relevant tax year") in which it is chargeable to tax as per this Part—

(*a*) sections 28 to 52 shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant tax years, had been given full effect to for that tax year itself;

(*b*) no loss referred to in section 108(1) or (2)(*b*) or 109(1) or 112(1) or 116(1), in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the tax years when the company is under the tonnage tax scheme;

(*c*) no deduction shall be allowed under Chapter VIII in relation to the profits and gains from the business of operating qualifying ships; and

(*d*) in computing the depreciation allowance under section 33, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant tax years.

(2) Section 112 shall apply in respect of any losses that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any of the tax years when the company is under the tonnage tax scheme.

(3) The losses referred to in sub-section (2) shall not be available for set off against any income other than relevant shipping income in any tax year beginning on or after the company exercises its option under section 231.

(4) Any apportionment necessary to determine the losses referred to in sub-section (2) shall be made on a reasonable basis.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Method of opting of tonnage tax scheme and validity.

231. (1) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner, as may be prescribed, for such scheme.

(2) A qualifying company may make an application within three months, of the date of its incorporation, or of the date on which it becomes a qualifying company for the first time.

(3) A Unit of an International Financial Services Centre which has availed of deduction under section 147 may make an application within three months from the date on which such deduction ceases.

(4) On receipt of an application for option for tonnage tax scheme under sub-section (1), the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he shall pass an order in writing—

(*a*) approving the option for tonnage tax scheme; or

(*b*) refusing to approve the option for tonnage tax scheme, if he is not so satisfied,

and a copy of such order shall be sent to the applicant.

(5) No order under sub-section (4)(*b*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(6) Every order under sub-section (4) shall be passed before the expiry of three months from the end of the quarter in which the application under sub-section (1) was received.

(7) Where an order granting approval is passed under sub-section (4), the provisions of this Part shall apply from the tax year in which the option for tonnage tax scheme is exercised.

(8) An option for tonnage tax scheme, after it has been approved under sub-section (4), shall remain in force for ten years from the date on which such option has been exercised and shall be taken into account from the tax year in which such option is exercised.

(9) An option for tonnage tax scheme shall cease to have effect from the tax year, in which—

(*a*) the qualifying company ceases to be a qualifying company;

(*b*) a default is made in complying with the provisions contained in section 232(1) to (20);

(*c*) the tonnage tax company is excluded from the tonnage tax scheme under section 234;

(*d*) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Part may not be made applicable to it,

and the profits and gains of the company from the business of operating qualifying ships shall be computed as per other provisions of this Act.

(10) An option for tonnage tax scheme approved under sub-section (4) may be renewed within one year from the end of the tax year in which the option ceases to have effect.

(11) The provisions of sub-sections (1) to (9) shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

(12) A qualifying company,—

(*a*) which on its own, opts out of the tonnage tax scheme; or

(*b*) which makes a default in complying with the provisions contained in section 232(1) to (20); or

(*c*) whose option has been excluded from tonnage tax scheme in pursuance of an order made under section 234(4),

shall not be eligible to opt for tonnage tax scheme for ten years from the date of opting out or default or order.

Certain conditions for applicability of tonnage tax scheme.

232. (1) A tonnage tax company shall, subject to and as per the provisions of this section, be required to credit to a reserve account (herein referred to as the Tonnage Tax Reserve Account) an amount, being 20% or more of the book profit derived from the activities referred to in section 228(1)(*a*) and (*b*) in each tax year to be utilised in the manner laid down in sub-section (6).

(2) For the purposes of this section, the expression "book profit" shall have the meaning assigned to it in section 206(1)(*c*) so far as it relates to the income derived from the activities referred to in section 228(1)(*a*) and (*b*).

(3) Where the company has—

(*a*) book profit from the business of operating qualifying ships; and

(*b*) book loss from any other sources,

and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (1), the company shall create the reserves to the extent possible in that tax year and the shortfall, if any, shall be added to the reserves required to be created for the following tax year and such shortfall shall be deemed to be part of the reserve requirement of that following tax year.

(4) For the purposes of sub-section (3), to the extent the shortfall in creation of reserves during a particular tax year is carried forward to the following tax year under the said sub-section, the company shall be considered as having created sufficient reserves for the first mentioned tax year.

(5) For the purposes of sub-section (3), nothing contained in sub-section (4) shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive tax years.

(6) The amount credited to the Tonnage Tax Reserve Account under sub-section (1) shall be utilised by the company before the expiry of eight years following the tax year in which the amount was credited—

(*a*) for acquiring a new ship or new inland vessel, as the case may be, for the purposes of the business of the company; and

(*b*) until the acquisition of a new ship or new inland vessel, as the case may be, for the purposes of the business of operating qualifying ships other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(7) Where any amount credited to the Tonnage Tax Reserve Account under sub-section (1),—

(*a*) has been utilised for any purpose other than that referred to in sub-section (6); or

(*b*) has not been utilised for the purpose specified in sub-section (6)(*a*); or

(*c*) has been utilised for the purpose of acquiring a new ship or new inland vessel, as the case may be, as specified in sub-section (6)(*a*), but such ship or inland vessel, as the case may be, is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the tax year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (1) shall be taxable under the other provisions of this Act —

(*i*) in a case referred to in clause (*a*), in the year in which the amount was so utilised; or

(*ii*) in a case referred to in clause (*b*), in the year immediately following eight years specified in sub-section (6); or

(*iii*) in a case referred to in clause (*c*), in the year in which the sale or transfer took place.

(8) The income so taxable under the other provisions of this Act, referred to in sub-section (7), shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(9) Irrespective of anything contained in any other provision of this Part, where the amount credited to the Tonnage Tax Reserve Account as per sub-section (1) is less than the minimum amount required to be credited under sub-section (1), an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required to be credited under sub-section (1), shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(10) If the reserve required to be created under sub-section (1) is not created for any two consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the failure to create the reserve under sub-section (1) had occurred.

(11) For the purposes of this section, the expression "new ship" or "new inland vessel", as the case may be, includes a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

(12) A tonnage tax company, after its option has been approved under section 231(4), shall comply with the minimum training requirement in respect of trainee officers as per the guidelines issued by the Director-General of Shipping and notified by the Central Government.

(13) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping along with the return of income under section 263 to the effect that such company has complied with the minimum training requirement as per the guidelines referred to in sub-section (12) for the tax year.

(14) If the minimum training requirement is not complied with for any five consecutive tax years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the fifth consecutive tax year in which the failure to comply with the minimum training requirement as per sub-section (12) had occurred.

(15) In the case of every company which has opted for tonnage tax scheme, not more than 49% of the net tonnage of the qualifying ships operated by it during any tax year shall be chartered in.

(16) The proportion of net tonnage referred to in sub-section (15) in respect of a tax year shall be calculated based on the average of net tonnage during that tax year.

(17) For the purposes of sub-section (16), the average of net tonnage shall be computed in such manner, as may be prescribed, in consultation with the Director-General of Shipping.

(18) Where the net tonnage of ships or inland vessel, as the case may be, chartered in exceeds the limit under sub-section (15) during any tax year, the total income of such company in relation to that tax year shall be computed as if the option for tonnage tax scheme does not have effect for that tax year.

(19) Where the limit under sub-section (15) had exceeded in any two consecutive tax years, the option for tonnage tax scheme shall cease to have effect from the beginning of the tax year following the second consecutive tax year in which the limit had exceeded.

(20) For the purposes of this section, the expression "chartered in" shall exclude a ship or inland vessel, as the case may be, chartered in by the company on bareboat charter—*cum*-demise terms.

(21) An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a tax year unless such company—

(*a*) maintains separate books of account in respect of the business of operating qualifying ships; and

(*b*) furnishes, before the specified date referred to in section 63, the report of an accountant, in the prescribed form, duly signed and verified by such accountant.

(22) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Part of the Chapter.

(23) Where a qualifying company continues to operate a ship or inland vessel, as the case may be, which temporarily ceases to be a qualifying ship, such ship or inland vessel, as the case may be, shall not be deemed as a qualifying ship for the purposes of this Part.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Amalgamation and demerger.

233. (1) Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company, if it is a qualifying company.

(2) Where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under section 231(1) within three months from the date of the approval of the scheme of amalgamation.

(3) Where the amalgamating companies are tonnage tax companies, the provisions of this Part shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force.

(4) Where one of the amalgamating companies is a qualifying company as on the 1st October, 2004 and which has not exercised the option for tonnage tax scheme before the 1st January, 2005, the provisions of this Part shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed as per the other provisions of this Act.

(5) Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then, subject to the other provisions of this Part, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period, if it is a qualifying company.

(6) The option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

Avoidance of tax and exclusion from tonnage tax scheme.

234. (1) Subject to the provisions of this Part, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(2) For the purposes of sub-section (1), a transaction or arrangement shall be considered an abuse, if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(*a*) a person other than a tonnage tax company; or

(*b*) a tonnage tax company in respect of its non-tonnage tax activities.

(3) For the purposes of this section, "tax advantage" includes—

(*a*) the determination of—

(*i*) the allowance for any expense or interest; or

(*ii*) any cost or expense allocated or apportioned,

which has the effect of reducing the income or increasing the loss, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the tax year in which the transaction was entered into; or

(*b*) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

(4) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (1), the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme.

(5) The Assessing Officer shall pass an order under sub-section (4), after—

(*a*) giving an opportunity to the company by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme; and

(*b*) obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner.

(6) The provisions of this section shall not apply where the company satisfies the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Part.

(7) Where an order has been passed under sub-section (4) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the tax year in which the transaction or arrangement was entered into.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Interpretation.

235. For the purposes of this Part,—

(*a*) "bareboat charter" means hiring of a ship or inland vessel, as the case may be, for a stipulated period on terms which give the charterer possession and control of the ship or inland vessel, as the case may be, including the right to appoint the master and crew;

(*b*) "bareboat charter—*cum*-demise" means a bareboat charter where the ownership of the ship or inland vessel, as the case may be, is intended to be transferred after a specified period to the company to whom it has been chartered;

(*c*) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under section 7(1) of the Merchant Shipping Act, 1958 (44 of 1958);

(*d*) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(*e*) "fishing vessel" shall have the meaning assigned to it in section 3(12) of the Merchant Shipping Act, 1958 (44 of 1958);

(*f*) "inland vessel" shall have the meaning assigned to it in section 3(*q*) of the Inland Vessels Act, 2021 (24 of 2021);

(*g*) "pleasure craft" means a ship or inland vessel, as the case may be, of a kind whose primary use is for the purposes of sport or recreation;

(*h*) "qualifying company" means a company, if—

(*i*) it is an Indian company;
(*ii*) the place of effective management of the company is in India;
(*iii*) it owns at least one qualifying ship; and
(*iv*) the main object of the company is to carry on the business of operating ships,

and for the purposes of sub-clause (*ii*), "place of effective management of the company" means—

(*A*) the place where the board of directors of the company or its executive directors, make their decisions; or
(*B*) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions;

(*i*) "qualifying ship" means a ship or inland vessel, as the case may be, if—

(*i*) it is a seagoing ship or vessel or inland vessel, as the case may be, of fifteen net tonnage or more;
(*ii*) it is a ship registered under the Merchant Shipping Act, 1958 (44 of 1958), or a ship registered outside India in respect of which a licence has been issued by the Director-General of Shipping under section 406 or 407 of said Act or an inland vessel registered under the Inland Vessels Act, 2021 (24 of 2021), as the case may be; and
(*iii*) a valid certificate in respect of such ship or inland vessel, as the case may be, indicating its net tonnage is in force,

but does not include—

(*A*) a seagoing ship or vessel or inland vessel, as the case may be, if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;
(*B*) fishing vessels;
(*C*) factory ships;
(*D*) pleasure crafts;
(*E*) harbour and river ferries;
(*F*) offshore installations; and
(*G*) a qualifying ship which is used as a fishing vessel for more than thirty days during a tax year;

(*j*) "seagoing ship" means a ship, if it is certified as such by the competent authority of any country;

(*k*) "tonnage income" means the income of a tonnage tax company computed as per the provisions of this Part of the Chapter;

(*l*) "tonnage tax activities" means the activities referred to in section 228(3) and (7);

(*m*) "tonnage tax business" means the business of operating qualifying ships giving rise to relevant shipping income as referred to in section 228(1);

(*n*) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(*o*) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Part.

CHAPTER XIV

TAX ADMINISTRATION

A.-Authorities, jurisdiction and functions

Income-tax authorities.

236. For the purposes of this Act, there shall be the following classes of income-tax authorities:—

(*a*) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
(*b*) Principal Directors General of Income-tax or Principal Chief Commissioners of Income-tax;
(*c*) Directors General of Income-tax or Chief Commissioners of Income-tax;
(*d*) Principal Directors of Income-tax or Principal Commissioners of Income-tax;
(*e*) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals);
(*f*) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals);
(*g*) Joint Directors of Income-tax or Joint Commissioners of Income-tax or Joint Commissioners of Income-tax (Appeals);
(*h*) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax;
(*i*) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax;
(*j*) Income-tax Officers;
(*k*) Tax Recovery Officers; and
(*l*) Inspectors of Income-tax.

Appointment of income-tax authorities.

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

(2) The Central Government may, subject to the rules and its orders regulating the conditions of service of persons in public services and posts, authorise the Board, or a Principal Director General or Director General, or a Principal Chief Commissioner or Chief Commissioner, or a Principal Director or Director, or a Principal Commissioner or Commissioner, to appoint income-tax authorities below the rank of a Deputy Commissioner or Assistant Commissioner.

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

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Control of income-tax authorities.

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

Instructions to subordinate authorities.

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

(2) No orders, instructions or directions under sub-section (1) shall be issued so as to—

(*a*) require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) interfere with the discretion of the Joint Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(3) Without prejudice to the generality of the foregoing power, the Board may,—

(*a*) if it considers it necessary or expedient so to do for the proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 263, 270, 271, 279, 280, 287, 288, 298, 398(3), 406, 407, 408, 423, 424, 425, 427, 428, 439, 448, 449 or otherwise), general or special orders in respect of any class of incomes or class of cases,—

(*i*) setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties; and

(*ii*) any such order may, if the Board is of the opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(*b*) if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any income-tax authority, not being a Joint Commissioner (Appeals) or a Commissioner (Appeals) to admit an application or claim any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified in this Act for making such application or claim and deal with the same on merits as per law;

(*c*) if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or VIII, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions:—

(*i*) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and

(*ii*) the assessee has complied with such requirement before the completion of assessment in relation to the tax year in which such deduction is claimed.

(4) The Central Government shall cause every order issued under sub-section (3)(*c*) to be laid before each House of Parliament.

Taxpayer's Charter.

240. The Board shall adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it considers fit for the administration of such Charter.

Jurisdiction of income-tax authorities.

241. (1) The income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or assigned to, such authorities under this Act, as per such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

(2) Any income-tax authority, being an authority higher in rank, may, if so directed by the Board, exercise the powers and perform the functions of an income-tax authority lower in rank and any such direction issued by the Board shall be deemed to be a direction issued under sub-section (1).

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

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

(*a*) territorial area;

(*b*) persons or classes of persons;

(*c*) incomes or classes of income; and

(*d*) cases or classes of cases.

(5) Without prejudice to sub-sections (1), (2) and (3), the Board may, by general or special order, subject to such conditions, restrictions or limitations as specified therein—

(*a*) authorise any Principal Director General or Director General or Principal Director or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(*b*) empower the specified income-tax authority to issue orders in writing that the powers and functions conferred on, or assigned to, the Assessing Officer under this Act in respect of any specified area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed by an Additional Commissioner or an Additional Director or a Joint Commissioner or a Joint Director.

(6) Where any order is made under sub-section (5)(*b*), references in any other provision of this Act or in any rule made thereunder, to the Assessing Officer shall be deemed to be references to such Additional Commissioner or Additional Director or Joint Commissioner or Joint Director by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.

(7) The directions and orders referred to in sub-sections (1), (2) and (3) may, wherever considered necessary or appropriate for the proper management of work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, and—

(*a*) where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct; and

(*b*) references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(8) Irrespective of anything contained in any direction or order issued under this section, or in section 242, the Board may, by notification, issue any direction for the purposes of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons.

(9) The income-tax authority exercising and performing the powers and functions in relation to the person or class of persons referred to in sub-section (8) shall be such authority as specified in the notification issued under that sub-section.

Jurisdiction of Assessing Officers.

242. (1) Where an Assessing Officer has been vested with jurisdiction over any area by virtue of any direction or order issued under section 241(1) or (2) or (3), he shall have jurisdiction within the limits of such area,—

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

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

(2) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the specified income-tax authority.

(3) Where under this section, a question arises relating to areas within the jurisdiction of different specified income-tax authorities, the question shall be determined—

(*a*) by the specified income-tax authorities concerned; or

(*b*) by the Board or by such specified income-tax authority as the Board may, by notification, specify in this behalf, if they are not in agreement.

(4) No person shall call in question the jurisdiction of an Assessing Officer,—

(*a*) where he has made a return under section 263(1), after the expiry of one month from the date on which he was served with a notice under section 268(1) or 270(8) or after the completion of the assessment, whichever is earlier;

(*b*) where he has made no such return, after the expiry of the time allowed by the notice under section 268(1) or 280(2) for the making of the return or by the notice under section 271(2) to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;

(*c*) where an action has been taken under section 247 or 248, after the expiry of one month from the date on which he was served with a notice under section 294(1)(*a*) or after the completion of the assessment, whichever is earlier.

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

(6) Irrespective of anything contained in this section or in any direction or order issued under section 241, every Assessing Officer shall have all the powers conferred under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under section 241(1) or (2) or (3).

Power to transfer cases.

243. (1) The specified income-tax authority may transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) If the Assessing Officer or Assessing Officers, from whom the case is to be transferred and the Assessing Officer or Assessing Officers, to whom the case is to be transferred are not subordinate to the same specified income-tax authority, and the concerned specified income-tax authorities—

(*a*) are in agreement, then the specified income-tax authority from whose jurisdiction the case is to be transferred may pass the order;

(*b*) are not in agreement, the order transferring the case may be passed by the Board or any such specified income-tax authority as the Board may, by notification, specify in this behalf.

(3) The order of transfer under sub-section (1) or (2) may be passed by the specified income-tax authority after giving the assessee a reasonable opportunity of being heard, wherever it is possible to do so and after recording his reasons therefor.

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

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

(6) For the purposes of section 241 and this section, “case”, in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year, which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

(7) For the purposes of sections 241, 242 and this section, “specified income-tax authority” means the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

Change of incumbent of an office.

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

(2) Before the proceeding referred to in sub-section (1) is so continued, the assessee concerned may demand that—

(*a*) the previous proceeding or any part thereof be reopened; or

(*b*) he be reheard before any order of assessment is passed against him.

Faceless jurisdiction of income-tax authorities.

245. (1) The Central Government may, by notification, make a scheme for the purposes of—

(*a*) exercise of all or any of the powers and performance of all or any of the functions conferred on, or assigned to, income-tax authorities under this Act referred to in section 241;

(*b*) vesting the jurisdiction with the Assessing Officer under section 242; or

(*c*) exercise of power to transfer cases under section 243; or

(*d*) exercise of jurisdiction in case of change of incumbency under section 244.

(2) The scheme referred to in sub-section (1) shall be made to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, with dynamic jurisdiction.

(3) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in such notification.

(4) Every notification issued under sub-sections (1) and (3) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

B.-Powers

Power regarding discovery, production of evidence, etc.

246. (1) The Assessing Officer, Joint Commissioner, Joint Commissioner (Appeals), Commissioner (Appeals), Commissioner or Principal Commissioner, or Chief Commissioner or Principal Chief Commissioner and the Dispute Resolution Panel referred to in section 275(17)(*a*), shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters:—

(*a*) discovery and inspection;

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

(*c*) compelling the production of books of account and other documents; and

(*d*) issuing commissions.

(2) The powers conferred under sub-section (1) may also be exercised in respect of any person or class of persons by the following income-tax authorities (even when there are no proceedings pending with respect to such person or class of persons before them or any other income-tax authority):—

(*a*) any income-tax authority (not below the rank of Assistant Commissioner of Income-tax) notified by the Board in this behalf, for the purposes of making any inquiry or investigation in respect of an agreement referred to in section 159;

(*b*) the Principal Director General or Director General or Principal Director or Director or Joint Director or Assistant Director for the purposes of making any inquiry or investigation in relation to any concealment of income, if he has the reason to suspect that any income has been so concealed, or is likely to be so concealed by such person or class of persons within his jurisdiction; and

(*c*) the authorised officer referred to in section 247(1), before taking action under section 247(1)(*i*) to (*vii*), or during the course of such action, if he has reason to suspect that any income has been concealed, or is likely to be concealed by such person or class of persons within his jurisdiction.

(3) Any income-tax authority exercising the powers referred to in sub-sections (1) and (2) may, subject to the rules made in this behalf, impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act.

(4) The Assessing Officer or the Assistant Director shall record the reasons for impounding any books of account or other documents under sub-section (3) and may retain such impounded books of account or other documents up to fifteen days (exclusive of holidays), or for such further period, with the prior sanction of the approving authority.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Search and seizure.

247. (1) Where the competent authority, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under section 131(1) or a notice under section 142(1) of the Income-tax Act, 1961 (43 of 1961) or summons under section 246(1) or a notice under section 268(1) of this Act,—

(*I*) was issued to produce, or cause to be produced, any books of account or other documents, or any information in electronic form or on a computer system, has omitted or failed to produce, or cause to be produced, such books of account or other documents or such information as required by such summons or notice; or

(*II*) has been issued or might be issued, will not, or would not, produce or cause to be produced, any books of account or other documents, or any information in electronic form or on a computer system which will be useful for, or relevant to, any proceedings under the Income-tax Act, 1961 (43 of 1961) or this Act; or

(*b*) any person is in possession of any asset or information in relation to any asset and such asset represents either wholly or partly, income or property which has not been, or would not be, disclosed, for the purposes of the Income-tax Act, 1961 (43 of 1961) or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) or this Act (hereinafter referred to as the undisclosed income or property),

then the approving authority may authorise any Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer, or any Joint Director or Joint Commissioner, so authorised, may authorise any Assistant Director or Assistant Commissioner or Income-tax Officer, (the officer so authorised in all cases being herein referred to as the authorised officer) to—

(*i*) enter and search any building, place, vessel, vehicle, aircraft where he has reason to suspect that such assets, books of account or other documents, or such information in electronic form or on a computer system are kept;

(*ii*) require any person, who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record or any information in electronic form or on a computer system, to afford the authorised officer with such reasonable technical and other assistance (including access code, by whatever name called) as may be necessary to enable the authorised officer to inspect such books of account or other documents or such information;

(*iii*) break open the lock of any door, box, locker, safe, almirah, or other receptacle or override the access code to any computer system for exercising the powers conferred by clause (*i*) where the keys thereof are, or the access to such building, place, etc., or the access code to such computer system, as the case may be, is not available;

(*iv*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, any information in electronic form, or a computer systems or asset;

(*v*) place marks of identification on any books of account or other documents, or make or cause to be made extracts or copies therefrom and also from computer system;

(*vi*) make a note or an inventory of any such asset, and stock-in-trade of the business, found as a result of such search;

(*vii*) seize any such books of account, other documents, computer systems or asset (other than stock-in-trade of the business), found as a result of such search.

(2) If any building, place, vessel, vehicle or aircraft referred to in sub-section (1)(*i*) is within the area of jurisdiction of any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, but such income-tax authority has no jurisdiction over the person referred to in sub-section (1)(*a*) or (*b*), then, irrespective of the fact that he has no jurisdiction, it shall be competent for such income-tax authority to exercise the powers under sub-section (1), where he has reason to believe that any delay in getting the authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue.

(3) If any Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, or any information in electronic form or on a computer system, or asset in respect of which an officer has been authorised by the competent authority to take action under sub-section (1)(*i*) to (*vii*) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), then such Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, irrespective of anything contained in section 241, authorise the said officer to take action under any of the sub-section (1)(*i*) to (*vii*) in respect of such building, place, vessel, vehicle or aircraft.

(4)(*a*)(*i*) The authorised officer may serve an order on the owner or the person, who is in immediate possession or control of any valuable article or thing, other than stock-in-trade of the business not to remove, part with or otherwise deal with it, except with the previous permission of such authorised officer, where it is not possible or practicable to take physical possession of such valuable article or thing and remove it to a safe place due to its volume, weight, or other physical characteristics or due to its being of a dangerous nature; and

(*ii*) such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under sub-section (1)(*vii*);

(*b*)(*i*) the authorised officer may, where it is not practicable to seize, any books of account, other documents, asset, bank locker, bank account, or computer system, for reasons other than mentioned under clause (*a*), serve an order on the owner or the person who is in immediate possession or control thereof, not to remove, part with or otherwise deal with it except with the previous permission of such officer and such authorised officer may also take such steps as may be necessary for ensuring compliance with this clause;

(*ii*) such order shall not remain in force for a period exceeding sixty days from the date of the order; and

(*iii*) serving of such order shall not be deemed to be seizure of such books of account, other documents, asset, bank locker, bank account or computer system under sub-section (1)(*vii*).

(5) The authorised officer may requisition the services of,—

(*a*) any police officer or any officer of the Central Government, or of both; or

(*b*) any person or entity as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with such procedure, as may be prescribed, in this regard,

to assist him for all or any of the purposes specified in sub-sections (1) and (3) and it shall be the duty of every such officer or person or entity to comply with such requisition.

(6) The authorised officer may, during the course of any search or seizure, examine on oath any person who is found to be in possession or control of any books of account or other documents, or asset, or any information in electronic form or on a computer system or having access to such computer system or any other person who is present in the premises or is being searched, and—

(*a*) any statement made by such person, during such examination may thereafter be used in evidence in any proceeding under the Income-tax Act, 1961 (43 of 1961) or this Act; and

(*b*) the examination of any such person may not be merely in respect of any books of account or other documents, or any information in electronic form or on a computer system, or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Income-tax Act, 1961 (43 of 1961) or this Act.

(7) Where any person is found to be in possession or control of any books of account or other documents, or asset, or any information in electronic form or on a computer system, or having access to such computer system in the course of a search, it may be presumed—

(*a*) that such books of account or other documents, or such information or asset or computer system belong or belongs to such person;

(*b*) that the contents of such books of account or other documents, or such information or computer system are true;

(*c*) that the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person;

(*d*) in the case of such document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested; and

(*e*) that exchange of such information in electronic form, or on such computer system purported to be exchanged between any parties, is exchanged between the parties thereto.

(8) The authorised officer may, by order in writing, provisionally attach any property belonging to the assessee, during the course of the search or seizure, or within a period of sixty days from the date of execution of the last of the authorisations for the search and such provisional attachment shall—

(*a*) be made, if the authorised officer is satisfied, after recording the reasons in writing, that it is necessary to do so in the interest of the revenue, with the prior approval of Principal Director General or Director General or the Principal Director or Director; and

(*b*) be valid for six months from the end of the month in which the order of provisional attachment is made, and the rules in this behalf made under section 413 shall, *mutatis mutandis*, apply to such provisional attachment.

(9) The authorised officer may, during the course of the search or seizure, or within sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer, or any person registered as a valuer under section 514, or any person or entity registered by or under any law in force, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, in accordance with the procedure as may be prescribed in this regard, requiring him to—

(*a*) estimate the fair market value of the property in the manner, as may be prescribed; and

(*b*) submit a report of the estimate to the authorised officer or the Assessing Officer, within sixty days from the date of receipt of such reference.

(10) The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) relating to searches and seizure shall apply, so far as may be, to search and seizure under this section.

(11) The Board may make rules in relation to any search or seizure under this section including providing for the procedure to be followed by the authorised officer—

(*a*) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available; and

(*b*) for ensuring safe custody of any books of account or other documents, or asset, or any information in electronic form or on a computer system, or computer system seized.

(12) For the purposes of this section, the word “proceeding” means any proceeding in respect of any year, whether under the Income-tax Act, 1961 (43 of 1961), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

Powers to requisition

248. (1) Where the approving authority, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under section 131(1) or a notice under section 142(1) of the Income-tax Act, 1961 (43 of 1961) or summons under section 246(1), or notice under section 268(1) of this Act was issued to produce, or cause to be produced, any books of account or other documents, or any information in electronic form or on a computer system has omitted or failed to produce, or cause to be produced, such books of account or other documents, or such information as required by such summons or notice and the said books of account or other documents, or any computer system containing the said information have been taken into custody by any officer or authority under any other law for the time being in force; or

(*b*) any books of account or other documents, or any information in electronic form or on a computer system will be useful for, or relevant to, any proceeding under the Income-tax Act, 1961 (43 of 1961) or this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents, or such information on the return of such books of account or other documents or computer system containing such information by any officer or authority by whom or by which such books of account or other documents or computer system containing the said information have been taken into custody under any other law for the time being in force; or

(*c*) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Income-tax Act, 1961 (43 of 1961) or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

then, the approving authority may authorise any, Joint Director or Joint Commissioner or Assistant Director or Assistant Commissioner or Income-tax Officer (herein and in section 489(2) referred to as the requisitioning officer) to require the officer or authority referred to in clause (*a*) or (*b*) or (*c*), to deliver such assets or books of account or other documents, or computer system containing such information to the requisitioning officer.

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

(3) Where any assets or books of account or other documents, or computer system containing such information have been delivered to the requisitioning officer, the provisions of sections 247(4)(*b*), 247(7) to (11), 250 and 251 shall, so far as may be, apply as if such books of account or other documents, or computer system containing such information or assets had been seized under section 247 by the requisitioning officer from the custody of the person referred to in sub-section (1)(*a*) or (*b*) or (*c*), and as if for the words “the authorised officer”, occurring in any of the sections 247(4)(*b*), 247(7) to (11), 250 and 251, the words “the requisitioning officer” were substituted.

Reasons not to be disclosed.

249. The reason to believe or reason to suspect, as referred to in section 247 or 248, recorded by the income-tax authority shall not be disclosed to any person or authority or the Appellate Tribunal.

Application of seized or requisitioned assets.

250. (1) The amount of the following liabilities may be recovered out of the assets seized under section 247 or requisitioned under section 248 in the following manner, namely:—

(*a*) the amount of any existing liability (other than advance tax payable under the provisions of Part C of Chapter XIX) of this Act, the Income-tax Act, 1961 (43 of 1961), the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) and in respect of which such person is in default or is deemed to be in default;

(*b*) the amount of the liability determined on completion of the assessment or reassessment or recomputation and the assessment of the year relevant to the tax year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Part B of Chapter XVI for the block period, as the case may be (including any penalty levied or interest payable in connection with such assessment), and in respect of which such person is in default or is deemed to be in default;

(*c*) the amount of liability arising on an application made before the Interim Boards for Settlement under section 245C(1) of the Income-tax Act, 1961 (43 of 1961).

(2) The Assessing Officer may release the assets seized as referred to in sub-section (1) or portion of such asset to the person from whose custody the assets were seized, on an application made by the person concerned within thirty days from the end of the month in which the asset was seized, on fulfilment of the following requirements:—

(*a*) after being satisfied on the basis of explanation furnished by such person that the nature and source of acquisition of such assets is explained;

(*b*) after recovering any existing liability referred to in sub-section (1) out of such assets; and

(*c*) after obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

(3) The assets referred to in sub-section (2) shall be released within one hundred and twenty days from the date on which the last of the authorisations for the search or requisition was executed.

(4) If the assets as referred to in sub-section (1) consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in sub-section (1) and the assessee shall be discharged of such liability to the extent of the money so applied.

(5) The assets, other than money, may also be applied for discharge of liabilities referred to in sub-section (1), as remains undischarged, and shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or Tax Recovery Officer under authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under section 416(7) and the recovery of any liability out of such assets shall be effected in such manner as may be prescribed.

(6) The mode of recovery of liabilities under sub-section (1) shall not preclude the recovery of liabilities aforesaid by any other mode laid down in this Act.

(7) Any assets or proceeds thereof, which remain after the liabilities referred to in sub-section (1) are discharged shall be forthwith made over or paid to the person from whose custody the assets were seized.

(8) The Central Government shall pay simple interest at the rate of 0.5% for every month or part of a month for the period on the amount determined in accordance with the following formula:—

(A - B) + (C - D)

where—

A = the aggregate amount of money seized under section 247 or requisitioned under section 248;

B = the amount of money, if any, released under sub-section (2);

C = the proceeds, if any, of the assets sold towards the discharge of the liability under sub-section (1); and

D = the aggregate amount required to meet the liabilities referred to in sub-section (1).

(9) The period referred to in sub-section (8) shall be from the date immediately following the expiry of one hundred and twenty days from the date on which the last of the authorisations for the search under section 247 or requisition under section 248 was executed to the date of completion of the assessment or reassessment or recomputation.

Copying, extraction, retention and release of books of account and documents seized or requisitioned.

251. (1) Where the authorised officer referred to in section 247(1) has no jurisdiction over the person referred to in section 247(1)(*a*) or (*b*), assets and material seized or requisitioned under section 247(1) to 247(4) shall be handed over to the Assessing Officer having jurisdiction over such person within a period of one hundred and eighty days from the date on which a search is initiated under section 247 or requisition is made under section 248 and such Assessing Officer thereupon shall exercise the powers under sub-sections (2) and (3).

(2) The authorised officer shall, on an application made by the person from whose custody any material seized or requisitioned, are seized under section 247(1) to (4), allow such person, in the presence of such officer or any other person empowered by such officer in this behalf, to make copies thereof or take extracts therefrom, at such place and time as appointed by such officer.

(3) The authorised officer may—

(*a*) retain the assets and material seized or requisitioned, under section 247 or 248, up to one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made under section 270(10) or section 271 or section 279 or section 294(1)(*c*);

(*b*) retain such assets and material seized or requisitioned, beyond the period specified in clause (*a*), after recording reasons in writing and obtaining approval from the approving authority.

(4) The approving authority shall not allow the retention of assets and material seized or requisitioned, beyond thirty days from the date on which all the proceedings under the Income-tax Act, 1961 (43 of 1961) or this Act in respect of the years for which the assets and material seized or requisitioned are relevant, are completed.

(5) If a person legally entitled to the assets and material seized or requisitioned under section 247(1) to (4) or section 248, objects for any reason, to the approval given by approving authority under sub-section (3)(*b*), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the assets and material seized or requisitioned and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

Power to call for information.

252. (1) The Assessing Officer, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for the purposes of this Act, require any—

(*a*) person, including a banking company or any officer thereof, to furnish, within such time, requisite information or to furnish statements of account and affairs verified in such manner specified by such authority, giving such information in relation to such matters as, in the opinion of such authority, will be useful for, or relevant to, any enquiry or proceedings under this Act;

(*b*) firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;

(*c*) Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;

(*d*) person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;

(*e*) assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any tax year, rent, interest, commission, royalty, brokerage, or any annuity (not being any annuity taxable under the head "Salaries"), amounting to more than ₹ 10000, or such higher amount as may be prescribed, together with particulars of all such payments made;

(*f*) dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts.

(2) The powers conferred under sub-section (1)(*a*) may also be exercised by the competent authority or the Assistant Director.

(3) The powers under sub-section (1)—

(*a*) shall not be exercised by any income-tax authority below the rank of Principal Director or Director or Principal Commissioner or Commissioner, other than the Joint Director or Assistant Director, without the prior approval of the Principal Director or Director or, as the case may be, the Principal Commissioner or Commissioner, in a case where no proceeding is pending;

(*b*) may be exercised by an income-tax authority notified under section 246(2)(*a*), for the purposes of an agreement referred to in section 159, even if no proceedings are pending before it or any other income-tax authority.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Powers of survey.

253. (1) Irrespective of anything contained in any other provision of this Act, an income-tax authority may enter any place at which a business or profession, or activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, where such place—

(*a*) is within the limits of the area assigned to such authority; or

(*b*) is occupied by any person in respect of whom such authority exercises jurisdiction; or

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

and, upon entry into such a place, may require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—

(*i*) to provide the necessary technical and other assistance (including access code) to enable the inspection of such books of account or other documents, or information in electronic form or on a computer system, as may be required and which may be available at such place;

(*ii*) to provide the necessary facility to check or verify the asset, stock, which may be found therein; and

(*iii*) to furnish such information as such authority may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

(2) For the purposes of this section, a place where a business or profession, or activity for charitable purpose is carried on shall also include any other place, whether any business or profession or activity for charitable purpose is carried on therein or not, in which the person carrying on such business or profession or activity for charitable purpose states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing or computer system relating to such business or profession or activity for charitable purpose, are or is kept.

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

(4) An income-tax authority may, for the purposes of verifying that tax has been deducted or collected at source as per the provisions of Chapter XIX-B of this Act, after sunrise and before sunset, enter—

(*a*) any office, or any other place where business or profession or activity for charitable purpose is carried on, within the limits of the area assigned to such authority; or

(*b*) any place in respect of which such authority is authorised for the purposes of this section by an income-tax authority who is assigned the area within which such place is situated or where books of account or documents, or computer system are kept,

and on entry to such office or place, the income-tax authority may require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work—

(*i*) to provide the necessary technical and other assistance (including access code) to enable the inspection of such books of account or other documents, or information in electronic form or on a computer system, as may be required and which may be available at such place; and

(*ii*) to furnish such information as may be required in relation to such matter.

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

(*a*) place marks of identification on the books of account or other documents inspected by such authority and make or cause to be made extracts or copies therefrom or from any computer system;

(*b*) record the statement of any person on oath which may be useful for, or relevant to, any proceeding under this Act;

(*c*) impound after recording reasons for doing so, any books of account or other documents, or any computer system inspected by it, and retain it for a period—

(*i*) up to fifteen days (exclusive of holidays); or

(*ii*) exceeding fifteen days (exclusive of holidays) with the prior approval of the approving authority;

(*d*) make an inventory of any asset or stock checked or verified by such income-tax authority.

(6) The income-tax authority acting under sub-section (4) shall only undertake the actions referred under sub-section (5)(*a*) and (5)(*b*).

(7) An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein it has entered, any asset or stock.

(8) The income-tax authority having regard to the nature and scale of expenditure incurred, for the purposes of verifying the expenditure made by the person in connection with any function, ceremony or event, if it is of the opinion that it is necessary and expedient to do so, after such function, ceremony or event, may —

(*a*) require the person by whom such expenditure has been incurred or any other person who is likely to possess the information regarding such expenditure, to furnish such information which may be useful for, or relevant to, any proceeding under this Act;

(*b*) record the statements of the person or any other person on oath in this behalf; and

(*c*) any statement so recorded may thereafter be used as evidence in any proceeding under this Act.

(9) If a person is required to provide facility to the income-tax authority to inspect books of account or other documents in any form, or any computer system or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded, either refuses or evades to do so, the income-tax authority shall have all the powers under section 246(1) for enforcing compliance with the requirement.

(10) The action under this section shall be taken by an income-tax authority with the prior approval of the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner.

(11) For the purposes of this section,—

(*A*) "income-tax authority" means—

(*a*) a Principal Commissioner or Commissioner, a Principal Director or Director, a Joint Commissioner or Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer; and

(*b*) includes an Inspector of Income-tax, for the purposes of sub-sections (1)(*i*), (5)(*a*) and (8),

who is subordinate to the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner, as specified by the Board;

(*B*) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Power to collect certain information.

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

(*a*) any building or place within the limits of the area assigned to such authority; or

(*b*) any building or place occupied by any person in respect of whom such authority exercises jurisdiction,

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

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

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

(4) For the purposes of this section, "income-tax authority" means—

(*a*) a Joint Commissioner, or a Joint Director or an Assistant Director or an Assessing Officer; and

(*b*) an Inspector of Income-tax, authorised by the Assessing Officer to exercise the powers conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or part thereof.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Power to inspect registers of companies.

255. The Assessing Officer, assessment unit, verification unit, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals), or any person subordinate thereof and authorised in writing in this behalf by such officer or authority, may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Power of certain income-tax authorities.

256. The Principal Director General or Director General or Principal Director or Director, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the Joint Commissioner shall be competent to make any enquiry under this Act, and for this purpose, shall have all the powers that an Assessing Officer has under this Act in relation to the making of enquiries.

Proceedings before income-tax authorities to be judicial proceedings.

257. (1) Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

(2) Every income-tax authority shall be deemed to be a Civil Court for the purposes of section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), but not for the purposes of Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita 2023 (46 of 2023).

Disclosure of information relating to assessees.

258. (1) The Board or any other income-tax authority specified by it by an order in this behalf, may furnish or cause to be furnished to—

(*a*) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or dealings in foreign exchange as defined in section 2(*n*) of the Foreign Exchange Management Act, 1999 (42 of 1999); or

(*b*) such officer, authority or body performing functions under any other law, if in the opinion of the Central Government it is necessary so to do in the public interest, as it may specify by notification in this behalf,

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

(2) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may furnish or cause to be furnished to a person, the information relating to any assessee received or obtained by any income-tax authority in the performance of his functions under this Act,—

(*a*) on an application made by such person to the aforesaid authorities in the prescribed form and on being satisfied that it is in the public interest so to do; and

(*b*) the decision of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in this behalf, shall be final and shall not be called in question in any court of law.

(3) Irrespective of anything contained in sub-section (1) or (2) or any other law in force, the Central Government may, having regard to the practices and usages, customary or any other relevant factors, by notification, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessees except to such authorities as specified in that notification.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Power to call for information by prescribed income-tax authority.

259. (1) For the purposes of verification of information in the possession of the prescribed income-tax authority, such authority may issue a notice requiring any person to furnish any information as may be useful for, or relevant to, any inquiry or proceeding under this Act in such form and manner and within such time, as specified in such notice.

(2) The prescribed income-tax authority may process and utilise such information and document received by him as per the scheme notified under section 260.

(3) For the purposes of this section, the term “proceeding” shall have the meaning assigned to it in section 253.

Faceless collection of information.

260. (1) The Central Government may make a scheme, by notification, for the purposes of calling for information under section 252, collecting certain information under section 254, or calling for information by prescribed income-tax authority under section 259, or exercise of power to inspect register of companies under section 255, or exercise of power of Assessing Officer under section 256 so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based exercise of powers, including to call for, or collect, or process, or utilise, the information, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to this scheme made under sub-section (1), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in the notification.

(3) Every notification issued under sub-sections (1) and (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Interpretation.

261. For the purposes of this Part,—

(*a*) "approving authority" means—

(*i*) the Principal Director General or the Director General; or

(*ii*) the Principal Chief Commissioner or the Chief Commissioner; or

(*iii*) the Principal Director or the Director; or

(*iv*) the Principal Commissioner or the Commissioner;

(*b*) "asset" includes any money, bullion, jewellery, virtual digital asset or other valuable article or thing, held in physical or virtual form;

(*c*) "authorised officer" means—

(*i*) the Joint Director or the Additional Director; or

(*ii*) the Joint Commissioner or the Additional Commissioner; or

(*iii*) the Assistant Director or the Deputy Director; or

(*iv*) the Assistant Commissioner or the Deputy Commissioner; or

(*v*) the Income-tax Officer or the Tax Recovery Officer;

(*d*) "competent authority" means—

(*i*) the Principal Director General or the Director General; or

(*ii*) the Principal Chief Commissioner or the Chief Commissioner; or

(*iii*) the Principal Director or the Director; or

(*iv*) the Principal Commissioner or the Commissioner; or

(*v*) the Joint Director or the Additional Director; or

(*vi*) the Joint Commissioner or the Additional Commissioner;

(*e*) "computer system" means computers, computer networks, computer resources, communication devices, digital or electronic data storage devices, used on stand-alone mode or part of a computer system, linked through a network, or utilised through intermediaries for information creation or processing or storage or exchange, and includes the remote server or cloud server or virtual digital space;

(*f*) "date on which the last of the authorisations for search was executed" means—

(*i*) in the case of search, the date of conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(*ii*) in the case of requisition under section 248, the date of actual receipt of the books of account or other documents or computer system or assets by the requisitioning officer;

(*g*) "electronic form" shall have the same meaning as provided in section 2(1)(*r*) of the Information Technology Act, 2000 (21 of 2000);

(*h*) "electronic record" shall have the same meaning as provided in section 2(1)(*t*) of the Information Technology Act, 2000 (21 of 2000);

(*i*) "material seized or requisitioned" means books of account or other documents or computer systems, and extracts seized from a person during the course of search under section 247 or requisitioned under section 248, and includes seizure of backup taken from any specialised programs like tally software, excel sheets, word files and all electronic records including data and information in electronic form or on the computer system, containing figures and any other relevant noting, and shall be construed to mean as books of account maintained by the said person;

(*j*) "virtual digital space" means an environment, area or realm, that is constructed and experienced through computer technology and not the physical, tangible world which encompasses any digital realm that allows users to interact, communicate and perform activities using computer systems, computer networks, computer resources, communication devices, cyberspace, internet, worldwide web and emerging technologies, using data and information in the electronic form for creation or storage or exchange and includes—

(*i*) email servers;

(*ii*) social media account;

(*iii*) online investment account, trading account, banking account, etc.;

(*iv*) any website used for storing details of ownership of any asset;

(*v*) remote server or cloud servers;

(*vi*) digital application platforms; and

(*vii*) any other space of similar nature.

CHAPTER XV

RETURN OF INCOME

A.-Allotment of Permanent Account Number

Permanent Account Number.

262. (1) Every person who has not been allotted a Permanent Account Number shall, within such time as may be prescribed, apply to the Assessing Officer for its allotment if he fulfils any of the following conditions:—

(*a*) his total income or the total income of any other person for which he is assessable under this Act during any tax year exceeded the maximum amount not chargeable to income-tax; or

(*b*) he is carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 500000 in any tax year; or

(*c*) he is required to furnish a return of income under section 263 for any tax year; or

(*d*) he is a resident, other than an individual, which enters into a financial transaction aggregating to ₹ 250000 or more in a tax year; or

(*e*) he is the managing director, director, partner, trustee, author, founder, *karta*, chief executive officer, principal officer or office bearer of the person referred to in clause (*d*) or any person competent to act on behalf of the person referred to in clause (*d*); or

(*f*) he intends to enter into such transaction as may be prescribed by the Board in the interest of revenue.

(2) Any person, not covered under sub-section (1) may apply to the Assessing Officer for the allotment of a Permanent Account Number after which the Assessing Officer shall allot a Permanent Account Number to such person.

(3) Every person shall quote Permanent Account Number in all his returns to, or correspondence with, any income-tax authority and in all challans for the payment of any sum due under this Act.

(4) Every person shall intimate the Assessing Officer of any change in his address or in the name and nature of his business on the basis of which the Permanent Account Number was allotted to him.

(5) Every person who is eligible to obtain Aadhaar number shall quote such number in the application form for allotment of Permanent Account Number and in the return of income.

(6)(*a*) For the cases other than sub-section (5), every person who has been allotted Permanent Account Number and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the prescribed income-tax authority in such form and manner, as may be prescribed;

(*b*) if a person fails to intimate his Aadhaar number as per clause (*a*), the Permanent Account Number allotted to that person shall be made inoperative in such manner as may be prescribed.

(7) Every person who is required to furnish or intimate or quote his Permanent Account Number under this Act, and who—

(*a*) has not been allotted a Permanent Account Number but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number *in lieu* of the Permanent Account Number, and such person shall be allotted a Permanent Account Number in the manner, as may be prescribed;

(*b*) has been allotted a Permanent Account Number, and who has intimated his Aadhaar number as per sub-section (6) may furnish or intimate or quote his Aadhaar number *in lieu* of the Permanent Account Number.

(8) A person who has already been allotted a Permanent Account Number cannot apply, obtain or possess another Permanent Account Number.

(9)(*a*) Every person entering into such transaction, as may be prescribed, shall quote his Permanent Account Number or Aadhaar number, in the documents pertaining to such transactions and also authenticate such Permanent Account Number or Aadhaar number, in the manner, as may be prescribed;

(*b*) every person receiving any document relating to the transactions referred to in clause (*a*), shall ensure that Permanent Account Number or Aadhaar number, has been duly quoted in such document and that such Permanent Account Number or Aadhaar number is authenticated in such manner, as may be prescribed.

(10) The Board may make rules providing for—

(*a*) the form, manner and time in which an application may be made for the allotment of Permanent Account Number and the particulars which such application shall contain;

(*b*) class or classes of persons who shall be required to apply for allotment of Permanent Account Number;

(*c*) categories of documents pertaining to business or profession in which Permanent Account Number shall be quoted by every person;

(*d*) the form and manner in which the person who has not been allotted a Permanent Account Number shall make his declaration;

(*e*) manner of authentication of Permanent Account Number or Aadhaar number;

(*f*) class or classes of persons to whom the provisions of this section shall not apply having regard to the transactions or the circumstances.

(11)(*a*) The Central Government may, by notification, specify any class or classes of persons who shall apply to the Assessing Officer for the allotment of Permanent Account Number within such time as mentioned in such notification;

(*b*) the class or classes of persons in clause (*a*) may include such persons—

(*i*) by whom tax is payable under this Act; or

(*ii*) by whom any tax or duty is payable under any other law in force; or

(*iii*) being importers and exporters, even when no tax is payable by them.

(12) The provisions of sub-sections (5) and (6) shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government.

(13) For the purposes of this section,—

(*a*) "Aadhaar number" shall have the same meaning as assigned to it in section 2(*a*) of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016);

(*b*) "Assessing Officer" includes an income-tax authority who is assigned the duty of allotting Permanent Account Number;

(*c*) "authentication" means the process by which the Permanent Account Number or Aadhaar number along with demographic information or biometric information of an individual is submitted to the income-tax authority or such other authority or agency as may be prescribed for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

B.-Filing of return of income

Return of income.

263. (1)(*a*) Every person as mentioned below shall, for a tax year, on or before the due date, furnish a return of his income or the income of any other person in respect of which he is assessable during the said tax year:—

(*i*) a company;

(*ii*) a firm;

(*iii*) a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the tax year, without giving effect to the provisions of Chapter XVII-B or provisions of Schedule VIII (Table: Sl. No. 1) or deductions allowable under section 82 or 83 or 84 or 85 or 86 or 87 or 88 of Chapter IV-E or Chapter VIII, as the case may be, exceeded the maximum amount which is not chargeable to income-tax;

(*iv*) a specified entity, if its total income without giving effect to the provisions of section 11 exceeds the maximum amount which is not chargeable to income-tax;

(*v*) a University, college or other institution as referred to in section 45(3)(*a*);

(*vi*) a business trust;

(*vii*) an investment fund as referred to in section 224;

(*viii*) a person who has sustained a loss in the tax year under the head "Profits and gains of business or profession" or under the head "Capital gains" and who intends to claim that such loss, or any part thereof, is to be carried forward as per this Act;

(*ix*) a person, who is a resident, other than not ordinarily resident, and who at any time during the tax year,—

(*A*) holds, as a beneficial owner or otherwise, any asset (including any financial interest in an entity) located outside India, or has signing authority in any account located outside India; or

(*B*) is a beneficiary of any asset (including any financial interest in an entity) located outside India, except where any income arising from such asset is includible in the income of person referred to in item (*A*);

(*x*) a person, other than a company or firm, who during the tax year, fulfils such conditions as may be prescribed;

(*b*) the persons referred in clause (*a*)(*i*), (*a*)(*ii*), (*a*)(*v*), (*a*)(*vi*), (*a*)(*vii*) and (*a*)(*ix*) shall furnish return on or before the due date regardless of income or loss;

(*c*) for the purposes of this section, "due date" means the date of the financial year succeeding the relevant tax year as mentioned in the corresponding entry of column C of the Table below in respect of the persons mentioned in column B of the said Table:

TABLE

Sl. No.	*Person*	*Due date*
A	B	C
1.	Assessee, including the partners of the firm or the spouse of such partner (if section 10 applies to such spouse), who is required to be furnished a report referred to in section 172.	30th November.
2.	Company (in cases other than those mentioned in Sl. No. 1).	31st October.
3.	Person (other than a company) whose accounts are required to be audited under this Act or under any other law in force (in cases other than those mentioned in Sl. No. 1).	31st October.
4.	Partner of a firm whose accounts are required to be audited under this Act or under any other law in force; or the spouse of such partner (if section 10 applies to such spouse) (in cases other than those mentioned in Sl. No.1).	31st October.
5.	Any other assessee.	31st July.

(2)(*a*) The Board may prescribe form for furnishing return of income, manner of its verification and such other particulars including—

(*i*) the class or classes of persons who shall be required to furnish the return in electronic form or otherwise;

(*ii*) the form and the manner in which the return may be furnished, whether in electronic form or otherwise;

(*iii*) the documents, statements, receipts, certificates, audited reports or any other documents which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

(*iv*) the computer resource or the electronic record to which the return in electronic form may be transmitted;

(*b*) the particulars prescribed under clause (*a*) may also include—

(*i*) income exempt from tax;

(*ii*) assets of the prescribed nature and value held by the assessee as a beneficial owner or otherwise or in which he is a beneficiary;

(*iii*) bank account and credit card held by the assessee;

(*iv*) expenditure exceeding the prescribed limit incurred by the assessee under prescribed heads;

(*v*) such other outgoings as may be prescribed;

(*vi*) the report of any audit referred to in section 63 or a copy thereof;

(*vii*) the particulars of the location and style of the principal place of the business or profession and all the branches thereof;

(*viii*) the names and addresses of the partners, if any, in the business or profession;

(*ix*) the names of the other members of the association of person or the body of individuals and the extent of the share of the assessee and the shares of all such members in the profits of the business or profession and any branches thereof.

(3) The Central Government may, by notification, exempt any class or classes of persons, from the obligation to file a return of income under this section, subject to the conditions specified therein.

(4) Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any tax year at any time within nine months from the end of the relevant tax year, or before the completion of the assessment, whichever is earlier.

(5) If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time within nine months from the end of the relevant tax year, or before the completion of the assessment, whichever is earlier.

(6)(*a*) Any person, whether or not he has furnished a return under sub-section (1) or (4) or (5) for a tax year, may furnish an updated return of his income or the income of any other person in respect of which he is assessable under this Act, at any time within forty-eight months from the end of the financial year succeeding the relevant tax year;

(*b*) the provisions of clause (*a*) shall continue to apply for a tax year if any person has sustained a loss in the said tax year and has furnished a return of loss within the due date specified under sub-section (1) and the updated return is a return of income;

(*c*) the provisions of clause (*a*) shall not apply for a tax year for any person, if—

(*i*) the updated return is a return of loss for the said tax year; or

(*ii*) the updated return has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (1) or (4) or (5) for the said tax year; or

(*iii*) the updated return results in refund where no refund was due or increases the refund due on the basis of return furnished under sub-section (1) or (4) or (5) for the said tax year; or

(*iv*) an updated return has already been furnished for the said tax year; or

(*v*) any proceeding for assessment or reassessment or recomputation or revision of income under this Act is pending or has been completed for the said tax year; or

(*vi*) the Assessing Officer is in the possession of information in respect of such person for the said tax year regarding violation of specified laws and the same has been communicated to him prior to the date of furnishing of updated return; or

(*vii*) information for the said tax year has been received under an agreement referred to in section 90 or 90A of Income-tax Act, 1961 (43 of 1961) or section 159 of this Act in respect of such person and the same has been communicated to him, prior to the date of furnishing of updated return; or

(*viii*) any prosecution proceedings under the Chapter XXII have been initiated for the said tax year in respect of such person, prior to the date of furnishing of updated return; or

(*ix*) thirty-six months have expired from the end of the financial year succeeding the relevant tax year, and any notice to show-cause under section 281 has been issued in his case, except where an order has been passed under section 281(3) determining that it is not a fit case to issue notice under section 280; or

(*x*) he is such person or belongs to such class of persons, as may be notified by the Board in this regard;

(*d*) a person shall also not be eligible to furnish an updated return of income, where—

(*i*) a search has been initiated under section 247 or books of account or other documents or any assets are requisitioned under section 248 in the case of that person; or

(*ii*) a survey has been conducted under section 253, other than sub-section (4) of the said section, in the case of that person; or

(*iii*) a notice has been issued under section 294 in pursuance to the provisions of section 295, to that person,

for the tax year in which such search is initiated or survey is conducted or requisition is made and any tax year preceding such tax year;

(*e*) if a person has furnished a return of income under clause (*a*) for a tax year, and as a result the loss or any part thereof carried forward under Chapter VII or unabsorbed depreciation carried forward under section 33(3)(*b*) or tax credit carried forward under section 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*) is to be reduced for any subsequent tax year, then, an updated return shall be furnished for each such subsequent tax year.

(7) A return of income furnished under this section, shall be treated as defective if it is not in conformity with all the conditions as may be prescribed and shall be dealt with in the following manner:—

(*a*) where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within fifteen days from the date of such intimation or within a further period as may be allowed on an application made by the assessee in this behalf;

(*b*) if the defect is not rectified within the period allowed under clause (*a*), then the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return;

(*c*) where the assessee rectifies the defect after the expiry of the period allowed under clause (*a*), but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

(8)(*a*) The provisions of this section shall also apply to a return of income which is furnished in pursuance of an order passed under section 239(3)(*b*);

(*b*) the provisions of this section shall not apply to a specified senior citizen, as referred to in section 402(39), for the relevant tax year in which tax has been deducted at source under section 393(1) [Table: Sl. No. 8(*iii*)].

(9) For the purposes of this section,—

(*a*) "beneficial owner", in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person;

(*b*) "beneficiary", in respect of an asset means an individual who derives benefit from the asset during the tax year and the consideration for such asset has been provided by any person other than such beneficiary;

(*c*) "specified entity" means—

(*i*) research association referred to in Schedule III (Table: Sl. No. 23);

(*ii*) association or institution referred to in Schedule III (Table: Sl. No. 24);
(*iii*) person referred to in Schedule VII (Table: Sl. No. 2);
(*iv*) institution referred to in Schedule III (Table: Sl. No. 25);
(*v*) any University or other educational institution or any hospital or other medical institution referred to in Schedule VII (Table: Sl. Nos. 17, 18 and 19);
(*vi*) Mutual Fund referred to in Schedule VII (Table: Sl. Nos. 20 and 21);
(*vii*) securitisation trust referred to in Schedule III (Table: Sl. No. 26);
(*viii*) Investor Protection Fund referred to in Schedule III (Table: Sl. Nos. 28 and 29);
(*ix*) Core Settlement Guarantee Fund referred to in Schedule III (Table: Sl. No. 30);
(*x*) venture capital company or venture capital fund referred to in Schedule V (Table: Sl. No. 6);
(*xi*) trade union or association referred to in Schedule III (Table: Sl. No. 31);
(*xii*) Board or Authority referred to in Schedule VII (Table: Sl. Nos. 33 to 40);
(*xiii*) Body or Authority or Board or Trust or Commission (by whatever name called) referred to in Schedule III (Table: Sl. No. 36);
(*xiv*) infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46);

(*d*) "specified laws" shall refer to the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976), or the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988), or the Prevention of Money-laundering Act, 2002 (15 of 2003), or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Scheme for submission of returns through tax return preparers.

264. (1) The Board may make a Scheme for furnishing returns of income through a tax return preparer and such Scheme shall be notified, which—

(*a*) may enable any specified class or classes of persons in preparing and furnishing returns of income through a tax return preparer authorised to act as such under the Scheme;

(*b*) may be made irrespective of provisions of section 263.

(2) For the purpose of this section,—

(*a*) "tax return preparer" means any individual, not being a person referred to in section 515(3)(*a*)(*ii*) or an employee of the "specified class or classes of persons", who has been authorised to act as a tax return preparer under the Scheme made under this section;

(*b*) "specified class or classes of persons" means any person, other than a company or a person, whose accounts are required to be audited under section 63 or under any other law, who is required to furnish a return of income under this Act.

(3) Every notification for the Scheme referred to in sub-section (1) shall be issued as per section 534 of this Act.

Return by whom to be verified.

265. The return of income under section 263 required to be furnished by the person specified in column B of the Table below shall be verified by the person specified in corresponding entry in column C of the said Table:

TABLE

Sl. No.	*Person furnishing return of income*	*To be verified*
A	*B*	*C*
1.	An individual.	(*i*) By the individual himself; (*ii*) where the individual is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; (*iii*) where, for any other reason, it is not possible for the individual to verify the return, by any person duly authorised by him through a valid power of attorney.
2.	A Hindu undivided family.	(*i*) By the *karta*; (*ii*) where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family.
3.	A company in cases other than those mentioned at serial numbers 4, 5, 6 and 7.	(*i*) By the managing director of the company; (*ii*) where there is no managing director, or the managing director is not able to verify the return due to any unavoidable reason, by any director of the company or any other person as may be prescribed for verifying the return.
4.	A company not being resident in India.	By any person holding a valid power of attorney from the company to do so.
5.	A company which is being wound up by orders of the Court or otherwise, or where any person has been appointed as receiver of any assets of the company.	By the liquidator as referred to in section 322(1).
6.	A company whose management has been taken over by the Central Government or any State Government under any law.	By the principal officer of the company.
7.	A company, for which application seeking corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).	By the insolvency professional appointed by such Adjudicating Authority, where— "Insolvency professional" and "Adjudicating Authority" shall have the same meanings as assigned to them respectively in sections 3(*19*) and 5(1) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).
8.	A firm.	(*i*) By the managing partner of the firm; (*ii*) where the managing partner is not able to verify the return due to any unavoidable reason, or there is no managing partner as such, by any partner of the firm, not being a minor.
9.	A limited liability partnership.	(*i*) By the designated partner of the limited liability partnership; (*ii*) where the designated partner of the limited liability partnership is not able to verify the return due to any unavoidable reason, or where there is no designated partner, by any partner of the limited liability partnership or any other person as may be prescribed for verifying the return.
10.	A local authority.	By the principal officer of the local authority.
11.	A political party as referred to in section 263(1)(*a*)(*iii*).	By the chief executive officer of such political party (whether the chief executive officer is known as secretary or by any other designation).
12	Any other association.	(*i*) By any member of the association; or (*ii*) by the principal officer of the association.
13.	Any other person.	(*i*) By the person himself; or (*ii*) by any person competent to act on his behalf.

Self-assessment.

266. (1) Where, after taking into account the amounts referred to in sub-section (2), any tax is payable on the basis of any return required to be furnished under section 263 or 268 or 280 or 294, then—

(*a*) the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return; and

(*b*) the return shall be accompanied by proof of payment of tax, interest and fee.

(2) The amounts referred to in sub-section (1) shall be,—

(*a*) the amount of tax, if any, already paid under any provision of this Act;

(*b*) any tax deducted or collected at source;

(*c*) any relief of tax claimed under section 157;

(*d*) any relief of tax or deduction of tax claimed under section 159(1) or 160 on account of tax paid in a country outside India;

(*e*) any relief of tax claimed under section 159(2) on account of tax paid in any specified territory outside India referred to in that section;

(*f*) any tax credit claimed to be set off as per section 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*); and

(*g*) any tax or interest payable according to the provisions of section 391(2).

(3) Where the amount paid by the assessee under sub-section (1) falls short of the aggregate of the tax, interest and fee as payable under the said sub-section, the amount so paid shall first be adjusted towards the fee payable and thereafter towards the interest payable and the balance, if any, shall be adjusted towards the tax payable.

(4) For the purposes of sub-section (1), interest payable under section 423 shall be computed on the tax on the total income as declared in the return as reduced by the amount of,—

(*a*) advance tax, if any, paid;

(*b*) any tax deducted or collected at source;

(*c*) any relief of tax claimed under section 157;

(*d*) any relief of tax or deduction of tax claimed under section 159(1) or 160 on account of tax paid in a country outside India;

(*e*) any relief of tax claimed under section 159(2) on account of tax paid in any specified territory outside India referred to in that section; and

(*f*) any tax credit claimed to be set off as per the provisions of section 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*).

(5) For the purposes of sub-section (1), interest payable under section 424 shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

(6) In sub-section (5), "assessed tax" means the tax on the total income as declared in the return as reduced by the amount of,—

(*a*) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(*b*) any relief of tax claimed under section 157;

(*c*) any relief of tax or deduction of tax claimed under section 159(1) or section 160 on account of tax paid in a country outside India;

(*d*) any relief of tax claimed under section 159(2) on account of tax paid in any specified territory outside India referred to in that section; and

(*e*) any tax credit claimed to be set off as per the provisions of section 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*).

(7) After a regular assessment under section 270 or 271 or an assessment under section 294 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment or assessment.

(8) If any assessee fails to pay the whole or any part of such tax, interest or fee as per the provisions of sub-section (1), he shall be deemed to be an assessee in default in respect of the tax, interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

(9) The provisions of sub-section (8) shall apply without prejudice to any other consequences which the assessee may incur.

Tax on updated return.

267. (1) Where no return of income under section 263(1) or (4) has been furnished by an assessee and, after taking into account the amounts referred to in sub-section (2), tax is payable on the basis of return to be furnished by such assessee under section 263(6), then—

(*a*) the assessee shall be liable to pay such tax together with interest and fee payable under any of the provisions of this Act for any delay in furnishing the return or any default or delay in payment of advance tax;

(*b*) such tax, interest and fee shall be payable along with the payment of additional income-tax computed as per sub-section (5), before furnishing the return; and

(*c*) the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(2) The amounts referred to in sub-section (1) shall be,—

(*a*) the amount of tax, if any, already paid as advance tax;

(*b*) any tax deducted or collected at source;

(*c*) any relief of tax claimed under section 157;

(*d*) any relief of tax or deduction of tax claimed under section 159(1) or 160 on account of tax paid in a country outside India;

(*e*) any relief of tax claimed under section 159(2) on account of tax paid in any specified territory outside India referred to in that section; and

(*f*) any tax credit claimed to be set off as per the provisions of section 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*).

(3) Where, return of income under section 263(1) or (4) or (5) (referred to as earlier return) has been furnished by an assessee and, after taking into account the amounts referred to in sub-section (4) [as increased by the amount of refund, if any, issued in respect of such earlier return], tax is payable on the basis of return to be furnished by such assessee under section 263(6) then—

(*a*) the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax;

(*b*) such tax, interest and fee shall be payable along with the payment of additional income-tax, as computed as per sub-section (5), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return; and

(*c*) the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(4) The amounts referred to in sub-section (3) shall be the following,—

(*a*) the amount of relief or tax referred to in section 266(1), the credit for which has been taken in the earlier return;

(*b*) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;

(*c*) any relief of tax or deduction of tax claimed under section 159(1) or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(*d*) any relief of tax claimed under section 159(2) on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return; and

(*e*) any tax credit claimed, to be set off as per the provisions of section 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*) which has not been claimed in the earlier return.

(5) For the purposes of sub-sections (1) and (3), the additional income-tax payable at the time of furnishing the return under section 263(6) shall be equal to,—

(*a*) 25% of aggregate of tax and interest payable, as determined in sub-section (1) or (3), as the case may be, if such return is furnished after expiry of the time available under section 263(4) or (5) and before completion of twelve months from the end of the financial year succeeding the relevant tax year; or

(*b*) 50% of aggregate of tax and interest payable, as determined in sub-section (1) or (3), as the case may be, if such return is furnished after the expiry of twelve months but before completion of twenty-four months from the end of the financial year succeeding the relevant tax year; or

(*c*) 60% of aggregate of tax and interest payable, as determined in sub-section (1) or (3), as the case may be, if such return is furnished after the expiry of twenty-four months, but before completion of thirty-six months, from the end of the financial year succeeding the relevant tax year; or

(*d*) 70% of aggregate of tax and interest payable, as determined in sub-section (1) or (3), as the case may be, if such return is furnished after the expiry of thirty-six months, but before completion of forty-eight months, from the end of the financial year succeeding the relevant tax year.

(6) For the purposes of computation of "additional income-tax" under this section, tax shall include surcharge and cess, by whatever name called, on such tax.

(7) Irrespective of anything contained in section 424(2), for the purposes of sub-section (3), interest payable under section 424 shall be computed on an amount equal to the assessed tax where, "assessed tax" means the tax on the total income as declared in the return to be furnished under section 263(6),—

(*a*) after taking into account,—

(*i*) the amount of relief or tax referred to in section 266(1), the credit for which has been claimed in the earlier return, if any;

(*ii*) tax deducted or collected at source, as per the provisions of Chapter XIX-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;

(*iii*) any relief of tax or deduction of tax claimed under section 159(1) or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(*iv*) any relief of tax claimed under section 159(2) on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;

(*v*) any tax credit claimed, to be set off as per section 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*), which has not been claimed in the earlier return; and

(*b*) as increased by refund, if any, issued in respect of such earlier return.

(8) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, by notification, issue guidelines for the purposes of removing the difficulty.

(9) Every guideline issued by the Board under sub-section (8) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be

issued, the guideline 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 guideline.

(10) For the purposes of this section,—

(*a*) interest payable under section 423, for the purposes of sub-section (1), shall be computed on the amount of tax on the total income as declared in the return under section 263(6), as per section 266(4);

(*b*) interest payable under section 425, for the purposes of sub-section (3), shall be computed after taking into account the total income furnished in the return under section 263(6) as the returned income;

(*c*) interest payable, for the purposes of sub-section (5), shall be the interest chargeable under any provision of this Act, on the income as per return furnished under section 263(6), as reduced by interest paid, as per the earlier return, if any.

(11) For the purposes of sub-section (10)(*c*), the interest paid in the earlier return shall be *nil* in case of an updated return referred to in sub-section (1).

CHAPTER XVI

Procedure for assessment

A.—Procedure for assessment

Inquiry before assessment.

268. (1) For the purpose of making an assessment under this Act, the Assessing Officer may serve on any person who has made a return under section 263 or in whose case the time allowed under section 263(1) for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(*a*) where such person has not made a return within the time allowed under section 263(1) or before the end of the financial year succeeding the relevant tax year, to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in such form and verified in such manner and setting forth such other particulars as may be prescribed;

(*b*) to produce, or cause to be produced, such accounts or documents as the Assessing Officer may require;

(*c*) to furnish in writing and verified in the manner as may be prescribed information in such form and on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the Assessing Officer may require.

(2) For the purposes of sub-section (1),—

(*a*) the previous approval of the Joint Commissioner shall be obtained by the Assessing Officer before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts;

(*b*) the Assessing Officer shall not require the production of any accounts relating to a period more than three years prior to the relevant tax year.

(3) A notice under sub-section (1)(*a*) may also be served by the prescribed income-tax authority.

(4) For the purposes of obtaining full information in respect of the income or loss of any person, the Assessing Officer may make such inquiry as he considers necessary.

(5) If, at any stage of the proceedings before him, the Assessing Officer, having regard to—

(*a*) the nature and complexity of the accounts; or

(*b*) volume of the accounts; or

(*c*) doubts about the correctness of the accounts; or

(*d*) multiplicity of transactions in the accounts; or

(*e*) specialised nature of business activity of the assessee,

and interests of the revenue, is of the opinion that it is necessary so to do, he may, after giving the assessee a reasonable opportunity of being heard, and with the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, direct the assessee to get either or both of the following:—

(*i*) to get the accounts audited by an accountant, and to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed, and such other particulars as the Assessing Officer may require;

(*ii*) to get the inventory valued by a cost accountant, and to furnish a report of such inventory valuation in the prescribed form as duly signed and verified by such cost accountant and setting forth such particulars, as may be prescribed, and such other particulars as the Assessing Officer may require.

(6) The accountant or the cost accountant as referred to in sub-section (5) shall be nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner for the purposes of the said sub-section.

(7) The provisions of sub-section (5) shall have effect irrespective of whether or not accounts of the assessee have been audited under any other law for the time being in force or otherwise.

(8) Every report under sub-section (5) shall be furnished by the assessee to the Assessing Officer within such period as specified by the Assessing Officer.

(9) The Assessing Officer may, on his own motion, or on an application made in this behalf by the assessee and for any good and sufficient reason, subject to the provisions of sub-section (10), extend the period referred to in sub-section (8) by such further period or periods as he thinks fit.

(10) The aggregate of the period originally fixed under sub-section (8) and the period or periods so extended, as referred to in sub-section (9), shall not, in any case, exceed six months from the end of the month in which the direction under sub-section (5) is received by the assessee.

(11) The expenses of any audit or inventory valuation under sub-section (5) (including incidental expenses and remuneration of the accountant or the cost accountant) shall be—

(*a*) determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as per such guidelines issued in this behalf; and

(*b*) paid by the Central Government.

(12) The assessee shall, except where the assessment is made under section 271, be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry under sub-section (4), or any audit or inventory valuation under sub-section (5) and proposed to be utilised for the purposes of the assessment.

(13) For the purposes of this section, "cost accountant" means a cost accountant as defined in section 2(1)(*b*) of the Cost and Works Accountants Act, 1959 (23 of 1959) and who holds a valid certificate of practice under section 6(1) of the said Act.

Estimation of value of assets by Valuation Officer.

269. (1) The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including the fair market value, of any asset, property or investment and submit a copy of report to him.

(2) The Assessing Officer may make a reference to the Valuation Officer under sub-section (1) whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.

(3) (*a*) For estimating the value, including the fair market value, of the asset, property, or investment, the Valuation Officer or any engineer, overseer, surveyor, or assessor authorized by such Valuation Officer, may, subject to any rules made in this regard and at such reasonable times, as may be prescribed,—

(*i*) enter any land within the limits of the area assigned to the Valuation Officer; or

(*ii*) enter any land, building, or other place belonging to or occupied by any person in connection with whose assessment a reference has been made to the Valuation Officer; or

(*iii*) inspect any asset, property, or investment in respect of which a reference has been made to the Valuation Officer.

(*b*) The Valuation Officer or any engineer, overseer, surveyor, or assessor, may require any person in charge of, or in occupation or possession of, such land, building, or other place or such asset, property, or investment to afford the necessary facility to:—

(*i*) survey or inspect such land, building, or other place or such asset, property, or investment;

(*ii*) estimate its value; or

(*iii*) inspect any books of account, document, or record relevant for the valuation of such asset, property, or investment and gather other particulars relating to it.

(*c*) The Valuation Officer, engineer, overseer, surveyor, or assessor shall enter any land, building or place referred to in clause (*a*)(*ii*), or inspect any asset, property, or investment referred to in clause (*a*)(*iii*), with the consent of the person in charge of, or in occupation or possession of, such land, building, place, or asset, property, or investment, after providing such person at least two days' notice in writing of his intention to do so.

(*d*) If a person who, under this sub-section, is required to afford any facility to the Valuation Officer or the engineer, overseer, surveyor, or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters,—

(*i*) discovery and inspection;

(*ii*) enforcing the attendance of any person, including any officer of a banking company, and examining him on oath;

(*iii*) compelling the production of books of account and other documents; and

(*iv*) issuing commissions.

(4) The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

(5) The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.

(6) The Valuation Officer shall send the report of the estimate made under sub-section (4) or (5), to the Assessing Officer and the assessee.

(7) With a view to rectifying any mistake apparent from the record, the Valuation Officer may amend any report made by him, as per section 287.

(8) The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

(9) The Valuation Officer shall send the report referred to in sub-section (6) within six months from the end of the month in which the reference is made under sub-section (1).

(10) For the purposes of this Act,—

(*a*) the Central Government may appoint as many Valuation Officers, as necessary; and

(*b*) subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a Principal Chief Commissioner, or a Chief Commissioner, or a Principal Commissioner or a Commissioner may appoint as many engineers, overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.

Assessment.

270. (1) Where a return has been made under section 263, or in response to a notice under section 268(1) such return shall be processed in the following manner:—

(*a*) the total income or loss shall be computed after making the adjustments towards the following:—
- (*i*) any arithmetical error in the return; or
- (*ii*) an incorrect claim, if such incorrect claim is apparent from any information in the return; or
- (*iii*) any such inconsistency in the return, with respect to the information in the return of any preceding tax year , as may be prescribed; or
- (*iv*) disallowance of loss claimed, if return of the tax year for which set off of loss is claimed was furnished beyond the due date specified under section 263(1); or
- (*v*) disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return; or
- (*vi*) disallowance of deduction claimed under section 144 or under any of the provisions of Chapter VIII-C, if the return is furnished beyond the due date specified under section 263(1);

(*b*) the tax, interest and fee, if any, shall be computed on the basis of the total income computed under clause (*a*);

(*c*) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed under clause (*b*) by—
- (*i*) any tax deducted at source;
- (*ii*) any tax collected at source;
- (*iii*) any advance tax paid;
- (*iv*) any rebate or relief allowable under Chapter IX;
- (*v*) any tax paid on self-assessment; and
- (*vi*) any amount paid otherwise by way of tax, interest or fee;

(*d*) an intimation shall be sent to the assessee specifying the sum determined to be payable by, or refund due to, the assessee under clause (*c*); and

(*e*) the amount of refund due to the assessee in pursuance of the determination under clause (*c*) shall be granted to the assessee.

(2) Before making any adjustment under sub-section (1)(*a*),—

(*a*) a communication is to be given to the assessee of such adjustments either in writing or in electronic mode;

(*b*) the response received from the assessee in this regard, if any, shall be considered; and in a case where no response is received within thirty days of the issue of such communication, such adjustments shall be made and thereafter the intimation under sub-section (1)(*d*) shall be sent.

(3) For the purposes of sub-section (1), an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to, him.

(4) No intimation under sub-section (1) shall be sent after the expiry of nine months from the end of the financial year in which the return is made.

(5) For the purposes of sub-sections (1) to (4),—

(*a*) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—
- (*i*) of an item, which is inconsistent with another entry of the same or some other item in such return; or
- (*ii*) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or
- (*iii*) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(*b*) "the acknowledgement of the return" shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under sub-section (1)(*c*), and where no adjustment has been made under sub-section (1)(*a*).

(6) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(7) The scheme made under sub-section (6) shall, as soon as may be laid before each House of Parliament.

(8) Where a return has been furnished under section 263 or in response to a notice under section 268(1), the Assessing Officer or the prescribed income-tax authority, if, considers it necessary or expedient to ensure that the assessee—

(*a*) has not understated the income;

(*b*) has not computed excessive loss;

(*c*) has not under-paid the tax in any manner,

shall serve on the assessee a notice requiring him, on a date to be specified therein,—

(*i*) either to attend the office of the Assessing Officer; or

(*ii*) to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.

(9) No notice under sub-section (8) shall be served on the assessee after the expiry of three months from the end of the financial year in which the return is furnished.

(10) On the day specified in the notice issued under sub-section (8), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer, subject to the provisions of sub-sections (11) and (13), shall—

(*a*) by an order in writing, make an assessment of the total income or loss of the assessee; and

(*b*) determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(11) In the case of entities referred to in sub-section (12), which are required to furnish the return of income under section 263(1)(*a*)(*iv*), no order under sub-section (10) making an assessment of the total income or loss of any such entity shall be made by the Assessing Officer, without giving effect to the provisions of section 11, unless—

(*i*) the Assessing Officer has intimated the Central Government or the prescribed authority the contravention of the provisions mentioned in Schedule III (Table: Sl. No. 23, 24 or 25), by such entity, where in his view such contravention has taken place; and

(*ii*) the approval granted to such entity has been withdrawn or notification issued in respect of such entity has been rescinded.

(12) For the purposes of sub-section (11), the entities shall be—

(*a*) a research association referred to in Schedule III (Table: Sl. No. 23);

(*b*) an association or institution referred to in Schedule III (Table: Sl. No. 24);

(*c*) an institution referred to in Schedule III (Table: Sl. No. 25).

(13) In the case of a registered non-profit organisation, where the Assessing Officer is satisfied that any such entity has committed any specified violation as mentioned in section 351(1), he shall—

(*a*) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration; and

(*b*) no order under sub-section (10) making an assessment of the total income or loss of such registered non-profit organisation shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner under section 351(2)(*ii*)(*A*) or (*B*).

(14) While making an assessment under sub-section (10), where the Assessing Officer is satisfied that the activities of the university, college or other institution referred to in section 45(3)(*a*) (herein referred to as entity) are not being carried out in accordance with all or any of the conditions subject to which such entity was approved, then—

(*a*) he may, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned entity, recommend to the Central Government to withdraw the approval; and

(*b*) the Central Government may by order, withdraw the approval and forward a copy of the order to the concerned entity and the Assessing Officer.

(15) Where a regular assessment under sub-section (10) or section 271 is made,—

(*a*) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(*b*) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Best judgment assessment.

271. (1) If any person—

(*a*) fails to furnish the return required under section 263(1) or (4) or (5) or (6); or

(*b*) fails to comply with all the terms of a notice issued under section 268(1) or fails to comply with a direction issued under section 268(5); or

(*c*) having made a return, fails to comply with all the terms of a notice issued under section 270(8),

the Assessing Officer, after taking into account all relevant materials which he has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

(2) The Assessing Officer before making an assessment under sub-section (1) shall, subject to the provisions of sub-section (3), serve a notice on the assessee to show cause, on a date and time to be specified in the notice, as to why assessment should not be completed to the best of his judgment.

(3) It shall not be necessary to give the opportunity referred to in sub-section (2) in a case where a notice under section 268(1) has been issued prior to the making of an assessment under this section.

Power of Joint Commissioner to issue directions in certain cases.

272. (1) A Joint Commissioner may, on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may—

(*a*) issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment; and

(*b*) such directions shall be binding on the Assessing Officer.

(2) No directions which are prejudicial to the assessee shall be issued under sub-section (1) without giving an opportunity of being heard to the assessee.

(3) For the purposes of this section, no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Faceless Assessment.

273. (1) Irrespective of anything to the contrary contained in any other provision of this Act, the assessment, reassessment or recomputation under section 270(10) or 271 or 279, as the case may be, with respect to the cases referred to in sub-section (2), shall be made in a faceless manner as per such procedure, as may be prescribed in this behalf.

(2) The faceless assessment under sub-section (1) shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.

(3) The Board may, for the purposes of faceless assessment, set up the following Centre and Units and specify their functions and jurisdiction:—

(*a*) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner including assigning the case selected for the purposes of faceless assessment under this section to a specific assessment unit, intimating the assessee that assessment in his case shall be completed in accordance with the provision of this section, serving a notice to the assessee under section 268(1) or 270(8), and forwarding any response of the assessee to the assessment unit;

(*b*) such assessment units, as it may deem necessary to conduct the faceless assessment, to perform the function of making assessment, which includes analysis of the material furnished by the assessee or any other person, identification of points or issues material for the determination of any liability (including refund) under this Act, seeking information or clarification on points or issues so identified, determination of any variation prejudicial to the assessee, and such other functions as may be required for the purposes of making faceless assessment;

(*c*) such verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification;

(*d*) such technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter under this Act or an agreement entered into under section 159, which may be required in a particular case or a class of cases, under this section;

(*e*) such review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of any variation proposed by the assessment unit (wherever it is so considered necessary by the National Faceless Assessment Centre), which includes checking whether the relevant and material evidence has been brought on record, relevant points of fact and law have been duly incorporated, the issues requiring addition or disallowance have been incorporated and such other functions as may be required for the purposes of review.

(4) In accordance with the procedure as may be prescribed under sub-section (1),—

(*a*) the verification unit, the technical unit and the review unit shall facilitate the conduct of faceless assessment; and

(*b*) the assessment unit shall—

(*i*) make the assessment of the total income or loss by an order in writing after taking into account all relevant material which it has gathered and after giving the assessee an opportunity of being heard, and may also initiate penalty proceedings, if any;

(*ii*) determine the sum payable by the assessee or refund of any amount due to him on the basis of such assessment.

(5) For the purposes of this section, the terms â€œassessment unitâ€, â€œverification unitâ€, â€œtechnical unitâ€ and â€œreview unitâ€ shall refer to an Assessing Officer having powers so assigned by the Board.

(6) The assessment unit, verification unit, technical unit and the review unit shall have the following authorities:—

(*a*) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;

(*b*) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;

(*c*) such other income-tax authority, ministerial staff, executive or consultant, as may be considered necessary by the Board.

(7) All communications, save as otherwise provided in sub-section (8),—

(*a*) among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre;

(*b*) between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and

(*c*) between the National Faceless Assessment Centre and various units shall be exchanged exclusively by electronic mode.

(8) The provisions of sub-section (7) shall not apply to the enquiry or verification conducted by the verification unit in the circumstances as specified by the Board in this behalf.

(9) The Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the National Faceless Assessment Centre shall, in accordance with the procedure laid down by the Board in this regard, if he considers appropriate that the provisions of section 268(5) may be invoked in the case,—

(*a*) forward any reference received from an assessment unit in this regard to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case, and inform the assessment unit accordingly;

(*b*) transfer the case to the Assessing Officer having jurisdiction over such case as per sub-section (12).

(10) Where a reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under sub-section (9)(*a*), he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of section 268(5).

(11) Where a reference has not been forwarded as per sub-section (9)(*a*) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case, the assessment unit shall proceed to complete the assessment as per the procedure laid down in this section.

(12) Irrespective of anything contained in sub-section (1) or (2), the Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of National Faceless Assessment Centre may, at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.

(13) For the purposes of this section,—

(*a*) Â â€œdesignated portalâ€ means the web portal designated as such by the Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre;

(*b*) Â â€œfaceless assessmentâ€ means the assessment proceedings conducted electronically in â€œe-Proceedingâ€ facility through registered account of the assessee in designated portal; and

(*c*) Â â€œregistered accountâ€ of the assessee means the electronic filing account registered by the assessee in designated portal.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Reference to Principal Commissioner or Commissioner in certain cases.

274. (1) The Assessing Officer may make a reference to the Principal Commissioner or Commissioner at any stage of the assessment or reassessment proceedings before him, if, having regard to the material and evidence available with him, he considers that it is necessary to—

(*a*) declare an arrangement as an impermissible avoidance arrangement; and

(*b*) determine the consequence of such an arrangement within the meaning of Chapter XI.

(2) The Principal Commissioner or Commissioner shall, on receipt of a reference under sub-section (1), if he is of the opinion that the provisions of Chapter XI are required to be invoked,—

(*a*) issue a notice to the assessee, setting out the reasons and basis of such opinion, for submitting objections, if any; and

(*b*) provide an opportunity of being heard to the assessee within such period, not exceeding sixty days, as specified in the said notice.

(3) If the assessee fails to furnish any objection to the notice within the time specified in such notice issued under sub-section (2), the Principal Commissioner or Commissioner shall issue such directions as he deems fit in respect of declaration of the arrangement to be an impermissible avoidance arrangement.

(4) In case the assessee objects to the proposed action, and the Principal Commissioner or Commissioner, after hearing the assessee in the matter, is not satisfied with the explanation of the assessee, then, he shall make a reference in the matter to the Approving Panel for the purpose of declaration of the arrangement as an impermissible avoidance arrangement.

(5) If the Principal Commissioner or Commissioner is satisfied, after having heard the assessee that the provisions of Chapter XI are not to be invoked, he shall by an order in writing, communicate the same to the Assessing Officer with a copy to the assessee.

(6) The Approving Panel, on receipt of a reference from the Principal Commissioner or Commissioner under sub-section (4), shall—

(*a*) issue such directions, as it deems fit, in respect of the declaration of the arrangement as an impermissible avoidance arrangement as per the provisions of Chapter XI; and

(*b*) specify the tax year or years to which such declaration of an arrangement as an impermissible avoidance arrangement shall apply.

(7) No direction under sub-section (6) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interests of the revenue, as the case may be.

(8) The Approving Panel may, before issuing any direction under sub-section (6),—

(*a*) if it is of the opinion that any further inquiry in the matter is necessary, direct the Principal Commissioner or Commissioner to make such inquiry or cause the inquiry to be made by any other income-tax authority and furnish a report containing the result of such inquiry to it; or

(*b*) call for and examine such records relating to the matter as it deems fit; or

(*c*) require the assessee to furnish such documents and evidence as it may direct.

(9) If the members of the Approving Panel differ in opinion on any point, such point shall be decided according to the opinion of the majority of the members.

(10) The Assessing Officer, on receipt of directions of the Principal Commissioner or Commissioner under sub-section (3) or of the Approving Panel under sub-section (6), shall proceed to complete the proceedings referred to in sub-section (1) as per such directions and the provisions of Chapter XI.

(11) If any direction issued under sub-section (6) specifies that declaration of the arrangement as impermissible avoidance arrangement is applicable for any tax year other than the tax year to which the proceedings referred to in sub-section (1) pertains, then,—

(*a*) the Assessing Officer while completing any assessment or reassessment proceedings relevant to such other tax year shall do so as per such directions and the provisions of Chapter XI; and

(*b*) it shall not be necessary for him to seek fresh direction on the issue for such other tax year.

(12) No order of assessment or reassessment shall be passed by the Assessing Officer without the prior approval of the Principal Commissioner or Commissioner, if any tax consequences have been determined in the order under the provisions of Chapter XI.

(13) The Approving Panel shall, subject to sub-sections (14) and (15), issue directions under sub-section (6) within six months from the end of the month in which the reference under sub-section (4) was received.

(14) In computing the period referred to in sub-section (13), the following shall be excluded:—

(*a*) the period commencing from the date on which the Approving Panel first directs the Principal Commissioner or Commissioner for getting the inquiries conducted through the authority competent under an agreement referred to in section 159 and ending with the date on which the information so requested is last received by the Approving Panel or one year, whichever is less;

(*b*) the period commencing on the date on which the proceeding of the Approving Panel is stayed by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the Approving Panel.

(15) If immediately after the exclusion of the period as per sub-section (14), the remaining period available to the Approving Panel for issue of directions is less than sixty days, such remaining period shall be extended to sixty days and the period of six months mentioned in sub-section (13) shall be deemed to have been extended accordingly.

(16) The directions issued by the Approving Panel under sub-section (6) shall be binding on—

(*a*) the assessee; and

(*b*) the Principal Commissioner or Commissioner and the income-tax authorities subordinate to him.

(17) No appeal under the Act shall lie against directions issued by the Approving Panel under sub-section (6), irrespective of anything contained in any other provision of the Act.

(18) The Central Government shall, for the purposes of this section, constitute one or more Approving Panels as may be necessary and each panel shall consist of three members including a Chairperson.

(19) The Chairperson of the Approving Panel shall be a person who is or has been a judge of a High Court, and—

(*a*) one member shall be a member of Indian Revenue Service not below the rank of Principal Chief Commissioner or Chief Commissioner of Income-tax; and

(*b*) one member shall be an academic or scholar having special knowledge of matters, such as direct taxes, business accounts and international trade practices.

(20) The term of the Approving Panel shall ordinarily be for one year and may be extended from time to time up to three years.

(21) The Chairperson and members of the Approving Panel shall meet, as and when required, to consider the references made to the panel and shall be paid such remuneration as may be prescribed.

(22) In addition to the powers conferred on the Approving Panel under this section, the powers which are vested in the Board for Advance Rulings under section 387 shall apply *mutatis mutandis* to the Approving Panel.

(23) The Board shall provide to the Approving Panel such officials as may be necessary for the efficient exercise of powers and discharge of functions of the Approving Panel under this Act.

(24) The Board may make rules for the purposes of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references received under sub-section (4).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Reference to Dispute Resolution Panel.

275. (1) The Assessing Officer shall, irrespective of anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee, if he proposes to make any variation which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of its receipt by him,—

(*a*) file his acceptance of the variations to the Assessing Officer; or

(*b*) file his objections, if any, to such variation with,—

(*i*) the Dispute Resolution Panel; and

(*ii*) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(*a*) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(*b*) no objection is received within the period specified in sub-section (2).

(4) The Assessing Officer shall, irrespective of anything contained in section 286, pass the assessment order under sub-section (3) within one month from the end of the month in which,—

(*a*) the acceptance is received; or

(*b*) the period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions as referred to in sub-section (5), in writing, stating the points of determination, the decision thereon and the reason for such decision.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),—

(*a*) make such further enquiry, as it thinks fit; or

(*b*) cause any further enquiry to be made by any income-tax authority and report the result of the same to such panel.

(8) The Dispute Resolution Panel may, confirm, reduce or enhance the variations proposed in the draft order, so however, that it shall not set aside any proposed variation, or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.

(9) For the purposes of sub-section (8), the power of the Dispute Resolution Panel to enhance the variation shall include the power to consider any matter arising out of the assessment proceedings relating to the draft order, irrespective of the fact that such matter was not raised by the eligible assessee.

(10) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided as per the opinion of the majority of the members.

(11) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(12) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee, and the Assessing Officer, on such directions which are prejudicial to the interest of the assessee, or the interest of the revenue, respectively.

(13) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(14) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, irrespective of anything to the contrary contained in section 286, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(15) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.

(16) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner as provided in section 274(12).

(17) For the purposes of this section, subject to the provisions of sub-section (18),—

(*a*) "Dispute Resolution Panel" means a collegium comprising of three Principal Commissioners or Commissioners of Income-tax constituted by the Board for this purpose;

(*b*) "eligible assessee" means,—

(*i*) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under section 166(6);

(*ii*) any non-resident (not being a company), or any foreign company.

(18) The eligible assessee referred to in sub-section (17) shall not include person referred to in section 292(1) or other person referred to in section 295.

(19) The provisions of this section shall not apply to any proceedings under Chapter XVI-B.

Method of accounting.

276. (1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed as per either cash or mercantile system of accounting regularly employed by the assessee.

(2) The Central Government may notify income computation and disclosure standards to be followed by any class of assessees or in respect of any class of income.

(3) The Assessing Officer may make an assessment in the manner provided in section 271, where—

(*a*) he is not satisfied about the correctness or completeness of the accounts of the assessee; or

(*b*) the method of accounting provided in sub-section (1) has not been regularly followed by the assessee; or

(*c*) income has not been computed as per the standards notified under sub-section (2).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Method of accounting in certain cases.

277. (1) For the purposes of determining the income chargeable under the head "Profits and gains of business or profession",—

(*i*) the valuation of inventory shall be made at lower of actual cost or net realisable value computed as per the income computation and disclosure standards notified under section 276(2);

(*ii*) the valuation of purchase and sale of goods or services and valuation of inventory shall be adjusted to include any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;

(*iii*) the inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised as per the income computation and disclosure standards notified under section 276(2);

(*iv*) the inventory being securities other than those referred to in clause (*iii*), shall be valued at lower of actual cost or net realisable value as per the income computation and disclosure standards notified under section 276(2).

(2) For the purposes of sub-section (1), the inventory being securities held by a scheduled bank or public financial institution shall be valued as per the income computation and disclosure standards notified under section 276(2) after taking into account the extant guidelines issued by the Reserve Bank of India in this regard.

(3) For the purposes of sub-sections (1) and (2), the comparison of actual cost and net realisable value of securities shall be made category-wise.

(4) For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law in force, shall include all such payment irrespective of any right arising as a consequence to such payment.

(5) For the purposes of this section, "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013 (18 of 2013).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Taxability of certain income.

278. (1) Any interest received by an assessee on any compensation or on enhanced compensation, shall be deemed to be the income of the tax year in which it is received, irrespective of anything to the contrary contained in section 276.

(2) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the tax year in which reasonable certainty of its realisation is achieved.

(3) The income referred to in section 2(*49*)(*w*) shall be treated as the income of the tax year in which it is received, if not charged to income-tax in any earlier tax year.

Income escaping assessment.

279. (1) If, in the case of an assessee, any income chargeable to tax has escaped assessment for any tax year (herein and in sections 280 to 286 referred to as the relevant tax year), the Assessing Officer may, subject to the provisions of sections 280 to 286, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the relevant tax year.

(2) For the purposes of assessment or reassessment or recomputation under sub-section (1), the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 281 have not been complied with.

Issue of notice where income has escaped assessment.

280. (1)(*a*) Before making the assessment, reassessment or recomputation under section 279, the Assessing Officer shall, subject to the provisions of section 281, issue a notice to the assessee, along with a copy of the order passed under section 281(3);

(*b*) the notice referred to in clause (*a*) shall require the assessee to furnish, within such period as may be specified therein, a return of his income or income of any other person in respect of whom he is assessable under this Act during the relevant tax year; and

(*c*) the period specified in the notice referred to in clause (*a*) shall not exceed three months from the end of the month in which such notice is issued.

(2) The return of income required under sub-section (1) shall be furnished in such form, verified in such manner and setting forth such other particulars, as may be prescribed, and the provisions of this Act shall apply accordingly, as if such return were a return required to be furnished under section 263.

(3) Any return of income required to be furnished under sub-section (1), furnished after the expiry of the period specified in the notice under the said sub-section, shall not be deemed to be a return under section 263.

(4) No notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant tax year.

(5) No notice under this section shall be issued without prior approval of the specified authority, where the Assessing Officer has received—

(*a*) information under the scheme notified under section 260; or

(*b*) directions from the Approving Panel under section 274(6); or

(*c*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.

(6) For the purposes of this section and section 281, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means—

(*a*) any information in the case of the assessee for the relevant tax year as per the risk management strategy formulated by the Board from time to time;

(*b*) any audit objection to the effect that the assessment in the case of the assessee for the relevant tax year has not been made as per this Act;

(*c*) any information received under an agreement referred to in section 159 of this Act;

(*d*) any information made available to the Assessing Officer under the scheme notified under section 260;

(*e*) any information which requires action in consequence of the order of a Tribunal or a Court;

(*f*) any information in the case of the assessee emanating from the survey conducted under section 253, other than under sub-section (4) of the said section;

(*g*) any directions in the case of the assessee given by the Approving Panel under section 274(6);

(*h*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision, or by a Court in any proceeding under any other law.

Procedure before issuance of notice under section 280

281. (1) Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant tax year, he shall, before issuing any notice under section 280 provide an opportunity of being heard to such assessee by serving upon him a notice to show cause as to why notice under section 280 should not be issued.

(2) The notice to show cause referred to in sub-section (1) shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment in his case for the relevant tax year, and on receipt of such notice, the assessee may furnish his reply within such period, as specified therein.

(3) The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (2), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 280.

(4) The provisions of this section shall not apply to income chargeable to tax escaping assessment for any tax year in the case of an assessee, where the Assessing Officer has received—

(*a*) information under the scheme notified under section 260; or

(*b*) directions issued by the Approving Panel under section 274(6); or

(*c*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision, or by a Court in any proceeding under any other law.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Time limit for notices under sections 280 and 281.

282. (1) No notice under section 280 shall be issued for the relevant tax year,—

(*a*) if four years and three months have elapsed from the end of the relevant tax year, unless the case falls under clause (*b*);

(*b*) if four years and three months, but not more than six years and three months, have elapsed from the end of the relevant tax year, unless the Assessing Officer has in his possession books of account or other documents or evidence related to any asset or expenditure or transaction or entry which shows that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to fifty lakh rupees or more.

(2) No notice to show cause under section 281 shall be issued for the relevant tax year,—

(*a*) if four years have elapsed from the end of the relevant tax year, unless the case falls under clause (*b*);

(*b*) if four years, but not more than six years, have elapsed from the end of the relevant tax year, unless the income chargeable to tax which has escaped assessment, as per the information with the Assessing Officer, amounts to or is likely to amount to fifty lakh rupees or more.

(3) No notice under section 280 or 281 shall be issued within one year from the end of any tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Provision for cases where assessment is in pursuance of an order on appeal, etc.

283. (1) Irrespective of anything contained in section 282, the notice under section 280 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to—

(*a*) any finding or direction contained in an order passed by any authority, Tribunal or court in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law; or

(*b*) the directions issued by the Approving Panel under section 274(6).

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to a tax year in respect of which an assessment, reassessment or recomputation could not have been made, by reason of any other provisions limiting the time within which any action for assessment, reassessment or recomputation may be taken, at the time when,—

(*a*) the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made; or

(*b*) the reference from the jurisdictional Principal Commissioner or Commissioner is made to the Approving Panel under section 274(4).

Sanction for issue of notice.

284. The specified authority for the purposes of sections 280 and 281 shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

Other provisions.

285. (1) In an assessment, reassessment or recomputation made under section 279, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment.

(2) The proceedings initiated under section 279 shall be dropped on a claim made by the assessee and on his showing to the effect that—

(*a*) the assessee had been assessed on an amount not lower than what he would be rightly liable for, even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made; and

(*b*) he has not impugned any part of the original assessment order for the relevant tax year under section 356 or 357 or 378.

(3) Where a claim has been made by an assessee under sub-section (2), he shall not be entitled to reopen matters concluded by an order under section 287 or 288 or 365(10) or 368 or 377.

Time limit for completion of assessment, reassessment and recomputation.

286. (1) No order in respect of proceedings mentioned in column B of the Table below shall be made after expiry of the period specified in the corresponding entry in column D of the said Table and such period shall be calculated from the date as mentioned in column C thereof.

TABLE

Sl. No.	*Nature of Proceedings or orders*	*Date from which time limit for completion is to be calculated*	*Time limit for completion*
A	*B*	*C*	*D*
1.	Assessment order under section 270(10) or section 271.	End of the financial year succeeding the relevant tax year for which assessment is made.	One year.
2.	Assessment order under section 270(10) or 271, where an updated return of income is furnished under section 263(6).	End of the financial year in which such updated return was furnished.	One year.
3.	Assessment order under section 270(10) or 271, where return is furnished in consequence of order under section 239(3)(*b*).	End of the financial year in which such return was furnished.	One year.
4.	Assessment, reassessment or recomputation order under section 279.	End of the financial year in which notice under section 280 was served.	One year.
5.	Fresh assessment order or fresh order under section 166 in pursuance to an order under section 359, or 363, or 377, or 378, setting aside or canceling an assessment order or an order under section 166.	End of the financial year in which order under section 359 or 363 is received by, or order under section 377 or 378 is passed by, the jurisdictional Principal Commissioner or Commissioner.	One year.
6.	Assessment or reassessment which stands revived, as per section 292.	End of the month in which such assessment or reassessment stands revived.	One year.
7.	Assessment required to be made in the hands of partner, in consequence of an assessment made on the firm under section 279.	End of the month in which assessment order in the case of firm is passed.	One year.
8.	Assessment, reassessment or recomputation required to be made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order— (*i*) under section 359 or 363 or 365(10), or 368, or 377, or 378; or (*ii*) of any Court in a proceeding otherwise than by way of appeal or reference under this Act.	End of the month in which such order is received, or passed, by the jurisdictional Principal Commissioner or Commissioner.	One year.
9.	Order giving effect to an order under section 359 or 363 or 365(10) or 368 or 377 or 378, otherwise than by making a fresh assessment or reassessment or fresh order under section 166, where— (*i*) verification of any issue by way of submission of any document by the assessee or any other person is to be carried out; or (*ii*) an opportunity of being heard is to be given to the assessee.	End of the month in which order under section 359 or 363 or 365(10) or 368 is received, or order under section 377 or 378 is passed, by the jurisdictional Principal Commissioner or Commissioner.	One year.
10.	Order giving effect to an order under section 359 or 363 or 365(10) or 368 or 377 or 378 otherwise than by making a fresh assessment or reassessment or fresh order under section 166.	End of the month in which order under section 359 or 363 or 365(10) or 368 is received by, or order under section 377 or 378 is passed by, the jurisdictional Principal Commissioner or Commissioner.	Six months, extendable to nine months with the approval of authorities as per section 2(*62*) and (*64*).
11.	Modification of assessment, reassessment or recomputation to give effect to the order passed under section 166 read with section 377.	End of the month in which such order under section 166 is received by the Assessing Officer.	Two months.

(2) Time limit for completion of any assessment or reassessment as provided in sub-section (1), in a case where reference is made to the Transfer Pricing Officer for determining the arm's length price under section 166(1), shall be extended by an additional period of twelve months.

(3) For the purposes of this section, in computing the time limit for completion, the following period shall be excluded,—

(*a*) the time taken in reopening the whole or any part of the proceeding on request of the assessee or in giving an opportunity to the assessee to be re-heard under section 244; or

(*b*) the period commencing on the date on which stay on assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner; or

(*c*) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of Schedule III (Table: Sl. Nos. 23, 24, 25) or section 270(11)(*i*), and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those provisions is received by the Assessing Officer; or

(*d*) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under section 268(5) and—

(*i*) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that section; or

(*ii*) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or

(*e*) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 269(1) and ending with the date on which the report of the Valuation Officer is received by him; or

(*f*) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under section 375(1) and ending with the date on which the order under Section 375(3) is made by him; or

(*g*) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 383(1) and ending with the date on which the order either rejecting the application or the advance ruling pronounced by it, is received by the jurisdictional Principal Commissioner or Commissioner under section 384(5) or (8), as the case may be; or

(*h*) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 159 and ending with the date on which the information requested is last received by the jurisdictional Principal Commissioner or Commissioner, or one year, whichever is less; or

(*i*) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the jurisdictional Principal Commissioner or Commissioner under section 274(1) and ending on the date on which a direction under sub-section (3) or (6) or an order under sub-section (5) of the said section is received by the Assessing Officer; or

(*j*) the period commencing from the date on which the Assessing Officer makes a reference to the jurisdictional Principal Commissioner or Commissioner under section 270(13) and ending with the date on which copy of the order under section 351(2)(*ii*)(*A*) or (*B*), is received by the Assessing Officer.

(4) Where immediately after exclusion of the period as mentioned in sub-section (3), the remaining period for completion available to the Assessing Officer, as specified in sub-section (1), for making an order of assessment, reassessment or recomputation, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid time limits for completion shall be deemed to have been extended accordingly.

(5) Where the period available to the Transfer Pricing Officer is extended to sixty days as per section 166(8) and the remaining period for completion available to the Assessing Officer under this section, for making an order of assessment, reassessment or recomputation, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid time limit for completion shall be deemed to have been extended accordingly.

(6) Where a proceeding before the Interim Board for Settlement abates under section 245HA of the Income-tax Act, 1961 (43 of 1961) and the remaining period of limitation available to the Assessing Officer under this section for making an order of assessment, reassessment or recomputation, after the exclusion of the period under section 245HA(4) of the Income-tax Act, 1961 (43 of 1961), is less than one year, such remaining period shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 282, 287, 288 and 296 and for the purposes of payment of interest under section 437, this sub-section shall also apply accordingly.

(7) In a case where the remaining time period for making an order of regular assessment or reassessment, after excluding the time period specified in sub-section (3)(*j*), ends before the end of the month, the remaining period shall be extended to the end of such month, and the specified time limit for completion shall be deemed to have been extended accordingly.

(8) For the purposes of this section and section 283, where by an order referred to in entry in sub-section (1) (Table: Sl. No. 8.A)—

(*i*) any income is excluded from the total income of the assessee for a tax year, then, an assessment of such income for another tax year shall be deemed as one made in consequence of or to give effect to any finding or direction contained in the said order; or

(*ii*) any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall be deemed as one made in consequence of or to give effect to any finding or direction contained in the said order, if such other person was given an opportunity of being heard before the said order was passed.

Rectification of mistake.

287. (1) An income-tax authority referred to in section 236, for rectifying any mistake apparent from the record, may amend any—

(*a*) order passed by it under the provisions of this Act;
(*b*) intimation or deemed intimation under section 270(1);
(*c*) intimation under section 399.

(2) Irrespective of anything contained in any law in force, the authority concerned may, amend any order or intimation under sub-section (1) in relation to any matter, other than the matter considered and decided in any proceeding by way of appeal or revision, relating to such order or intimation.

(3) Subject to the other provisions of this section, the authority concerned,—

(*a*) may make an amendment under sub-section (1) of its own motion; and
(*b*) shall make such amendment for rectifying any such mistake which has been brought to its notice by—
(*i*) the assessee or the deductor or the collector; or
(*ii*) the Assessing Officer, if the authority concerned is the Joint Commissioner (Appeals) or the Commissioner (Appeals).

(4) No amendment that enhances an assessment, reduces a refund or otherwise increases the liability of the assessee or the deductor or the collector, shall be made under this section by the authority concerned without giving to such assessee or deductor or collector, as the case may be,—

(*a*) a notice of its intention of making such amendment; and
(*b*) a reasonable opportunity of being heard.

(5) The income-tax authority concerned shall pass an order in writing, if an amendment is made under this section.

(6) The Assessing Officer shall make refund which may be due to the assessee or the deductor or the collector, where an amendment reduces the assessment or otherwise reduces the liability of such assessee or the deductor or the collector.

(7) The Assessing Officer shall serve on the assessee or the deductor or the collector, a notice of demand in such form as may be prescribed specifying the sum payable,—

(*a*) where an amendment enhances the assessment or reduces a refund already made or otherwise increases the liability of such assessee or the deductor or the collector; and
(*b*) such notice shall be deemed to be issued under section 289 and the provisions of this Act shall apply accordingly.

(8) No amendment under this section, except as provided in section 288, shall be made after four years from the end of the financial year in which the order or intimation sought to be amended was passed.

(9) Subject to sub-section (8), an income-tax authority referred to in sub-section (1), shall pass an order for making the amendment or refusing to allow the claim within six months from the end of the month in which the application for amendment under this section is received by it from the assessee or the deductor or the collector.

Other amendments.

288. (1) The Assessing Officer, may carry out such actions as are specified in column B of the Table below for reasons mentioned therein, subject to the conditions as specified in column C, within four years referred to in section 287(8) which shall be reckoned from the time as specified in column D, and the provisions of section 287 shall, so far as may be, apply to such amendment:—

Table

Sl. No.	*Actions*	*Conditions*	*Time*
A	*B*	*C*	*D*
1.	Amendment of order of assessment of the partner of a firm so as to adjust the income of the partner corresponding to the amount not deductible under section 35(*e*).	Where any remuneration to any partner determined in completed assessment of the firm is subsequently found not deductible under section 35(*e*) in terms of— (*a*) assessment or reassessment of the firm; or (*b*) any reduction or enhancement made in the income of the firm under this section or section 287 or 359 or 363 or 365 or 368 or 377 or 378; or (*c*) any order passed under section 245D(4) of the Income-tax Act, 1961 (43 of 1961) on the application made by the firm	From the end of the financial year in which the subsequent order was passed in the case of the firm.
2.	Amendment of order of assessment of the member of an association of persons or of a body of individuals; so as to include the share of the member in the assessment or the corrections thereof.	Where the share of the member in the income of the association of persons or body of individuals determined in completed assessment is subsequently found not included in the assessment of the member or, if included, is not correct in terms of— (*a*) assessment or reassessment of the association or body; (*b*) any reduction or enhancement made in the income of the association or body under this section or section 287 or 359 or 363 or 365 or 368 or 377 or 378; or (*c*) any order passed under section 245D(4) of the Income-tax Act, 1961 (43 of 1961) on the application made by the association or body.	From the end of the financial year in which the subsequent order was passed in the case of the association or body.
3.	Total income of the assessee in respect of succeeding year or years referred to in column C, to be recomputed and necessary amendment made consequent to proceedings initiated under section 279 for any tax year.	Where there is recomputation of loss or depreciation for any tax year, and in consequence to such recomputation, the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of section 111(1) or 112(1) or 113(2) or 115(1) is required to be recomputed.	From the end of the financial year in which the order under section 279 was passed.
4.	The total income of the transferor company for the tax year referred to in column C, to be recomputed and necessary amendment made.	Where in the assessment for any tax year,— (*a*) the capital gain arising from the transfer of a capital asset is not charged under section 67 in terms of section 70(1)(*c*) or (*d*); (*b*) such gains are deemed under section 71(1) as "Capital gains" of the tax year in which the transfer took place at any time before the expiry of the period of eight years from the date of such transfer by reason of— (*i*) such capital asset being converted by the transferee company into, or being treated by it, as stock-in-trade of its business; or (*ii*) the parent company or its nominees or, the holding company ceasing to hold the whole of the share capital of the subsidiary company.	From the end of the year— (*i*) in which the capital asset was converted or treated as stock-in-trade; or (*ii*) in which the parent company or its nominees or, the holding company ceased to hold the whole of the share capital of the subsidiary company.
5.	The order of assessment to be amended; so as to exclude the capital gain not chargeable to tax under any of the sections referred to in section 89.	Where in the assessment for any tax year, a capital gain on transfer of original asset, referred to in section 89 is charged to tax and within the period extended under that section— (*a*) the assessee acquires the new asset referred to in that section; or (*b*) deposits or invests such capital gain.	From the end of the financial year in which the compensation was received by the assessee.

6.	The order of assessment to be amended to allow deduction in respect of such income or part thereof as is so received in, or brought into, India.	Where in the assessment for any year, any deduction under section 144 has not been allowed on the ground that— (*a*) such income has not been received in convertible foreign exchange in India; or (*b*) such income having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange, and subsequently such income or part thereof has been or is received in, or brought into, India as required for the deduction.	From the end of the financial year in which such income is so received in, or brought into, India.
7.	The order of assessment or any intimation or deemed intimation under section 270(1), to be amended, to give credit for income-tax for the year in which such income is offered to tax or assessed to tax in India.	Where in the assessment for any tax year or in any intimation or deemed intimation under section 270(1) for any tax year,— (*a*) credit for income-tax paid in any country outside India or a specified territory outside India referred to in Chapter IX-B has not been given on the ground that the payment of such tax was under dispute; and (*b*) subsequently such dispute is settled; and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer — (*i*) evidence of settlement of dispute and evidence of payment of such tax; and (*ii*) an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other tax year.	From the end of the financial year in which such dispute is settled.
8.	The order of assessment to be amended to compute the capital gain by taking the full value of the consideration to be the value as so revised in appeal or revision or reference.	Where, in the assessment for any year, a capital gain arising from the transfer of a capital asset, being land or building or both, is computed— (*a*) by taking the full value of the consideration received or accruing as a result of the transfer to be the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty as per section 78(1); and (*b*) subsequently such value is revised in any appeal or revision or reference referred to in section 78(2)(*b*).	From the end of the financial year in which the order revising the value was passed in appeal or revision or reference.
9.	The order of assessment to be amended to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration.	(*a*) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset being a transfer referred to in clause (*b*) is computed— (*i*) by taking the compensation or consideration as referred to in section 67(12)(*a*) or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to in section 67(12)(*b*), to be the full value of consideration deemed to be received or accruing as a result of the transfer of the asset; and (*ii*) subsequently such compensation or consideration is reduced by any court, Tribunal or other authority. (*b*) The transfer and consideration referred to in clause (*a*) shall be,— (*i*) transfer by way of compulsory acquisition under any law; (*ii*) consideration that was determined or approved by the Central Government or the Reserve Bank of India.	From the end of the financial year in which the order reducing the compensation was passed by the court, Tribunal or other authority.
10.	Recomputation of the total income to disallow the deduction allowed under section 152.	Where a deduction has been allowed to an assessee in any tax year under section 152 in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act, 1970 (39 of 1970),— (*a*) the patent was revoked, or (*b*) the name of the assessee was excluded from the patents register as patentee in respect of that patent, the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which name of the assessee was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed.	From the end of the financial year in which the order of the Controller under section 2(*1*)(*b*), or the High Court under section 2(*1*)(*i*), of the Patents Act, 1970 (39 of 1970), was passed.

11.	Amendment of the order of assessment or any intimation to allow credit of such tax deducted at source in the tax year referred to in column C, and the credit of such tax deducted at source not to be allowed in any other tax year.	(*a*) Where any income has been included in the return of income furnished by an assessee under section 263 for any tax year, and tax on such income has been deducted at source and paid to the credit of the Central Government as per the provisions of Chapter XIX-B in a subsequent tax year; and (*b*) an application is made by an assessee in such form, as may be prescribed, within two years from the end of the tax year in which such tax was deducted at source.	From the end of the financial year in which such tax has been deducted.

(2)(*a*) Where the arm's length price is determined in relation to an international transaction or a specified domestic transaction under section 166(6) for any tax year and the Transfer Pricing Officer has declared that an option exercised by the assessee is valid under section 166(9) in respect of such transaction for two consecutive tax years immediately following such tax year, the Assessing Officer shall proceed to recompute the total income of the assessee for the said two consecutive tax years, by amending the order of assessment or any intimation or deemed intimation under section 270(1), as the case may be,—

(*i*) in conformity with the arm's length price so determined by the Transfer Pricing Officer under section 166(12) in respect of such transaction; and

(*ii*) taking into account the directions issued under section 275(5), if any, for such tax year,

within three months from the end of the month in which the assessment is completed in the case of the assessee for such tax year, and the provisions of section 165(7) and (8) shall apply thereto.

(*b*) Where the order of assessment or any intimation or deemed intimation under section 270(1) as referred to in sub-section (1), for the said two consecutive tax years is not made within the said three months, such recomputation shall be made within three months from the end of the month in which such order of assessment or any intimation or deemed intimation under section 270(1), as the case may be, is made.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Notice of demand.

289. (1) When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Assessing Officer shall serve upon the assessee a notice of demand in such form, as may be prescribed, specifying the sum so payable.

(2) Where any sum is determined to be payable by the assessee or the deductor or the collector under section 270 or 399, the intimation under the said sections shall be deemed to be a notice of demand for the purposes of this section.

(3) Where the income of the assessee of any tax year includes income of the nature specified in section 17(1)(*d*) and such specified security or sweat equity shares referred to in the said section are allotted or transferred directly or indirectly by the current employer, being an eligible start-up referred to in section 140, the tax or interest on such income included in the notice of demand referred to in sub-section (1) shall be payable by the assessee within fourteen days—

(*a*) after the expiry of sixty months from the end of the relevant tax year; or

(*b*) from the date of the sale of such specified security or sweat equity share by the assessee; or

(*c*) from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share,

whichever is the earliest.

Modification and revision of notice in certain cases.

290. (1) Where,—

(*a*) any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued earlier under section 289; and

(*b*) such tax, interest, penalty, fine or any other sum is reduced as a result of an order of the Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016),

the Assessing Officer shall serve on the assessee a modified notice of demand specifying the sum payable, if any, and such notice shall be treated as a notice under section 289 and the provisions of this Act shall accordingly apply in relation to such notice.

(2) The modified notice of demand as referred to in sub-section (1) shall be revised where the order referred to in sub-section (1)(*b*) is modified by the National Company Law Appellate Tribunal or the Supreme Court.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Intimation of loss.

291. The Assessing Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of section 111(1) or Section 112 or 113(2) or 115(1), where—

(*a*) in the course of the assessment of the total income of any assessee, it is established that a loss has taken place; and

(*b*) the assessee is entitled to have carried forward and set off such loss under the provisions of the said sections.

B. — Special procedure for assessment of search cases

Assessment of total undisclosed income as a result of search.

292. (1) Irrespective of any other provision of this Act, where on or after the commencement of this Act, in the case of any person, a search is initiated or requisition is made, then, the Assessing Officer shall proceed to assess or reassess the total undisclosed income of the block period as per provisions of this Part.

(2)(*a*) The assessment or reassessment or recomputation proceedings under the provisions of this Act (other than of this part), if any, pertaining to any tax year falling in the block period, pending on the date of initiation of search, or the date of making of requisition, as the case may be, shall abate and shall be deemed to have been abated on such date.

(*b*) Any proceeding for assessment or reassessment or recomputation under any provisions of this Act (other than this Part) pertaining to any tax year falling in the block period (other than the tax year in which last of the authorisations for a search is executed or requisition is made), for which a notice has been issued during the period commencing on date of initiation of search or the date of making of requisition and ending on the date of making of order under section 294(1)(*c*), shall abate and shall be deemed to have been abated on the date of issue of such notice.

(3) If any reference has been made under section 166(1) or order has been passed under section 166(6), the assessment or reassessment or recomputation proceedings referred to in sub-section (2) together with such reference or order, shall abate and shall be deemed to have abated on the date referred to in sub-section (2).

(4) If any assessment under the provisions of this part is required to be made in the case of an assessee, in whose case a search is initiated or a requisition is made subsequently—

(*a*) such pending assessment shall be duly completed;

(*b*) assessment in respect of such subsequent search or requisition shall be made thereafter under the provisions of this part; and

(*c*) if the period available for assessment in clause (*b*) is less than three months, such period shall be extended to three months from the end of the month in which the assessment, as referred to in clause (*a*) was completed.

(5) Irrespective of anything contained in this part or section 286, if any proceeding initiated under this part or any order of assessment or reassessment made under section 294(1)(*c*) has been annulled in an appeal or any other legal proceeding, then—

(*a*) the assessment or reassessment or recomputation or reference or order relating to any tax year which has abated under sub-section (2) or (3), shall revive with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner;

(*b*) the revival, as referred to in clause (*a*) shall cease to have effect, if such order of annulment is set aside.

(6) The income (other than undisclosed income) of the tax year in which the last of the authorisations for a search is executed or a requisition is made, shall be assessed separately as per the other provisions of this Act.

(7) The total undisclosed income relating to the block period, as referred to in section 293(7) shall be charged to tax at the rate specified in section 192 as income of the block period, irrespective of the tax year or years to which such income relates.

Computation of total undisclosed income of block period.

293. (1) The total undisclosed income of the block period referred to in section 292(1) shall be the aggregate of the following:—

(*a*) undisclosed income declared in the return furnished under section 294;

(*b*) undisclosed income determined by the Assessing Officer under sub-section (4).

(2) The following income shall not be included in the total undisclosed income of the block period:—

(*a*) the total income determined or assessed, as the case may be, under section 270(1) or (10) or section 271 or 279 or 294(1)(*c*) of this Act or section 143 or 144 or 147 or 153A or 153C or 158BC or 245D(4) of the Income-tax Act, 1961 (43 of 1961) prior to the date of initiation of the search or the date of requisition, in respect of any of the tax year falling within the block period;

(*b*) the total income declared in the return of income filed under section 263 of this Act or section 139 of Income-tax Act, 1961 (43 of 1961), or in response to a notice under section 268(1) of this Act or section 142(1) of Income-tax Act, 1961 (43 of 1961) prior to the date of initiation of the search or the date of requisition, in respect of any of the tax year falling within the block period, and not covered under clause (*a*);

(*c*) the income computed by the assessee, in respect of—

(*i*) a tax year, where such tax year has ended and the due date for furnishing the return for such year has not expired prior to the date of initiation of the search or the date of requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course before the date of initiation of search or the date of requisition;

(*ii*) the period commencing from the 1st April of the tax year in which the search is initiated or requisition is made and ending on the day immediately preceding the date of initiation of search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the day immediately preceding the date of initiation of search or the date of requisition;

(*iii*) the period commencing from the date of initiation of the search or the date of requisition and ending on the date of the execution of the last of the authorisations for search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the date of the execution of the last of the authorisations;

(*d*) the total income referred to in section 207(8) or section 216 or section 393(1) [Table: Sl. No. 8(*iii*)] of this Act, or section 115A(5) or section 115G or 194P(1) of the Income-tax Act, 1961 (43 of 1961).

(3) For the purposes of sub-section (2)(*c*), where the Assessing Officer is of the opinion that any part of the income as computed by the assessee under the said sub-section is undisclosed, he may recompute such income.

(4) The undisclosed income falling within the block period, shall be computed on the basis of following:—

(*a*) evidence found as a result of search or survey or requisition;

(*b*) any other material or information as are either available with the Assessing Officer or comes to his notice during the course of proceedings under Part B.

(5) Where any income required to be determined —

(*a*) as a result of search or requisition of books of account or other documents, or based on any other material or information as are either available with the Assessing Officer or comes to his notice during the course of proceedings under this Part; or

(*b*) based on entries relating to income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the execution of the last of the authorisations,

relates to any international transaction or specified domestic transaction referred to in section 166, and pertains to the period beginning from the 1st April of the tax year in which last of the authorisations was executed and ending with the date of execution of the last of the authorisations, then irrespective of provisions of section 292(6)—

(*i*) such income shall not be considered for the purposes of determining the total undisclosed income of the block period; and

(*ii*) such income shall be considered in the assessment made under other provisions of this Act.

(6) For the purposes of determination of undisclosed income,—

(*a*) of a firm, such income assessed for each of the tax years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration, by whatever name called, to any partner not being a working partner;

(*b*) the provisions of sections 102, 103, 104 and 105 shall, so far as may be, apply and reference to tax year in those sections shall be construed as references to the relevant tax year falling in the block period;

(*c*) the provisions of section 166 shall, so far as may be, apply and reference to tax year in that section shall be construed as reference to the relevant tax year falling in the block period excluding the period referred to in sub-section (5).

(7) The tax referred to in section 292(7) shall be charged on the total undisclosed income pertaining to the block period determined in the manner specified in sub-sections (1), (2) and (3).

(8) For the purposes of assessment, losses brought forward from the tax year (prior to the first tax year comprising the block period) under Chapter VII or unabsorbed depreciation under section 33(11) shall not be set off against the undisclosed income determined in the block assessment under this part.

(9) Losses or unabsorbed depreciation as referred to in sub-section (8) may be carried forward for being set off in the tax year subsequent to the tax year in which the block period ends, for the remaining period, taking into account the block period and such tax year, and as per the provisions of this Act.

Procedure for block assessment.

294. (1) Where any search has been initiated or requisition is made in the case of any person, then,—

(*a*) the Assessing Officer shall, in respect of such search or requisition, issue a notice to such person, requiring him to furnish within a period specified in the notice, not exceeding sixty days, a return in the form and verified in the manner, as may be prescribed, setting forth his undisclosed income, for the block period, and—

(*i*) such return shall be considered as if it was a return furnished under section 263 and thereafter notice under section 270(8) shall be issued;

(*ii*) any return furnished beyond the period allowed in the notice shall not be deemed to be a return under section 263;

(*iii*) no notice under section 280 is required to be issued for the purpose of proceeding under this part;

(*iv*) a person who has furnished a return under this clause shall not be entitled to furnish a revised return;

(*v*) the time allowed for furnishing a return under this clause may be extended by a further period of thirty days, where—

(*A*) in respect of a tax year immediately preceding the tax year in which the search is initiated or requisition is made, the due date for furnishing the return has not expired prior to the date of initiation of such search or requisition;

(*B*) the assessee was liable for audit under section 63 for such tax year;

(*C*) the accounts (maintained in normal course) of such tax year have not been audited on the date of issuance of such notice; and

(*D*) the assessee requests in writing for extension of time for furnishing such return to get such accounts audited;

(*b*) the Assessing Officer shall proceed to determine the total undisclosed income of the block period in the manner laid down in section 293 and the provisions of sections 268, 270(8), 270(10), 271, 276, 277 and 278 shall, so far as may be, apply;

(*c*) the Assessing Officer, on determination of the total undisclosed income of the block period in accordance with this part, shall pass an order of assessment or reassessment and determine the tax payable by him on the basis of such assessment or reassessment, and the provisions of section 275 shall not apply in respect of such order;

(*d*) the assets seized under section 247 or requisitioned under section 248 shall be dealt with as per section 250.

(2) The provisions of section 270(1) shall not apply to the return furnished under this section.

(3) The Assessing Officer, before issuance of notice under sub-section (1)(*a*), shall take prior approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

Undisclosed income of any other person.

295. (1) Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person (herein referred to as the other person), other than the person (herein referred to as the specified person) with respect to whom search was initiated under section 247 or requisition was made under section 248, then—

(*a*) any money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income shall be handed over to the Assessing Officer having jurisdiction over such other person; and

(*b*) Assessing Officer of the other person shall proceed under section 294 against such other person and the provisions of this part shall apply accordingly.

(2) For the purposes of this section,—

(*a*) where there is one specified person relevant to such other person, the block period for such other person shall be the same as that for the specified person;

(*b*) where there is more than one specified persons relevant to such other person, the block period for such other person shall be the same as that for the specified person in whose case the block period ends on a later date.

(3) In case of such other person as referred to in sub-section (1), for the purposes or abatement under section 292(2) and (3), the reference to the date of initiation of the search under section 247 or making of requisition under section 248 shall be construed as reference to the date on which such money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income were received by the Assessing Officer having jurisdiction over such other person.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Time-limit for completion of block assessment.

296. (1)(*a*) Irrespective of the provisions of section 286, the order under section 294 shall be passed within twelve months from the end of the quarter in which the last of the authorisations for search was executed, or requisition was made.

(*b*) Where in pursuance to section 294(1)(*a*)(*v*), the time allowed under the said section for furnishing return is extended by a further period of thirty days, the provisions of sub-sections (1) and (5) shall have effect, as if for the words "twelve months", the words "thirteen months" had been substituted.

(2) Where search was initiated or requisition was made, and during the course of assessment or reassessment of the total undisclosed income of the relevant block period, any reference under section 166(1) is made, the period available for completion of such assessment or reassessment proceeding shall be extended by twelve months.

(3) In computing the period of limitation under sub-section (1), the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated or a requisition is made and ending on the date on which assets [as provided in section 261(*b*)] and material seized or requisitioned [as provided in section 261(*i*)] are handed over to the Assessing Officer having jurisdiction over the assessee shall be excluded.

(4) If after exclusion of the period referred to in sub-section (3), the remaining period of limitation for completion of assessment or reassessment, expires before the end of a month, such period shall be extended to end of such month.

(5) The period of limitation for completion of assessment or reassessment for the block period in the case of the other person referred to in section 295 shall be twelve months from the end of the quarter in which the notice under section 294 in pursuance of section 295, was issued to such other person.

(6) The period available for completion of assessment or reassessment proceeding in respect of the block period in a case referred to in sub-section (5) shall be extended by twelve months, where a reference under section 166(1) is made in such case.

(7) In computing the period of limitation under this section, the following period shall be excluded,—

(*a*) the period commencing on the date on which stay on assessment proceeding was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner; or

(*b*) the period commencing from the date on which a first of the reference for exchange of information (made by an authority competent under an agreement referred to in section 159) is made and ending with the date on which such information requested is last received by the jurisdictional Principal Commissioner or Commissioner or one year, whichever is less; or

(*c*) the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee to be re-heard under section 244(2); or

(*d*) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under section 268(5), and—

(*i*) ending with the last date on which the assessee is required to furnish a report of such audit or inventory valuation under that sub-section; or

(*ii*) where such direction is challenged before a court, ending with the date on which the certified copy of the order setting aside such direction is received by the jurisdictional Principal Commissioner or Commissioner; or

(*e*) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 269(1) and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(*f*) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of Schedule III (Table: Sl. No. 23, 24 or 25) as referred to in section 270(11)(*i*) and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, under those clauses is received by the Assessing Officer; or

(*g*) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner as per section 270(13) and ending with the date on which the copy of the order under section 351(2)(*ii*)(*A*) or (*B*), is received by the Assessing Officer; or

(*h*) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the jurisdictional Principal Commissioner or Commissioner under section 274(1) and ending on the date on which a direction under sub-section (3) or (6) or an order under sub-section (5) of the said section is received by the Assessing Officer; or

(*i*) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 383(1) and ending with the date on which the order rejecting the application is received by the jurisdictional Principal Commissioner or Commissioner under section 384(5); or

(*j*) the period commencing from the date on which an application is made before the Board for Advance Rulings under section 383(1) and ending with the date on which the advance ruling pronounced by it is received by the jurisdictional Principal Commissioner or Commissioner under section 384(8).

(8) Where immediately after the exclusion of the period referred to in sub-section (3) or (7), the remaining period of limitation referred to in sub-section (1) or (5) available to the Assessing Officer for completion of assessment under section 294 is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(9) Where after extension of the period referred to in sub-section (8), the period of limitation for making an order of assessment or reassessment, expires before the end of a month, such period shall be extended to the end of such month.

Certain interests and penalties not to be levied or imposed.

297. Interest under section 423, 424 or 425 or penalty under section 439 shall not be levied or imposed upon the assessee for the undisclosed income assessed or reassessed for the block period.

Levy of interest and penalty in certain cases.

298. (1) Where the return of undisclosed income as required under a notice under section 294(1)(*a*), is not furnished within the period specified in such notice, or is not furnished, then,—

(*a*) the assessee shall be liable to pay simple interest at the rate of 1.5% of the tax on undisclosed income determined under clause (*c*) of said sub-section;

(*b*) the interest in clause (*a*) shall be paid for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in said notice, and ending on the date of completion of assessment under clause (*c*) of said sub-section.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Part, may direct that the person shall pay by way of penalty a sum which shall be equal to 50% of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under section 294(1)(*c*).

(3) The order imposing penalty under this section or section 444(1) or 450 or 451 or 453 shall not be made for the block period in respect of a person, if—

(*a*) such person has furnished a return under section 294(1)(*a*);

(*b*) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(*c*) evidence of tax paid is furnished along with the return; and

(*d*) an appeal is not filed against the assessment of that part of income which is shown in the return.

(4) The provisions of sub-section (3) shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined, which is in excess of income shown in the return.

(5) The order imposing a penalty under sub-section (2) shall not be made—

(*a*) unless an assessee has been given a reasonable opportunity of being heard;

(*b*) by the Deputy Commissioner or Assistant Commissioner or the Deputy Director or Assistant Director, where penalty exceeds ₹ 200000 except with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director;

(*c*) in a case where the assessment is the subject-matter of an appeal under section 357 or 362,—

(*i*) 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

(*ii*) six months from the end of the financial year in which the order of the Commissioner (Appeals) or the Appellate Tribunal is received by the jurisdictional Principal Commissioner or Commissioner,

whichever period expires later;

(*d*) in a case where the assessment is the subject-matter of revision under section 377, after the expiry of six months from the end of the financial year in which such order of revision is passed;

(*e*) in any case other than those mentioned in clauses (*c*) and (*d*), after the expiry of the financial year in which the proceedings, in the course of which notice for the imposition of penalty has been issued, are completed, or six months from the end of the financial year in which notice for imposition of penalty is issued, whichever period expires later.

(6) In computing the period of limitation under this section, the following period shall be excluded—

(*a*) the time taken in giving an opportunity to the assessee to be re-heard under section 244(2); or

(*b*) the period commencing on the date on which stay on proceeding under sub-section (2) was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner.

(7) Where immediately after the exclusion of the period referred to in sub-section (6), the remaining period of limitation referred to in sub-section (5) available to the Assessing Officer for making an order under sub-section (2) of this section is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(8) If after exclusion of the period referred to in sub-section (7), the remaining period of limitation for making of an order for imposition of penalty expires before the end of a month, such remaining period shall be extended to the end of such month.

(9) An income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.

Authority competent to make assessment of block period.

299. (1) The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of a Deputy Commissioner or an Assistant Commissioner or a Deputy Director or an Assistant Director.

(2) The order referred to in sub-section (1) shall be passed with the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, in respect of search initiated or requisition made on or after the commencement of this Act.

Application of other provisions of Act.

300. Save as otherwise provided in this part, all other provisions of this Act shall apply to assessment made under this part.

Interpretation.

301. For the purposes of this Part—

(*a*) "block period" means the aggregate of—

(*i*) the period comprising six tax years preceding the tax year in which the search was initiated or any requisition was made; and

(*ii*) the period starting from the 1st April of the tax year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisations for such search or such requisition;

(*b*) "requisition" means requisition of books of account, other documents or any assets under section 248;

(*c*) "search" means a search initiated under section 247;

(*d*) "the last of the authorisations" shall be deemed to have been executed,—

(*i*) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued, irrespective of whether or not any seizure is recorded in such *panchnama*;

(*ii*) in the case of requisition, on the actual receipt of the books of account or other documents or assets by the Authorised Officer;

(*e*) "undisclosed income" includes any money, bullion, jewellery, virtual digital asset or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, virtual digital asset, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, exemption, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

CHAPTER XVII

Special provisions relating to certain persons

A.-Association of persons, firm, Hindu undivided family, etc.

1.-Legal representatives

Legal representative.

302. (1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purposes of making an assessment (including an assessment, reassessment or recomputation under section 279) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative as per the provisions of sub-section (1), —

(*a*) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;

(*b*) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(*c*) all the provisions of this Act shall apply accordingly.

(3) The legal representative of the deceased shall be deemed to be an assessee for the purposes of this Act.

(4) Subject to the provisions of sub-sections (5), (6) and (7), the liability of a legal representative referred to in sub-section (1) shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.

(5) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while such liability for tax remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession.

(6) The liability of a legal representative referred to in sub-section (5) shall be limited to the value of the asset so charged, disposed of or parted with.

(7) The provisions of sections 304(2) and (5) and 305 shall, in so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.

2.—Representative assessees—General provisions

Representative assessee.

303. (1) For the purposes of this Act, "representative assessee" means—

(*a*) in respect of the income of a non-resident specified in section 9, the agent of the non-resident, including a person who is treated as an agent under section 306;

(*b*) in respect of the income of a minor or a person who is mentally ill or of unsound mind, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor or a person who is mentally ill or of unsound mind;

(*c*) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;

(*d*) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913) receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees;

(*e*) in respect of income which a trustee appointed under an oral trust receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees.

(2) For the purposes of sub-section (1)(*d*), a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913) shall be deemed to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the Assessing Officer,—

(*a*) where the trust has been declared before the 1st June, 1981, within three months from that day; and

(*b*) in any other case, within three months from the date of declaration of the trust.

(3) For the purposes of sub-section (1)(*e*), "oral trust" means a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913) and which is not deemed under sub-section (2) to be a trust declared by a duly executed instrument in writing.

(4) Every representative assessee shall be deemed to be an assessee for the purposes of this Act.

Liability of representative assessee.

304. (1) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially and for this purpose,—

(*a*) the representative assessee shall be liable to assessment in his own name in respect of that income and any such assessment shall be deemed to be made upon him in his representative capacity only; and

(*b*) the tax on such income shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from the representative assessee in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

(2) If any person, in respect of any income is assessable under this Chapter in the capacity of a representative assessee, then he shall not, in respect of that income, be assessed under any other provisions of this Act.

(3) Irrespective of the provisions of this Chapter, the Assessing Officer may directly assess the person on whose behalf or for whose benefit income therein referred to is receivable, or may recover from such person the tax payable in respect of such income.

(4) If only part of the income of a trust is chargeable under this Act, then the proportion of income receivable by a beneficiary from such trust derived from the chargeable part shall be determined as follows:—

$$\frac{A}{B} \times C,$$

Where,—

A = the chargeable part of the income of the trust;
B = the whole income of the trust; and
C = the income receivable by the beneficiary from the trust.

(5) The Assessing Officer shall have the same remedies in the same manner against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, whether the demand is raised against the representative assessee or against the beneficiary direct.

Right of representative assessee to recover tax paid.

305. (1) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid.

(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section 306 referred to as the principal), a sum equal to his estimated liability under this Chapter.

(3) In the event of any disagreement between such principal and such representative assessee or person with regard to the amount to be so retained as referred to in sub-section (2), such representative assessee or person may secure from the Assessing Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(4) The amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

3. -Representative assessees-Special cases

Who may be regarded as agent.

306. (1) For the purposes of this Act, "agent", in relation to a non-resident, includes—

(*a*) any person in India—

(*i*) who is employed by or on behalf of the non-resident; or

(*ii*) who has any business connection with the non-resident; or

(*iii*) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(*iv*) who is the trustee of the non-resident;

(*b*) any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India.

(2) A broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled:—

(*a*) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(*b*) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

(3) A person shall not be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.

(4) For the purposes of this section, "business connection" shall have the meaning assigned to it in section 9(9)(*a*).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Charge of tax where share of beneficiaries unknown.

307. (1) The income or any part thereof, in respect of the person mentioned in sections 303(1)(*c*) and (*d*) shall be chargeable to tax at the maximum marginal rate, if—

(*a*) such income or such part thereof is not specifically receivable on behalf or for the benefit of any one person; or

(*b*) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown.

(2) The income or any part thereof as referred to in sub-section (1), shall be chargeable to tax at the rate applicable to an association of persons as if it were its total income, if,—

(*a*) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in case of an association of persons, or is a beneficiary under any other trust; or

(*b*) such income or part of such income is receivable under a trust declared by any person by will and such trust is the only trust so declared by him; or

(*c*) such income or part of such income is receivable under a trust created before the 1st March, 1970, by a non-testamentary instrument and the Assessing Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created *bona fide*—

(*i*) exclusively for the benefit of the relatives of the settlor; or

(*ii*) exclusively for the benefit of the members of such family, where the settlor is a Hindu undivided family,

in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance; or

(*d*) such income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created *bona fide* by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession.

(3) Subject to the provisions of sub-section (4), where the income in respect of the person mentioned in section 303(1)(*d*) consists of, or includes, profits and gains of business, tax shall be charged at the maximum marginal rate on such income or part thereof.

(4) Where the profits and gains referred to in sub-section (3) are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him, income or part thereof shall be chargeable to tax at the rate applicable to an association of persons.

(5) For the purposes of this section,—

(*a*) such income or any part thereof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for whose benefit such income or such part thereof is receivable during the tax year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed;

(*b*) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed and are ascertainable as such on the date of such order, instrument or deed.

Charge of tax in case of oral trust.

308. (1) Where a trustee receives or is entitled to receive any income on behalf or for the benefit of any person under an oral trust, then, irrespective of anything contained in any other provision of this Act, tax shall be charged on such income at the maximum marginal rate.

(2) For the purposes of this section, "oral trust" shall have the meaning assigned to it in section 303(3).

4. -Association of persons and body of individuals

Method of computing a member's share in income of association of persons or body of individuals.

309. (1) For the purposes of this section, sections 310 and 311, an association of persons or body of individuals shall not include a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India.

(2) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known, the share of a member in the income or loss of such association or body shall be computed in the following manner,—

(*a*) any interest, salary, bonus, commission or remuneration, by whatever name called, paid to any member in respect of the tax year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(*b*) the interest, salary, bonus, commission or remuneration referred to in clause (*a*), shall be,—

(*i*) added to the apportioned amount referred to in clause (*a*), if such apportioned amount is a profit; or

(*ii*) adjusted against the apportioned amount referred to in clause (*a*), if such apportioned amount is a loss,

and the resultant amount shall be treated as the share of the member in the income of such association or body.

(3) The share of a member in the income or loss of the association or body, as computed under sub-section (2), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(4) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

(5) For the purposes of this section, "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession".

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Share of member of association of persons or body of individuals in income of association or body.

310. (1) Income-tax shall not be payable by an assessee (who is a member of an association of persons or body of individuals) in respect of his share in the income of the association of persons or body of individuals computed in the manner provided in section 309, except in a case referred to in sub-section (2).

(2) Where no income-tax is chargeable on the total income of the association of persons or body of individuals, the share of a member computed as provided in section 309 shall be chargeable to tax as part of his total income.

(3) Where no income-tax is payable by an assessee under sub-section (1),—

(*a*) if the association of persons or body of individuals is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(*b*) in any other case, the share of a member computed as aforesaid shall form part of his total income.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Charge of tax where shares of members in association of persons or body of individuals unknown, etc.

311. (1) Where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of such association or body at the maximum marginal rate, subject to the provision of sub-section (2).

(2) In a case referred to in sub-section (1) where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the such association or body at such higher rate.

(3) Where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body are determinate or known, and—

(*a*) where the total income of any member of such association or body for the tax year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(*b*) where the total income of such association or body for the tax year chargeable to tax at a rate which is higher than the maximum marginal rate,—

(*i*) tax shall be charged on that portion of the total income of association or body which is relatable to the share of such member at such higher rate; and

(*ii*) the balance of the total income of such association or body shall be taxed at the maximum marginal rate.

(4) For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

5. -Executors

Executor.

312. (1) The income of the estate of a deceased person shall be chargeable to tax in the hands of the executor as an individual, if there is only one executor, or as an association of persons, if the executors are more than one.

(2) For the purposes of this Act, the executor shall be deemed to be resident or non-resident according to the residential status of the deceased person for the tax year in which his death took place.

(3) For the purposes of this section, “executor” includes an administrator or other person administering the estate of a deceased person.

(4) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income.

(5) Separate assessments shall be made under this section on the total income of each completed tax year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(6) In computing the total income of any tax year under this section, any income of the estate of that tax year distributed to, or applied to the benefit of, any specific legatee of the estate during that tax year shall be excluded; but the income so excluded, shall be included in the total income of the tax year of such specific legatee.

(7) The provisions of section 305 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him, as they apply in the case of a representative assessee.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

6. -Succession to business or profession

Succession to business or profession otherwise than on death.

313. (1) Where a person carrying on any business or profession (hereinafter referred to as the predecessor) has been succeeded therein by any other person (hereinafter referred to as the successor) who continues to carry on that business or profession,—

(*a*) the predecessor shall be assessed in respect of the income of the tax year in which the succession took place up to the date of succession;

(*b*) the successor shall be assessed in respect of the income of the tax year after the date of succession.

(2) Irrespective of anything contained in sub-section (1), when the predecessor cannot be found, the assessment of the income of the tax year in which the succession took place up to the date of succession and of the tax year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

(3) Irrespective of anything contained in sub-sections (1) and (2), where there is succession, the assessment or reassessment or any other proceedings, made or initiated on the predecessor during the course of pendency of such succession, shall be deemed to have been made or initiated on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.

(4) When any sum payable under this section in respect of the income of such business or profession assessed on the predecessor,—

(*a*) for the tax year in which the succession took place up to the date of succession; or

(*b*) for the tax year preceding the year in which the succession took place,

cannot be recovered from him, the Assessing Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.

(5) Without prejudice to the provisions of this section, where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 315.

(6) For the purposes of this section,—

(*a*) "income" includes any gain accruing from the transfer, in any manner, of the business or profession as a result of the succession; and

(*b*) "pendency" means the period commencing from the date of filing of application for such succession of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, is received by the jurisdictional Principal Commissioner or the Commissioner.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Effect of order of tribunal or court in respect of business reorganisation.

314. (1) Irrespective of anything to the contrary contained in section 263, if prior to the date of order in respect of business reorganisation, any return of income has been furnished under the provisions of the said section by an entity for any tax year to which such order applies, the successor shall furnish, within six months from the end of the month in which the order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.

(2) Where the assessment or reassessment proceedings for a tax year to which the order in respect of the business reorganisation applies,—

(*a*) have been completed on the date of furnishing of the modified return as per the provisions of sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant tax year determined in such assessment or reassessment, in accordance with such order in respect of business reorganisation and taking into account the modified return so furnished;

(*b*) are pending on the date of furnishing of the modified return as per sub-section (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant tax year as per the order in respect of the business reorganisation and taking into account the modified return so furnished.

(3) Subject to any other provisions of this section, in an assessment or reassessment made in respect of a tax year under this section, all other provisions of this Act shall apply and the tax shall be chargeable at the rate or rates as applicable to such tax year.

(4) For the purposes of this section,—

(*a*) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;

(*b*) "order in respect of business reorganisation" means an order of a High Court or tribunal or an Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016); and

(*c*) "successor" means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.

7. —Partition

Assessment after partition of Hindu undivided family.

315. (1) A Hindu family, hitherto assessed as undivided, shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

(2) Where, at the time of making an assessment under section 270 or section 271, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Assessing Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family.

(3) On the completion of the inquiry, the Assessing Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(4) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place during the tax year, —

(*a*) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and

(*b*) each member or group of members shall, in addition to any tax for which he or it may be separately liable and irrespective of anything contained against Schedule III (Table: Sl. No. 1), be jointly and severally liable for the tax on the income so assessed.

(5) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place after the expiry of the tax year, the total income of the tax year of the joint family shall be assessed as if no partition had taken place, and the provisions of sub-section (4)(*b*), shall so far as may be, apply to the case.

(6) Irrespective of anything contained in this section, if the Assessing Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Assessing Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.

(7) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

(8) Irrespective of anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—

(*a*) a claim that such partial partition has taken place shall not be inquired into under sub-section (2) and no finding shall be recorded under sub-section (3) that such partial partition had taken place and any finding recorded under sub-section (3) to that effect at any time, shall be *null* and *void*;

(*b*) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place; and

(*c*) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition.

(9) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial and the provisions of this Act shall apply accordingly.

(10) For the purposes of this section,—

(*a*) "partition" means,—

(*i*) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

(*ii*) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;

(*b*) "partial partition" means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

8. -Profits of non-residents from occasional shipping business

Shipping business of non-residents.

316. (1) Irrespective of anything in the other provisions of this Act, the provisions of this section shall apply for the purpose of levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India.

(2) Where such a ship carries passengers, livestock, mail or goods shipped at a port in India,—

(*a*) 7.5% of the amount paid or payable on account of such carriage shall be deemed to be income accruing in India to the owner or charterer on account of such carriage, whether that amount is paid or payable in or out of India; and

(*b*) the amount referred to in clause (*a*) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature.

(3) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Assessing Officer a return of the full amount paid or payable to the person as mentioned in sub-section (2) or any person on his behalf on account of such carriage shipped at that port since the last arrival of the ship thereat.

(4) The requirement of furnishing the return as per sub-section (3) shall be deemed to have been complied with, if—

(*a*) the Assessing Officer is satisfied that—

(*i*) it is not possible for the master of the ship to furnish the return before the departure of the ship from the port; and

(*ii*) the master of the ship has made satisfactory arrangements for filing of the return and payment of tax by any other person on his behalf; and

(*b*) the return is filed within thirty days of the departure of the ship by any person so authorised by the master.

(5) On receipt of the return, the Assessing Officer shall—

(*a*) assess the income referred to in sub-section (2); and

(*b*) determine the sum payable as tax thereon at the rate or rates in force applicable to the total income of a company which has not made the arrangements referred to in section 393(1) (Table: Sl. No. 7) and such sum shall be payable by the master of the ship.

(6) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (5) after the expiry of nine months from the end of the tax year in which the return under sub-section (3) is furnished.

(7) For the purposes of determining the tax payable under sub-section (5), the Assessing Officer may call for such accounts or documents as he may require.

(8) A port clearance shall not be granted to the ship until the Commissioner of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(9) Nothing in this section shall prevent the owner or charterer of a ship from claiming, before the end of the year following the tax year in which the date of departure of the ship from Indian port falls, that an assessment be made of his total income of the tax year as per other provisions of this Act, and tax payable be determined on the basis of such assessment.

(10) In a case falling under sub-section (9), any payment made under this section during the tax year, if so claimed, shall be treated as—

(*a*) tax paid in advance with respect to that year and adjusted against tax payable by such person; and

(*b*) the difference between the sum so paid and the amount of tax found so payable by him on such assessment shall be paid by him or refunded to him.

9. —Persons leaving India

Assessment of persons leaving India.

317. (1) Irrespective of anything contained in section 4, when it appears to the Assessing Officer that any individual may leave India during the current tax year or shortly after its expiry, with no present intention of returning to India, the total income of such individual for the period beginning from the first day of that current tax year up to the probable date of departure from India (referred to as specified period in this section) shall be chargeable to tax in that current tax year.

(2) The total income of each completed tax year or part of any tax year included in the specified period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.

(3) The Assessing Officer may estimate the income of such individual for such specified period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purposes of making an assessment under sub-section (1), the Assessing Officer may serve a notice upon such individual requiring him to furnish within such time, not being less than seven days, as specified in the notice, a return in the same form and verified in the same manner as a return under section 268(1), setting forth his—

(*a*) total income for each completed tax year comprised in such specified period referred to therein; and

(*b*) estimated total income for any part of the tax year comprised in such specified period,

and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under section 268(1).

(5) Irrespective of anything contained in section 268(1) or 280, where the provisions of sub-section (1) are applicable, the Assessing Officer may issue any notice under section 268(1) or 280, requiring the furnishing of the return by such individual in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.

(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provisions of this Act.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

10. -Association of persons or body of individuals or artificial juridical person formed for a particular event or purpose

Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose.

318. (1) Irrespective of anything contained in section 4, where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person, formed or established or incorporated for a particular event or purpose in a tax year is likely to be dissolved in the same year or immediately after such year, the total income of such association or body or juridical person for the period beginning from the first day of that tax year up to the date of its dissolution shall be chargeable to tax in that tax year.

(2) For the purpose of sub-section (1), the provisions of section 317(2) to (6) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

11. -Persons trying to alienate their assets

Assessment of persons likely to transfer property to avoid tax.

319. (1) Irrespective of anything contained in section 4, where it appears to the Assessing Officer during any current tax year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period beginning from the first day of that current tax year up to the date when the Assessing Officer commences proceedings under this section shall be chargeable to tax in the current tax year.

(2) For the purpose of sub-section (1), the provisions of section 317(2) to (6) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

12. -Discontinuance of business, or dissolution

Discontinued business.

320. (1) Irrespective of anything contained in section 4, where any business or profession is discontinued in any tax year, the income of the period beginning from the first day of that tax year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that tax year.

(2) The total income of each completed tax year or part of any tax year included in such period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.

(3) Any person discontinuing any business or profession shall give to the Assessing Officer notice of such discontinuance within fifteen days thereof.

(4) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.

(5) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the said person, had it been received before such discontinuance.

(6) Where an assessment is to be made under the provisions of this section, the Assessing Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under section 268(1) and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under section 268(1).

(7) Irrespective of anything contained in section 268 or 280, where the provisions of sub-section (1) are applicable, the Assessing Officer may issue any notice under section 268 or 280, requiring the furnishing of the return by the person whose income is to be assessed in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.

(8) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

Association dissolved or business discontinued.

321. (1) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Assessing Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

(2) Regardless of the generality of sub-section (1), if the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty as per the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of section 302(4).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Company in liquidation.

322. (1) Every person,—

(*a*) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(*b*) who has been appointed the receiver of any assets of a company, (herein referred to as the liquidator),

shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Assessing Officer who is entitled to assess the income of the company.

(2) The Assessing Officer shall, after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Assessing Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) The liquidator—

(*a*) shall not, without the leave of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, part with any of the assets of the company or the properties in his hands until he has been notified by the Assessing Officer under sub-section (2); and

(*b*) on being so notified, shall set aside an amount, equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands.

(4) The provisions of sub-section (3) shall not debar the liquidator from parting with such assets or properties for the purpose of—

(*a*) the payment of the tax payable by the company;

(*b*) making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation; or

(*c*) meeting such costs and expenses of the winding up of the company,

as are in the opinion of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, reasonable.

(5) If the liquidator fails to give the notice as per sub-section (1), or fails to set aside the amount as required by sub-section (3), or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that sub-section, he shall be personally liable for the payment of the tax which the company would be liable to pay.

(6) For the purposes of sub-section (5), if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under that sub-section shall be to the extent of such amount.

(7) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(8) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other law in force, except the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

13.-Private companies

Liability of directors of private company.

323. (1) Irrespective of anything contained in the Companies Act, 2013 (18 of 2013) where any tax due from—

(*a*) a private company in respect of any income of any tax year; or

(*b*) any other company in respect of any income of any tax year during which such other company was a private company,

cannot be recovered, then, every person, who was a director of the private company at any time during the relevant tax year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) For the purposes of this section, "tax due" includes penalty, interest, fees or any other sum payable under the Act.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

14.-Assessment of firms

Charge of tax in case of a firm.

324. In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the rate as specified in any Central Act for relevant tax year.

Assessment as a firm.

325. (1) A firm shall be assessed as a firm for the purposes of this Act, if—

(*a*) the partnership is evidenced by an instrument; and

(*b*) the individual shares of the partners are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (1) shall accompany the return of income of the firm of the tax year in respect of which assessment as a firm is first sought.

(3) For the purposes of sub-section (2), the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors), who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(4) Where a firm is assessed as such for any tax year, it shall be assessed in the same capacity for every subsequent year, if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(5) Where any such change had taken place in the tax year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for such tax year, and all the provisions of this section shall apply accordingly.

(6) Irrespective of anything contained in any other provision of this Act, where, in respect of any tax year, there is on the part of a firm any such failure as is mentioned in section 271,—

(*a*) the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession”; and

(*b*) such payment shall not be chargeable to income-tax under section 26(2)(*g*).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Assessment when section 325 not complied with.

326. Irrespective of anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 325 for any tax year,—

(*a*) no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing its income chargeable under the head "Profits and gains of business or profession"; and

(*b*) such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under section 26(2)(*g*) in the hands of partners of such firm.

15.-Change in constitution, succession and dissolution

Change in constitution of a firm.

327. (1) Where at the time of making an assessment under section 270 or 271, it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment.

(2) For the purposes of this section, there is a change in the constitution of the firm—

(*a*) if one or more of the partners cease to be partners or one or more new partners are admitted, subject to the condition that at least one person who was partner of the firm before the change continues as partner after such change; or

(*b*) where all the partners continue with a change in their respective shares or in the shares of some of them.

(3) The provisions of sub-section (2)(*a*) shall not apply to a case where the firm is dissolved on the death of any of its partners.

Succession of one firm by another firm.

328. Where a firm carrying on a business or profession is succeeded by another firm, except in a case covered by section 327, separate assessments shall be made on the predecessor firm and the successor firm as per the provisions of section 313.

Joint and several liability of partners for tax payable by firm.

329. Every person who was, during the tax year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the tax year, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.

Firm dissolved or business discontinued.

330. (1) Where a firm is dissolved or any business or profession carried on by it has been discontinued, the Assessing Officer shall make an assessment of the total income of the firm, as if no such dissolution or discontinuance had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.

(2) Regardless of the generality of sub-section (1), if the Assessing Officer or Joint Commissioner (Appeals) or Commissioner (Appeals), in the course of any proceeding under this Act in respect of any such firm as referred to in that sub-section, is satisfied that the firm was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty as per the provisions of that Chapter.

(3) Every person who was at the time of such dissolution or discontinuance a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such dissolution or discontinuance takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the person referred to in sub-section (3) from the stage at which the proceedings stood at the time of such dissolution or discontinuance, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) The provisions of this section shall not affect the provisions of section 302(4).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

16.-Liability of partners of limited liability partnership in liquidation

Liability of partners of limited liability partnership in liquidation.

331. Irrespective of anything contained in the Limited Liability Partnership Act, 2008 (6 of 2009), where any tax including penalty, interest, fee or any other sum payable under the Act is due and cannot be recovered from—

(*a*) the limited liability partnership in respect of any income of any tax year; or

(*b*) any other person in respect of any income of any tax year during which such other person was a limited liability partnership,

then, in such case, every such person who was a partner of such limited liability partnership at any time during the relevant tax year, shall be jointly and severally liable for the payment of such tax due unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

B. -Special provisions for registered non-profit organisation

1. -Registration

Application for registration.

332. (1) The following persons may, for claiming benefits under this Part as a registered non-profit organisation, make an application for registration in such form and manner, as may be prescribed, to the Principal Commissioner or Commissioner:—

(*a*) a public trust; or

(*b*) a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law in force in India; or

(*c*) a company registered under section 8 of the Companies Act, 2013 (18 of 2013) or the companies registered under section 25 of the Companies Act, 1956 (1 of 1956) and deemed to have been registered in pursuance of section 465(2)(*g*) of the Companies Act, 2013 (18 of 2013); or

(*d*) a University established by law or any other educational institution affiliated thereto or recognised by the Government; or

(*e*) an institution financed wholly or in part by the Government or a local authority; or

(*f*) any person as referred to in Schedule III (Table: Sl. No. 27) to (Table: Sl. No. 29) and (Table: Sl. No. 36) and in Schedule VII (Table: Sl. No. 10) to (Table: Sl. No. 19) and (Table: Sl. No. 42); or

(*g*) any other person notified by the Board in this behalf.

(2) A person referred to in sub-section (1) shall be eligible for registration, if—

(*a*) such person is constituted or registered or incorporated in India for carrying out one or more charitable purposes, as referred to in section 2(*23*) or one or more public religious purposes; and

(*b*) the properties of such person are held for the benefit of the general public under an irrevocable trust—

(*i*) wholly for charitable or religious purposes in India; or

(*ii*) partly for charitable or religious purposes in India, if such person was constituted or registered or incorporated prior to the commencement of the Income-tax Act, 1961 (43 of 1961).

(3) Every application in respect of the cases specified in column B of the Table below shall be made to the Principal Commissioner or Commissioner within the time provided in column C of the said Table, who shall, on receipt of such application, follow the procedure provided in this section and shall pass an order within the time specified in column D of the said Table, and registration, if granted, shall be valid for a period specified in column E thereof.

TABLE

Sl. No.	*Case*	*Time limit for furnishing application*	*Time limit for passing order*	*Validity of registration*
A	*B*	*C*	*D*	*E*
1.	Where the activities of the applicant have not commenced and it has not been registered under any specified provision at any time before making the application.	At any time during the tax year beginning from which registration is sought.	One month from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced and it has not been registered under any specified provision at any time before making the application.	At any time during the tax year, beginning from which registration is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has been granted provisional registration and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional registration of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
5.	Where the registration of the applicant is due to expire, other than cases mentioned at serial number 4.	At least six months prior to the expiry of the registration.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
6.	Where the registration of the applicant has become inoperative due to switching over of regime under section 333.	At any time during the tax year beginning from which the registration is sought to be made operative.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
7.	Where the applicant, being a registered non-profit organisation, has adopted or undertaken modification of its objects which do not conform to the conditions of registration.	Within thirty days of the date of such adoption or modification	Six months from the end of the quarter in which application is made.	Five tax years commencing from commencement of the tax year in which such application is made.

(4) In case the application under sub-section (3) is made beyond the time allowed in column C of the Table specified in the said sub-section, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in furnishing the application, condone such delay and such application shall be deemed to have been made within time.

(5) In case the application is made under sub-section (3) (Table: Sl. Nos. 3 to 7), and the total income of such applicant, without giving effect to the provisions of this Part, does not exceed five crore rupees during each of the two tax years, preceding the tax year in which such application is made, the provisions of (Table: Sl. Nos. 3.E to 7.E) of the said sub-section, shall have effect as if for the words “five years”, the words “ten years” had been substituted.

(6) If any application for registration is not made within the time specified in sub-section (3) (Table: Sl. No. 3.C, 4.C, 5.C or 7.C) and the delay in filing such application is not condoned under sub-section (4), such person shall be liable to pay tax on accreted income under section 352.

(7) The Principal Commissioner or Commissioner shall, on an application made by an applicant in any of the cases specified in sub-section (3) (Table: Sl. Nos. 2 to 7), call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself about the genuineness of activities, and the compliance of such requirements of any other law as are material for the purpose of achieving its objects, and—

(*a*) if he is so satisfied about the objects and the genuineness of the activities and compliance of such requirements of any other law in force, shall pass an order in writing granting registration; or

(*b*) if he is not so satisfied, after affording a reasonable opportunity of being heard to the applicant shall,—

(*i*) pass an order in writing rejecting the application, where the application was made in any of the cases specified in sub-section (3) (Table: Sl. No. 2 or 6); or

(*ii*) pass an order in writing rejecting the application and also cancelling the registration in any other case specified in sub-section (3) (Table: Sl. No. 3, 4, 5 or 7),

and send a copy of the said order to the applicant and the Assessing Officer.

(8) Where an application has been made in any of the cases specified in sub-section (3) (Table: Sl. No. 1), the Principal Commissioner or Commissioner shall grant provisional registration.

(9) Where the registration of a person, granted prior to the 1st April, 2021 under the specified provision of the Income-tax Act, 1961 (43 of 1961), has expired and such person makes an application for registration under this Part, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in making such application, condone such delay and grant registration to such person under this Part within three months from the end of the month in which the application is made, which shall be valid for five years from the commencement of the tax year 2021-2022.

(10) The order under sub-sections (7), (8) and (9) shall be passed in the form and manner, as may be prescribed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Switching over of regimes.

333. (1) Nothing contained in section 11, other than Schedule II (Table: Sl. No. 1), Schedule III (Table: Sl. Nos. 27 to 29 and 36) and Schedule VII (Table: Sl. Nos. 10 to 19 and 42 to 45), shall exclude any income of a registered non-profit organisation from its total income for that tax year.

(2) The registration under section 332 shall cease to operate from the date on which the registered non-profit organisation is notified as specified in Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42), or from the 1st day of April of the tax year for a registered non-profit organisation which claims exemption under Schedule VII (Table: Sl. No. 43, 44 or 45).

(3) A person, whose registration ceases to operate under sub-section (2), may apply for registration under section 332 subject to the condition that the notification granting exemption to such person under Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42) ceases to have effect from the date on which the said registration is granted and thereafter shall not be entitled to exemption under the respective serial numbers of the said Schedules.

2. -Income of registered non-profit organisation

Tax on income of registered non-profit organisation.

334. (1) The income-tax payable by a registered non-profit organisation on its total income for any tax year shall be the aggregate of the amounts calculated—

(*a*) at the rate of 30% on specified income for such tax year; and

(*b*) at the rate applicable on taxable regular income and any residual income for such tax year under other provisions of this Act.

(2) The provisions of this Chapter shall apply irrespective of anything to the contrary contained in any other provision of this Act other than sections 96 to 98.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Regular income.

335. Regular income of any tax year of a registered non-profit organisation means—

(*a*) income from any charitable or religious activity, for which such non-profit organisation is registered, carried out by it in such tax year;

(*b*) income other than income covered in clause (*e*), derived from any property, deposit or investment held wholly for charitable or religious purposes by such registered non-profit organisation in such tax year;

(*c*) income other than income covered in clause (*e*), derived from any property, deposit or investment held in part for charitable and religious purposes by such registered non-profit organisation as referred in section 332(2)(*b*)(*ii*) in such tax year;

(*d*) voluntary contributions received by such registered non-profit organisation in such tax year; and

(*e*) gains of any commercial activity permissible under sections 344, 345 and 346, carried out by such registered non-profit organisation in such tax year, computed in such manner, as may be prescribed.

Taxable regular income.

336. The taxable regular income of a registered non-profit organisation for any tax year shall be—

(*a*) *nil*, where 85% or more of the regular income of such tax year has been applied as per provisions of section 341 or accumulated under section 342 for charitable or religious purposes, in such tax year as per the provisions of this Part; and

(*b*) in any other case, 85% of the regular income for such tax year as reduced by its application for charitable or religious purposes as per provisions of section 341 or accumulation thereof under section 342 in such tax year as per the provisions of this Part.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Specified income.

337. The specified income of a registered non-profit organisation shall mean the income as specified in column B of the Table below and shall be taxable in the year provided in the column C thereof:—

TABLE

Sl. No.	*Specified income*	*Tax year*
A	*B*	*C*
1.	Any anonymous donation received by a registered non-profit organisation other than a registered non-profit organisation created or established,— (*i*) wholly for religious purposes, or (*ii*) wholly for charitable and religious purposes (excluding anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital; or other medical institution run by such registered non-profit organisation), excluding the anonymous donations up to ₹ 100000 or 5% of the total donations received by it during the tax year, whichever is higher.	Tax year in which such anonymous donation is received.
2.	Any portion of income applied by it, directly or indirectly, for the benefit of any related person, computed in the manner, as may be prescribed.	Tax year in which such application is made.
3.	Any portion of income applied by it outside India in contravention to the provisions of section 338(*a*).	Tax year in which such application of income is made.
4.	Any investment or deposit made in contravention to the provisions of section 350 out of any income, accumulated income, deemed accumulated income, corpus, deemed corpus, or any other fund.	Tax year in which such investment or deposit is made.
5.	Any deemed corpus donation in respect of which any of the conditions specified in the section 340 is violated.	Tax year in which such violation is made.
6.	Any portion of accumulated income, if it is applied to purposes other than charitable or religious purposes for which it is accumulated or set apart.	Tax year in which it is so applied.
7.	Any portion of accumulated income, if it ceases to be accumulated or set apart for application to such purposes as specified under section 342(1).	Tax year in which it ceases to be so accumulated or set apart.
8.	Any portion of accumulated income, if it is not applied as per the provisions of section 341(1) to (4) for which it is accumulated or set apart within the period for which it was accumulated or set apart as specified in section 342(1).	Last of the tax years for which income was so accumulated or set apart.
9.	Any portion of accumulated income, if it is credited or paid to any other registered non-profit organisation.	Tax year in which it is so credited or paid.
10.	Any income applied to purposes other than charitable or religious purposes for which it is registered.	Tax year in which it is so applied.
11.	Any income determined by the Assessing Officer under section 344 in excess of income shown in the books of account of such business undertaking.	Tax year to which such income relates.
12.	Fair market value of any asset, where it is not held in forms or modes specified in paragraph 1(1) to (30) of Schedule XVI even after the expiry of one year from the end of the tax year in which such asset is acquired.	Tax year immediately following the expiry of limitation period mentioned in Column B.
13.	Any deemed application under section 341(5) not actually applied by the registered non-profit organization for its objects in India within the period specified in section 341(6).	Tax year specified in section 341(6) by which such application is required to be made.

Income not to be included in regular income.

338. While computing the regular income of a registered non-profit organisation, the following income shall not be included:—

(*a*) income applied outside India, where the Board, by general or special order, directs that such income shall not be so included in its total income in case of a registered non-profit organisation—
  (*i*) created before the 1st April, 1952 for charitable or religious purposes; or
  (*ii*) created on or after the 1st April, 1952 for charitable purposes where such application of income outside India tends to promote international welfare in which India is interested;

(*b*) the corpus donation received by the registered non-profit organisation under section 339.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Corpus donation.

339. Corpus donation means any donation made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation provided that such donation is invested or deposited in any of the modes permitted under section 350 maintained specifically for such corpus.

Deemed corpus donation.

340. Where the property of a registered non-profit organisation includes any temple, mosque, gurudwara, church or other place notified under section 133(1)(*b*)(*vi*), any sum or sums received by such registered non-profit organisation as donation for the purpose of renovation or repair of such temple, mosque, gurudwara, church or other place, may, at its option, be deemed as forming part of the corpus under section 339, if it—

(*a*) maintains such corpus as separately identifiable;

(*b*) applies such corpus only for the purpose for which the donation was made;

(*c*) invests or deposits such corpus in any of the modes permitted under section 350; and

(*d*) does not apply such corpus for making donation to any person.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Application of income.

341. (1) The following sums shall be allowed as application of income to a registered non-profit organisation:—

(*a*) any sum, other than the sum referred to in clause (*b*), applied by it for charitable or religious purpose in India for which it is registered where such sum is paid during the tax year provided that the provisions of section 35(*b*)(*i*) and section 36(4), (5), (6), and (7) shall apply in respect of such sum; and

(*b*) 85% of the sum paid by way of donation made to any other registered non-profit organisation.

(2) The application of income under sub-section (1) shall include the following:—

(*a*) the amount invested or deposited back during the tax year, in the modes permitted under section 350 maintained specifically for such corpus, if—

(*i*) such investment or depositing back is made within five years from the end of the tax year in which such application of income was made from the corpus; and

(*ii*) the application of income from the corpus is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 (43 of 1961) with respect to such application;

(*b*) the amount repaid, during the tax year, towards any loan or borrowing where,—

(*i*) such repayment is within five years from the end of the tax year in which such application of income was made from the loan or borrowing; and

(*ii*) the application of income from the loan or borrowing is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 (43 of 1961) with respect to such application.

(3) The following claims shall not be allowed as application of income under sub-sections (1) and (2):—

(*a*) the deduction or allowance by way of depreciation or otherwise claimed in respect of an asset acquisition of which has been claimed as an application of income in the same or any other tax year under this Part or under any corresponding provision of the Income-tax Act, 1961 (43 of 1961); or

(*b*) a claim of set off or deduction or allowance of any excess application of any of the years preceding the tax year; or

(*c*) any sum paid as a corpus donation to any other registered non-profit organisation.

(4) An application from corpus, loan or borrowing, accumulated income, specified income or deemed accumulated income shall not be considered as application for the purpose of sub-sections (1) and (2).

(5) Where, in a tax year, the regular income applied by a registered non-profit organisation towards charitable or religious purposes in India, as per the provisions of sub-sections (1) to (4), is less than 85% of regular income, the shortfall, or any part thereof, at the option of the registered non-profit organisation, may be treated as deemed application.

(6) Any deemed application under sub-section (5) shall be applied by the registered non-profit organisation for its objects in India,—

(*a*) during the tax year in which the income is received or in the tax year immediately succeeding such tax year, where such shortfall is for the reason that the whole or any part of the income has not been received during that tax year;

(*b*) in the tax year immediately succeeding the tax year in which the income was derived, where such shortfall is for any other reason.

(7) The option under sub-section (5) shall be exercised on or before the due date specified in section 263(1) for furnishing the return of income for such tax year, in such form and manner, as may be prescribed.

(8) The application of income under sub-section (1) shall include deemed application under sub-section (5).

(9) Following income from capital gains shall be deemed as application of income—

(*a*) the capital gain from transfer of a capital asset, being property held under trust wholly for charitable or religious purposes, where the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held,—

(*i*) if the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(*ii*) if only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) the appropriate fraction of the capital gain arising from the transfer of a capital asset, being property held under trust in part for charitable or religious purposes, where the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held,—

(*i*) if the cost of acquisition of the new capital asset acquired is not less than the net consideration in respect of the capital asset transferred, the whole of appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

(10) For the purposes of sub-section (9),—

(*a*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purpose;

(*b*) "cost of transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 72 and 73) of the capital asset which is subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in section 90(1)(*b*);

(*c*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

Accumulated income.

342. (1) A registered non-profit organisation may accumulate or set apart any part of its regular income during any tax year by furnishing a statement to the Assessing Officer in such form and manner, as may be prescribed, on or before the due date specified in section 263(1) for furnishing the return of income for such tax year stating therein the purpose and period, not exceeding five years, for which the income is being accumulated or set apart.

(2) The amount credited or paid by a registered non-profit organisation to any other registered non-profit organisation out of its income accumulated or set apart, shall not be treated as application of income.

(3) The period during which the income is not applied for the purpose for which it is so accumulated or set apart pursuant to an order or injunction of any court, shall be excluded from the said period of five years.

(4) The income accumulated or set apart under sub-section (1) shall be invested or deposited in any of the modes permitted under section 350, or applied for the purposes as stated in the prescribed form referred to in sub-section (1).

(5) The registered non-profit organisation may, for the change of purpose for which income has been accumulated or set apart, make an application to the Assessing Officer, in such form and manner, as may be prescribed.

(6) The Assessing Officer may, on an application made under sub-section (5) and subject to sub-section (2), allow the registered non-profit organisation to apply its income for such other charitable or religious purposes in India which are in conformity with its objects.

(7) Where a registered non-profit organisation is dissolved, the Assessing Officer may, on an application made by such registered non-profit organisation in such form and manner, as may be prescribed, allow application of such income to be made to any other registered non-profit organisation for the year in which it is dissolved.

Deemed accumulated income.

343. (1) The regular income, as reduced by the application of income as per the provisions of section 341 and accumulated or set apart income under section 342, to the extent of 15% of regular income, shall be considered as deemed accumulated income and where such deemed accumulated income is invested or deposited, it shall be invested or deposited in any of the modes permitted under section 350.

(2) The deemed accumulated income under this section shall not be considered as accumulated income for the purposes of section 342.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

3. -Commercial activities by registered non-profit organisation

Business undertaking held as property.

344. Where the property held by a registered non-profit organisation includes a business undertaking, and where a claim is made that the income of any such undertaking is eligible for benefits under this Part, then the Assessing Officer shall have the power to determine the income of such business undertaking as per the provisions of this Act.

Restriction on commercial activities by a registered non-profit organisation.

345. A registered non-profit organisation (other than a registered non-profit organisation mentioned in section 346) shall not carry out any commercial activity unless—

(*a*) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and

(*b*) separate books of account are maintained for such activities.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Restriction on commercial activities by registered non-profit organisation, carrying out advancement of any other object of general public utility.

346. No registered non-profit organisation, carrying out advancement of any other object of general public utility, shall carry out any commercial activity unless,—

(*a*) such commercial activity is undertaken in the course of actual carrying out of advancement of any object of the general public utility;

(*b*) the aggregate receipts from such commercial activity or activities do not exceed 20% of the total receipts of such registered non-profit organisation of the relevant tax year; and

(*c*) separate books of account are maintained by such registered non-profit organisation for such activities.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

4. -Compliances

Books of account.

347. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, such registered non-profit organisation shall be required to keep and maintain the books of account and other documents in such form and manner and at such place, as may be prescribed.

Audit.

348. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, the accounts of such registered non-profit organisation for that tax year shall be audited by an accountant and the person in receipt of the income shall be required to furnish a report of an audit of such income by such date in the prescribed form, duly signed and verified by such accountant and setting forth such particulars, as may be prescribed.

Return of income.

349. Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, it shall furnish the return of income for that tax year as per the provisions of section 263(1)(*a*)(*iii*) and (2), within the time limit allowed under section 263(1)(*c*).

Permitted modes of investment.

350. (1) The modes of investing or depositing the money under this Part, shall be such as specified in Schedule XVI.

(2) The modes of investing or depositing money under this Part, other than the modes specified in Schedule XVI, shall be specified by the Central Government, by notification.

5. -Violations

Specified violation.

351. (1) The following shall constitute specified violation by a registered non-profit organisation:—

(*a*) where any income of the registered non-profit organisation has been applied, other than for its objects; or

(*b*) it carries out any commercial activity in contravention of the provisions of section 345 or 346; or

(*c*) where it has applied any part of its total income for private religious purposes, which does not ensure for the benefit of the public; or

(*d*) where a registered non-profit organisation, created or established after the commencement of this Act for charitable purpose, has applied any part of its income for the benefit of any particular religious community or caste other than the Scheduled Castes or the Scheduled Tribes or backward classes or women and children; or

(*e*) where any activity being carried out by the registered non-profit organisation is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(*f*) the registered non-profit organisation has not complied with the requirements of any other law as referred under section 332(7)(*a*) and the order, direction or decree, holding that such non-compliance has occurred, has either not been disputed, or has attained finality; or

(*g*) the application referred to in section 332(1) contains any false or incorrect information.

(2) Where,—

(*a*) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any tax year;

(*b*) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under section 270(13) for any tax year; or

(*c*) a registered non-profit organisation has been selected as per the risk management strategy formulated by the Board for any tax year,

the Principal Commissioner or Commissioner shall—

(*i*) call for such documents or information from the registered non-profit organisation, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;

(*ii*) pass an order in writing,—

(*A*) either cancelling the registration of such registered non-profit organisation, after affording a reasonable opportunity of being heard, for such tax year and all subsequent tax years, if he is satisfied that one or more specified violations have taken place; or

(*B*) not cancelling the registration of such registered non-profit organisation, if he is not satisfied about the occurrence of any specified violation; and

(*iii*) forward a copy of the order passed under clause (*ii*) to the Assessing Officer and such registered non-profit organisation.

(3) The order under sub-section (2)(*ii*), shall be passed before the expiry of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, calling for any document or information, or for making any inquiry, under clause (*i*) of the said sub-section.

Tax on accreted income.

352. (1) Every specified person shall, in addition to the income-tax chargeable in respect of his total income, be liable to pay additional income-tax on accreted income at the maximum marginal rate in any of the cases specified in column B(*i*) and (*ii*) of the Table in sub-section (4).

(2) The accreted income referred to in sub-section (1) shall be computed using the following formula:—

A = B - C

where,—

A = Accreted income;
B = Aggregate fair market value of the total assets of the specified person, as on the date specified, in column C of the Table in sub-section (4), computed in accordance with such method of valuation, as may be prescribed;
C = Total liability of such specified person, as on the date specified in column C of the said Table, computed in accordance with such method of valuation, as may be prescribed.

(3) The accreted income, computed as per the provisions of sub-section (2) shall be reduced by such amount of accreted income as is attributable to specified assets, and liabilities, if any, related to such assets.

(4) The specified person and the principal officer or trustee of such specified person shall be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from the due date specified in column D of the Table below.

TABLE

Sl. No.	*Case*		*Specified date*	*Due date for the payment of tax on accreted income*
A	*B*		*C*	*D*
	(*i*)	(*ii*)		
1.	The registration granted to the specified person under any specified provision has been cancelled or withdrawn.	The specified person has preferred an appeal against the order of cancellation.	The date of the order cancelling the registration.	Date of receipt of the order in any appeal, confirming the cancellation of the registration, by the specified person.
2.	The registration granted to the specified person under any specified provision has been cancelled or withdrawn.	The specified person has not preferred an appeal against such order of cancellation.	The date of the order cancelling the registration.	The date on which the period for filing appeal under section 362 against the order cancelling the registration expires.
3.	(*a*) The specified person has adopted or undertaken modification of its objects during any tax year; and (*b*) such modified objects do not conform to the conditions of registration.	The specified person has not applied for fresh registration under any specified provision in such tax year.	The date of adoption or modification of any object.	The end of such tax year.
4.	(*a*) The specified person has adopted or undertaken modification of its objects during any tax year; and (*b*) such modified objects do not conform to the conditions of registration.	The specified person has applied for fresh registration under any specified provision in such tax year and where such application has been rejected and appeal has been preferred against such order of rejection.	The date of adoption or modification of any object.	The date of receipt of the order in any appeal, confirming the cancellation of the registration by the specified person.
5.	(*a*) The specified person has adopted or undertaken modification of its objects during any tax year; and (*b*) such modified objects do not conform to the conditions of registration.	The specified person has applied for fresh registration under any specified provision in the said tax year and where such application has been rejected and no appeal has been preferred against such order of rejection.	The date of adoption or modification of any object.	The date on which the period for filing appeal under section 362 against the order cancelling the registration expires.

6.	The specified person fails to make an application as per the provisions of— (*a*) sub-clause (*i*) or (*ii*) or (*iii*) of the first proviso to section 10(*23C*) of the Income-tax Act, 1961 (43 of 1961); or (*b*) sub-clause (*i*) or (*ii*) or (*iii*) of section 12A(1)(*ac*) of the Income-tax Act, 1961 (43 of 1961); or (*c*) as specified in section 332(3) (Table: Sl. No. 3, 4, 5 or 7).	The period specified in the respective clause or sub-clauses or Table, as the case may be, expires in the tax year in which the said application is to be made.	The last date for making an application for registration.	The end of such tax year.
7.	Where a specified person converts itself into a form which is not eligible for grant of registration during any tax year.		The date of such conversion.	The end of such tax year.
8.	The specified person has merged with any other entity other than a registered non-profit organisation having the same or similar objects and the said merger does not fulfil such conditions, as may be prescribed.		The date of merger.	The date of merger.
9.	The specified person has failed to transfer upon dissolution, all its assets to any other registered non-profit organisation within twelve months from the end of the month in which the dissolution takes place.		The date of dissolution.	The date on which such period of twelve months expires.

(5) The payment of tax on the accreted income by the specified person under this section shall be deemed as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by, or any deduction be allowed to, the specified person or any other person in respect of the amount of tax so paid under any other provision of this Act.

(6) Where the specified person, or the principal officer or trustee of such specified person, fails to pay the whole or any part of the tax on the accreted income within the time allowed under sub-section (4), such specified person, principal officer or trustee shall be liable to pay simple interest, computed as per the following formula:—

I = 1% of (T × P)

where,—

I = interest;

T = tax on accreted income; and

P = number of months beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid including part thereof.

(7) All the provisions of this Act shall apply for the collection and recovery of income-tax in respect of the amount of tax payable by the specified person, principal officer or trustee and the following persons shall be deemed to be assessee in default:—

(*a*) the specified person and principal officer or the trustee of such specified person;

(*b*) the person to whom any asset forming part of the computation of accreted income under sub-section (2) has been transferred, where the tax on accreted income is payable under the cases specified in sub-section (4) (Table: Sl. No. 9).

(8) Subject to the provisions of sub-section (7), the liability of the person referred to in clause (*b*) of the said sub-section shall be limited to the extent to which the asset received by him is capable of meeting the liability.

Other violations.

353. (1) Where any registered non-profit organisation—

(*a*) fails to maintain books of account under section 347; or

(*b*) fails to get books of account audited under section 348; or

(*c*) fails to furnish its return of income under section 349; or

(*d*) carrying out advancement of any other object of general public utility, carries out any commercial activity in contravention of the provisions of section 346,

during any tax year, its regular income for such tax year as reduced by the expenditure referred to in sub-section (3) shall be taxable regular income which shall be chargeable to tax as per the provisions of section 334.

(2) Irrespective of the provisions of section 338, any specified income and residual income of the registered non-profit organisation, which is not included in sub-section (1) shall also be chargeable to tax under the provisions of section 334.

(3) The expenditure referred to in sub-section (1) shall be the expenditure incurred in India (other than capital expenditure) for the objects of the registered non-profit organisation, subject to the fulfilment of the following conditions:—

(*a*) such expenditure shall be incurred in India;

(*b*) such expenditure shall be for the objects of the registered non-profit organisation;

(*c*) such expenditure is not made from the corpus standing to the credit of the registered non-profit organisation as on the end of the tax year immediately preceding the tax year for which income is being computed;

(*d*) such expenditure is not out of any loan or borrowing;

(*e*) the claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other tax year;

(*f*) such expenditure is not in the form of any contribution or donation to any person;

(*g*) such expenditure is not on account of a payment or aggregate of payments made to a person in contravention to the provisions of section 36(4), (5), (6) and (7) and;

(*h*) such payment is allowable under section 35(*b*)(*i*).

(4) For the purposes of this section, no set off or deduction or allowance of any application or expenditure other than those referred to in sub-section (3) shall be allowed.

6. -Approval for purpose of deduction under section 133(1)(b)(ii)

Application for approval for purpose of section 133(1)(*b*)(*ii*).

354. (1) A registered non-profit organisation or a person referred to in Schedule VII (Table: Sl. No. 1) may, for the purpose of section 133(1)(*b*)(*ii*), make an application for approval in such form and manner, as may be prescribed, to the Principal Commissioner or Commissioner, subject to the following conditions: —

(*a*) it is not expressed to be for the benefit of any particular religious community or caste;

(*b*) it is established in India for a charitable purpose and does not incur any expenditure of an amount exceeding 5% of its total income during a tax year which is of a religious nature;

(*c*) the instrument under which it is constituted does not, or the rules governing it do not, contain any provision for the transfer at any time of the whole or any part of its assets for any purpose other than a charitable purpose;

(*d*) it maintains regular accounts of its receipts and expenditure;

(*e*) it prepares such statement for such period, as may be prescribed, and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time, as may be prescribed;

(*f*) it delivers to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under clause (*e*) in such form and verified in such manner, as may be prescribed; and

(*g*) it furnishes a certificate to the donor specifying the amount of donation within such period from the date of receipt of the donation containing the requisite particulars in manner, as may be prescribed.

(2) The application under sub-section (1) shall be made in respect of the cases referred to in column B of the Table below within the time limit provided in column C of the said Table and the Principal Commissioner or Commissioner, on receipt of such application, shall follow the procedure provided in sub-sections (3) and (4), and shall pass an order in writing within the time limit provided in column D and approval, if granted, shall be valid for a period provided in column E of the said Table.

TABLE

Sl. No.	*Case*	*Time limit for furnishing application*	*Time limit for passing the order*	*Validity of approval*
A	*B*	*C*	*D*	*E*
1.	Where the activities of the applicant have not commenced.	At any time during the tax year from which approval is sought.	One month from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced.	At any time during the tax year from which approval is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has provisional approval and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional approval of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
5.	Where the period for approval of a registered non-profit organisation is due to expire.	At least six months prior to the expiry of the said approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.

(3) Where an application has been made in any of the cases specified under sub-section (2) (Table: Sl. Nos. 2 to 5), the Principal Commissioner or Commissioner shall call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself about the genuineness of the activities, and compliance of such requirements of any other law in force, as are material for the purposes of achieving its objects, and—

(*a*) if he is so satisfied about the objects and the genuineness of the activities and compliance of such requirements of any other law in force, he shall pass an order in writing approving it; or

(*b*) if he is not so satisfied, after affording a reasonable opportunity of being heard,—

(*i*) shall pass an order in writing rejecting the application, where the application was made in any of the cases specified in sub-section (2) (Table: Sl. No. 2); and

(*ii*) in any other case, shall pass an order in writing rejecting the application and also cancelling the approval,

and send a copy of the order to the applicant and the Assessing Officer.

(4) Where an application has been made in any of the cases specified in sub-section (2) (Table: Sl. No. 1), the Principal Commissioner or Commissioner shall pass an order granting provisional approval.

7. -Interpretation

Interpretation.

355. For the purposes of this Part,—

(*a*) "anonymous donation" means any voluntary contribution referred to in section 2(*49*)(*c*), where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars, as may be prescribed;

(*b*) "approval" means an approval under the second proviso to section 80G(5) of the Income-tax Act, 1961 (43 of 1961) or section 354;

(*c*) "cancellation" includes withdrawal;

(*d*) "donation" means any voluntary contribution received by a registered non-profit organisation from any person;

(*e*) "commercial activity" means any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;

(*f*) "registration" includes provisional registration, provisional approval or approval, as referred to in the second proviso to section 10(*23C*) or 12AB(1) of the Income-tax Act, 1961 (43 of 1961) and under section 332, but shall not include approval under the second proviso to section 80G(5) of the said Act or section 354;

(*g*) "registered non-profit organisation" means any person having a valid registration under any specified provision and such registration has not been cancelled;

(*h*) "related person" means any of the following persons:—

- (*i*) the author or the founder of the registered non-profit organisation;
- (*ii*) any person whose total contribution to such registered non-profit organisation, during the relevant tax year exceeds ₹ 100000, or, in aggregate up to the end of the relevant tax year exceeds ten lakh rupees, as the case may be;
- (*iii*) where such author, founder or person is a Hindu undivided family, a member of the family;
- (*iv*) any trustee or manager (by whatever name called) of the registered non-profit organisation;
- (*v*) any relative of any persons referred to in sub-clause (*i*), (*iii*) or (*iv*);
- (*vi*) any concern in which any of the persons referred to in sub-clause (*i*), (*iii*), (*iv*) or (*v*) has a substantial interest;

(*i*) "relative", in relation to an individual, means—

- (*i*) spouse of the individual;
- (*ii*) brother or sister of the individual;
- (*iii*) brother or sister of the spouse of the individual;
- (*iv*) any lineal ascendant (maternal or paternal) or descendant of the individual;
- (*v*) any lineal ascendant (maternal or paternal) or descendant of the spouse of the individual;
- (*vi*) spouse of a person referred to in sub-clause (*ii*), (*iii*), (*iv*) or (*v*);
- (*vii*) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual;

(*j*) "residual income" means the total income without giving effect to the provisions of this Part, as reduced by regular income and specified income;

(*k*) "specified asset" means any asset which is established to have been directly acquired by the specified person—

- (*i*) out of its income of the nature referred to in Schedule II (Table: Sl. No. 1);
- (*ii*) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective, if the specified person has not been allowed any benefit under this Part or under sections 11 and 12 or section 10(*23C*)(*iv*) or (*v*) or (*vi*) or (*via*) of the Income-tax Act, 1961 (43 of 1961) during the said period, where provisions of the first proviso or the second proviso to section 12A(2) or the eighth proviso to section 10(*23C*) of the said Act, are not applicable;
- (*iii*) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective due to the provisions of the first proviso or the second proviso to section 12A(2) or the eighth proviso to section 10(*23C*), where provisions of the first proviso or the second proviso to section 12A(2) or the eighth proviso to section 10(*23C*), of the Income-tax Act, 1961 (43 of 1961), are applicable; and
- (*iv*) which has been transferred to any other specified person within twelve months from the end of the month in which the dissolution takes place in respect of a case specified in section 352(4) (Table: Sl. No. 9);

(*l*) "specified person" means any person which is registered under any specified provision at any time since its incorporation or creation;

(*m*) "specified provision" means section 12A, 12AA or 12AB or section 10(*23C*) of the Income-tax Act, 1961 (43 of 1961) or section 332;

(*n*) "substantial interest", in relation to a person in a concern, means—

- (*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the tax year, owned beneficially by such person or partly by such person and partly by one or more of the other related persons; or
- (*ii*) in the case of any other concern, if such person is entitled, or such person and one or more of the other related persons are entitled in the aggregate at any time during the tax year, to not less than 20% of the profits of such concern;

(*o*) "value" means the value of any benefit or facility granted or provided free of cost or at concessional rate to any related person;

(*p*) "wholly for charitable or religious purposes" shall mean wholly for charitable purposes or wholly for religious purposes or wholly for charitable and religious purposes.

CHAPTER XVIII

Appeals, revisions and alternate dispute resolutions

A.-Appeals

1. -Appeals to Joint Commissioner (Appeals) and Commissioner (Appeals)

Appealable orders before Joint Commissioner (Appeals).

356. (1) Any assessee or any deductor or any collector, aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against—

(*a*) an order being an intimation under section 270(1) or 399(1), where the assessee or deductor or collector objects to the adjustments made therein; or

(*b*) an order under section 270(10) or 271, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or

(*c*) an order of assessment, reassessment or recomputation under section 279; or

(*d*) an order under section 398; or

(*e*) an order imposing penalty under Chapter XXI; or

(*f*) an order under section 287 or 288 amending any of the orders or intimations mentioned in clauses (*a*) to (*e*).

(2) No appeal shall be filed before the Joint Commissioner (Appeals) if an order referred to in sub-section (1) is passed by or with the prior approval of an income-tax authority above the rank of Deputy Commissioner.

(3) The Board or an income-tax authority so authorised by the Board in this regard, may transfer—

(*a*) any appeal filed against an order referred to in sub-section (1), which is pending before the Commissioner (Appeals), and any matter arising out of or connected with such appeal and which is so pending, to the Joint Commissioner (Appeals); or

(*b*) any appeal which is pending before a Joint Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals), regardless of anything contained in sub-sections (1) and (3)(*a*),

who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.

(4) Where an appeal is transferred under sub-section (3), the appellant shall be given an opportunity of being reheard.

(5) For the disposal of appeal under this section, the Central Government may notify a scheme, so as to dispose of appeals in an expedient manner with transparency and accountability, by eliminating the interface between the Joint Commissioner (Appeals) and the appellant, to the extent technologically feasible and direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of such appeals, shall not apply or shall apply with exceptions, modifications and adaptations.

(6) The Board may specify that any provisions of this section shall not apply to any case or class of cases.

(7) For the purposes of this section and section 357, "status" means the category of person as defined in section 2(*77*) under which the assessee is assessed.

Appealable orders before Commissioner (Appeals).

357. Any assessee or any deductor or any collector, aggrieved by any of the following orders, may appeal to the Commissioner (Appeals) against—

(*a*) an order passed by a Joint Commissioner under section 231(4)(*b*); or

(*b*) an order against the assessee where the assessee denies his liability to be assessed under this Act; or

(*c*) an order being an intimation under section 270(1) or 399(1), where the assessee or the deductor or the collector objects to the adjustments made therein; or

(*d*) any order of assessment under section 270(10), except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in section 274(12) or 271, where the assessee objects to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed; or

(*e*) an order of assessment, reassessment or recomputation under section 279 [except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in section 274(12)] or 283; or

(*f*) an order made under section 169(3)(*a*); or

(*g*) an order made under section 287 or 288 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections except an order referred to in section 274(12); or

(*h*) an order made under section 306 treating the assessee as the agent of a non-resident; or

(*i*) an order made under section 313(2) or (4); or

(*j*) an order made under section 315; or

(*k*) an order made under section 398; or

(*l*) an order made under section 431; or

(*m*) an order made under section 434; or

(*n*) an order imposing or enhancing a penalty under Chapter XXI; or

(*o*) an order imposing a penalty under section 412; or

(*p*) an order passed under section 294(1)(*c*); or

(*q*) an order imposing a penalty under section 298(2); or

(*r*) an order made by an Assessing Officer under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

Form of appeal and limitation.

358. (1) Every appeal under this Chapter shall be in such form and verified in such manner, as may be prescribed.

(2) An appeal referred to in sub-section (1), made to the Commissioner (Appeals) or to the Joint Commissioner (Appeals), shall be accompanied by a fee of—

(*a*) ₹ 250, where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is ₹ 100000 or less;

(*b*) ₹ 500, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than ₹ 100000 but not more than ₹ 200000;

(*c*) ₹ 1000, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than ₹ 200000;

(*d*) ₹ 250, where the subject matter of an appeal is not covered under clauses (*a*), (*b*) and (*c*).

(3) The appeal shall be presented within thirty days,—

(*a*) from the date of service of the notice of demand where the appeal relates to any assessment or penalty; or

(*b*) in any other case, from the date on which intimation of the order sought to be appealed against is served.

(4) For the purposes of sub-section (3)(*a*), where an application made under section 440(1) is rejected, the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded.

(5) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(6) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

(*a*) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(*b*) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him.

(7) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for the purposes of sub-section (6)(*b*) and on an application made by the appellant in this behalf, for reasons to be recorded in writing, exempt him from the operation of the provisions of that sub-section.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Procedure in appeal.

359. (1) The Joint Commissioner (Appeals) or the Commissioner (Appeals) shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Assessing Officer against whose order the appeal is preferred.

(2) The following shall have the right to be heard at the hearing of the appeal:—

(*a*) the appellant, either in person or by an authorised representative;

(*b*) the Assessing Officer, either in person or by a representative.

(3) The Joint Commissioner (Appeals) or the Commissioner (Appeals) may—

(*a*) adjourn the hearing of the appeal; or

(*b*) make such further inquiry as he thinks fit, before disposing of any appeal, or may direct the Assessing Officer to make further inquiry and report the result of the same; or

(*c*) allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(4) The order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(5) The Joint Commissioner (Appeals) or the Commissioner (Appeals), where it is possible, may hear and decide such appeal within one year from the end of the financial year in which such appeal is filed or transferred to him under section 356.

(6) On the disposal of the appeal, the Joint Commissioner (Appeals) or the Commissioner (Appeals) shall communicate the order passed by him to the assessee and to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

Powers of Joint Commissioner (Appeals) or Commissioner (Appeals).

360. (1) In disposing of an appeal, the Commissioner (Appeals) or the Joint Commissioner (Appeals), shall have the following powers:—

(*a*) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;

(*b*) where such appeal is against an order of assessment made under section 271, the Commissioner (Appeals) may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment;

(*c*) in an appeal against the order of assessment for which the proceeding before the Settlement Commission abates under section 245HA of the Income-tax Act, 1961 (43 of 1961), the Commissioner (Appeals) may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;

(*d*) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(*e*) in any other case, he may pass such orders in the appeal as he thinks fit.

(2) The Joint Commissioner (Appeals) or the Commissioner (Appeals), shall not enhance an assessment or a penalty or reduce the amount of refund, unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.

(3) The Joint Commissioner (Appeals) or the Commissioner (Appeals), may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter was not raised before him by the appellant.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

2.-Appeals to Appellate Tribunal.

Appellate Tribunal.

361. (1) The Central Government shall constitute an Appellate Tribunal consisting of as many Judicial and Accountant Members as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(2) Irrespective of anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed,—

(*a*) after the commencement of the Tribunals Reforms Act, 2021 (33 of 2021), shall be governed by the provisions of Chapter II of the said Act;

(*b*) before the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), shall be governed by the provisions of the Income-tax Act, 1961 (43 of 1961) and the rules made thereunder, as if the provisions of section 184 of the Finance Act, 2017 (7 of 2017) had not come into force.

(3) The Central Government shall appoint—

(*a*) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

(*b*) one of the Vice-Presidents of the Appellate Tribunal,

to be the President thereof.

(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, Vice-Presidents thereof.

(5) The Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Appeals to Appellate Tribunal.

362. (1) Any assessee, aggrieved by any of the following orders, may appeal to the Appellate Tribunal against such order—

(*a*) an order passed under this Act, by a Commissioner (Appeals) or a Joint Commissioner (Appeals); or

(*b*) an order passed by a Principal Commissioner or Commissioner under—

(*i*) section 332(7) or (8) or (9) or 351(2)(*ii*) or 354(3); or

(*ii*) section 377 or 439 or 465; or

(*iii*) section 287 amending any order as referred to in sub-clauses (*i*) and (*ii*);

(*c*) an order passed by a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 377 or 465 or an order passed under section 287 amending any such order; or

(*d*) an order passed by an Assessing Officer under section 270(10) or 279, in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 287 in respect of such order; or

(*e*) an order passed by an Assessing Officer under section 270(10) or 279, with the approval of the Principal Commissioner or Commissioner as referred to in section 274(12) or an order passed under section 287 or 288 in respect of such order; or

(*f*) an order passed by an Assessing Officer under section 234(4).

(2) The Principal Commissioner or Commissioner may, if he objects to any order passed by the Joint Commissioner (Appeals) or the Commissioner (Appeals) under this Act, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or (2) shall be filed within two months from the end of the month in which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner.

(4) The Assessing Officer or the assessee, on receipt of notice that an appeal against an order, has been preferred under sub-section (1) or (2) by the other party, may, irrespective of that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the manner, as may be prescribed, against any part of such order, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in such form and verified in such manner, as may be prescribed and shall, be accompanied by a fee of—

(*a*) ₹ 500, where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is ₹ 100000 or less;

(*b*) ₹ 1500, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than ₹ 100000 but not more than ₹ 200000;

(*c*) an amount equal to 1% of the assessed income, subject to a maximum of ₹ 10000, where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than ₹ 200000;

(*d*) ₹ 500, where the subject matter of an appeal relates to any matter, other than those specified in clauses (*a*), (*b*) and (*c*).

(7) No fee shall be payable for an appeal referred to in sub-section (2), or a memorandum of cross objections referred to in sub-section (4).

(8) An application for stay of demand shall be accompanied by a fee of ₹ 500.

Orders of Appellate Tribunal.

363. (1) The Appellate Tribunal may, after giving both the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit.

(2) The Appellate Tribunal may amend any order passed by it under sub-section (1) for the rectification of any mistake apparent from record, within six months from the end of the month in which the order was passed, if the mistake is brought to its notice by the assessee or the Assessing Officer.

(3) An amendment, as referred to in sub-section (2), which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made, unless the assessee has been allowed a reasonable opportunity of being heard.

(4) Any application filed by the assessee under sub-section (2) shall be accompanied by a fee of ₹ 50.

(5) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within four years from the end of the financial year in which such appeal is filed under section 362(1) or (2).

(6) The Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under section 362(1), for a period not exceeding one hundred and eighty days from the date of such order, subject to the condition that the assessee—

(*a*) deposits not less than 20% of the amount of tax, interest, fee, penalty or any other sum payable under this Act; or

(*b*) furnishes security of equal amount as referred to in clause (*a*),

and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order.

(7) No extension of stay, as referred to in sub-section (6), shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as specified in the order of stay passed under the said sub-section, unless—

(*a*) the assessee makes an application and has complied with the condition referred to in sub-section (6); and

(*b*) the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee,

so, however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed.

(8) The order of stay shall stand vacated if the appeal is not disposed of within the period allowed under sub-section (6) or (7), even if the delay in disposing of the appeal is not attributable to the assessee.

(9) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

(10) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Principal Commissioner or Commissioner.

(11) Save as provided in section 365, orders passed by the Appellate Tribunal on appeal shall be final.

Procedure of Appellate Tribunal.

364. (1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one Judicial Member and one accountant member.

(3) The President, or any other member of the Appellate Tribunal authorised in this behalf by the Central Government, may sitting singly, dispose of any case allotted to the Bench, pertaining to an assessee whose total income as computed by the Assessing Officer in the case does not exceed rupees fifty lakh.

(4) The President of the Appellate Tribunal may, for the disposal of any particular case, constitute a Special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member.

(5) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it.

(6) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(7) The Appellate Tribunal, for the purposes of discharging its functions, shall have all the powers which are vested in the income-tax authorities referred to in section 246, and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023), and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 215 and Chapter XXXVII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023).

3. -Appeals to High Court

Appeal to High Court.

365. (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(*a*) filed within one hundred and twenty days from the date on which the order appealed against is received by the assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(*b*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in sub-section (2)(*a*), if it is satisfied that there was a sufficient cause for not filing the same within the said period.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question.

(6) The provisions of sub-section (5) shall not take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(7) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(8) The High Court may determine any issue which the Appellate Tribunal,—

(*a*) has not determined; or

(*b*) has wrongly determined, by reason of a decision on such question of law as is referred to in sub-section (1).

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

(10) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such order by the Assessing Officer, on the basis of a certified copy of the judgment.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Case before High Court to be heard by not less than two Judges.

366. (1) When an appeal has been filed before the High Court under section 365, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided as per the opinion of such Judges or of the majority, if any, of such Judges.

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

4. -Appeals to Supreme Court

Appeal to Supreme Court.

367. An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on an appeal made to High Court in respect of an order passed under section 363 in any case which the High Court certifies to be fit for appeal to the Supreme Court.

Hearing before Supreme Court.

368. (1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 367 as they apply in the case of appeals from decrees of a High Court.

(2) The costs of the appeal shall be at the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 365(10) in the case of a judgment of the High Court.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

5. -General

Tax to be paid irrespective of appeal, etc.

369. Irrespective of the fact that an appeal has been preferred to the High Court or the Supreme Court, tax shall be payable as per the assessment made in the case.

Execution for costs awarded by Supreme Court.

370. The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

Amendment of assessment on appeal.

371. If as a result of an appeal under section 356 or 357 or 362, any change is made in the assessment of a body of individuals or an association of persons, or a new assessment is directed in such cases, the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, shall pass an order authorising the Assessing Officer either to amend the assessment made on any member of the body or association or to make a fresh assessment on such member.

Exclusion of time taken for copy.

372. In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and, if the assessee was not provided with a copy of the order when the notice of the order was served, the time required to obtain a copy of such order, shall be excluded.

Filing of appeal by income-tax authority.

373. (1) The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal by any income-tax authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an income-tax authority has not filed any appeal on any issue in the case of an assessee for any tax year, it shall not preclude such authority from filing an appeal on the same issue in the case of—

(*a*) the same assessee for any other tax year; or

(*b*) any other assessee for the same or any other tax year.

(3) Where no appeal has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

(4) The Appellate Tribunal or Court, hearing such appeal, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal was filed or not filed in respect of any case.

Interpretation of "High Court".

374. For the purposes of this Chapter, "High Court" means,—

(*i*) for any State, the High Court for that State;
(*ii*) for the Union territory of Jammu and Kashmir, the High Court of Jammu and Kashmir and Ladakh;
(*iii*) for the Union territory of Ladakh, the High Court of Jammu and Kashmir and Ladakh;
(*iv*) for the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta;
(*v*) for the Union territory of Lakshadweep, the High Court of Kerala;
(*vi*) for the Union territory of Chandigarh, the High Court of Punjab and Haryana;
(*vii*) for the Union territories of Dadra and Nagar Haveli and Daman and Diu, the High Court at Bombay;
(*viii*) for the Union territory of Puducherry, the High Court at Madras; and
(*ix*) for the National Capital Territory of Delhi, the High Court of Delhi.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

B.-Special provisions for avoiding repetitive appeals

Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.

375. (1) Irrespective of anything contained in this Act, where an assessee claims that—

(*a*) any question of law arising in his case for a tax year pending before the Assessing Officer or any appellate authority (such case being herein referred to as the relevant case) is identical with a question of law arising in his case for another tax year (such case being herein referred to as the other case); and

(*b*) such question of law for such other case is pending—

(*i*) before the High Court on a reference under section 256 or on an appeal under section 260A of the Income-tax Act, 1961 (43 of 1961); or

(*ii*) before the Supreme Court on a reference under section 257 or on an appeal under section 261 of the Income-tax Act, 1961 (43 of 1961); or

(*iii*) before the High Court on an appeal made under section 365; or

(*iv*) before the Supreme Court on appeal made under section 367; or

(*v*) in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court,

he may furnish a declaration to the Assessing Officer or the appellate authority, in such form and manner, as may be prescribed, that if the Assessing Officer or the appellate authority agrees to apply in the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case before any appellate authority or in a subsequent appeal before a higher forum.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall—

(*a*) call for a report from the Assessing Officer on the correctness of the claim made by the assessee; and

(*b*) allow the Assessing Officer an opportunity of being heard in the matter, if such request is made by him.

(3) The Assessing Officer or the appellate authority, may, by an order in writing,—

(*a*) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(*b*) reject the claim if he or it is not so satisfied.

(4) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal or revision under this Act.

(5) Where a claim is admitted under sub-section (3),—

(*a*) the Assessing Officer or the appellate authority, may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(*b*) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or in any subsequent appeal before a higher forum.

(6) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Assessing Officer or the appellate authority, shall, if necessary, amend the order referred to in sub-section (5)(*a*) in conformity with such decision.

(7) For the purposes of this section,—

(*a*) "appellate authority" means the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal;

(*b*) "case", in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him; and

(*c*) "subsequent appeal before a higher forum" means the appeal before the High Court under section 365 or appeal before the Supreme Court under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court.

Procedure where an identical question of law is pending before High Courts or Supreme Court.

376. (1) Irrespective of anything contained in this Act, where the collegium is of the opinion that—

(*a*) any question of law arising in the case of an assessee for any tax year (such case being herein referred to as the relevant case) is identical with a question of law arising,—
  (*i*) in his case for any other tax year; or
  (*ii*) in the case of any other assessee for any tax year; and

(*b*) such question of law is pending before the jurisdictional High Court in an appeal under section 260A of Income-tax Act, 1961 (43 of 1961) or section 365 of this Act or the Supreme Court in an appeal under section 261 of the Income-tax Act, 1961 or section 367 of this Act or in a reference under section 256 of Income-tax Act, 1961 before the Jurisdictional High Court or in a reference before the Supreme Court under section 261 of Income-tax Act, 1961 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, which is in favour of such assessee (such case being herein referred to as the other case),

the collegium may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under section 362(2) or to the jurisdictional High Court under section 365(2) in the relevant case against the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, as the case may be.

(2) Irrespective of anything contained in section 362(3) or section 365(2)(*a*), the Principal Commissioner or the Commissioner shall, on receipt of a communication from the collegium under sub-section (1), direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, in such form as may be prescribed, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on such question of law becomes final in the other case.

(3) The application referred to in sub-section (2) shall be filed within one hundred and twenty days from the date of receipt of the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or of the Appellate Tribunal.

(4) The Principal Commissioner or Commissioner shall direct the Assessing Officer—

(*a*) to make an application under sub-section (2), if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and

(*b*) to proceed as per section 362(2) or section 365(2)(*b*), if no such acceptance is received irrespective of anything in section 362(3) or section 365(2)(*a*).

(5) If the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the order of the Appellate Tribunal referred to in sub-section (1), is not in conformity with the final decision on the question of law in the other case, as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, against such order, and save as otherwise provided in this section, all other provisions of Parts A.2 and A.3 of this Chapter shall apply accordingly.

(6) Every appeal under sub-section (5) shall be filed within a period of sixty days to the Appellate Tribunal or one hundred and twenty days to the High Court, from the date on which the order of the jurisdictional High Court or the Supreme Court in the other case, is communicated to the Principal Commissioner or the Commissioner (having jurisdiction over the relevant case), as per the procedure specified by the Board in this behalf.

(7) For the purposes of this section, the expression “collegium” means a collegium comprising two or more Chief Commissioners or Principal Commissioners or Commissioners, as specified by the Board.

C. -Revision by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner

Revision of orders prejudicial to revenue.

377. (1) The Competent Authority may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer or the Transfer Pricing Officer, as the case may be, is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including—

(*a*) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment;

(*b*) an order modifying the order under section 166; or

(*c*) an order cancelling the order under section 166 and directing a fresh order under the said section.

(2) For the purpose of sub-section (1),—

(*a*) an order passed by the Assessing Officer or the Transfer Pricing Officer, shall include—

(*i*) an order of assessment made on the basis of the directions issued by the Joint Commissioner under section 272;

(*ii*) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer or the Transfer Pricing Officer, conferred on, or assigned to, him by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board under section 241; and

(*iii*) an order under section 166;

(*b*) "record" shall include all records relating to any proceeding under this Act available at the time of examination by the Competent Authority;

(*c*) where any order referred to in this section and passed by the Assessing Officer or the Transfer Pricing Officer, had been the subject matter of any appeal filed, the powers of the Competent Authority, shall extend to such matters as had not been considered and decided in such appeal.

(3) An order passed by the Assessing Officer or the Transfer Pricing Officer, shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Competent Authority, the order—

(*a*) is passed without making inquiries or verification which should have been made; or

(*b*) is passed allowing any relief without inquiring into the claim; or

(*c*) has not been made in accordance with any order, direction or instruction issued by the Board under section 239; or

(*d*) has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

(4) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.

(5) Irrespective of anything contained in sub-section (4), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in the order of the Appellate Tribunal, the High Court, or the Supreme Court.

(6) In computing the period of limitation under sub-section (4), the following period shall be excluded,—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 244(2); and

(*b*) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(7) If after the exclusion of the period provided in sub-section (6), the time limit for completion, as provided in sub-section (4) is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(8) For the purposes of this section,—

(*a*) "Competent Authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

(*b*) "Transfer Pricing Officer" shall have the same meaning as in section 166(17).

Revision of other orders.

378. (1) The Competent Authority may, for any order, other than an order to which section 377 applies, passed by an authority subordinate to him, either of his own motion or on an application by the assessee for revision,—

(*a*) call for the record of any proceeding under this Act in which any such order has been passed;

(*b*) make such inquiry or cause such inquiry to be made; and

(*c*) subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Competent Authority shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) An application for revision under this section shall be made by the assessee, within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier.

(4) The Competent Authority may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within the period as provided in sub-section (3), admit an application made after the expiry of the period specified in that sub-section.

(5) The Competent Authority shall not revise any order under this section in the following cases:—

(*a*) where an appeal against the order lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, but has not been made and the time within which such appeal may be made has not expired;

(*b*) where the appeal lies to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(*c*) where the order has been made the subject of an appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal.

(6) Every application by an assessee for revision under this section shall be accompanied by a fee of ₹500.

(7) On every application by an assessee for revision under this section, an order shall be passed within one year from the end of the financial year in which such application is made.

(8) In computing the period of limitation under sub-section (7), the following period shall be excluded:—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 244(2); and

(*b*) the period commencing on the date on which stay on any proceeding under this section has been granted by an order or injunction of any court and ending on the date on which certified copy of the order or injunction vacating the stay is received by the jurisdictional Principal Commissioner or Commissioner.

(9) If after the exclusion of the period provided in sub-section (8), the time limit for completion as provided in sub-section (7) is less than sixty days, such remaining period shall be extended to sixty days and such period of limitation shall be deemed to have been extended accordingly.

(10) Irrespective of anything contained in sub-section (7), an order in revision under that sub-section may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

(11) For the purposes of this section,—

(*a*) "Competent Authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(*b*) an order by the Competent Authority declining to interfere shall, not be deemed to be an order prejudicial to the assessee.

D. -Alternate Dispute Resolutions

1.-Dispute Resolution Committee in certain cases

Dispute Resolution Committee.

379. (1) The Central Government shall constitute, one or more Dispute Resolution Committees, as per the rules made under this Act, for dispute resolution in the case of such persons or class of persons, as specified by the Board, who opt for dispute resolution under this Chapter in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions, as may be prescribed.

(2) The Dispute Resolution Committee, subject to the conditions as may be prescribed, may make modifications to the variations in specified order or reduce or waive any penalty imposable under this Act, or grant immunity from prosecution for any offence punishable under this Act, in case of a person whose dispute is resolved under this Chapter.

(3) Irrespective of anything contained in section 275, upon receipt of the order of the Dispute Resolution Committee under this section, the Assessing Officer shall,—

(*a*) in a case where the specified order is a draft of the proposed order of assessment under section 275(1), pass an order of assessment, reassessment or recomputation; or

(*b*) in any other case, modify the order of assessment, reassessment or recomputation,

in conformity with the directions contained in the order of the Dispute Resolution Committee within one month from the end of the month in which such order is received.

(4) For the purposes of this section, "specified order" means such order, including draft order, as specified by the Board, and—

(*i*) the aggregate sum of variations proposed or made in such order does not exceed ten lakh rupees;

(*ii*) such order is not based on search initiated under section 247 or requisition under section 248 in the case of assessee or any other person or survey under section 253 or information received under an agreement referred to in section 159(1) or (2);

(*iii*) where the assessee has filed a return for the tax year relevant to such order, total income as per such return does not exceed fifty lakh rupees.

2.-Advance rulings

Interpretation.

380. For the purposes of this Chapter,—

(*a*) "advance ruling" means—

(*i*) a determination by the Board for Advance Rulings in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(*ii*) a determination by the Board for Advance Rulings in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or

(*iii*) a determination by the Board for Advance Rulings in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant; and such determination shall include the determination of any question of law or of fact specified in the application; or

(*iv*) a determination or decision by the Board for Advance Rulings in respect of an issue relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application; or

(*v*) a determination or decision by the Board for Advance Rulings whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter XI or not;

(*b*) "applicant" means any person who—

(*i*) is a non-resident referred to in clause (*a*)(*i*); or

(*ii*) is a resident referred to in clause (*a*)(*ii*); or

(*iii*) is a resident referred to in clause (*a*)(*iii*) falling within any such class or category of persons as the Central Government may, by notification, specify; or

(*iv*) is a resident falling within any such class or category of persons as the Central Government may, by notification, specify in this behalf; or

(*v*) is referred to in clause (*a*)(*v*),

and makes an application under section 383(1);

(*c*) "application" means an application made to the Board for Advance Rulings under section 383(1);

(*d*) "Board for Advance Rulings" means the Board for Advance Rulings constituted by the Central Government under section 381;

(*e*) "Member" means a Member of the Board for Advance Rulings.

Board for Advance Rulings.

381. (1) The Central Government shall constitute one or more Boards for Advance Rulings, as may be necessary, for giving advance rulings under this Chapter on or after such date as the Central Government may, by notification, appoint.

(2) The Board for Advance Rulings shall consist of two members, each being an officer not below the rank of Chief Commissioner, as may be nominated by the Board.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Vacancies, etc., not to invalidate proceedings.

382. No proceeding before, or pronouncement of advance ruling by, the Board for Advance Rulings, shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Board for Advance Rulings.

Application for advance ruling.

383. (1) An applicant desirous of obtaining an advance ruling under this Chapter, may make an application in such form and manner, as may be prescribed, stating the question on which the advance ruling is sought.

(2) The application shall be accompanied by a fee, as may be prescribed.

(3) An applicant may withdraw an application within thirty days from the date of the application.

Procedure on receipt of application.

384. (1) On receipt of an application, the Board for Advance Rulings shall forward a copy thereof to the Principal Commissioner or Commissioner and, call upon him to furnish the relevant records, which shall be returned at the earliest opportunity.

(2) The Board for Advance Rulings may, after examining the application and the records called for either allow or reject the application by an order.

(3) For the purposes of sub-section (2), an application shall be rejected if the question raised therein—

(*a*) is already pending before any income-tax authority or Appellate Tribunal except in the case of a resident applicant falling under section 380(*b*)(*iii*) or any court;

(*b*) involves determination of fair market value of any property;

(*c*) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax except in the case of a resident applicant falling in section 380(*b*)(*iii*) or in the case of an applicant falling under section 380(*b*)(*iv*).

(4) The application shall not be rejected under sub-section (2), unless an opportunity of being heard has been given to the applicant and the reasons for such rejection are given in the order.

(5) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Principal Commissioner or Commissioner.

(6) Where an application is allowed under sub-section (2), the Board for Advance Rulings shall, after examining such further material as may be placed before it by the applicant or obtained by the Board for Advance Rulings, pronounce its advance ruling in writing, on the question specified in the application within six months of the receipt of application.

(7) On a request from the applicant, the Board for Advance Rulings shall, before pronouncing its advance ruling, provide an opportunity of being heard to the applicant, either in person or through a duly authorised representative.

(8) A copy of the advance ruling pronounced by the Board for Advance Rulings, duly signed by the Members and certified in such manner, as may be prescribed shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement.

(9) For the purposes of this section, “authorised representative” shall have the meaning assigned to it in section 515(3)(*a*), as if the applicant were an assessee.

Appellate authority not to proceed in certain cases.

385. No income-tax authority or the Appellate Tribunal shall proceed to decide any issue for which an application has been made by an applicant, being a resident, under section 383(1).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Advance ruling to be void in certain circumstances.

386. (1) Where on a representation made by the Principal Commissioner or Commissioner or otherwise, the Board for Advance Rulings finds, that an advance ruling pronounced under section 384(6) has been obtained by the applicant by fraud or misrepresentation, then it may by order, declare such ruling to be *void ab initio* and thereupon, all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Principal Commissioner or Commissioner.

Powers of the Board for Advance Rulings.

387. (1) The Board for Advance Rulings shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) as are referred to in section 246 of this Act.

(2) The Board for Advance Rulings shall be deemed to be a civil court for the purposes of section 215 but not for the purposes of Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) and every proceeding before the Board for Advance Rulings shall be deemed to be a judicial proceeding under sections 229 and 267 and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

Procedure of Board for Advance Rulings.

388. The Board for Advance Rulings shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

Appeal.

389. (1) The applicant, if aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, may appeal to the High Court against such ruling or order of the Board for Advance Rulings within sixty days from the date of the communication of that ruling or order, in such form and manner, as may be prescribed.

(2) Where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in sub-section (1), it may grant further period of thirty days for filing such appeal.

CHAPTER XIX

Collection and recovery of tax

A.-General

Deduction or collection at source and advance payment.

390. (1) The tax on income shall be payable as per this Chapter by way of—

(*a*) deduction or collection at source; or

(*b*) advance payment; or

(*c*) payment under section 392(2)(*a*).

(2) The tax referred to in sub-section (1) shall be payable as per the provisions of this Chapter, irrespective of the fact that the assessment in respect of such income is to be made in a later tax year.

(3) Nothing contained in this section, shall affect the charge of tax on such income under section 4(1).

(4) The payment of tax referred to in sub-section (1) shall be in addition to any other mode of tax recovery to discharge the liability in respect of income assessed for a tax year.

(5) The tax deducted at source or collected at source or sum referred to in section 392(2)(*a*) under this Chapter and paid to the Central Government shall be treated as payment of tax on behalf of the person—

(*a*) from whose income such tax has been deducted; or

(*b*) from whom such tax has been collected; or

(*c*) in respect of whose income such tax has been paid.

(6) The Board may make rules for—

(*a*) giving credit of tax deducted or collected or paid to a person referred to in sub-section (5) and also a person other than the person referred to in the said sub-section;

(*b*) the tax year for which the credit may be given.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Direct payment.

391. (1) The income-tax on any income shall be payable directly by the assessee if—

(*a*) there is no provision under this Chapter to deduct income-tax on such income at the time of payment; or

(*b*) income-tax has not been deducted as per the provisions of this Chapter.

(2) If an assessee has any income of the nature as specified in section 17(1)(*d*) and such specified security or sweat equity shares are allotted or transferred directly or indirectly by the current employer which is an eligible start-up referred to in section 140, then direct payment of tax for the purposes of sub-section (1) shall be made in accordance with in section 289(3).

(3) Where any person, including the principal officer of the company,—

(*a*) who is required to deduct any sum as per the provisions of this Act; or

(*b*) referred to in section 392(2)(*a*), being an employer,

does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, apart from any other consequences that he may incur, be deemed to be an assessee in default within the meaning of section 398(1), in respect of such tax.

B.-Deduction and collection at source

Salary and accumulated balance due to an employee.

392. (1) Any person responsible for paying any income chargeable under the head "Salaries" shall deduct income-tax on the amount payable and this deduction shall be made at the time of such payment at the average rate of income-tax computed on the basis of the rates in force for the tax year in which the payment is made, on the estimated income of the assessee under this head for such year.

(2)(*a*) Without prejudice to the provisions of sub-section (1), the person responsible for paying any income in the nature of a non-monetary perquisite chargeable to tax under section 17(1), may pay, at his option, tax on the whole or part of such income without making any deduction therefrom, at the time when such tax was deductible under sub-section (1);

(*b*) the tax under clause (*a*) shall be determined at the average rate as per sub-section (1), on the income chargeable under the head "Salaries" including the income referred to in the said clause, and shall be construed as if it were a tax deductible at source from the income under the head "Salaries", and be subject to the provisions of this Chapter.

(3) Any person, being an eligible start-up referred to in section 140, responsible for paying any income of the nature specified in section 17(1)(*d*) in any tax year, shall deduct or pay, as the case may be, tax on such income, on the basis of rates in force for the tax year in which the specified security or sweat equity share is allotted or transferred, within the time as specified for the payee in section 289(3).

(4)(*a*) The person responsible for making payment under sub-section (1), shall take into account the following particulars furnished by the assessee, at his option, in such form and verified in such manner as may be prescribed, for the purpose of making deduction under the said sub-section and such particulars shall have an effect of increasing or decreasing the tax to be deducted:—

(*i*) any income under the head "Salaries" due or received by the assessee, from any other employer or employers during the tax year;

(*ii*) any relief allowable under section 157, where the assessee being a Government servant, or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled for such relief;

(*iii*) any loss under the head "Income from house property" for the same tax year;

(*iv*) any income chargeable under any other head of income, not being a loss under any such head other than the loss specified in sub-clause (*iii*) for the same tax year;

(*v*) any tax deducted or collected at source under this Chapter for the same tax year;

(*b*) the tax deductible from income under the head "Salaries" shall not be reduced in any case, except on account of—

(*i*) loss under the head "Income from house property"; and

(*ii*) the tax deducted and collected as per other provisions of this Chapter.

(5) The person responsible for paying any income chargeable under the head "Salaries" to the assessee—

(*a*) shall furnish a statement in such form and manner, as may be prescribed, with correct and complete particulars of perquisites or profits *in lieu* of salary paid, along with their value, to the assessee;

(*b*) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set off of loss) under the provisions of this Act in such form and manner, as may be prescribed; and

(*c*) may, increase or reduce the amount to be deducted under this section for adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

(6)(*a*) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of the accumulated balances due to employees shall, in cases where paragraph 9 of Part A of Schedule XI applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in paragraph 10 of Part A of Schedule XI;

(*b*) where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, tax on the amount so paid shall be deducted by the trustees of the fund to the extent provided in paragraph 7 of Part B of Schedule XI.

(7)(*a*) Irrespective of anything contained in this Act, the trustees of the Employees' Provident Funds Scheme, 1952, made under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952); or

(*b*) any person authorised under such scheme to make payment of accumulated balance due to employees,

shall at the time of payment of accumulated balance due to the employee participating in a recognised provident fund, deduct income-tax thereon at the rate of 10%, where the aggregate amount of such payment is ₹ 50000 or more, and such accumulated balance is includible in his total income owing to the provisions of paragraph 8 of Part A of Schedule XI not being applicable.

(8) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at such rate of exchange as may be prescribed.

Tax to be deducted at source.

393. (1) Where any income or sum of the nature specified in column B of the Table below, is credited or paid or distributed by the person specified in column C during the tax year, to a resident, the person responsible for paying such income or sum shall deduct income-tax,—

(*a*) on the entire amount of such income or sum, where the amount or aggregate of amounts exceeds the threshold limit specified in column D, or on sum as per Note 1 for serial number 8(*ii*), as the case may be;

(*b*) at the rate specified in column D;

(*c*) at the time of credit of such income or sum to the account of the payee or at the time of its payment in cash or by way of a cheque or a draft or by any other mode, whichever is earlier; and

(*d*) subject to the provisions of sub-sections (4), (5), (6), (8) and (9).

TABLE

FOR PAYMENTS TO RESIDENT

Sl. No.	*Nature of Income or sum*	*Payer*	*Rate* *Threshold limit*
A	*B*	*C*	*D*
1. Commission or brokerage			
(*i*)	Any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of insurance policies).	Any person.	*Rate:* Rates in force. *Threshold limit:* ₹ 20,000.
(*ii*)	Any income by way of commission [not being insurance commission referred to in serial number 1(*i*)] or brokerage.	Specified person.	*Rate:* 2% *Threshold limit:* ₹ 20,000.
2. Rent			
(*i*)	Any income by way of rent.	Person other than specified person.	*Rate:* 2% *Threshold limit :* ₹ 50,000 for a month or part of a month.
(*ii*)	Any income by way of rent.	Specified person.	*Rate:* (*a*) 2%, for the use of any machinery or plant or equipment; and (*b*) 10%, for the use of any land, or building (including factory building), or land appurtenant to a building (including factory building), or furniture, or fittings. *Threshold limit* [for (*a*) and (*b*)]: ₹ 50,000 for a month or part of a month.

Note 1.-In serial number 2(*i*), the tax shall be deducted on such income at the time of—

(*a*) credit of rent to the account of the payee; or

(*b*) payment thereof in cash or by way of a cheque or a draft or any other mode,

whichever is earlier, for the last month of the tax year or the last month of tenancy.

3. Payment on transfer of certain immovable property other than agricultural land			
(*i*)	Any consideration for transfer of any immovable property (other than agricultural land).	Person [other than the person who are required to deduct tax under serial number 3(*iii*)].	*Rate:* 1% of— (*a*) consideration for transfer of the immovable property; or (*b*) stamp duty value of such property, whichever is higher. *Threshold limit:* Fifty lakh rupees and as per Note 3.

(*ii*) Any consideration, not being consideration in kind, under the agreement referred to in section 67(14).	Any person.	*Rate:* 10% *Threshold limit: Nil.*
(*iii*) Any sum, being in the nature of— (*a*) compensation or the enhanced compensation; or (*b*) consideration or the enhanced consideration, on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).	Any person.	*Rate:* 10% *Threshold limit:* ₹ 5,00,000.

Note 1.-Consideration for transfer of any immovable property under serial number 3(*i*) shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property for the purposes of the threshold limit mentioned in column D.

Note 2.-In case of consideration on which provisions of both serial number 3(*i*) and 3(*ii*) are applicable, tax shall be deducted under 3(*ii*) only.

Note 3.-For the purposes of serial number 3(*iii*), the income-tax shall be deducted where consideration for transfer of any immovable property or the stamp duty value of such property, is equal to or greater than fifty lakh rupees.

4. Income from capital market

(*i*) Any income in respect of— (*a*) units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or (*b*) units from the Administrator of the specified undertaking; or (*c*) units from the specified company.	Any person.	*Rate:* 10% *Threshold limit:* ₹ 10,000.
(*ii*) Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. Nos. 3 and 4), payable to a unitholder of a Business Trust.	Any Business Trust.	*Rate:* 10% *Threshold limit: Nil.*
(*iii*) Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224, payable to its unitholder.	Any Investment fund specified in section 224.	*Rate:* 10% *Threshold limit: Nil.*
(*iv*) Any income, in respect of an investment in a securitisation trust specified in section 221 to an investor.	Any securitisation trust specified in section 221.	*Rate:* 10% *Threshold limit: Nil.*

5. Interest income

(*i*) Any income by way of Interest on securities.	Any person.	*Rate:* Rates in force. *Threshold limit:* ₹ 10,000.
(*ii*) Any income by way of interest other than interest on securities.	(*a*) A banking company; or (*b*) a co-operative society carrying on the business of banking; or (*c*) a post office for a deposit made under a scheme notified by the Central Government.	*Rate:* Rates in force. *Threshold limit:* (*a*) ₹ 1,00,000 in the case of a senior citizen; (*b*) ₹ 50,000 in case of person other than senior citizen.
(*iii*) Any income being interest other than interest on securities.	Specified person [other than person in Sl. No. 5 (*ii*). C].	*Rate*: Rates in force. *Threshold limit*: ₹ 10,000.

Note 1.-In serial number 5(*ii*) and (*iii*), where the interest income credited or paid is in respect of—

(*a*) time deposits with a banking company; or

(*b*) time deposits with a co-operative society engaged in carrying on the business of banking; or

(*c*) deposits with a public company formed and registered in India with the main object of carrying on business of long-term finance for construction or purchase of houses in India for residential purposes and is eligible for deduction under section 32(*e*),

and the person mentioned in column C has not adopted core banking solutions, the threshold limit in column D shall be computed with reference to the income credited or paid by a branch of such person.

Note 2.-The person responsible for making the payment referred to in serial number 5(*ii*) and (*iii*) of this Table, may at the time of making any deduction, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

6. Payments to contractors, fees for professional and technical services, etc.

(*i*) Any sum16 for carrying out any work16 (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a designated person.	Any designated person.	*Rate :* (*a*) 1%, if contractor is individual or Hindu undivided family; (*b*) 2%, if contractor is a person other than the person mentioned in (*a*). ——— *Threshold limit:* [for (*a*)and (*b*)] (*a*) ₹ 30,000; for any such sum; and (*b*) ₹ 1,00,000 in case of aggregate of such sums.
(*ii*) Any sum— (*a*) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or (*b*) by way of fees for professional services; or (*c*) by way of commission [not being insurance commission referred to in serial number 1(*i*)] or brokerage.	Any person, being an individual or Hindu undivided family [other than those required to deduct income-tax as per Sl. No. 6(*i*) and (*iii*) or Sl. No. 1(*ii*)].	*Rate:* 2% ——— *Threshold limit:* Fifty lakh rupees.
(*iii*) Any sum by way of— (*a*) fees for professional services; or (*b*) fees for technical services; or (*c*) remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 392, to a director of a company; or (*d*) royalty; or (*e*) any sum referred to in section 26(2)(*h*).	Specified person.	*Rate:* (*a*) 2% of such sum in case of— (*i*) fees for technical services (not being a professional services); or (*ii*) royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; or (*iii*) payee, engaged only in the business of operation of call centre; (*b*) 10% of such sum in cases other than (*a*). ——— *Threshold limit:* (*i*) for (*a*), (*b*), (*d*) and (*e*) of Col. B: ₹ 50,000. (*ii*) for (*c*) of Col. B: *Nil.*

Note.-In serial number 6(*i*), if any sum is paid or credited for carrying out any work specified in section 402(47)(*e*), tax shall be deducted at source—

(*a*) on the invoice value excluding the value of material, if such value is specified separately in the invoice; or

(*b*) on the whole of the invoice value, if the value of material is not specified separately in the invoice.

7. Dividend

Any dividend (including dividend on preference shares) declared.	Any domestic company.	*Rate:* 10% ——— *Threshold limit: Nil.*

Note.—The tax shall be deducted at source before making any distribution or payment of dividend.

8. Other cases

(*i*) Any sum under a life insurance policy, including the sum allocated as bonus on such policy, other than the amount not includible in the total income under Schedule II (Table: Sl. No. 2).	Any person.	*Rate :* 2% on income comprised in such sum. ——— *Threshold limit:* ₹ 1,00,000.
(*ii*) Any sum exceeding fifty lakh rupees for purchase of any goods.	Any person, being a buyer.	*Rate:* 0.1% ——— *Threshold limit:* As per Note 1.
(*iii*) Total income of a specified senior citizen after giving effect to deduction allowable under Chapter VIII and rebate allowable under section 156.	Specified bank.	*Rate:* Rates in force. ——— *Threshold limit:* As applicable.
(*iv*) Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession of any resident.	Specified person.	*Rate:* 10% of value or aggregate of values of such benefit or perquisite. ——— *Threshold limit:* ₹ 20,000.
(*v*) Any sum on account of sale of goods or provision of services by an e-commerce participant, facilitated by an e-commerce operator through its digital or electronic facility or platform.	Any e-commerce operator.	*Rate:* 0.1% of gross amount of such sale or services or both. ——— *Threshold limit: Nil.*
(*vi*) Any sum by way of consideration for transfer of a virtual digital asset.	Any person.	*Rate:* 1% ——— *Threshold limit: Nil.*

Note 1.-(*a*) The deduction of tax under serial number 8(*ii*) shall not apply to a transaction on which tax is deductible or collectible under any of the provisions of the Act.

(*b*)The tax shall be deducted on the sum exceeding fifty lakh rupees.

Note 2.-The provisions of serial number 8(*iv*) shall also apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind, provided to a resident and before providing such benefit or perquisite, as the case may be, the person responsible for providing such benefit or perquisite shall ensure that tax has been deducted.

Note 3.-In respect of serial number 8(*v*)—

(*a*) for deduction of tax, the provisions thereof shall take precedence over any other provisions of this Chapter;

(*b*) any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and this amount shall be included in the gross amount of such sale or services for the purposes of deduction of income-tax under this serial number;

(*c*) e-commerce operator shall be deemed to be the person responsible for paying to e-commerce participant;

(*d*) irrespective of anything contained in this Chapter, if—

(*i*) tax has been deducted on a transaction under this serial number; or

(*ii*) a transaction is not liable for tax deduction as provided in section 393(4) (Table: Sl. No. 11),

then tax shall not be deducted on such transaction under any other provision of this Chapter;

(*e*) clause (*d*) shall not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for—

(*i*) hosting advertisements; or

(*ii*) providing any other services,

which are not in connection with the sale or services referred to in this serial number.

Note 4.—In case of a transaction on which provisions of serial number 8(*v*) are applicable along with the provisions of serial number 8(*vi*) for deduction of tax, then irrespective of anything contained in Note 3, tax on such transaction shall be deducted only under the provisions of serial number 8(*vi*).

Note 5.—The provisions of serial number 8(*iii*) shall take precedence over any other provisions of this Chapter and tax shall be deducted under this provision.

Note 6.—For serial number 8(*iv*) and (*vi*),—

(*a*) where the consideration or, benefit or perquisite provided, as the case may be,—

(*i*) is in exchange of another virtual digital asset where there is no part in cash, in respect of serial number 8(*iv*); or

(*ii*) is wholly in kind; or

(*iii*) is partly in kind and partly in cash, but such part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such payment or benefit or perquisite,

the person responsible for paying or providing shall ensure that the tax required to be deducted has been paid, before releasing such consideration or providing such benefit or perquisite, as the case may be;

(*b*) "person responsible for providing" means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.

(2) Where any income or sum of the nature specified in column B of the Table below, is credited or paid by the person specified in column D during the tax year, to a non-resident specified in column C, the person responsible for paying such income or sum shall deduct income-tax on the amount of such income or sum,—

(*a*) at the rate specified in column E;

(*b*) at the time of credit of income or sum to the account of the payee or at the time of its payment in cash or by way of a cheque or a draft or by any other mode, whichever is earlier; and

(*c*) subject to the provisions of sub-sections (4), (8) and (9).

TABLE

FOR PAYMENTS TO NON-RESIDENT

Sl. No.	*Nature of income or sum*	*Payee*	*Payer*	*Rate*
A	*B*	*C*	*D*	*E*
1.	Any income referred to in section 211.	(*a*) A non-resident sportsman (including an athlete) or an entertainer, who is not a citizen of India; or (*b*) a non-resident sports association or institution.	Any person.	20%
2.	Any income by way of interest payable in respect of moneys borrowed in foreign currency from a source outside India,— (*a*) under a loan agreement or issue of long-term in- frastructure bond on or after the 1st July, 2012 but before the 1st July, 2023; or (*b*) by way of issue of any longterm bond on or after the 1st October, 2014 but before the 1st July, 2023, which is approved by the Central Government in this behalf.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%

3.	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of rupee denominated bond before the 1st July, 2023.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%
4.	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bond, which is listed only on a recognised stock exchange located in any International Financial Services Centre.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	(*a*) 4%, where such bonds are issued on or after the 1st April, 2020 but before the 1st July, 2023; or (*b*) 9%, where such bonds are issued on or after the 1st July, 2023.
5.	Any income by way of interest.	Any non-resident (not being a company) or a foreign company.	Any infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%
6.	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 3).	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any business trust.	(*a*) 5%, in case of income of the nature referred to in Schedule V [Table: Sl. No. 3. B(*a*)]; and (*b*) 10%, in case of income of the nature referred to in Schedule V [Table: Sl. No. 3. B(*b*)].
7.	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 4).	Any unitholder, being a non-resident (not being a company) or a foreign company.	Any business trust.	Rates in force.
8.	Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in section 224.	Any unitholder, being a non-resident (not being a company) or a foreign company.	Any investment fund specified in section 224.	Rates in force.
9.	Any income in respect of an investment in a securitisation trust specified in section 221.	Any investor, being a non-resident (not being a company) or a foreign company.	Any securitisation trust specified in section 221.	Rates in force.
10.	Any income— (*a*) in respect of units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or (*b*) in respect of units from the specified company.	Any non-resident (not being a company) or a foreign company.	Any person.	As per Note 2.
11.	Any income in respect of units referred to in section 208.	Any offshore fund.	Any person.	10%
12.	Any income by way of long-term capital gains arising from the transfer of units referred to in section 208;	Any offshore fund.	Any person.	12.5%
13.	Any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 209.	Any non-resident.	Any person.	10%
14.	Any income by way of long-term capital gains arising from the transfer of bonds or Global Depository Receipts referred to in section 209.	Any non-resident.	Any person.	12.5%
15.	Any income in respect of securities referred to in section 210(1) (Table: Sl. No. 1).	Any Foreign Institutional Investor.	Any person.	As per Note 2.
16.	Any income in respect of securities referred to in section 210(1) (Table: Sl. No. 1).	A specified fund referred to in Schedule VI [Note 1(*g*)].	Any person.	10%
17.	Any interest (not being interest referred to against serial numbers 2, 3, 4 and 5) or any other sum chargeable under the provisions of this Act, not being income chargeable under the head "Salaries".	Any non-resident (not being a company) or a foreign company.	Any person.	Rates in force.

Note 1.—For serial numbers 2, 3 and 4, the interest payable shall be income to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment.

Note 2.—For serial numbers 10 and 15, tax shall be deducted at the rate of—

(*a*) 20%; or

(*b*) where an agreement referred to in section 159(1) or 159(2) applies to the payee and if the payee has furnished a certificate referred to in section 159(8), as the case may be, then, income-tax shall be deducted at the rate or rates of income-tax provided in such agreement for such income, if such rate is lower than 20%.

Note 3.—For serial number 17,—

(*a*) if interest is payable by the Government or a public sector bank or a public financial institution within the meaning of Schedule VII (Note 3), deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode;

(*b*) the obligation to deduct tax at source and comply with the provisions of this serial number extend to all persons resident or non-resident, whether or not, the non-resident person has—

(*i*) a residence or place of business or business connection in India; or

(*ii*) any other presence in any manner whatsoever in India.

(3) Where any income or sum of the nature specified in column B of the Table below, is credited or paid by the person specified in column C during the tax year, to any person, the person responsible for making payment of such income or sum, shall deduct income-tax—

(*a*) on the entire amount of such income or sum, where the amount or aggregate of amounts exceed the threshold limit specified in column D, or on net winnings as per Note 1 of the Table;

(*b*) at the rate specified in column D;

(*c*) at the time of payment thereof in cash or by way of a cheque or a draft or by any other mode, or as specified therein; and

(*d*) subject to the provisions of sub-sections (4), (5), (6), (8) and (9).

TABLE

FOR PAYMENTS TO ANY PERSON

Sl. No.	*Nature of income or sum*	*Payer*	*Rate* *Threshold limit*
A	*B*	*C*	*D*
1.	Any income by way of winnings (other than winnings from online games as referred to in serial number 2) from— (*a*) any lottery; or (*b*) crossword puzzle; or (*c*) card game and other game of any sort; or (*d*) gambling or betting of any form or nature whatsoever.	Any person.	*Rate:* Rates in force. ——— *Threshold limit:* ₹ 10,000 in case of a single transaction.
2.	Any income by way of winnings from online game.	Any person.	*Rate:* Rates in force. ——— *Threshold limit:* As per Note 1.
3.	Any income by way of winnings from any horse race.	Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course.	*Rate:* Rates in force. ——— *Threshold limit:* ₹ 10,000 in case of a single transaction.
4.	Any income, credited or paid to a person, who is or has been stocking, distributing, purchasing or selling lottery tickets, by way of commission, remuneration or prize (by whatever name called) on such tickets.	Any person.	*Rate:* 2% ——— *Threshold limit:* ₹ 20,000.
5.	Any sum, paid in cash, from one or more accounts maintained by any person (herein referred as recipient).	Any person, being, — (*a*) a banking company; (*b*) a co-operative society engaged in carrying on the business of banking; or (*c*) a post office.	*Rate:* 2% ——— *Threshold limit:* (*a*) three crore rupees in case of recipient being, a co-operative society; or (*b*) one crore rupees in case of recipient being person other than a co-operative society.
6.	Any amount referred to in section 80CCA(2)(*a*) of the Income-tax Act, 1961 (43 of 1961).	Any person.	*Rate:* 10% ——— *Threshold limit:* ₹ 2,500.
7.	Any sum in the nature of salary, remuneration, commission, bonus or interest paid to a partner of the firm or credited to his account (including capital account).	Any person, being a firm.	*Rate:* 10% ——— *Threshold limit:* ₹ 20,000.

For payments to any person

Note 1.-For serial number 2, tax shall be deducted—

(*a*) on net winnings in the user account of the payee at the end of the tax year;

(*b*) where there is any withdrawal from user account during the tax year, the tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal as well as on the remaining amount of net winnings in user account at the end of the tax year,

where the net winnings in each case is computed in the such manner as may be prescribed.

Note 2.—For serial numbers 1 and 2, where the winnings or net winnings, as the case may be,—

(*a*) is wholly in kind; or

(*b*) is partly in kind and partly in cash, but such part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such winnings,

then, the person responsible for paying shall ensure that the tax required to be deducted has been paid, before releasing the winnings.

Note 3.—For serial number 4, the person responsible for making the payment shall deduct tax at the time of credit of such sum or at the time of payment of such sum in cash or by issue of a cheque or a draft or by any other mode, whichever is earlier.

(4) The deduction of tax at source shall not be made under the provisions referred to in column B of the Table below, in respect of the income or sum along with the conditions, specified in column C:

Table

FOR NO DEDUCTION AT SOURCE

Sl. No.	*Provisions for tax deduction at source*	*Condition for no deduction on income or sum*
A	*B*	*C*
1.	Commission or Brokerage referred to in section 393(1) [Table: Sl. No. 1(*ii*)].	Commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.
2.	Rent referred to in section 393(1) [Table: Sl. No. 2(*ii*)].	Income by way of rent credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in Schedule V (Table: Sl. No. 4), owned directly by such business trust.
3.	Compensation on acquisition of certain immovable property referred to in section 393(1) [Table: Sl. No. 3(*iii*)].	Income by way of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).
4.	Income in respect of units referred to in section 393(1) [Table: Sl. No. 4(*i*)].	If income is of the nature of capital gain.
5.	Income from units of a business trust referred to in section 393(1) [Table: Sl. No. 4(*ii*)].	Income of the nature referred to in Schedule V [Table: Sl. No. 3.B(*b*)], if the special purpose vehicle referred to in the said serial number has not exercised the option under section 200.
6.	Interest on securities referred to in section 393(1) [Table: Sl. No. 5(*i*)].	(*a*) Interest payable on— (*i*) National Development Bonds; (*ii*) such debentures, issued by such institution or authority or any other person as the Central Government may, by notification, specify in this behalf; (*iii*) any security of the Central Government or a State Government, other than— (*a*) 8% Savings (Taxable) Bonds, 2003; or (*b*) 7.75% Savings (Taxable) Bonds, 2018; or (*c*) Floating Rate Savings Bonds, 2020 (Taxable); or (*d*) any other security of the Central Government or State Government as the Central Government may, by notification, specify in this behalf; (*b*) interest payable to— (*i*) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any securities owned by it or in which it has full beneficial interest; or (*ii*) the General Insurance Corporation of India or to any of the four companies, formed by virtue of the schemes made under section 16(1) of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or (*iii*) any other insurer in respect of any securities owned by it or in which it has full beneficial interest; or (*iv*) a "business trust", as defined in section 2(*21*), in respect of any securities, by a special purpose vehicle referred to in Schedule V (Table: Sl. No. 3).

7.	Interest other than interest on securities referred to in section 393(1) [Table: Sl. No. 5(*ii*) and 5(*iii*)].	(*a*) Interest income credited or paid to— (*i*) any banking company; or (*ii*) any financial corporation established by or under a Central Act or State Act or Provincial Act; or (*iii*) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956); or (*iv*) the Unit Trust of India; or (*v*) any company or co-operative society carrying on the business of insurance; or (*vi*) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notified in this behalf before the 1st April, 2020; (*b*) interest income credited or paid— (*i*) by a co-operative society other than a co-operative bank, to a member thereof; or (*ii*) by a co-operative society to any other co-operative society; or (*iii*) in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank; or (*iv*) in respect of deposits (other than time deposits made on or after the 1st July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (*iii*), engaged in the business of banking, except when,— (*A*) where the total sales, gross receipts or turnover of the co-operative society exceed fifty crore rupees during the tax year immediately preceding the tax year in which such interest is credited or paid and; (*B*) the amount or aggregate of amounts of interest credited paid exceeds the threshold limit mentioned in section 393(1) (Table: Sl. No. 5(*ii*)D); and (*c*) interest income credited or paid— (*i*) by the Central Government under any provision of this Act or the Income-tax Act, 1961 (43 of 1961), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974); (*ii*) in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf; (*iii*) in respect of deposits (other than time deposits made on or after the 1st July, 1995) with a banking company; (*iv*) by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, the aggregate of the amounts of such income does not exceed ₹ 50,000 during the tax year; (*v*) or payable by an infrastructure capital company; or infrastructure capital fund; or infrastructure debt fund; or a public sector company; or scheduled bank in relation to a zero coupon bond issued on or after the 1st June, 2005 by such company or fund or public sector company or scheduled bank; (*vi*) as referred to in Schedule V (Table: Sl. No. 3); (*vii*) by a firm to a partner of the firm.
8.	Payments to contractors referred to in section 393(1) [Table: Sl. No. 6(*i*)].	(*a*) Where— (*i*) any sum credited or paid or likely to be credited or paid during the tax year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages; and (*ii*) that contractor owns ten or less goods carriages at any time during the tax year; and (*iii*) furnishes a declaration to that effect along with his Permanent Account Number to the person paying or crediting the sum; and (*iv*) the person responsible for paying to the contractor furnishes to the prescribed income-tax authority the particulars in such form and within such time as may be prescribed; (*b*) where such sum is credited or paid by individual or Hindu undivided family exclusively for personal purposes of such individual or any member of Hindu undivided family.
9.	Fees for professional or technical services referred to in section 393(1) [Table: Sl. No. 6(*iii*)].	Where such sum is credited or paid by individual or Hindu undivided family exclusively for personal purposes of such individual or any member of Hindu undivided family.

10.	Dividend referred to in section 393(1) (Table: Sl. No. 7).	Dividend income credited or paid to— (*a*) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any shares owned by it or in which it has full beneficial interest; (*b*) the General Insurance Corporation of India or to any of the four companies, formed by virtue of the schemes made under section 16(1) of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; (*c*) any other insurer in respect of any shares owned by it or in which it has full beneficial interest; (*d*) a "business trust", as defined in section 2(*21*), by a special purpose vehicle referred to in Schedule V (Note 2); (*e*) any other person as may be notified by the Central Government in this behalf; (*f*) a shareholder, being an individual, if— (*I*) the dividend is paid by the company by any mode other than cash; and (*II*) amount or aggregate of amounts of such dividend distributed or paid or likely to be distributed or paid during the tax year does not exceed ₹ 10,000.
11.	Payment by e-commerce operator to e-commerce participant referred to in section 393(1) [Table: Sl. No. 8(*v*)].	Where the amount is credited or paid or likely to be credited or paid during the tax year to the account of an e-commerce participant, which is— (*a*) an individual or a Hindu undivided family; and (*b*) the gross amount of the sales or services or both during the tax year does not exceed ₹ 500000; and (*c*) the e-commerce participant has furnished the Permanent Account Number or Aadhaar number to the e-commerce operator.
12.	Payment on transfer of virtual digital asset referred to in section 393(1) [Table: Sl. No. 8(*vi*)].	Where value or aggregate value of such consideration during the tax year does not exceed— (*a*) ₹ 50000, when payable by an individual or a Hindu undivided family,— (*i*) whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the tax year immediately preceding the tax year in which such virtual digital asset is transferred; (*ii*) not having any income under the head "Profits and gains of business or profession"; (*b*) ₹ 10000, when payable by any person other than the person referred to in clause (*a*).
13.	Income from units of a business trust referred to in section 393(2) (Table: Sl. No. 6).	Income of the nature referred to in Schedule V [Table: Sl. No. 3.B(*b*)], if the special purpose vehicle referred to in the said clause has not exercised the option under section 200.
14.	Income in respect of units of investment fund referred to in section 393(2) (Table: Sl. No. 8).	Income that is not chargeable to tax under the provisions of this Act.
15.	Income in respect of units of non-residents referred to in section 393(2) (Table: Sl. No. 10).	Income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, subject to prescribed conditions.
16.	Income of Foreign Institutional Investors from securities referred to in section 393(2) (Table: Sl. No. 15).	Income, by way of capital gains arising from the transfer of securities referred to in section 210, if payable to a Foreign Institutional Investor.
17.	Income of Specified Fund from securities referred to in section 393(2) (Table: Sl. No. 16).	Income is exempt as per Schedule VI (Table: Sl. Nos. 1 to 4).
18.	Payment of certain amounts in cash referred to in section 393(3) (Table: Sl. No. 5).	Payment made to— (*a*) the Government; (*b*) any banking company or co-operative society engaged in carrying on the business of banking or a post office; (*c*) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, as per the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934); (*d*) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, as per the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007).
19.	Payment in respect of deposits under National Savings Scheme, etc., referred to in section 393(3) (Table: Sl. No. 6).	Payment made to heirs of an assessee.

(5) Irrespective of anything contained in this Chapter, the tax shall not be deducted by any person from any amount payable to—

(*a*) the Government; or

(*b*) the Reserve Bank of India; or

(*c*) a corporation established by or under a Central Act which is, under any law in force, exempt from income-tax on its income; or

(*d*) a Mutual fund as specified at Schedule VII (Table: Sl. No. 20 or 21), where such amount is payable to it by way of—

(*a*) interest; or

(*b*) dividend in respect of any securities or shares owned by it or in which it has full beneficial interest; or

(*c*) any other income accruing or arising to it.

(6) The deduction of tax shall not be made under provisions referred to in column C of the Table below, in the case of a person as specified in column B, if such person furnishes to the person responsible for paying any income or sum of the nature referred to in such provisions, a written declaration in duplicate in such form and manner as may be prescribed that the tax on such person's estimated total income of the tax year in which such income or sum is to be included in computing his total income shall be *nil*.

Table

DECLARATION FOR NO DEDUCTION AT SOURCE

Sl. No.	*Person*	*Provisions for tax deduction at source*
A	*B*	*C*
1.	An individual being a resident.	(*a*) payment of accumulated balance due to an employee referred to in section 392(7); (*b*) insurance Commission referred to in section 393(1) [Table: Sl. No. 1(*i*)]; (*c*) rent referred to in section 393(1) [Table: Sl. No. 2(*ii*)]; (*d*) income in respect of units referred to in section 393(1) [Table: Sl. No. 4(*i*)]; (*e*) interest referred to in section 393(1) [Table: Sl. No. 5(*i*), (*ii*) and (*iii*)]; (*f*) payment in respect of life insurance policy referred to in section 393(1) [Table: Sl. No. 8(*i*)]. (*g*) dividend referred to in section 393(1) (Table: Sl. No. 7).
2.	Any person not being a company or a firm or an individual covered in Sl. No. (1).	Sl. No. (1).C(*a*) to (*f*).

Note.—The provisions of this sub-section shall not apply in case of a person referred to in column B of the Table, other than an individual being a resident who is of the age of sixty years or more at any time during the tax year, if the aggregate of amounts of any income or sum of the nature referred to in provision mentioned in column C of this Table, is credited or paid or likely to be credited or paid during the relevant tax year in which such income or sum is to be included, exceeds the maximum amount not chargeable to tax.

(7) The person responsible for paying any income or sum of the nature referred in sub-section (6) shall deliver or cause to be delivered, one copy of the declaration referred therein, received from the person to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, on or before the seventh day of the month following the month in which the declaration is furnished to him.

(8) Irrespective of anything contained in sub-section (6), the deduction of tax shall not be made from the interest paid by an Offshore Banking Unit on borrowing from or deposit made on or after 1st April, 2005, by a non-resident or a person not ordinarily resident in India.

(9) Irrespective of anything contained in this Chapter, the deduction of tax shall not be made from any payment to a person for, or on behalf of, the New Pension System Trust referred to in Schedule VII (Table: Sl. No. 41).

(10) In a case other than that referred to in section 392(2)(*a*), where under an agreement or an arrangement, if the tax chargeable on any income of the recipient referred to in this Chapter is to be borne by the payer, then, for the purposes of deduction of tax, the income shall be increased to an amount which after deduction of tax as per provisions of this Chapter becomes equal to the net amount payable under such agreement or arrangement.

(11) The credit of any income or sum to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income or sum, shall be deemed to be the credit of such income or sum to the account of the payee and the provisions of this Chapter shall apply accordingly.

Collection of tax at source.

394. (1) Every person, as specified in column C of the Table below shall collect tax—

(*a*) on receipts specified in column B;

(*b*) at the rate as specified in column D; and

(*c*) at the time of debiting of the amount payable by the buyer or licensee or lessee to the account of the buyer or licensee or lessee or at the time of receipt of such amount from the said buyer or licensee or lessee in cash or by way of a cheque or a draft or any other mode, whichever is earlier.

Table

TAX COLLECTION AT SOURCE

Sl. No.	*Nature of receipt*	*Person*	*Rate of Tax Collected at Source*
A	*B*	*C*	*D*
1.	Sale of alcoholic liquor for human consumption.	Seller.	1%
2.	Sale of tendu leaves.	Seller.	5%
3.	Sale of timber whether obtained under a forest lease or otherwise; or any other forest produce (not being timber or tendu leaves) obtained under a forest lease.	Seller.	2%
4.	Sale of scrap.	Seller.	1%
5.	Sale of minerals, being coal or lignite or iron ore.	Seller.	1%
6.	Sale consideration exceeding ten lakh rupees in case of— (*a*) motor vehicle; or (*b*) any other goods, as may be notified by the Central Government.	Seller.	1%
7.	Remittance under the Liberalised Remittance Scheme of an amount or aggregate of the amounts exceeding ten lakh rupees—	Authorised dealer.	(*a*) 5% for purposes of education or medical treatment; (*b*) 20% for purposes other than education or medical treatment.
8.	Sale of "overseas tour programme package" including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure.	Seller.	(*a*) 5% of amount or aggregate of amounts up to ten lakh rupees; (*b*) 20% of amount or aggregate of amounts exceeding ten lakh rupees.
9.	Use of parking lot or toll plaza or mine or quarry for the purpose of business, excluding mining and quarrying of mineral oil (including petroleum and natural gas).	Licensor or Lessor.	2%

(2) Irrespective of anything contained in sub-section (1) (Table: Sl. Nos. 1 to 5), the collection of tax shall not to be made in respect of receipts specified in sub-section (1) (Table: Sl. Nos. 1 to 5) in respect of the buyer, who is a resident in India, if he furnishes a written declaration in duplicate in such form and manner, as may be prescribed, to the person responsible for collecting tax, mentioning that such goods are to be utilised—

(*a*) for the purposes of manufacturing, processing or producing articles or things or for generating power; and

(*b*) not for trading purposes.

(3) Where no collection of tax is to be made under sub-section (2), the person responsible for collecting tax shall deliver or cause to be delivered, one copy of the declaration referred to in that sub-section, to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, on or before the seventh day of the month following the month of receipt of that declaration.

(4) The collection of tax shall not be made by the authorised dealer in respect of receipt specified in sub-section (1) (Table: Sl. No.7),—

(*a*) on such amount on which tax has been collected by the seller in respect of receipt referred to in sub-section (1) (Table: Sl. No. 8);

(*b*) if the amount being remitted out is a loan obtained from any financial institution as defined in section 129(3)(*b*), for the purpose of pursuing any education.

(5) The collection of tax shall not be made by the authorised dealer or seller, in respect of receipt specified in sub-section (1) (Table: Sl. Nos. 7 and 8), if the buyer is liable to deduct tax at source under any other provisions of this Act and he has deducted such tax.

(6) For the purposes of this sub-section, "forest produce" shall have the same meaning as defined in any State Act for the time being in force, or in the Indian Forest Act, 1927 (16 of 1927).

Certificates.

395. (1) Where tax is required to be deducted on any income or sum under this Chapter, then subject to the rules made under this Act,—

(*a*) the payee may make an application before the Assessing Officer for deduction of income-tax at a lower rate or no deduction of income-tax, as the case may be; and

(*b*) the Assessing Officer on being satisfied that the total income of the payee justifies deduction of income-tax at a lower rate or no deduction of income-tax, as the case may be, shall issue to him a certificate as appropriate; and

(*c*) when a certificate is issued under clause (*b*), the person responsible for paying the income or sum shall deduct the tax at the rate specified in such certificate, or deduct no income-tax, as the case may be, till its validity.

(2) (*a*) The person responsible for paying to a non-resident any sum as mentioned in section 393(2) (Table: Sl. No. 17), may make an application to the Assessing Officer in such form and manner as may be prescribed, where he considers that the whole of such sum would not be chargeable in the case of the recipient;

(*b*) the application under clause (*a*) shall be for determination of the appropriate proportion of the sum chargeable to tax, by the Assessing Officer in the manner as may be prescribed; and

(*c*) when the determination is made by the Assessing Officer as per clause (*b*), the tax shall be deducted under section 393(2) (Table: Sl. No. 17) only on that proportion of sum which is chargeable to tax under the Act.

(3) Where tax is required to be collected on any amount under this Chapter, then subject to the rules made under this Act,—

(*a*) the buyer or licensee or lessee may make an application before the Assessing Officer for collection of tax at a lower rate;

(*b*) the Assessing Officer on being satisfied that the total income of the buyer or licensee or lessee justifies collection of tax at a lower rate, shall issue to him a certificate as may be appropriate; and

(*c*) when a certificate is issued under clause (*b*), the person responsible for collecting tax shall collect it at the rates specified in such certificate till its validity.

(4)(*a*) Every person deducting or collecting tax shall issue a certificate to the deductee or collectee, as the case may be, specifying—

(*i*) the amount of tax that has been deducted or collected;

(*ii*) the rate at which tax has been deducted or collected; and

(*iii*) any other particulars, as may be prescribed,

within such period as may be prescribed;

(*b*) an employer referred to in section 392(2)(*a*) shall issue a certificate to the employee, in respect of whose income payment of tax has been made by the employer, that the tax has been paid to the Central Government, and specify—

(*i*) the amount of tax so paid;

(*ii*) the rate at which tax has been paid; and

(*iii*) any other particulars, as may be prescribed,

within such period, as may be prescribed.

(5) The Assessing Officer may cancel the certificate granted under sub-section (1) or (3) after giving reasonable opportunity to the applicant.

Tax deducted is income received.

396. The following sums shall be deemed as income received for the purposes of computing the income of an assessee—

(*a*) sums deducted under this Chapter; and

(*b*) income-tax paid outside India by way of deduction in respect of which an assessee is allowed a credit against the tax payable under this Act, except tax paid under section 392(2)(*a*) and tax deducted as per section 393(3) (Table: Sl. No. 5).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Compliance and reporting.

397. (1)(*a*) Every person deducting or collecting tax shall apply for allotment of a tax deduction and collection account number to the Assessing Officer within such time as may be prescribed, if that person has not already been allotted such number;

(*b*) where a tax deduction and collection account number has been allotted to a person, such person shall quote such number in all challans, statements, certificates referred to in this Chapter, and in all documents pertaining to such transactions as may be prescribed in the interests of revenue;

(*c*) the provisions of clause (*a*) shall not apply—

(*i*) to a person who is required to deduct tax under provisions of section 393(1) [Table: Sl. Nos. 2(*i*), 3(*i*) and 6(*ii*)];

(*ii*) to a person referred to in section 393(4) [Table: Sl. No. 12.C(*a*)]; and

(*iii*) a person notified in this regard by the Central Government.

(2)(*a*) Irrespective of anything contained in any other provision of this Act, every person, entitled to receive any amount on which tax is deductible or, paying any amount on which tax is collectible, shall furnish his valid Permanent Account Number to the person responsible for deducting or collecting tax;

(*b*) in case of failure to comply with provisions of clause (*a*)—

(*i*) tax shall be deducted at the higher of the following rates:—

(*a*) at the rate specified in the relevant provision of this Act; or

(*b*) at the rate or rates in force; or

(*c*) at the rate of 5% where tax is required to be deducted under section 393(1) [Table: Sl. No. 8(*ii*) or 8(*v*)]; or 20% in any other case;

(*ii*) tax shall be collected at the higher of the following rates, not exceeding 20%—

(*a*) at twice the rate specified in the relevant provision of this Act; or

(*b*) at the rate of 5%;

(*c*) the provisions of clause (*b*)(*i*) shall not apply to a non-resident, not being a company or a foreign company, in respect of—

(*i*) payment of interest on long-term bonds as specified in section 393(2) (Table: Sl. Nos. 2, 3 and 4); and

(*ii*) any other payment subject to such conditions, as may be prescribed;

(*d*) the provisions of clause (*b*)(*ii*) shall not apply to a non-resident who does not have permanent establishment in India (which includes a fixed place of business through which the business of the enterprise is wholly or partly carried on);

(*e*) in respect of rent specified in section 393(1) [Table: Sl. No. 2(*i*)], if the tax is required to be deducted as per clause (*b*)(*i*), then such deduction shall not exceed the amount of rent payable for the last month of the tax year or the last month of the tenancy, as the case may be;

(*f*) if a person does not furnish his valid Permanent Account Number in—

(*i*) any declaration under section 393(6) or 394(2), then such declaration becomes invalid;

(*ii*) any application made under provisions of section 395(1) or (3), then no certificate under such provisions shall be granted;

(*g*) if any declaration becomes invalid under clause (*f*)(*i*), then the deductor or collector shall deduct or collect tax as per the provisions of clause (*b*)(*i*) or (*ii*) as the case may be;

(*h*) the deductee or collectee shall furnish his valid Permanent Account Number to the deductor or collector, as the case may be, and the same shall be indicated in all bills, vouchers, correspondence and other documents which are sent to each other.

(3)(*a*)Every person responsible for deduction or collection of tax or employer referred to in section 392(2)(*a*) shall pay the amount so deducted or collected or determined as per section 392(2)(*b*) to the credit of the Central Government, in such time as may be prescribed;

(*b*) every person responsible for deduction or collection of tax or employer referred to in section 392(2)(*a*), after paying the tax to the credit of the Central Government as per clause (*a*), shall deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority, a statement for such period, in such form, verified in such manner, giving such particulars, and within such time, as may be prescribed;

(*c*) every prescribed authority as per clause (*b*), shall deliver a statement in such form and manner as may be prescribed, to the buyer or licensor or lessee referred to in section 394(1) (Table: Sl. Nos. 1 to 4 or 9);

(*d*) every person responsible for paying to a non-resident, not being a company or a foreign company, any sum, whether or not chargeable under this Act, shall furnish the information relating to payment of such sum, in such form and manner as may be prescribed;

(*e*) in case of an office of the Government,—

(*i*) where the sum deducted under this Chapter or tax referred to in section 392(2)(*a*); or

(*ii*) where the sum collected under section 394(1) (Table: Sl. Nos. 1 to 5 or 9),

has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as may be prescribed;

(*f*) every person referred to in clause (*b*) or (*e*) may correct any discrepancy or update the information furnished, in the statement delivered under the said clauses, by delivering a correction statement in such form and verified in such manner as may be prescribed, to the prescribed authority under the said clauses, within two years from the end of the tax year in which such statement is required to be delivered under the said clauses or under section 200 of the Income-tax Act, 1961 (43 of 1961);

(*g*)(*i*) any banking company or co-operative society or public company referred to in note 1 to section 393(1) (Table: Sl. No. 5) responsible for paying to a resident any income by way of interest, not exceeding the threshold limit mentioned in section 393(1) [Table: Sl. No. 5(*ii*) and (*iii*)], shall deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority, a statement in such form, verified in such manner, giving such particulars and within such time, as may be prescribed;

(*ii*) the Board may require any person, other than the person mentioned in subclause (*i*), responsible for paying to a resident any income which is liable for deduction of tax at source under this Chapter to deliver or cause to be delivered to the income-tax authority or the authorised person under sub-clause (*i*), a statement in such form, verified in such manner, giving such particulars and within such time, as may be prescribed;

(*iii*) the person referred to in sub-clause (*i*) or sub-clause (*ii*) may deliver a correction statement to correct any discrepancy or update the information furnished, in the statement delivered under sub-clause (*i*) or sub-clause (*ii*) in such form and manner of verification, as may be prescribed to the income-tax authority referred to in sub-clause (*i*);

(*h*) any person responsible for collecting the tax who fails to collect the tax as per the provisions of section 394, shall, irrespective of such failure, be liable to pay the tax to the credit of the Central Government as per the provisions of clause (*a*).

Consequences of failure to deduct or pay or, collect or pay.

398. (1) If a person, including the principal officer of a company,—

(*a*) who is required to deduct or collect any amount under this Act; or

(*b*) referred to in section 392(2)(*a*), being an employer,

does not deduct or pay, or does not collect or pay, or after so deducting or collecting fails to pay, the whole or any part of the tax, as required by or under this Act, then such person shall be deemed to be an assessee in default in respect of such tax in addition to any other consequences which that person may incur under this Act.

(2) Irrespective of anything contained in sub-section (1), any person,—

(*a*) including the principal officer of a company, who fails to deduct; or

(*b*) responsible for collecting tax as per section 394(1) (Table: Sl. Nos. 1 to 5 and 9), who fails to collect,

the whole or any part of the tax, as required under this Chapter, on the amount paid or credited to the account of payee or, on the amount collected or debited to the account of the buyer or licensee or lessee, as the case may be, shall not be deemed to be an assessee in default in respect of such tax, if the payee or buyer or licensee or lessee has—

(*i*) furnished his return of income under section 263;

(*ii*) taken into account the amount for computing income in that return of income; and

(*iii*) paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in the form as may be prescribed.

(3) (*a*)Without prejudice to sub-section (1), if any person, as referred to in that sub-section does not deduct or collect the whole or any part of the tax or after deducting or collecting fails to pay the tax as required under this Act, he shall be liable to pay simple interest—

(*i*) at 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible or collectible to the date on which such tax is deducted or collected; and

(*ii*) at 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted or collected to the date on which such tax is actually paid;

(*b*) the interest referred to in clause (*a*) shall be paid before furnishing the statement as per the provisions of section 397(3)(*b*).

(*c*) if the person referred to in sub-section (1) is not deemed to be an assessee in default under sub-section (2), then the interest as per clause (*a*)(*i*) is payable from the date on which that tax was deductible or collectible to the date of furnishing of return of income by the concerned payee or buyer or licensee or lessee, as the case may be;

(*d*) when an order is made by the Assessing Officer for the default under sub-section (1), the interest shall be paid by the person as per such order.

(4) Where the tax has not been paid after it is deducted or collected, the amount of the tax together with the amount of simple interest on it as referred to in sub-section (3)(*a*) shall be a charge upon all the assets of the person referred to in sub-section (1).

(5) The order shall not be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct or collect the whole or any part of the tax from any person—

(*a*) after six years from the end of the tax year in which tax was deductible or collectible; or

(*b*) after two years from the end of the tax year in which the correction statement is delivered under section 397(3)(*f*),

whichever is later.

(6) The provisions of sections 286(1) and 286(3) shall apply to the time limit specified in sub-section (5).

(7) No penalty shall be levied under section 412 on the person mentioned in sub-section (1), unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct or collect and pay such tax.

Processing.

399. (1) All statements of tax deducted at source or tax collected at source including a correction statement shall be processed in the following manner:—

(*a*) the amounts deductible or collectible under this Chapter shall be computed after making the following adjustments:—

(*i*) any arithmetical error in the statement; or

(*ii*) an incorrect claim apparent from any information in the statement;

(*b*) the interest, if any, shall be computed on the basis of the amounts deductible or collectible as reflected in the statement;

(*c*) the fee, if any, shall be computed as per the provisions of section 427;

(*d*) (*i*) the amount payable by; or

(*ii*) the amount of refund due to,

the deductor or collector shall be determined after adjustment of the amount computed under clauses (*b*) and (*c*) against any amount paid under section 397(3) or 398 or 427 and any amount paid otherwise by way of tax or interest or fee;

(*e*) an intimation shall be prepared or generated and sent to the deductor or collector specifying the amount determined to be payable by, or the amount of refund due to, him under clause (*d*);

(*f*) the amount of refund due to a deductor or collector in pursuance of the determination under clause (*d*) shall be granted to the deductor or collector.

(2) The intimation under this section shall be sent within one year from the end of the tax year in which the statement is filed.

(3) The Board may make a scheme for centralised processing of statements, as required under sub-section (1).

Power of Central Government to relax provisions of this Chapter.

400. (1) The Central Government may, by notification provide that deduction or collection of tax shall not be made or is to be made at such lower rate, from such payment or receipt and in respect of such person or class of persons.

(2) The Board may issue guidelines with the previous approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of this Chapter and these guidelines shall be laid before each House of Parliament.

(3) The Board may notify, a class of person, or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, to make an application in such form and manner as may be prescribed, to the Assessing Officer, to determine the appropriate proportion of sum chargeable in the manner as may be prescribed, and accordingly tax shall be deducted under section 393(2) (Table: Sl. No. 17) on that proportion of the sum which is so chargeable.

(4)The Board may by notification, make rules specifying the cases in which, and the circumstances under which, an application may be made for grant of a certificate under section 395(1) and (3), and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Bar against direct demand on assessee.

401. Where tax is deductible at the source under this Chapter, the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

Interpretation.

402. For the purposes of this Chapter,—

(*1*) "Administrator" shall have the same meaning as assigned to it in section 2(*a*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*2*) "agricultural land" means agricultural land in India,—

(*a*) not being a land situated in any area referred to in section 2(*22*)(*iii*), for the purposes of section 393(1) [Table: Sl. No. 3(*i*)];

(*b*) including a land situated in any area referred to in section 2(*22*)(*iii*), for the purposes of section 393(1) [Table: Sl. No. 3(*iii*)];

(*3*) "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement—

(*a*) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(*b*) in respect of rate of deduction of tax at source or rate of collection of tax at source, where such rate is not as per the provisions of the Act;

(*4*) "authorised dealer" means a person authorised by the Reserve Bank of India under section 10(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) to deal in foreign exchange or foreign security;

(*5*) "banking company" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies;

(*6*) "buyer" for the purposes of provisions in column B of the Table below means any person as specified in column C but does not include any person as specified in column D:—

TABLE

Sl. No.	*Provisions*	*Person*	*Person not to be included*
A	*B*	*C*	*D*
1.	Purchase of goods referred to in section 393(1) [Table: Sl. No. 8(*ii*)].	A person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the tax year immediately preceding the tax year in which the purchase of goods is carried out.	Any person, as the Central Government may notify for this purpose, subject to conditions as may be specified therein.
2.	Sale of goods referred to in section 394(1) (Table: Sl. Nos. 1 to 5).	A person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in section 394(1) (Table: Sl. Nos. 1 to 5), or the right to receive any such goods.	(*a*) A public sector company; or (*b*) the Central or a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State; or (*c*) a club; or (*d*) a buyer in the retail sale of such goods purchased by him for personal consumption.
3.	Sale of motor vehicle or any other goods referred to in section 394(1) (Table: Sl. No. 6).	A person who obtains in any sale, goods of the nature specified in section 394(1) (Table: Sl. No. 6).	(*a*) A person as specified in Sl. No. 2.D(*b*); or (*b*) a local authority as defined at Schedule III (Table: Sl. No. 22); or (*c*) a public sector company which is engaged in the business of carrying passengers.
4.	Remittance under Liberalised Remittance Scheme referred to in section 394(1) (Table: Sl. No. 7).	A person remitting amount under the Liberalised Remittance Scheme of Reserve Bank of India.	(*a*) A person as per Sl. No. 2.D(*a*) or Sl. No. 3.D(*b*); (*b*) Any other person as the Central Government may notify for this purpose subject to such conditions as may be specified therein.
5.	Sale of overseas tour programme package referred to in section 394(1) (Table: Sl. No. 8).	A person who purchases overseas tour programme package.	A person as per Sl. No. 4.D.

(*7*) "commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person,—

(*a*) for services rendered (not being professional services); or

(*b*) for any services in the course of buying or selling of goods; or

(*c*) in relation to any transaction relating to any asset, valuable article or thing, not being securities;

(*8*) "computer resource", "internet" and "online game" shall have the meanings respectively assigned to them in section 194(2);

(*9*) "consideration for transfer of any immovable property" shall include all charges of the nature of,—

(*a*) club membership fee; or

(*b*) car parking fee; or

(*c*) electricity or water facility fee; or

(*d*) maintenance fee; or

(*e*) advance fee; or

(*f*) or any other charges of similar nature, which are incidental to transfer of the immovable property;

(*10*) "contract" shall include sub-contract;

(*11*) "designated person", for the purposes of section 393(1) [Table: Sl. No. 6 (*i*)], means—

(*a*) the Central Government or any State Government; or

(*b*) any local authority; or

(*c*) any corporation established by or under a Central Act or State Act or Provincial Act; or

(*d*) any company; or

(*e*) any co-operative society; or

(*f*) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(*g*) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India; or

(*h*) any trust; or

(*i*) any University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956 (3 of 1956); or

(*j*) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(*k*) any firm; or

(*l*) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(*i*) does not fall under any of the preceding sub-clauses; and

(*ii*) has total sales, gross receipts or turnover from business or profession carried on by him exceeding one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which such sum is credited or paid to the account of the contractor;

(*12*) "electronic commerce" means the supply of goods or services, or both, including digital products, over digital or electronic network;

(*13*) "e-commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(*14*) "e-commerce participant" means a person resident in India selling goods or providing services, or both, including digital products, through digital or electronic facility or platform for electronic commerce;

(*15*) "fees for technical services" shall have the meaning as assigned to it in section 9(7)(*b*);

(*16*) "foreign exchange asset" means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(*17*) "Foreign Institutional Investor" shall have the meaning as assigned to it in section 210(6)(*a*);

(*18*) "goods carriage" shall have the meaning as assigned to it in section 58(11)(*d*);

(*19*) "immovable property" means any land (other than agricultural land) or any building or part of a building;

(*20*) "investor" shall have the meaning assigned to it in section 221(6)(*a*), for the purposes of section 393(1) [Table: Sl. No. 4(*iv*)] and section 393(2) (Table: Sl. No. 9);

(*21*) "licensee or lessee" means any person, other than a public sector company, who has been granted a lease or a licence or entered into a contract or otherwise received any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, from the licensor or lessor for the use of parking lot or toll plaza or mine or quarry for the purposes of business;

(*22*) "licensor or lessor" means any person who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company for the use of such parking lot or toll plaza or mine or quarry for the purposes of business;

(*23*) "non-resident Indian" shall have the meaning assigned to it in section 212(*d*);

(*24*) "Offshore Banking Unit" shall have the same meaning as assigned to it in section 2(*u*) of the Special Economic Zones Act, 2005 (28 of 2005);

(*25*) "online gaming intermediary" means an intermediary who offers one or more online games;

(*26*) "overseas tour programme package" means any tour package which offers visit to any country or territory outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto;

(*27*) "person responsible for paying" means—

(*a*) in the case of payments of income chargeable under the head "Salaries", other than payments by the Central Government or the State Government—

(*i*) the employer himself; or

(*ii*) if the employer is a company, the company itself, including the principal officer thereof;

(*b*) in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or State Government, local authority, corporation or company, including the principal officer thereof;

(*c*) in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short-term capital asset, the authorised person responsible—

(*i*) for remitting such sum to the non-resident Indian; or

(*ii*) for crediting such sum to his Non-resident (External) Account maintained as per the provisions of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder;

(*d*) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act—

(*i*) the payer himself; or

(*ii*) if the payer is a company, the company itself including the principal officer thereof;

(*e*) in the case of credit, or, as the case may be, payment of any other sum chargeable under the provisions of this Act—

(*i*) the payer himself; or

(*ii*) if the payer is a company, the company itself including the principal officer thereof;

(*f*) in the case of credit, or as the case may be, payment of any sum chargeable under the provisions of this Act made by or on behalf of the Central Government or the State Government—

(*i*) the drawing and disbursing officer; or

(*ii*) any other person, by whatever name called,

responsible for crediting, or paying such sum;

(*g*) in the case of a person not resident in India—

(*i*) the person himself; or

(*ii*) any person authorised by such person; or

(*iii*) the agent of such person in India including any person treated as an agent under section 306;

(*28*) "professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as may be notified by the Board for the purposes of this section, or of section 62;

(*29*) "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any—

(*a*) land; or
(*b*) building (including factory building); or
(*c*) land appurtenant to a building (including factory building); or
(*d*) machinery; or
(*e*) plant; or
(*f*) equipment; or
(*g*) furniture; or
(*h*) fittings,

whether or not any or all of the above are owned by the payee, and for the purposes of section 393(1) [Table: Sl. No. 2(*i*)], only the payment with reference to assets mentioned in sub-clauses (*a*), (*b*) and (*c*) shall be treated as rent;

(*30*) "royalty" shall have the meaning assigned to it in section 9(6)(*b*);

(*31*) "scrap" means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons;

(*32*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*33*) "seller" means—

(*a*) for the purposes of section 394(1) (Table: Sl. Nos. 1 to 6),—
(*i*) the Central Government; or
(*ii*) a State Government; or
(*iii*) any local authority or corporation or authority established by or under a Central Act or State Act or Provincial Act; or
(*iv*) any company or firm or co-operative society; or
(*v*) an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which the goods of the nature specified in such serial numbers are sold;

(*b*) for the purposes of section 394(1) (Table: Sl. No. 8), a person who sells overseas tour program package;

(*34*) "services" for the purposes of section 393(1) [Table: Sl. No. 8(*v*)], includes "fees for technical services" and fees for "professional services", as defined in this section;

(*35*) "specified bank" means a banking company as the Central Government may, by notification, specify;

(*36*) "specified company" means for the purposes of sections 393(1) [Table: Sl. No. 4(*i*)] and 393(2) (Table: Sl. No. 10), a company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*37*) "specified person" means—

(*a*) any person, not being an individual or Hindu undivided family; or
(*b*) an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid;

(*38*) "special purpose vehicle" shall have the meaning in Schedule V (Note 2);

(*39*) "specified senior citizen" means an individual, being a resident in India—

(*a*) who is of the age of seventy-five years or more at any time during the tax year;
(*b*) who is having pension income and no other income except the interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and
(*c*) has furnished a declaration to the specified bank containing particulars, in such form and verified in such manner as may be prescribed;

(*40*) "specified undertaking" shall have the same meaning as assigned to it in section 2(*i*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2022);

(*41*) "time deposits" means deposits (including recurring deposits) repayable on the expiry of fixed periods;

(*42*) "unit" for the purposes of section 393(1) [Table: Sl. No. 4(*iii*)] and section 393(2) (Table: Sl. No. 8) shall have the meaning assigned to it in section 224(*10*)(*c*);

(*43*) "Unit Trust of India" means the Unit Trust of India as referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*44*) "University", referred in section 392(4), means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act;

(*45*) "user" means any person who accesses or avails any computer resource of an online gaming intermediary;

(*46*) "user account" means account of a user registered with an online gaming intermediary;

(*47*) "work" shall include—

(*a*) advertising;
(*b*) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
(*c*) carriage of goods or passengers by any mode of transport other than by railways;
(*d*) catering;
(*e*) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from—
(*i*) such customer; or
(*ii*) its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in section 36(3),

but does not include—

(*A*) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or
(*B*) any sum referred to in section 393(1) [Table: Sl. No. 6(*iii*)].

C.-Advance payment of tax

Liability for payment of advance tax.

403. (1) Advance tax shall be payable during any financial year in respect of the current income of the assessee, as per the provisions of this Part.

(2) For the purposes of this Part, "current income" of a tax year means the total income of the assessee which would be chargeable to tax for such tax year.

(3) The provisions of sub-section (1) shall not apply to an individual resident in India, who—

(*a*) does not have any income chargeable under the head "Profits and gains of business or profession"; and

(*b*) is of the age of sixty years or more at any time during the tax year.

Conditions of liability to pay advance tax.

404. Advance tax shall be payable by the assessee during a financial year, where the amount of such tax payable during that year, as computed under this Part, is ₹ 10000 or more.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Computation of advance tax.

405. (1) The amount of advance tax payable by an assessee under section 404, on his own accord under section 406, or in pursuance of an order of an Assessing Officer under section 407, in the Financial year shall, subject to the provisions of sub-section (2), be computed as under—

A = B - C

where,—

A = the amount of advance tax payable in a financial year;

B = income-tax on the specified sum calculated at the rates in force in the financial year, where "specified sum" shall have the meaning assigned to it in section 406 or 407;

C = amount of income-tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income subject to the following:—

(*a*) such income is computed before allowing any deduction admissible under this Act and has been taken into account in computing the specified sum; and

(*b*) (*i*) the person responsible for deducting tax has paid or credited such income after deduction of tax; or

(*ii*) the person responsible for collecting tax has received or debited such income after collection of tax.

(2) In the case of any class of assessees, where the Finance Act of the relevant year provides that, net agricultural income shall be taken into account for the purposes of computing advance tax, then,—

(*a*) for the purposes of order as mentioned in section 407(1) and (4), the net agricultural income shall be the amount that has been taken into account for the purposes of charging income-tax on the specified sum as mentioned in sub-sections (3) and (6) of the said section; or

(*b*) in any other situation, the net agricultural income as estimated by the assessee for the tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Payment of advance tax by assessee on his own accord.

406. (1) Every person, who is liable to pay advance tax under section 404 (whether or not he has been previously assessed by way of regular assessment) shall, on his own accord, pay advance tax on the specified sum, calculated in the manner laid down in section 405, at the appropriate percentage, on or before the due date of each instalment, as specified in section 408.

(2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with specified sum and the advance tax payable thereon, and make payment of the said tax in the remaining instalment or instalments accordingly.

(3) For the purposes of this section, the expression “specified sum” means current income as estimated by the assessee.

Payment of advance tax by assessee in pursuance of order of Assessing Officer.

407. (1) Where a person has already been assessed for the total income of any tax year by way of regular assessment and the Assessing Officer is of the opinion that such person is liable to pay advance tax, he may require such person to pay advance tax on the specified sum, calculated in the manner laid down in section 405, by an order in writing, specifying the instalment or instalments in which such tax is to be paid, on or before the due date of each instalment specified in section 408.

(2) The order referred to in sub-section (1) may be passed at any time during the financial year but not later than the last day of February of such financial year and it shall be followed by issuance of notice of demand under section 289.

(3) In sub-section (1), "specified sum" means a sum, being higher of,—

(*a*) the total income of the latest tax year in respect of which the assessee has been assessed by way of regular assessment; or

(*b*) total income returned by the assessee in any return of income furnished by him for any subsequent tax year.

(4) If after making of an order by the Assessing Officer under sub-section (1),—

(*a*) a return of income is furnished by the assessee, under section 263 or in response to a notice under section 268; or

(*b*) a regular assessment of the income is made in respect of a tax year, later than the assessment referred to in sub-section (1),

the Assessing Officer may amend the order referred to in sub-section (1), and may require such assessee to pay advance tax on the specified sum, calculated in the manner laid down in section 405, on or before the due date of each instalment specified in section 408.

(5) The order referred to in sub-section (4) may be passed at any time before the 1st March of that tax year and it shall be followed by issuance of a demand notice under section 289.

(6) In sub-section (4), "specified sum" means the total income declared in the return of income or computed in regular assessment mentioned in sub-section (4)(*a*) and (*b*), respectively.

(7) If the notice of demand issued under section 289, as referred in sub-sections (2) and (5), is served after any of the due dates specified in section 408, the appropriate part or, the whole of the amount of the advance tax specified in such notice, shall be payable on or before each of the due date falling after the date of service of the notice of demand.

(8) Where a person, who is served with an order referred to in sub-section (1) or (4), estimates the advance tax payable on his current income to be lower than the amount of advance tax specified in the said order, then, he may send an intimation in the prescribed form to the Assessing Officer to that effect, and pay such advance tax on the current income, calculated in the manner laid down in section 405 as accords with his estimate, at an appropriate percentage thereof on or before the due date of each instalment specified in section 408 falling after the date of such intimation.

(9) Where a person, who is served with an order referred to in sub-section (1) or (4), estimates that advance tax payable on his current income would exceed the amount of advance tax specified in such order or intimated by him under sub-section (8), he shall pay such advance tax on the current income, calculated in the manner laid down in section 405 at the appropriate part or whole of such higher amount of advance tax as accords with his estimate, on or before the due date of the last instalment specified in section 408.

Instalments of advance tax and due dates.

408. (1) All the assessees who are liable to pay advance tax, other than the assessee referred to in sub-section (2), shall pay the same on the current income calculated in the manner laid down in section 405 in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below.

TABLE

Sl. No.	*Due date of instalment*	*Amount payable*
A	*B*	*C*
1.	On or before the 15th June.	Not less than 15% of such advance tax.
2.	On or before the 15th September.	Not less than 45% of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
3.	On or before the 15th December.	Not less than 75% of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
4.	On or before the 15th March.	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(2) An assessee, who declares profits and gains as per the provisions of section 58(2) (Table: Sl. No. 1 or 3), shall pay the whole amount of advance tax on the current income, calculated in the manner laid down in section 405 during each financial year, on or before the 15th March.

(3) Any amount paid by way of advance tax on or before the 31st March, shall be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.

When assessee is deemed to be in default.

409. A person shall be deemed to be an assessee in default, if such person—

(*a*) does not pay on the date specified in section 408, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under section 407(1) and (4)*;* or

(*b*) does not send to the Assessing Officer an intimation under section 407(8) on or before the date on which any such instalment as is not paid becomes due; or

(*c*) does not pay on the basis of his estimate of his current income, the advance tax payable by him under section 407(9),

in respect of such instalment or instalments.

Credit for advance tax.

410. Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Part shall be treated as a payment of tax in respect of the income of the tax year in which it was payable, and credit therefor shall be given to such assessee in the regular assessment.

D.-Collection and Recovery

When tax payable and when assessee deemed in default.

411. (1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 289 at the place and to the person mentioned in the notice shall be paid within—

(*a*) thirty days of the service of the notice; or

(*b*) such period being a period less than thirty days, as specified in the notice with the previous approval of the Joint Commissioner, where the Assessing Officer has any reason to believe that it shall be detrimental to revenue if the full period of thirty days is allowed.

(2)Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then—

(*a*) such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings; and

(*b*) any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (11 of 1964).

(3)If the amount specified in any notice of demand under section 289 is not paid within the period limited under sub-section (1),—

(*a*) the assessee shall be liable to pay simple interest at 1% for every month or part of a month comprised in the period; and

(*b*) such period shall commence from the day immediately following the end of the period mentioned in sub-section (1) and end with the day on which the amount is paid.

(4)No interest shall be charged under sub-section (3) on any amount for any period, where interest is charged on the same amount for the same period under section 398(3) on the amount of tax specified in the intimation issued under section 399.

(5)Nothing contained in sub-section (3) shall prevent the Assessing Officer, where an application is made by the assessee before the expiry of the due date under sub-section (1), to extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(6)Where as a result of an order under section 287 or 288 or 359 or 363 or 365(10) or 368 or 378 or an order of the Settlement Commission under section 245D(4) of the Income-tax Act, 1961 (43 of 1961),—

(*a*) the amount on which interest was payable under sub-section (3) had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded; and

(*b*) if subsequent to such reduction, as a result of an order under said sections or section 377, the amount on which interest was payable is increased, the assessee shall be liable to pay interest under sub-section (3),—

(*i*) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1); and

(*ii*) ending with the day on which the amount is paid.

(7) Irrespective of the provisions contained in sub-section (3), the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, on an application by the assessee, reduce or waive the amount of interest paid or payable by an assessee under sub-section (3) if he is satisfied that—

(*a*) payment of such amount has caused or would cause genuine hardship to the assessee;

(*b*) default in the payment of the amount on which interest has been paid or was payable under the said sub-section was due to circumstances beyond the control of the assessee; and

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

(8) The order under sub-section (7) accepting or rejecting the application of the assessee, either in full or in part, shall be passed within twelve months from the end of the month in which the application is received.

(9) No order under sub-section (7) rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard.

(10) If the amount is not paid within the specified time under sub-section (1) or extended under sub-section (5), at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default.

(11) If, in a case where payment by instalments is allowed under sub-section (5), the assessee commits defaults in paying any one of the instalments within the time fixed under that sub-section,—

(*a*) the assessee shall be deemed to be in default as to the whole of the amount then outstanding; and

(*b*) the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(12) Where an assessee has presented an appeal under section 356 or 357, the Assessing Officer may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, till the time such appeal remains undisposed of.

(13) Where an assessee has been assessed in respect of income arising outside India in a country, the laws of which prohibit or restrict the remittance of money to India, the Assessing Officer shall—

(*a*) not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India; and

(*b*) continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

(14) For the purposes of sub-section (13), income shall be deemed to have been brought into India, if—

(*a*) it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India; or

(*b*) the income, whether capitalised or not, has been brought into India in any form.

Penalty payable when tax in default.

412. (1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under section 411(3), be liable, by way of penalty, to pay—

(*a*) such amount as the Assessing Officer may direct; and

(*b*) in the case of a continuing default, such further amount or amounts as the Assessing Officer may, from time to time, direct.

(2) The total amount of penalty under sub-section (1) shall not exceed the amount of tax in arrears.

(3) No penalty under sub-section (1) shall be levied—

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

(*b*) where the assessee proves to the satisfaction of the Assessing Officer that the default was for good and sufficient reasons.

(4) The assessee shall not cease to be liable to any penalty under sub-section (1) merely by reason of the fact that before the levy of such penalty he has paid the tax.

(5) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Certificate by Tax Recovery Officer and validity thereof.

413. (1) When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in such form as may be prescribed specifying the amount of arrears due from the assessee (such statement being herein and in sections 414 to 416 referred to as certificate) and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, as per the rules prescribed in this regard,—

(*a*) attachment and sale of movable property of the assessee;

(*b*) attachment and sale of immovable property of the assessee;

(*c*) arrest of the assessee and his detention in prison;

(*d*) appointing a receiver for the management of movable and immovable properties of the assessee.

(2) The Tax Recovery Officer may take action under sub-section (1), whether or not proceedings for recovery of the arrears by any other mode have been taken.

(3) The assessee shall not be entitled to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground.

(4) The Tax Recovery Officer may cancel the certificate if, for any reason, he considers it necessary so to do, or may correct any clerical or arithmetical mistake therein.

(5) For the purposes of this section, the movable or immovable property of the assessee shall include any property—

(*a*) which has been transferred, directly or indirectly on or after the 1st June, 1973, by the assessee to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the said persons; and

(*b*) so far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the movable or immovable property of the assessee for recovering any arrears due from the assessee in respect of any period prior to such date.

Tax Recovery Officer by whom recovery is to be effected.

414. (1) For the purposes of section 413, the Tax Recovery Officer shall be—

(*a*) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or has the principal place of his business or profession; or

(*b*) the Tax Recovery Officer within whose jurisdiction the assessee resides or any of his movable or immovable property is situated,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by any income-tax authority not below the rank of Commissioner who is authorised in this behalf by the Board in pursuance of section 241.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(*a*) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction; or

(*b*) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Part, it is necessary so to do,

he may send—

(*i*) the certificate; or

(*ii*) a copy of the certificate certified in the manner as may be prescribed and specifying the amount to be recovered, where only a part of the amount is to be recovered,

to a Tax Recovery Officer referred to in sub-section (1)(*b*) and, thereupon, such officer shall also proceed to recover the amount under this Part as if the certificate or copy thereof had been drawn up by him.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.

415. (1) The Tax Recovery Officer may grant time for the payment of any tax and, till the expiry of such time, shall stay the recovery proceedings for such tax.

(2) Where a certificate has been drawn up and subsequently, the amount of the outstanding demand is reduced as a result of the order giving rise to the said demand, being modified in an appeal or other proceeding under this Act, the Tax Recovery Officer shall—

(*a*) if the order is the subject-matter of further proceeding under this Act, stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending; or

(*b*) if the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Other modes of recovery.

416. (1) Where no certificate has been drawn up under section 413, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

(2) Where a certificate has been drawn up under section 413, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.

(3) If any assessee is in receipt of any income chargeable under the head "Salaries", the Assessing Officer or Tax Recovery Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee and such person shall comply with the said requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs.

(4) Nothing contained in sub-section (3) shall apply to any part of the salary exempted from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908).

(5) (*a*) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, by notice in writing require any person—

(*i*) from whom money is due or may become due to the assessee; or

(*ii*) who holds or may subsequently hold money for or on account of the assessee,

to pay to the Assessing Officer or Tax Recovery Officer—

(*I*) either forthwith upon the money becoming due or being held; or

(*II*) at or within the time specified in the notice (not being before the money becomes due or is held),

so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.

(*b*) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person.

(*c*) For the purposes of this sub-section, the shares of the joint holders in the account, as referred in clause (*b*), shall be presumed, until the contrary is proved, to be equal.

(*d*) A copy of the notice under this sub-section shall be forwarded to—

(*i*) the assessee; and

(*ii*) in the case of a joint account to all the joint holders,

at his or their last addresses known to the Assessing Officer or Tax Recovery Officer.

(*e*) Save as otherwise provided in this sub-section, every person to whom a notice is issued under that sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, irrespective of any rule, practice or requirement to the contrary.

(*f*) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(*g*) Where a person, to whom a notice under this sub-section is issued, objects to it by a statement on oath that—

(*a*) the sum demanded or any part thereof is not due to the assessee; or

(*b*) he does not hold any money for or on account of the assessee,

then nothing contained in that sub-section shall be deemed to require such person to pay any such sum or part thereof.

(*h*) Where it is discovered that the statement given by a person under clause (*g*) was false in any material particular, such person shall be personally liable to the Assessing Officer or Tax Recovery Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(*i*) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of a notice issued under the said sub-section.

(*j*) The Assessing Officer or Tax Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid.

(*k*) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Assessing Officer or the Tax Recovery Officer—

(*i*) to the extent of his own liability to the assessee so discharged; or

(*ii*) to the extent of the assessee's liability for any sum due under this Act,

whichever is less.

(*l*) If the person to whom a notice under this sub-section is issued fails to make payment in pursuance thereof to the Assessing Officer or Tax Recovery Officer, —

(*i*) he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 413 to 415; and

(*ii*) the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 413.

(6) The Assessing Officer or Tax Recovery Officer may apply to the court in whose custody there is money belonging to the assessee—

(*a*) for payment to him of the entire amount of such money; or

(*b*) if it is more than the tax due, an amount sufficient to discharge the tax.

(7) The Assessing Officer or Tax Recovery Officer may, if so authorised by an income-tax authority not below the rank of Commissioner by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner as may be prescribed.

Recovery through State Government.

417. If the recovery of tax in any area has been entrusted to a State Government under article 258(1) of the Constitution, the State Government may direct, with respect to that area or any part thereof that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

Recovery of tax in pursuance of agreements with foreign countries.

418. (1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from—

(*a*) a resident; or

(*b*) a person having any property in India,

the Board may forward such certificate to any Tax Recovery Officer having jurisdiction over the resident, or within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—

(*i*) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate drawn up by him under section 413; and

(*ii*) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

(2) Where an assessee who is in default or is deemed to be in default in making a payment of tax,—

(*a*) is a resident of a country being a country with which the Central Government has entered into an agreement for the recovery of incometax under this Act and the corresponding law in force in that country; or

(*b*) has any property in the country referred to in clause (*a*),

then, Tax Recovery Officer may forward to the Board a certificate drawn up by him under section 413 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.

Recovery of penalties, fine, interest and other sums.

419. Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Part for the recovery of arrears of tax.

Tax clearance certificate.

420. (1) Subject to such exceptions as the Central Government may, by notification, specify in this behalf, no person,—

(*a*) who is not domiciled in India;

(*b*) who has come to India in connection with business, profession or employment; and

(*c*) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as may be prescribed—

(*i*) an undertaking in the prescribed form from his employer; or

(*ii*) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause (*i*) or the person referred to in clause (*ii*), and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India.

(2) Nothing contained in sub-section (1) shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(3) Subject to such exceptions as the Central Government may, by notification, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish—

(*a*) the Permanent Account Number allotted to him under section 262;

(*b*) the purpose of his visit outside India; and

(*c*) the estimated period of his stay outside India,

to the income-tax authority or such other authority in such form, as may be prescribed.

(4) Where no such Permanent Account Number has been allotted to any person referred to in sub-section (3), or his total income is not chargeable to income-tax, or he is not required to obtain a Permanent Account Number under this Act, such person shall furnish a certificate in such form, as may be prescribed.

(5) No person—

(*a*) who is domiciled in India at the time of his departure; and

(*b*) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liability under this Act or the Wealth-tax Act, 1957 (27 of 1957) or the Gift-tax Act, 1958 (18 of 1958) or the Income-tax Act, 1961 (43 of 1961) or the Expenditure-tax Act, 1987 (35 of 1987) or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person.

(6) No income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless—

(*a*) he records the reasons therefor; and

(*b*) obtains the prior approval of Principal Chief Commissioner or Chief Commissioner.

(7) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) or (5) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Assessing Officer may, having regard to the circumstances of the case, determine.

(8) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (7),—

(*a*) the owner or charterer, shall be deemed to be an assessee in default for such sum; and

(*b*) such sum shall be recoverable from him in the manner provided in this Part as if it were an arrear of tax.

(9) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

(10) For the purposes of this section, the expressions “owner” and “charterer” include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

Recovery by suit or under other law not affected.

421. The several modes of recovery specified in this Part shall not affect in any way:—

(*a*) any other law for the time being in force relating to the recovery of debts due to Government; or

(*b*) the right of the Government to institute a suit for the recovery of the arrears due from the assessee,

and it shall be lawful for the Assessing Officer or the Government, as the case may be, to have recourse to any such law or suit, irrespective of the fact that the tax due is being recovered from the assessee by any mode specified in this Part of the Chapter.

Recovery of tax arrear in respect of non-resident from his assets

422. Irrespective of anything contained in section 304(1) or (5), where the person entitled to the income referred to in section 9(2) is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee—

(*a*) may be recovered by deduction under the provisions of Chapter XIX-B; and

(*b*) any arrears of tax may also be recovered as per the provisions of this Act from any assets of the non-resident which are, or may at any time come, within India.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

E.-Interest chargeable in certain cases

Interest for defaults in furnishing return of income.

423. (1) Where the return of income for any tax year is furnished after the due date or is not furnished, the assessee shall be liable to pay simple interest as per the following formula:—

I= 1% × A × T

where,—

I = the interest payable;
A = the amount of tax on which interest is payable, as specified in sub-section (2);
T = number of months comprised in the period commencing on the date immediately following the starting date and ending on the end date, both specified in sub-section (2).

(2) For sub-section (1), in respect of the circumstances specified in column B of the Table below, the starting date shall be the date specified in column C, the ending date shall be the date as specified in column D and the amount of tax on which interest is payable is specified in column E.

TABLE

Sl. No.	*Circumstances*	*Starting date*	*Ending date*	*The amount of tax on which interest is payable*
A	*B*	*C*	*D*	*E*
1.	Where the return is furnished under section 263(1), (4) or (6) or in response to a notice under section 268(1) after the due date.	Due date for furnishing the return of income under section 263(1).	Date of furnishing of the return.	(*a*) Where a regular assessment is not made, tax on the total income as determined under section 270(1) as reduced by tax paid; (*b*) Where a regular assessment is made, tax on the total income determined under regular assessment as reduced by tax paid.
2.	Where no return has been furnished under section 263(1), (4) or (6) or in response to a notice under section 268(1).	Due date for furnishing the return of income under section 263(1).	Date of completion of the assessment under section 271.	Tax on the total income determined under regular assessment as reduced by tax paid.
3.	(*a*) Where return of income is required by a notice under section 280 issued after the determination of income under section 270(1) or after the completion of an assessment under section 270(10) or 271 or 279; and (*b*) such return is furnished after the expiry of the time allowed under such notice.	The last date of time allowed under such notice.	Date of furnishing the return.	Amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total income determined under section 270(1) or on the basis of the earlier assessment under section 270(1) or 271 or 279.
4.	(*a*) Where return of income is required by a notice under section 280 issued after the determination of income under section 270(1) or after the completion of an assessment under section 270(10) or 271 or 279; and (*b*) no return is furnished.	The last date of time allowed under such notice.	Date of completion of the reassessment or recomputation under section 279.	Amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total income determined under section 270(1) or on the basis of the earlier assessment under section 270(1) or 271 or 279.

(3) Where as a result of an order under section 287 or 288 or 359 or 363 or 365(10) or 368 or 377 or 378, the amount of tax on which interest was payable under sub-sections (1) and (2) has been increased or reduced, the interest shall be increased or reduced accordingly, and in a case—

(*a*) where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in such form as may be prescribed specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly;
(*b*) where the interest is reduced, the excess interest paid, if any, shall be refunded.

(4) For the purposes of this section,—

(*a*) tax on total income as determined under section 270(1) shall not include the additional income-tax, if any, payable under section 267;
(*b*) tax on the total income determined under regular assessment shall not include the additional income-tax payable under section 267;
(*c*) interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 266 towards the interest chargeable;
(*d*) "tax paid" means—
(*i*) advance tax, if any, paid;
(*ii*) any tax deducted or collected at source;
(*iii*) any relief of tax allowed under section 157;
(*iv*) any relief of tax allowed under section 159(1) on account of tax paid in a country outside India;
(*v*) any relief of tax allowed under section 159(2) on account of tax paid in a specified territory outside India referred to in that section;

(*vi*) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and

(*vii*) any tax credit allowed to be set off as per sections 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*).

(5) Where for any tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Interest for defaults in payment of advance tax.

424. (1) Subject to the other provisions of this section, where, in any tax year, an assessee who is liable to pay advance tax under section 404,—

(*a*) has failed to pay such tax; or

(*b*) the advance tax paid by such assessee under the provisions of section 406 or 407 is less than 90% of the assessed tax,

the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month, for the period, beginning from the 1st April following such tax year—

(*i*) upto the date of determination of total income under section 270(1); and

(*ii*) upto the date of completion of regular assessment, where a regular assessment is made,

on an amount equal to the assessed tax in case where clause (*a*) is applicable or, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax in case where clause (*b*) is applicable.

(2) In sub-section (1), "assessed tax" means the tax on the total income determined under section 270(1) and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

(*a*) any tax deducted or collected at source as per Chapter XIX-B on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(*b*) any relief of tax allowed under section 157;

(*c*) any relief of tax allowed under section 159(1) on account of tax paid in a country outside India;

(*d*) any relief of tax allowed under section 159(2) on account of tax paid in a specified territory outside India referred to in that section;

(*e*) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and

(*f*) any tax credit allowed to be set off as per sections 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*).

(3) For the purposes of this section,—

(*a*) where in relation to a tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment;

(*b*) tax on total income as determined under section 270(1) shall not include the additional income-tax, if any, payable under section 267;

(*c*) tax on the total income determined under such regular assessment shall not include the additional income-tax payable under section 267.

(4) Where, before the date of determination of total income under section 270(1) or completion of a regular assessment, tax is paid by the assessee under section 266 or otherwise,—

(*a*) interest shall be calculated as per the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 266 towards the interest chargeable under this section;

(*b*) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(5) Where as a result of an order of reassessment or recomputation under section 279, the amount on which interest was payable in respect of shortfall in payment of advance tax for any tax year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month comprised in the period commencing on the 1st April immediately following such tax year and ending on the date of the reassessment or recomputation on such amount determined as per formula below:—

A = B - C

where,—

A = the increased amount on which interest was payable in respect of shortfall in payment of advance tax for any tax year as a result of reassessment or recomputation;

B = tax on total income determined on the basis of reassessment or recomputation;

C = tax on total income determined under section 270(1) or regular assessment as referred to in sub-section (1).

(6) Where, as a result of an order under section 287 or 288 or 359 or 363 or 365(10) or 368 or 377 or 378, the amount on which interest was payable under sub-section (1) or (3) has been increased or reduced, the interest shall be increased or reduced accordingly, and—

(*a*) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in such form as may be prescribed specifying the sum payable and such notice of demand shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly;

(*b*) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

Interest for deferment of advance tax.

425. (1) Where in any tax year, an assessee, liable to pay advance tax under section 404, other than the assessee mentioned in sub-section (3), has failed to pay such tax, or the advance tax paid by the assessee on its current income on or before the date specified in column B of the Table below, is less than advance tax due on returned income, as specified in column C, then the assessee shall be liable to pay interest on the amount of Shortfall of advance tax as specified in column D, at the rate of interest specified in column E:—

TABLE

Sl. No.	*Due date of Instalment*	*Advance tax due on returned income*	*Amount of Shortfall of advance tax being advance tax due as per column C, as reduced by advance tax already paid on or before the date specified in column B*	*Interest payable on shortfall as specified in column D*
A	*B*	*C*	*D*	*E*
1.	15th day of June	15% of the tax due on returned income.	Shortfall till 15th day of June	3%
2.	15th day of September.	45% of the tax due on returned income.	Shortfall till 15th day of September	3%
3.	15th day of December.	75% of the tax due on returned income.	Shortfall till 15th day of December	3%
4.	15th day of March.	100% of the tax due on returned income.	Shortfall till 15th day of March	1%.

(2) The assessee shall not be liable to pay any interest under sub-section (1), if the advance tax paid by the assessee on the current income,—

(*a*) on or before the 15th day of June is 12% or more of the tax due on the returned income;

(*b*) on or before the 15th day of September is 36% or more of the tax due on the returned income.

(3) An assessee who declares profits and gains as per section 58(2) (Table: SI. No. 1 or 3) or, who is liable to pay advance tax under section 404, has failed to pay such tax, or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on returned income, shall be liable to pay simple interest at the rate of 1% on the amount of shortfall from the tax due on returned income.

(4) No interest shall be payable under sub-section (1) or (3) in respect of shortfall in the payment of tax due on returned income, where,—

(*a*) the shortfall is on account of under-estimation of, or failure to estimate the following income:—

(*i*) capital gains;
(*ii*) income as per section 2(*49*)(*n*);
(*iii*) income under the head profits and gains of business or profession accruing or arising for the first time;
(*iv*) dividend income; and

(*b*) the assessee has paid in full, the tax payable on the said income had such income been part of total income, in any of the remaining instalments of advance tax, if any, or by the 31st day of March of the tax year.

(5) For the purposes of this section "tax due on the returned income" means the tax chargeable on the total income declared in the return of income furnished by the assessee for the tax year in which the advance tax is paid or payable, as reduced by the amount of—

(*a*) any tax deducted or collected at source as per the provisions of Chapter XIX-B on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(*b*) any relief of tax allowed under section 157;

(*c*) any relief of tax allowed under section 159(1) on account of tax paid in a country outside India;

(*d*) any relief of tax allowed under section 159(2) on account of tax paid in a specified territory outside India referred to in that section;

(*e*) any deduction, from the Indian income-tax payable, allowed under section 160, on account of tax paid in a country outside India; and

(*f*) any tax credit allowed to be set off as per sections 206(1)(*m*) to (*p*) and 206(2)(*e*) to (*h*).

(6) For the purposes of this sub-section, the expression "dividend" shall have the meaning assigned to it in section 2(*40*), but shall not include sub-clause (*e*) thereof.

Interest on excess refund.

426. (1) Subject to the other provisions of this Act, where any refund is granted to the assessee under section 270(1), and—

(*a*) no refund is due on regular assessment; or

(*b*) the amount refunded under section 270(1) exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of 0.5% on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

(2) Where, as a result of an order under section 287 or 288 or 359 or 363 or 365(10) or 368 or 377 or 378, the amount of refund granted under section 270(1) is held to be correctly allowed, either in whole or in part, then, the interest chargeable, if any, under sub-section (1) shall be reduced accordingly.

(3) Where in relation to a tax year, an assessment is made for the first time under section 279, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

F.-Levy of fee in certain cases

Fee for default in furnishing statements.

427. (1) Without prejudice to the provisions of this Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in section 397(3)(*b*), he shall be liable to pay, by way of fee, a sum of ₹ 200 for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (1) shall,—

(*a*) not exceed the amount of tax deductible or collectible; and

(*b*) be paid before delivering or causing to be delivered the statement, as per sub-section (1).

Fee for default in furnishing return of income.

428. Without prejudice to the provisions of this Act, where, a person required to furnish a return of income under section 263 fails to do so within such time as may be prescribed in section 263(1), he shall pay, by way of a fee,—

(*a*) a sum not exceeding ₹ 1000, if the total income of such person does not exceed ₹ 500000;

(*b*) a sum of ₹ 5000, in any other case.

Fee for default relating to statement or certificate.

429. (1) Without prejudice to the provisions of this Act, where,—

(*a*) the research association, University, college or other institution referred to in section 45(3)(*a*) or the company referred to in section 45(3)(*b*) fails to deliver or cause to be delivered the documents as may be prescribed in section 45(4)(*a*) within the time as may be prescribed therein or furnish a certificate as may be prescribed under section 45(4)(*a*); or

(*b*) the institution or fund fails to deliver or cause to be delivered a statement under section 354(1)(*e*), within the time as may be prescribed under that section, or furnish a certificate as may be prescribed under section 354(1)(*g*),

it shall be liable to pay, by way of fee, a sum of ₹ 200 for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (1) shall,—

(*a*) not exceed the amount in respect of which the failure referred to therein has occurred;

(*b*) be paid before delivering or causing to be delivered the statement or before furnishing the certificate referred to in sub-section (1).

Fee for default relating to intimation of Aadhaar number.

430. Without prejudice to the provisions of this Act, where a person is required to intimate his Aadhaar number under section 262(6) and such person fails to do so on or before such date as may be prescribed, he shall be liable to pay such fee, as may be prescribed, not exceeding ₹ 1000, at the time of making intimation under the said section after the said date.

CHAPTER XX

REFUNDS

Refunds.

431. If any person satisfies the Assessing Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any tax year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

Person entitled to claim refund in certain special cases.

432. (1) Where the income of one person is included in total income of any other person under any provision of this Act, the latter alone shall be eligible for a refund under this Chapter in respect of such income.

(2) Where a person is unable to claim or receive a refund due to him, on account of death, incapacity, insolvency, liquidation or other cause, his legal representative or the trustee or guardian or receiver, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

Form of claim for refund and limitation.

433. Every claim for refund under this Chapter shall be made by furnishing return as per section 263.

Refund for denying liability to deduct tax in certain cases.

434. (1) Where,—

(*a*) under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest in section 393(2) (Table: Sl. No. 17), is to be borne by the person by whom the income is payable; and

(*b*) such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income,

he may, within thirty days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner, as may be prescribed.

(2) The Assessing Officer shall, by an order in writing, allow or reject the application as referred to in sub-section (1).

(3) No application under sub-section (1) shall be rejected unless an opportunity of being heard has been given to the applicant.

(4) The Assessing Officer may, before passing an order under sub-section (2), make such inquiry as he considers necessary.

(5) The order under sub-section (2) shall be passed within six months from the end of the month in which application under sub-section (1) is received.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Refund on appeal, etc.

435. (1) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Assessing Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where, by the order as referred to in sub-section (1),—

(*a*) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(*b*) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.

Correctness of assessment not to be questioned.

436. In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment, or other matter decided which has become final and conclusive, or ask for a review of the aforesaid assessment or matter; and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

Interest on refunds.

437 . (1) Where a refund is due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the refund, simple interest thereon calculated at the rate of 0.5% for every month or part of a month, in the circumstances specified in column B of the Table below, for the period specified in column C of the said Table.

TABLE

Sl. No.	*Circumstances*	*Period*
A	*B*	*C*
1.	Where the refund is out of tax collected at source under section 394 or paid by way of advance tax or treated as paid under section 390(5), during the financial year.	(*a*) From the first day of April of the year following the tax year to the date on which the refund is granted, where the return of income has been furnished on or before the due date as specified in section 263(1); (*b*) from the date of furnishing the return of income to the date on which the refund is granted; in any other case.
2.	Where the refund is out of any tax paid under section 266.	From the date of furnishing of return of income or payment of tax, whichever is later, to the date on which the refund is granted.
3.	Any other case.	From the date or, as the case may be, dates on and from which the amount of tax or penalty specified in the notice of demand issued under section 289 is paid in excess of such demand to the date on which the refund is granted.

(2) No interest shall be payable under sub-section (1) (Table: Sl. No. 1 or 2), if the amount of refund is less than 10% of the tax as determined under section 270(1) or on regular assessment.

(3) Where refund, mentioned in sub-section (1) (Table: Sl. No. 1), arises as a result of an order passed by the Assessing Officer in consequence of an application made by the assessee under section 288(1) (Table: Sl. No. 11), interest shall be calculated at the rate of 0.5% for every month or part of a month comprised in the period from the date of such application to the date on which the refund is granted.

(4) In a case where a refund arises as a result of giving effect to an order under section 359 or 363 or 365(10) or 368 or 377 or 378, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive an additional interest which shall be—

(*a*) in addition to the interest payable under sub-section (1); and

(*b*) computed on such amount of refund calculated at the rate of 3% per annum, for the period beginning from the date following the date of expiry of the time allowed under section 286(1) (Table: Sl. Nos. 9 and 10) to the date on which the refund is granted.

(5) For the purposes of sub-section (4), in a case where proceedings for assessment or reassessment are pending, in computing the period for determining the additional interest payable, the period beginning from the date on which such refund is withheld by the Assessing Officer as per and subject to provisions of section 438(3) and ending with the date upto which such refund is withheld, shall be excluded.

(6) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XIX-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of 0.5% for every month or part of a month comprised in the period, from the date on which—

(*a*) claim for refund is made in such form as may be prescribed; or

(*b*) tax is paid, where refund arises on account of giving effect to an order under section 359 or 363 or 365(10) or 368,

to the date on which the refund is granted.

(7) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee or the deductor, as the case may be, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable under this section.

(8) Where any question arises as to the period to be excluded under sub-section (7), it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final.

(9) Where, as a result of an order under section 270(10) or 271 or 279 or 287 or 288 or 359 or 363 or 365(10) or 368 or 377 or 378, the amount on which interest was payable under sub-section (1) or (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly.

(10) In a case where the interest is reduced under sub-section (9), the Assessing Officer shall serve on the assessee a notice of demand in such form as may be prescribed specifying the amount of the excess interest paid and requiring him to pay such amount.

(11) The notice of demand under sub-section (10) shall be deemed to be a notice under section 289 and the provisions of this Act shall apply accordingly.

Set off and withholding of refunds in certain cases.

438 . (1) Where a refund becomes due or is found to be due to any person under this Act, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, as the case may be, may *in lieu* of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by such person.

(2) Any action under sub-section (1) shall be taken after giving an intimation in writing to such person of the action proposed to be taken.

(3) Where,—

(*a*) a part of the refund is set off under sub-section (1); or

(*b*) no such amount as referred to in clause (*a*) is set off,

and refund becomes due to a person, and the Assessing Officer, having regard to the fact that proceedings for assessment or reassessment are pending in the case of such person, may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, withhold the refund up to sixty days from the date on which such assessment or reassessment is made.

CHAPTER XXI

PENALTIES

Penalty for under-reporting and misreporting of income.

439. (1) The Competent Authority may, during the course of any proceedings under this Act, impose penalty on any person who has under-reported his income and such penalty shall be payable in addition to tax, if any.

(2) A person shall be deemed to have under-reported his income, if—

(*a*) the income assessed is greater than the income determined in the return processed under section 270(1)(*a*);

(*b*) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

(*c*) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;

(*d*) the amount of deemed total income assessed or reassessed as per section 206(1) and (2), is greater than the deemed total income determined in the return processed under section 270(1)(*a*);

(*e*) the amount of deemed total income assessed as per section 206(1) and (2), is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 280;

(*f*) the amount of deemed total income reassessed as per section 206(1) and (2), is greater than the deemed total income assessed or reassessed under the said sections immediately before such reassessment;

(*g*) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

(3) The amount of under-reported income shall be,—

(*a*) if income has been assessed for the first time,—

(*i*) where return has been furnished, the difference between the amount of income assessed and the amount of income determined under section 270(1)(*a*);

(*ii*) where no return of income has been furnished or where return has been furnished for the first time under section 280,—

(*A*) the amount of income assessed, in the case of a company, firm or local authority; and

(*B*) the difference between the amount of income assessed and the maximum amount not chargeable to tax, in a case not covered in item (*A*);

(*b*) in any other case, the difference between the amount of income reassessed or recomputed and the amount of income assessed, reassessed or recomputed in a preceding order.

(4) If under-reported income arises out of determination of deemed total income as per section 206(1) and (2), the amount of total under-reported income shall be determined as under—

(A - B) + (C - D)

where,—

A = the total income assessed as per the provisions other than the provisions contained in section 206 (herein referred to as "general provisions");

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;

C = the total income assessed as per section 206;

D = the total income that would have been chargeable had the total income assessed as per section 206 been reduced by the amount of under-reported income.

(5)(*a*) If the amount of under-reported income on any issue is considered both under section 206(1) and (2) and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under D referred to in sub-section (4);

(*b*) in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under-reported income shall be the difference between the loss claimed and the income or loss, assessed or reassessed.

(6) Subject to sub-section (8), where the source of any receipt, deposit or investment in any tax year is claimed to be an amount added to income or deducted while computing loss, in the assessment of such person in any year prior to the tax year in which such receipt, deposit or investment appears (herein referred to as the preceding year) and no penalty was levied for such preceding year, then, the under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment.

(7) The amount referred to in sub-section (6) shall be deemed to be income under-reported for the preceding year in the following order:—

(*a*) the preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and

(*b*) where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.

(8) The under-reported income, for the purposes of this section, shall not include the following:—

(*a*) the amount of income in respect of which the assessee offers an *explanation* and the Competent Authority, is satisfied that the *explanation* is *bona fide* and the assessee has disclosed all the material facts to substantiate the *explanation* offered;

(*b*) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Competent Authority, but the method employed is such that the income cannot properly be deduced therefrom;

(*c*) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance; and

(*d*) the amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained such information and documents as may be prescribed under section 171, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction.

(9) The penalty referred to in sub-section (1) shall be 50% of the tax payable on under-reported income.

(10) Irrespective of anything contained in sub-section (8) or (9), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be 200% of the tax payable on under-reported income.

(11) The cases of misreporting of income referred to in sub-section (10) shall be the following:—

(*a*) misrepresentation or suppression of facts;

(*b*) failure to record investments in the books of account;

(*c*) claim of expenditure not substantiated by any evidence;

(*d*) recording of any false entry in the books of account;

(*e*) failure to record any receipt in books of account having a bearing on total income; and

(*f*) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

(12) The tax payable in respect of the under-reported income shall be—

(*a*) where no return of income has been furnished or where return has been furnished for the first time under section 280 and the income has been assessed for the first time, the amount of tax calculated on the under-reported income as increased by the maximum amount not chargeable to tax as if it were the total income;

(*b*) where the total income determined under section 270(1)(*a*) or assessed, reassessed or recomputed in a preceding order is a loss, the amount of tax calculated on the under-reported income as if it were the total income;

(*c*) in any other case, determined as follows—

(X - Y)

where,—

X = the amount of tax calculated on the under-reported income as increased by the total income determined under section 270(1)(*a*) or total income assessed, reassessed or recomputed in a preceding order as if it were the total income; and

Y = the amount of tax calculated on the total income determined under section 270(1)(*a*) or total income assessed, reassessed or recomputed in a preceding order.

(13) No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has already formed the basis for penalty in the case of the person for the same or any other tax year.

(14) The penalty referred to in sub-section (1) shall be imposed, by an order in writing by the Competent Authority.

(15) For the purposes of this section,—

(*a*) “Competent Authority” means the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner; and

(*b*) “preceding order” means an order immediately preceding the order during the course of which the penalty under sub-section (1) has been initiated.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Immunity from imposition of penalty, etc.

440. (1) An assessee may make an application to the Assessing Officer for granting immunity from penalty under section 439 and initiation of proceedings under section 478 or section 479, if—

(*a*) the tax and interest payable as per the order of assessment or reassessment under section 270(10) or section 279, has been paid within the period specified in the notice of demand; and

(*b*) no appeal against the order referred to in clause (*a*) has been filed.

(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in clause (*a*) of the said sub-section has been received, in such form and manner as may be prescribed.

(3) The Assessing Officer, on fulfilment of the conditions as specified in sub-section (1), and after the expiry of the period of filing appeal as specified in section 358(3)(*a*), shall grant immunity from penalty under section 439 and initiation of proceedings under section 478 or 479.

(4) No immunity under sub-section (3) shall be granted if penalty under section 439 has been initiated under circumstances referred to in section 439(11).

(5) The Assessing Officer, shall pass an order accepting or rejecting the application as referred to in sub-section (1) within three months from the end of the month of its receipt.

(6) No order of rejection under sub-section (5) shall be made without giving the assessee an opportunity of being heard.

(7) The order made under sub-section (5) shall be final.

(8) No appeal under section 356 or 357 or an application for revision under section 378 shall be admissible against the order referred to in sub-section (1)(*a*), if an order under sub-section (5) has been made accepting the application.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Failure to keep, maintain or retain books of account, documents, etc.

441. A penalty of ₹ 25000 may be imposed on a person by the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), if he fails to—

(*a*) keep and maintain the books of account and other documents as per section 62 or the rules made thereunder, in respect of any tax year; or

(*b*) retain such books of account and other documents for the period specified in the said rules.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.

442. (1) The Assessing Officer or Commissioner (Appeals) may impose a penalty of 2% of the value of each international transaction or specified domestic transaction entered into by a person, if in respect of such transaction he—

(*a*) fails to keep and maintain any such information and document as required by section 171(1);

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

(*c*) maintains or furnishes an incorrect information or document.

(2) The prescribed income-tax authority referred to in section 171(4) may impose a penalty of ₹ 500000 on a person, if he fails to furnish the information and document required under the said section.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty in respect of certain income.

443. (1) The Assessing Officer or the Joint Commissioner (Appeals) or Commissioner (Appeals) may impose a penalty of 10% of the tax payable under section 195(1)(*i*), on an assessee if the income determined in his case for any tax year includes any income referred to in section 102, 103, 104, 105 or 106.

(2) The penalty under sub-section (1) shall be payable in addition to the tax payable under section 195.

(3) No penalty shall be levied on income referred to in section 102, 103, 104, 105 or 106 to the extent such income has been included by the assessee in the return of income furnished under section 263 and the tax as per section 195(1)(*i*) has been paid on or before the end of the relevant tax year.

(4) No penalty under section 439 shall be imposed upon the assessee in respect of income referred to in sub-section (1).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for false entry, etc., in books of account.

444. (1) The Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals), may impose a penalty equal to the aggregate amount of false or omitted entry, where during any proceeding under this Act, it is found that in the books of account maintained by any person there is—

(*a*) a false entry; or

(*b*) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability.

(2) Without prejudice to sub-section (1), the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may impose a penalty equal to the aggregated amount of false or omitted entry, on any other person, who causes the person referred to in the said sub-section in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section.

(3) For the purposes of this section, the expression "false entry" includes use or intention to use—

(*a*) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or

(*b*) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services, or both; or

(*c*) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Benefits to related persons.

445 . If during any proceedings under this Act, it is found that a person being a registered non-profit organisation has any specified income which is chargeable to tax as per section 337 (Table: Sl. No. 2), the Assessing Officer may impose on such person, a penalty of—

(*a*) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any related person referred to in section 355(*h*), if the violation is noticed for the first time during any tax year; and

(*b*) a sum equal to 200% of the aggregate amount of income of such person applied, directly or indirectly, by that person for the benefit of any person referred to in section 355(*h*), if the violation is noticed again in any subsequent tax year.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Failure to get accounts audited.

446 . If any person fails to get his accounts audited for any tax year or years or furnish the audit report as required under section 63, the Assessing Officer may impose a penalty on such person, which shall be the lesser of—

(*a*) 0.5% of the total sales, turnover, or gross receipts in business, or the gross receipts in profession for such tax year or years; or

(*b*) ₹ 150000.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to furnish report under section 172.

447 . If any person fails to furnish a report from an accountant as required by section 172, the Assessing Officer may impose a penalty of ₹ 100000 on such person.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to deduct tax at source.

448 . If any person fails to—

(*a*) deduct the whole or any part of the tax as required under Chapter XIX-B; or

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

(*i*) Note 2 below the Table in section 393(3); or

(*ii*) Note 6 to section 393(1) (Table: Sl. No. 8),

then, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to deduct or pay or ensure payment of, as aforesaid.

Penalty for failure to collect tax at source.

449. (1) If any person fails to collect the whole or any part of the tax as required under Chapter XIX-B, the Assessing Officer may impose on him, a penalty equal to the tax which such person failed to collect.

Penalty for failure to comply with provisions of section 185.

450. If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 185, the Assessing Officer may impose on him, a penalty equal to the amount of the loan or deposit or specified sum so taken or accepted.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to comply with provisions of section 186.

451 . The Assessing Officer may impose on a person, a penalty equal to the sum received by him in contravention of the provisions of section 186.

Penalty for failure to comply with provisions of section 187.

452. The Assessing Officer may impose on a person, a penalty of ₹ 5000 for every day of the duration of failure where he fails to provide a facility for accepting payments through the prescribed electronic modes of payment, as referred to in section 187.

Penalty for failure to comply with provisions of section 188.

453. If a person repays any loan or deposit or specified advance referred to in section 188 otherwise than in accordance with the provisions of that section, the Assessing Officer may impose on him, a penalty equal to the loan or deposit or specified advance so repaid.

Penalty for failure to furnish statement of financial transaction or reportable account.

454. (1) If a person who is required to furnish a statement of financial transaction or reportable account under section 508(1), fails to furnish such statement within the time prescribed under sub-section (2) thereof, the income-tax authority prescribed under the said sub-section (1) may impose on him, a penalty of ₹ 500 for every day during which such failure continues.

(2) If the person referred to in sub-section (1), fails to furnish the statement within the period specified in the notice issued under section 508(7), he shall pay penalty of ₹ 1000 for every day during which the failure continues, beginning from the day immediately after the time specified in such notice for furnishing the statement expires.

Penalty for furnishing inaccurate statement of financial transaction or reportable account.

455. (1) The prescribed income-tax authority referred to in section 508 may direct that a person required to furnish a statement under sub-section (1) of the said section shall pay penalty of ₹ 50000, if such person—

(*a*) provides inaccurate information in the statement or fails to furnish correct information within the period specified under section 508(8); or

(*b*) fails to comply with the due diligence requirement under section 508(9).

(2) The prescribed income-tax authority referred to in section 508, shall direct that reporting financial institution referred to in section 508(1)(*k*), shall, in addition to the penalty under sub-section (1) of this section, if any, pay a sum of ₹ 5000 for every inaccurate reportable account, if—

(*a*) the said institution provides inaccurate information in the statement required to be furnished under section 508(1); and

(*b*) the inaccuracy in the said statement is due to false or inaccurate information furnished by the holder or holders of the relevant reportable account or accounts.

(3) The reporting financial institution as referred to in sub-section (2) shall be entitled to—

(*a*) recover the amount paid under sub-section (2) on behalf of the reportable account holder; or

(*b*) retain an amount equal to the sum so paid out of any moneys that may be in its possession, or may come to it from every such account holder.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to furnish statement or information or document by an eligible investment fund.

456. If any eligible investment fund required to furnish a statement or any information or document under paragraph 4 of Schedule I, fails to do so within the time prescribed under the said paragraph, the income-tax authority prescribed under the said paragraph may direct that such fund shall pay, by way of penalty, a sum of ₹ 500000.

Penalty for failure to furnish information or document under section 171.

457. If any person who has entered into an international transaction or specified domestic transaction fails to furnish any such information or document as required under section 171(2), a penalty equal to 2% of the value of such transaction may be imposed upon him for each such failure by the Assessing Officer or the Transfer Pricing Officer as referred to in section 166 or the Commissioner (Appeals).

Penalty for failure to furnish information or document under section 506.

458. If any Indian concern, which is required to furnish any information or document under section 506, fails to do so, the prescribed income-tax authority under the said section, may direct that such Indian concern shall pay by way of penalty, a sum of—

(*a*) 2% of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

(*b*) ₹ 500000, in any other case.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to furnish report or for furnishing inaccurate report under section 511.

459. (1) If any reporting entity referred to in section 511, required to furnish the report referred to in sub-section (2) of the said section, for a reporting accounting year, fails to do so, the prescribed authority under that section may impose on such entity, a penalty of—

(*a*) ₹ 5000 for every day for which the failure continues, if the period of failure does not exceed one month;

(*b*) ₹ 15000 for every day for which the failure continues beyond the period of one month.

(2) If any reporting entity referred to in section 511 fails to produce the information and documents within the period allowed under sub-section (7) of the said section, the prescribed authority under that section may impose on such entity, a penalty of ₹ 5000 for every day during which the failure continues, beginning from the day immediately following the day on which the period for furnishing the information and document expires.

(3) If the failure referred to in sub-section (1) or (2) continues after an order imposing a penalty under the said sub-section, has been served on the entity, then, irrespective of the provisions of the said sub-sections, the prescribed authority may impose penalty of fifty thousand rupees for every day for which such failure continues beginning from the date of service of such order.

(4) If a reporting entity referred to in section 511 provides inaccurate information in the report furnished under sub-section (2) of the said section, the prescribed authority under that section may impose on such entity, a penalty of ₹ 500000, if—

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

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

(*c*) the entity furnishes inaccurate information or document in response to the notice issued under section 511(7).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to submit statement under section 505.

460. If any person required to furnish statement under section 505, fails to do so within the period prescribed under that section, the Assessing Officer may impose on him, a penalty of—

(*a*) ₹ 1000 for every day for which the failure continues, if the period of failure does not exceed three months; or

(*b*) ₹ 100000 in any other case.

Penalty for failure to furnish statements, etc.

461. (1) Where a person, who is required to deliver or causes to be delivered a statement prescribed in section 397(3)(*b*),—

(*a*) fails to do so within the time prescribed in the said section; or

(*b*) furnishes incorrect information in the said statement,

the Assessing Officer may impose on such person, a penalty of a sum which shall not be less than ₹ 10000 but which may extend to ₹ 100000.

(2) No penalty shall be levied under sub-section (1)(*a*) for delay in filing or non-filing of statement referred therein, if the person proves that—

(*a*) tax deducted or collected along with the fee and interest, if any, was paid to the credit of the Central Government; and

(*b*) the said statement was also delivered or cause to be delivered before the expiry of one month from the time prescribed in section 397(3)(*b*).

Penalty for failure to furnish information or furnishing inaccurate information under section 397(3)(*d*).

462. If any person, who is required to furnish information under section 397(3)(*d*), fails to furnish such information, or furnishes inaccurate information, the Assessing Officer may impose a penalty of ₹ 100000 on such person.

Penalty for furnishing incorrect information in reports or certificates.

463. (1) Any accountant or merchant banker or registered valuer, shall be liable to pay a penalty of ₹ 10000 for any incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder.

(2) The penalty under sub-section (1) shall be payable for each such report or certificate.

(3) The penalty under sub-section (1) shall be payable on directions of the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) where the incorrect information mentioned in sub-section (1) is found by such authority in the course of any proceedings under this Act.

(4) In this section,—

(*a*) "merchant banker" means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992); and

(*b*) "registered valuer" means a person registered as a valuer under section 514.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to furnish statements, etc.

464. The Assessing Officer may impose a penalty which shall not be less than ₹ 10000 but which may extend up to ₹ 100000 on—

(*a*) the research association, university, college or other institution referred to in section 45, if it fails to deliver or furnish the documents as may be prescribed under section 45(4)(*a*)*;* or

(*b*) the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under section 354(1)(*e*), or furnish a certificate prescribed under section 354(1)(*g*).

Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

465. (1) A person shall be liable to pay a penalty of ₹ 10000 for each default or failure as mentioned below, if that 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 section 246(1), either to attend to give evidence or to 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 a notice under section 268(1) or 270(8) or fails to comply with a direction issued under section 268(5).

(2) A person shall be liable to pay a penalty of ₹ 500 for every day during which the following failures continue, if that person fails to—

(*a*) comply with a notice under section 175(7); or

(*b*) give the notice of discontinuance of his business or profession as required by section 320(3); or

(*c*) furnish in due time any of the returns, statements or particulars mentioned in section 252 or 397(3) or 507; or

(*d*) allow inspection of any register referred to in section 255 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(*e*) furnish the return of income as required under section 263(1)(*a*)(*iii*) or (*iv*) or to furnish it within the time allowed and, in the manner, required under section 263(1) and (2); or

(*f*) deliver or cause to be delivered in due time a copy of the declaration required under section 393(7); or

(*g*) furnish a certificate under section 395(4); or

(*h*) deduct and pay tax under section 416(3); or

(*i*) furnish a statement under section 392(5)(*a*); or

(*j*) deliver or cause to be delivered in due time a copy of the declaration required under section 394(3); or

(*k*) deliver or cause to be delivered the statement within the time specified in section 397(3)(*b*); or

(*l*) deliver or cause to be delivered a statement within the time as may be prescribed under section 397(3)(*e*); or

(*m*) deliver or cause to be delivered a statement within the time as may be prescribed under section 397(3)(*g*)(*i*).

(3) The amount of penalty shall not exceed the amount of tax deductible or collectible for failures in relation to the following:—

(*a*) a declaration required under section 393(7);

(*b*) a certificate as required under section 395(4); and

(*c*) statements under section 397(3)(*b*) or (*e*).

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

(*a*) if the contravention, failure or default for which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not below the rank of Joint Director or a Joint Commissioner, by such income-tax authority;

(*b*) in a case falling under sub-section (1)(*d*), by the income-tax authority who had issued the notice or direction referred to therein;

(*c*) in a case falling under sub-section (2)(*f*), by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner; and

(*d*) in any other case, by the Joint Director or the Joint Commissioner.

(5) In this section, "income-tax authority" includes a Principal Director General or Director General, Principal Director or Director, Joint Director and an Assistant Director or Deputy Director while exercising the powers vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the matters specified in section 246(1).

Penalty for failure to comply with the provisions of section 254.

466. If a person fails to comply with the provisions of section 254, the Joint Commissioner, Deputy Director or Assistant Director or the Assessing Officer, may impose a penalty which may extend up to ₹ 1000 on him.

Penalty for failure to comply with the provisions of section 262.

467. (1) If a person fails to comply with the provisions of section 262, the Assessing Officer may impose a penalty of ₹ 10000 on him.

(2) If a person, required to quote or intimate his Permanent Account Number or Aadhaar number in any document as referred to in section 262(9)(*a*), provides or quotes or intimates a number which is false, knowing or believing it to be false, the Assessing Officer may impose a penalty of ₹ 10000 on him for each such default.

(3) If a person fails to quote or authenticate his permanent Account Number or Aadhaar number in any document referred to in section 262(9)(*a*), the Assessing Officer may impose a penalty of ₹ 10000 on him for each such default.

(4) If a person referred to in section 262(9)(*b*) responsible for ensuring the correct quoting or authentication of Permanent Account Number or Aadhaar number, in documents relating to transactions prescribed under section 262(9)(*a*) fails to do so, the Assessing Officer may impose a penalty of ₹ 10000 on him for each such default.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Penalty for failure to comply with the provisions of section 397.

468. (1) If a person fails to comply with the provisions of section 397, the Assessing Officer may impose a penalty of ₹ 10000 on him.

(2) If a person, required to quote his Tax Deduction and Collection Account Number in challans, certificates, statements or other documents referred to in section 397(1)(*b*), quotes a number which is false, knowing or believing it to be false or not true, the Assessing Officer may impose a penalty of ₹ 10000 on him.

Power to reduce or waive penalty, etc., in certain cases.

469 . (1) Irrespective of anything contained in this Act, the Principal Commissioner or Commissioner may, whether on his own motion or otherwise, at his discretion reduce or waive the penalty imposed or imposable under section 439 if he is satisfied that such person,—

(*a*) before the Assessing Officer detected any concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, has made a full and true disclosure of such particulars voluntarily and in good faith; and

(*b*) has cooperated in any enquiry relating to the assessment of his income and has paid or made satisfactory arrangements to pay any tax or interest payable in consequence of an order passed under this Act in respect of the relevant tax year.

(2) For the purposes of sub-section (1), a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto if the difference between the assessed and returned income does not attract penalties under section 439.

(3) Irrespective of anything contained in sub-section (1) or (2), if in a case falling under section 439, the amount of income in respect of which the penalty is imposed or imposable for the relevant tax year or where such disclosure relates to more than one tax year, and aggregate amount of such income or disclosure thereof for such years exceeds ₹ 500000, the Principal Commissioner or Commissioner shall obtain prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, before waiving or reducing the penalty by order referred to in sub-section (1).

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

(5) The Principal Commissioner or Commissioner may, upon an application from the assessee, and after recording his reasons for doing so, reduce or waive the amount of penalty or penalties (whether they relate to one or more tax years) payable by the assessee or stay or compound any proceeding for the recovery of any such amount, if—

(*a*) doing otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(*b*) the assessee has cooperated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(6) The Principal Commissioner or Commissioner shall take prior approval from the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be, if the aggregate amount of penalties reduced or waived or compounded, as the case may be, under sub-section (5), exceeds ₹ 100000.

(7) An order under sub-section (5), accepting or rejecting the application under the said sub-section, shall be passed within twelve months from the end of the month in which such application was received by the Principal Commissioner or Commissioner.

(8) No rejection of application under sub-section (5) shall be made without giving the assessee an opportunity of being heard.

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

Penalty not to be imposed in certain cases.

470. Irrespective of anything contained in the provisions of section 441 or 442 or 446 or 447 or 448 or 449 or 450 or 451 or 452 or 453 or 454 or 455 or 456 or 457 or 458 or 459 or 460 or 461 or 462 or 463 or 465(1)(*c*) or 465(1)(*d*) or 465(2) or 466 or 467 or 468, no penalty shall be imposed on a person or assessee for any failure referred to in the said provisions, if he proves that there was reasonable cause for the said failure.

Procedure.

471. (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.

(2) No order imposing a penalty under this Chapter shall be made without the prior approval of the Joint Commissioner—

(*a*) where the penalty exceeds ₹ 10000, by the Income-tax Officer;

(*b*) where the penalty exceeds ₹ 20000, by the Assistant Commissioner or Deputy Commissioner.

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

Bar of limitation for imposing penalties.

472. (1) No order imposing a penalty under this Chapter shall be passed after the expiry of six months from the end of the quarter in which—

(*a*) the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, if the relevant assessment or other order is not the subject-matter of an appeal under section 356 or 357 or 362;

(*b*) the order of revision is passed, if the relevant assessment or other order is the subject-matter of revision under section 377 or 378;

(*c*) the order of appeal is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject-matter of an appeal under section 356 or 357 or 362;

(*d*) notice for imposition of penalty is issued, in any other case.

(2) The order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be revised on the basis of assessment as revised by giving effect to the order under section 356 or 357 or 362 or 365 or 367 or revision under section 377 or 378, where the relevant assessment or other order is the subject-matter of an appeal or revision under the said sections.

(3) No order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty under sub-section (2) shall be passed—

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

(*b*) after the expiry of six months from the end of the quarter in which the order under section 356 or 357 or 362 or 365 or 367 is received by the jurisdictional Principal Commissioner or Commissioner or the order of revision under section 377 or 378 is passed.

(4) The provisions of section 471(2) shall apply to the order imposing or enhancing or reducing penalty under this section.

(5) In computing the period of limitation for the purposes of this section, following period shall be excluded—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 244(2);

(*b*) the period commencing on the date on which stay on proceeding for levy of penalty was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by jurisdictional Principal Commissioner or Commissioner.

CHAPTER XXII

OFFENCES AND PROSECUTION

Contravention of order made under section 247.

473. Whoever contravenes any order referred to in section 247(4) shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Failure to comply with section 247(1)(*ii*).

474. If a person, who is required to afford the authorised officer with the necessary facility to inspect the books of account or other documents, under section 247(1)(*ii*), fails to do so, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.

Removal, concealment, transfer or delivery of property to prevent tax recovery.

475. Whoever, fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, with the intent to prevent such property or interest therein from being taken in execution of a certificate drawn under section 413, shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.

Failure to pay tax to credit of Central Government under Chapter XIX-B.

476. (1) If a person fails to—

(*a*) pay the tax deducted at source by him to the credit of the Central Government, as required by or under the provisions of Chapter XIX-B; or

(*b*) pay tax or ensure payment of tax to the credit of the Central Government, as required under—

(*i*) Note 2 below the Table in section 393(3); or

(*ii*) Note 6 to section 393(1) (Table: Sl. No. 8),

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

(2) The provisions of this section shall not apply if the payment referred to in sub-section (1)(*a*) has been made to the credit of the Central Government on or before the time prescribed for filing the statement under section 397(3)(*b*) in respect of such payment.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Failure to pay tax collected at source.

477 . (1) If a person fails to pay the tax collected by him to the credit of the Central Government, as required under section 397(3)(*a*), 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.

(2) The provisions of this section shall not apply if the payment of the tax collected at source has been made to the credit of the Central Government on or before the time prescribed for filing the statement under section 397(3)(*b*) in respect of such payment.

Wilful attempt to evade tax, etc.

478 . (1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable, or under-reports his income, under this Act, he shall be punishable,—

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

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

(2) If a person wilfully attempts in any manner to evade the payment of any tax, penalty or interest under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall, in the discretion of the court, also be liable to fine.

(3) The punishment referred to in this section, shall be without prejudice to any penalty that may be imposable under any other provision of this Act.

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

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

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

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

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

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Failure to furnish returns of income.

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

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

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

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

(*a*) a return is furnished by him under section 263(4) or 263(6); or

(*b*) the tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any, paid before the expiry of period specified under section 263(4), and any tax deducted or collected at source, does not exceed ₹ 10000.

Failure to furnish return of income in search cases.

480. If a person wilfully fails to furnish in due time the return of total income which is required to be furnished by notice given under section 294(1)(*a*), he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Failure to produce accounts and documents.

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

False statement in verification, etc.

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

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

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

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Falsification of books of account or document, etc.

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

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

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Abetment of false return, etc.

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

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

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

he shall be punishable,—

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

Punishment for second and subsequent offences.

485. If any person convicted of an offence under sections 476, 477, 478(1), 479, 480, 482 or 484 is again convicted of an offence under any of the said sections, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years, and with fine.

Punishment not to be imposed in certain cases.

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

Offences by companies.

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

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

(3) Irrespective of anything contained in sub-sections (1) and (2), 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.

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

(5) 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.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Offences by Hindu undivided family.

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

(2) Nothing contained in sub-section (1) shall render the *karta* liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Irrespective of anything contained in sub-sections (1) and (2), 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.

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

489 . (1) Where during the course of any search made under section 247, any money, bullion, jewellery, virtual digital asset or other valuable article or thing (hereinafter referred to as the assets) or any books of account or other documents or any information in electronic form as defined in section 261(*g*) or on a computer system as defined in section 261(*e*) or any computer system containing the said information, has or have been found in the possession or control of any person and such assets or books of account or other documents or such information are tendered by the prosecution in evidence against such person, or against such person and the person referred to in section 484, for an offence under this Act, the provisions of section 247(7) shall, so far as may be, apply in relation to such assets or books of account or other documents or such information.

(2) Where any assets or books of account or other documents any information in electronic form or on a computer system or any computer system containing the said information taken into custody from the possession or control of any person by the officer or authority referred to in section 248(1)(*a*) or (*b*) or (*c*) are delivered to the requisitioning officer under sub-section (2) of that section and such assets, books of account or other documents or such information are tendered by the prosecution in evidence against such person, or against such person and the person referred to in section 484, for an offence under this Act, the provisions of section 247(7) shall, so far as may be, apply in relation to such assets or books of account or other documents or such information.

Presumption as to culpable mental state.

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

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

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

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

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

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

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

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

(5) Where any proceeding has been taken against any person under sub-section (1), any statement made or account or other document produced by such person before any income-tax authority specified in section 236(*a*) to (*k*) shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that—

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

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

(6) The power of the Board to issue orders, instructions or directions under this Act shall include the power to issue instructions or directions (including instructions or directions to obtain the previous approval of the Board) to other income-tax authorities for the proper composition of offences under this section.

Certain offences to be non-cognizable.

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

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Proof of entries in records or documents.

493. Entries in the records or other documents in the custody of an income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Chapter, and all such entries may be proved either by—

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

(*b*) the production of a copy of the entries certified by the income-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Disclosure of particulars by public servants.

494. (1) A public servant, who furnishes any information or produces any document in contravention of the provisions of section 258(3), shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

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

Special Courts.

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

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

(3) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), be charged at the same trial.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Offences triable by Special Court.

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

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

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

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

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

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

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Trial of offences as summons case.

497. The Special Court, irrespective of anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), shall try an offence under this Chapter punishable with imprisonment not exceeding two years or with fine, or with both, as a summons case, and the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 as applicable in the case of trial of summons case, shall apply accordingly.

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

498. (1) Save as otherwise provided in this Act, the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor.

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

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

(4) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of section 2(1)(*v*) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), and the provisions of that Sanhita shall have effect accordingly.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

CHAPTER XXIII

MISCELLANEOUS

Certain transfers to be *void*.

499. (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice by the Tax Recovery Officer as per the procedure specified under section 413, any assessee creates a charge on, or parts with the possession of, any of his assets in favour of any other person, such charge or transfer shall be *void* as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise.

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

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

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

(3) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds ₹ 5000 and the assets charged or transferred exceed ₹ 10000 in value.

(4) For the purposes of this section,—

(*a*) "assets" means land, building, machinery, plant, shares, securities, fixed deposits in banks, and virtual digital asset, to the extent to which any of the said assets do not form part of the stock-in-trade of the business of the assessee;

(*b*) the modes of creating a charge on or parting with the possession of such assets shall include sale, mortgage, gift, exchange or any other mode of transfer.

Provisional attachment to protect revenue in certain cases.

500. (1) Where, during the pendency of any proceeding for—

(*a*) the assessment of any income or for the assessment or reassessment of any income, which has escaped assessment; or

(*b*) imposition of penalty under section 444, where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds two crore rupees,

the Assessing Officer is of the opinion that for protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Competent Authority by order in writing, attach provisionally any property belonging to the assessee in the manner prescribed in section 413.

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

(3) The Competent Authority may, for reasons to be recorded in writing, extend the period referred to in sub-section (2) and the total period of such extension shall not exceed two years or sixty days after the date of order of assessment or reassessment, whichever is later.

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

(5) For the purposes of sub-section (4), where the Assessing Officer is satisfied that a guarantee from a scheduled bank for an amount lower than the fair market value of the property is sufficient to protect the interests of the revenue, he may accept such guarantee and revoke the attachment.

(6) The Assessing Officer may, for determining the value of the property provisionally attached under sub-section (1), make a reference to the Valuation Officer, who shall estimate the fair market value of the property in the manner provided under section 269(3) to (7), and submit a report of such estimate to the Assessing Officer within thirty days from the date of receipt of the reference.

(7) An order revoking the provisional attachment under sub-section (4) or (5) shall be made—

(*a*) within forty-five days from the date of receipt of the guarantee, where a reference to the Valuation Officer has been made under sub-section (6); or

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

(8) Where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay that sum within the time specified, the Assessing Officer may invoke the guarantee furnished under sub-section (4) or (5), wholly or in part, to recover the amount.

(9) The Assessing Officer shall, in the interests of revenue, invoke the bank guarantee, if the assessee fails to renew the guarantee referred to in sub-section (4) or (5), or fails to furnish a new guarantee from a scheduled bank for an equal amount, before fifteen days of its expiry.

(10) The amount realised by invoking the guarantee referred to in sub-section (4) or (5) shall be adjusted against the existing demand which is payable by the assessee; and the balance amount, if any, shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of,—

(*a*) the Reserve Bank of India or the State Bank of India; or

(*b*) any bank as may be appointed by the Reserve Bank of India as its agent under section 45(1) of the Reserve Bank of India Act, 1934 (2 of 1934) at the place where the office of the Principal Commissioner or Commissioner is situated.

(11) Where the Assessing Officer is satisfied that the guarantee referred to in sub-section (4) or (5) is not required any more to protect the interests of the revenue, he shall release that guarantee forthwith.

(12) For the purposes of this section, “Competent Authority” means the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director.

Service of notice, generally.

501. (1) The service of a notice, or summon, or requisition, or order, or any other communication, under this Act (herein referred to as communication) may be made by delivering or transmitting a copy thereof, to the person therein named—

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

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

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

(*d*) by any other means of transmission of documents, as may be prescribed.

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

(3) For the purposes of this section, "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.

Authentication of notices and other documents.

502. (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority as per such procedure, as may be prescribed.

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

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

Service of notice when family is disrupted or firm etc., is dissolved.

503. (1) After a finding of total partition has been recorded by the Assessing Officer under section 315 for any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person, who was its last manager, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.

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

Service of notice in case of discontinued business.

504. Where an assessment is to be made under section 320, the Assessing Officer may serve on the—

(*a*) person whose income is to be assessed; or

(*b*) person who was a member of a firm or association of persons at the time of its discontinuance, in the case of a firm or an association of persons; or

(*c*) principal officer, in the case of a company,

a notice containing all or any of the requirements which may be included in a notice under section 268(1) and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Submission of statement by a non-resident having liaison office.

505. Every person, being a non-resident, having a liaison office in India set up as per the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999 (42 of 1999), shall, in respect of its activities in a tax year, prepare and deliver to the Assessing Officer having jurisdiction, a statement, in such form and containing such particulars within such period, as may be prescribed.

Furnishing of information or documents by an Indian concern in certain cases.

506. Where,—

(*a*) any share of, or interest in, a company or an entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India, as referred to in section 9(10)(*a*); and

(*b*) such company or entity, as the case may be, holds, directly or indirectly, such assets in India through, or in, an Indian concern,

then, such Indian concern shall, for the purposes of determination of any income accruing or arising in India under the said section, furnish within prescribed period to the prescribed income-tax authority the information or documents in such manner, as may be prescribed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Submission of statements by producers of cinematograph films or persons engaged in specified activity.

507. (1) Any person carrying on the production of a cinematograph film or engaged in any specified activity, or both, during the whole or any part of any tax year shall, furnish within such period, a statement in such form and in such manner, to the prescribed income-tax authority as may be prescribed.

(2) The statement referred in sub-section (1) shall contain particulars of all payments of over ₹ 50000 in the aggregate made by him or due from him to each such person as is engaged by him in such production or specified activity.

(3) For the purposes of this section, the expression “specified activity” means any event management, documentary production, production of programmes for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification, specify.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Obligation to furnish statement of financial transaction or reportable account.

508 . (1) Any person, being—

(*a*) an assessee; or
(*b*) the prescribed person, in the case of an office of Government; or
(*c*) a local authority or other public body or association; or
(*d*) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or
(*e*) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988); or
(*f*) the Director General as referred to in section 2(*a*) of the Post Office Act, 2023 (43 of 2023); or
(*g*) the Collector referred to in section 3(*g*) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013); or
(*h*) the recognised stock exchange referred to in section 2(*f*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or
(*i*) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934); or
(*j*) a depository referred to in section 2(1)(*e*) of the Depositories Act, 1996 (22 of 1996); or
(*k*) a prescribed reporting financial institution; or
(*l*) any other person, as may be prescribed,

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

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

(3) In sub-section (1), "specified financial transaction" means any transaction—

(*a*) of purchase, sale or exchange of goods or property or right or interest in a property; or
(*b*) for rendering any service; or
(*c*) under a works contract; or
(*d*) by way of an investment made or an expenditure incurred; or
(*e*) for taking or accepting any loan or deposit,

as may be prescribed.

(4) The Board may prescribe different values for different transactions specified in sub-section (3) for different persons having regard to the nature of such transaction.

(5) If the prescribed income-tax authority finds a defect in the statement furnished under sub-section (1), he may intimate the defect to the person furnishing such statement, to rectify the defect within thirty days from the date of such intimation, and at his discretion, extend the said period upon an application made for this purpose.

(6) If the defect mentioned in sub-section (5) remains unrectified within the initial period of thirty days or extended period as applicable, then, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement, irrespective of anything contained in any other provision of this Act.

(7) If a person required to furnish a statement under sub-section (1) fails to do so within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement, within a period not exceeding thirty days from the date of service of such notice, and he shall furnish the statement within the time specified therein.

(8) If a person, having furnished a statement under sub-section (1), or in pursuance of a notice issued under sub-section (7), becomes aware of any inaccuracy in the information provided, he shall within ten days, inform the prescribed income-tax authority or other authority or agency referred to in sub-section (1), of the inaccuracy and furnish the correct information in such manner, as may be prescribed.

(9) The Central Government may, specify by rules,—

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

Obligation to furnish information on transaction of crypto-asset.

509. (1) Any person, being a reporting entity, as may be prescribed, in respect of a crypto-asset, shall furnish information in respect of a transaction of such crypto-asset in a statement, for such period, within such time, in such form and manner and to such income-tax authority, as may be prescribed.

(2) Where the prescribed income-tax authority considers that the statement furnished under sub-section (1) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within thirty days from the date of such intimation or such further period as may be allowed, and if the defect is not rectified within such period, the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement.

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

(4) If any person, having furnished a statement under sub-section (1), or in pursuance of a notice issued under sub-section (3), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within ten days inform the prescribed income-tax authority, the inaccuracy in such statement and furnish the correct information in such manner as may be prescribed.

(5) The Central Government may, by rules prescribe—

(*a*) the persons referred to in sub-section (1) to be registered with the prescribed income-tax authority;

(*b*) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (*a*); and

(*c*) the due diligence to be carried out by the persons referred to in sub-section (1) for the purpose of identification of any crypto-asset user or owner.

(6) For the purposes of this section, the expression “crypto-asset” shall have the meaning assigned to it in section 2(*111*)(*d*).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Annual information statement.

510. (1) The prescribed income-tax authority or the person authorised by such authority, shall upload in the registered account of the assessee an annual information statement in such form and manner, within such time and along with such information, which is in the possession of an income-tax authority, as may be prescribed.

(2) In sub-section (1), "registered account" means the electronic filing account registered by the assessee in the web portal, as may be designated by the prescribed income-tax authority or the person authorised by such authority.

Furnishing of report in respect of international group.

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

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

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

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

(3) In sub-sections (2) and (4), the report in respect of an international group shall include—

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

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

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

(*d*) any other information, as may be prescribed.

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

(*a*) where the parent entity is not obligated to file the report of the nature referred to in the said sub-section; or

(*b*) with which India does not have an agreement providing for exchange of the report of the nature referred to in the said sub-section; or

(*c*) where there has been a systemic failure of the country or territory and such failure has been intimated by the prescribed income-tax authority to such constituent entity.

(5) If there are more than one such constituent entities of the group, resident in India, the report as mentioned in sub-section (4) shall be furnished by any one constituent entity, if—

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

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

(6) The provisions of sub-sections (4) and (5) shall not apply, if—

(*a*) an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (2), with the tax authority of the country or territory in which such entity is resident, on or before the date specified by that country or territory; and

(*b*) the following conditions are satisfied:—

(*i*) the said report is required to be furnished under any law in force in the said country or territory;

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

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

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

(*v*) the prescribed income-tax authority has been informed by the entity referred to in sub-sections (4) and (5) as per sub-section (1).

(7) The prescribed income-tax authority may, for determining the accuracy of the report furnished by any reporting entity, issue notice in writing, requiring the entity to produce such information and document as specified in the notice within thirty days of the date of receipt of the notice and such period may be extended by up to an additional thirty days upon application by the entity.

(8) The provisions of this section shall not apply to an international group for an accounting year, if the total consolidated group revenue, as per the consolidated financial statement for the accounting year preceding such accounting year, does not exceed the prescribed amount.

(9) The provisions of this section shall be applied as per such guidelines and subject to such conditions, as may be prescribed.

(10) For the purposes this section,—

(*a*) "accounting year" means,—

(*i*) a tax year, in a case where the parent entity is resident in India; or

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

(*b*) "agreement" means a combination of all of the following agreements:—

(*i*) an agreement entered into under section 159(1) or (2); and

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

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

(*d*) "constituent entity" means—

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

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

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

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

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

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

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

(*g*) "international group" means any group that includes—

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

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

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

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

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

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

(*i*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(*j*) "reporting accounting year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-sections (2), (4) and (5);

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

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

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

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

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Publication of information respecting assessees in certain cases.

512. (1) If the Central Government is of the opinion that it is necessary or expedient in the public interest to publish the names of any assessees and any other particulars relating to any proceedings or prosecutions under this Act in respect of such assessees, it may publish such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made for any penalty imposed under this Act, until the time for filing an appeal under section 356 or 357 has expired and no appeal has been filed, or if an appeal is filed, it has been disposed of.

(3) The names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published under sub-section (1), if, in the opinion of the Central Government, the circumstances of the case justify it.

Appearance by registered valuer in certain matters.

513. (1) Any assessee, entitled or required to attend before any income-tax authority or the Appellate Tribunal in matters relating to the valuation of any asset, may attend through a registered valuer.

(2) The provisions of sub-section (1) shall not apply, where the assessee is required to attend personally for examination on oath or affirmation under section 246.

(3) For the purposes of this section, the expression “registered valuer” means a person registered as a valuer under section 514.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Registration of valuers.

514. (1) The Principal Chief Commissioner or Chief Commissioner, or the Principal Director General or Director General, shall maintain a register of valuers in which the names and addresses of persons registered under sub-section (2) shall be entered.

(2) Any person, possessing such qualification for valuing such class of assets, as may be prescribed, may apply to the Principal Chief Commissioner or Chief Commissioner, or the Principal Director General or Director General, for getting registered as a valuer, in such form, verified in such manner and accompanied by such fee, as may be prescribed, along with a declaration stating that the applicant will—

(*a*) conduct an impartial and true valuation of any asset required to be valued;

(*b*) furnish a valuation report in the prescribed form;

(*c*) charge fees not exceeding the prescribed rate or rates; and

(*d*) refrain from undertaking the valuation of any asset in which such person has a direct or indirect interest.

(3) The valuation report prepared by a registered valuer for any asset shall be in such form and verified in such manner, as may be prescribed.

Appearance by authorised representative.

515. (1) An assessee, entitled or required to attend before any income-tax authority or the Appellate Tribunal for any proceeding under this Act, may attend through an authorised representative.

(2) The provisions of sub-section (1) shall not apply where an assessee is required to attend personally for examination on oath or affirmation under section 246.

(3) For the purposes of this section,—

(*a*) "authorised representative" means a person authorised by the assessee, in writing, to appear on his behalf, being—
- (*i*) a person related to or regularly employed by the assessee in any manner; or
- (*ii*) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings; or
- (*iii*) any legal practitioner, who is entitled to practise in any civil court in India; or
- (*iv*) an accountant; or
- (*v*) any person, who has passed any accountancy examination recognised by the Board; or
- (*vi*) any person, who has acquired such educational qualifications, as may be prescribed; or
- (*vii*) any person who, before the coming into force of the Income-tax Act, 1961 (43 of 1961) in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than as an employee or relative of that assessee; or
- (*viii*) any other person who was an authorised representative in accordance with the provisions of section 288(2)(*vii*) of the Income-tax Act, 1961 (43 of 1961); or
- (*ix*) any other person as may be prescribed;

(*b*) "accountant" means a chartered accountant as defined in section 2(1)(*b*) of the Chartered Accountants Act, 1949 (38 of 1949), who holds a valid certificate of practice under section 6(1) of that Act, but does not include [except for representing the assessee under sub-section (1)],—
- (*i*) in case of an assessee, being a company, a person who is not eligible for appointment as an auditor of the said company under section 141(3) of the Companies Act, 2013 (18 of 2013); or
- (*ii*) in any other case, —
  - (*A*) the assessee himself, or in the case of being a firm or association of persons or a Hindu undivided family, any partner of such firm or a member of such association or such Hindu undivided family;
  - (*B*) for an assessee, being a registered non-profit organisation, any person referred to in section 355(*h*)(*i*) or (*ii*) or (*iii*) or (*iv*);
  - (*C*) for any person other than the persons referred to in sub-clauses (*A*) and (*B*), the person who is competent to verify the return under section 263 as per section 265;
  - (*D*) any relative of any of the persons referred to in sub-clauses (*A*), (*B*) and (*C*);
  - (*E*) an officer or employee of the assessee;
  - (*F*) an individual, who, is a partner, or who is in the employment, of an officer or employee of the assessee;
  - (*G*) an individual, who or his relative or partner—
    - (*I*) is holding any security of, or interest in, the assessee and the face value of such security or interest held by his relative does not exceed ₹ 1,00,000;
    - (*II*) is indebted to the assessee, and such debt in case of his relative does not exceed ₹ 1,00,000;
    - (*III*) has given a guarantee or provided security in connection with the indebtedness of a third person to the assessee and such relative gives a guarantee or provides security for an amount not exceeding ₹ 1,00,000;
  - (*H*) a person who, whether directly or indirectly, has business relationship with the assessee of such nature, as may be prescribed;
  - (*I*) a person convicted by a court of an offence involving fraud and ten years has not elapsed from the date of such conviction.

(4) No person,—

(*a*) who has been dismissed or removed from Government service; or

(*b*) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, except a penalty imposed under section 271(1)(*ii*) or 272A(1)(*d*) of the Income-tax Act, 1961 (43 of 1961) or section 465(1)(*d*) of this Act; or

(*c*) who has become an insolvent; or

(*d*) who has been convicted by a court for an offence involving fraud,

shall be qualified to represent an assessee under sub-section (1), for—

(*i*) all times, in case of a person referred to in clause (*a*);

(*ii*) such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine, in case of a person referred to in clause (*b*);

(*iii*) the period during which the insolvency continues, in case of a person referred to in clause (*c*); and

(*iv*) ten years from the date of conviction, in case of a person referred to in clause (*d*).

(5) If a person,—

(*a*) who is a legal practitioner or an accountant, is found guilty of misconduct in his professional capacity by any authority authorised to institute disciplinary proceedings against him, the order passed by that authority shall affect his right to attend before an income-tax authority in the same manner as it affects his right to practise as a legal practitioner or accountant, as the case may be;

(*b*) who is not a legal practitioner or an accountant, and is found guilty of misconduct in any income-tax proceedings by the prescribed income-tax authority, he may be directed by such authority that he shall henceforth be disqualified from representing an assessee under sub-section (1).

(6) Every order or direction under sub-section (4)(*b*) or (5)(*b*) shall be subject to the following conditions:—

(*a*) no such order or direction shall be made against any person unless he has been given a reasonable opportunity of being heard;

(*b*) any person against whom such an order or direction is made may, within one month of the said order or direction, appeal to the Board to have the order or direction cancelled; and

(*c*) no such order or direction shall take effect until one month has passed from the making thereof, or, if an appeal has been filed, until the disposal of the appeal.

(7) A person disqualified to represent an assessee by virtue of section 61(3) of the Indian Income-tax Act, 1922 (11 of 1922) or section 288(5) of the Income-tax Act, 1961 (43 of 1961) shall be disqualified to represent an assessee under sub-section (1).

(8) For the purposes of this section, the expression "relative", in relation to an individual, means—

(*a*) spouse of the individual;
(*b*) brother or sister of the individual;
(*c*) brother or sister of the spouse of the individual;
(*d*) any lineal ascendant (maternal or paternal) or descendant of the individual;
(*e*) any lineal ascendant (maternal or paternal) or descendant of the spouse of the individual;
(*f*) spouse of a person referred to in clause (*b*), (*c*), (*d*) or (*e*);
(*g*) any lineal descendant of a brother or sister of either the individual or the spouse of the individual.

Rounding off of amount of total income, or amount payable or refundable.

516. The amount of total income computed or any amount payable or refundable under this Act, shall be rounded off to the nearest multiple of ₹ 10 ignoring any part of a rupee consisting of paise and thereafter if such amount is not a multiple of ten, then—

(*a*) such amount shall be increased to the next higher amount which is a multiple of ten, if the last figure in that amount is five or more; or

(*b*) such amount shall be reduced to the next lower amount which is a multiple of ten, if the last figure is less than five,

and the amount so rounded off shall be deemed to be the total income of the assessee or the amount payable or refundable, as the case may be, under this Act.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Receipt to be given.

517. A receipt shall be given for any money paid or recovered under this Act.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Indemnity.

518. Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of an income belonging to another person shall be indemnified for the deduction, retention, or payment thereof.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Power to tender immunity from prosecution.

519. (1) The Central Government may, if it is of the opinion that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income it is necessary or expedient so to do, for reasons to be recorded in writing, tender to such person,—

(*a*) immunity from prosecution for any offence under this Act or under the Bharatiya Nyaya Sanhita, 2023 (45 of 2023), or under any other Central Act in force; and

(*b*) from imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made, or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section—

(*a*) has not complied with the conditions on which the tender was made; or

(*b*) is wilfully concealing anything; or

(*c*) is giving false evidence,

the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn.

(4) The person whose immunity has been withdrawn under sub-section (3) may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to imposition of any penalty under this Act to which he would otherwise have been liable.

Cognizance of offences.

520. No court inferior to that of a Judicial Magistrate of the first class shall try any offence under this Act.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Probation of Offenders Act, 1958 and section 401 of Bharatiya Nagarik Suraksha Sanhita, 2023, not to apply.

521. The provisions of the Probation of Offenders Act, 1958 (20 of 1958) and section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) shall not apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Return of income, etc., not to be invalid on certain grounds.

522. No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken, or purported to have been furnished or made or issued or taken, in pursuance of any of the provisions of this Act, shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding, if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purposes of this Act.

Notice deemed to be valid in certain circumstances.

523. (1) Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under this Act, which is required to be served upon him, has been duly served upon him in time as per the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(*a*) not served upon him; or

(*b*) not served upon him in time; or

(*c*) served upon him in an improper manner.

(2) The provisions of sub-section (1) shall not apply where the assessee has raised such objection before the completion of such assessment or reassessment.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Presumption as to assets, books of account, etc.

524. (1) Where any books of account, other documents, money, bullion, jewellery, virtual digital asset or other valuable article or thing or any information in electronic form as defined in section 261(*g*) or on a computer system as defined in section 261(*e*) or any computer system containing the said information, is found in the possession or control of any person in the course of a search under section 247 or survey under section 253, it may, in any proceeding under this Act, be presumed—

(*a*) that such books of account, other documents, money, bullion, jewellery, virtual digital asset or other valuable article or thing such information or computer system belong or belongs to such person;

(*b*) that the contents of such books of account and other documents or such information or computer system are true;

(*c*) that the signature and every other part of such books of account and other documents, which purports to be in the handwriting of any particular person, or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in the handwriting of that person;

(*d*) in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested; and

(*e*) that exchange of such information in electronic form, or on such computer system purported to be exchanged between any parties, is exchanged between the parties thereto.

(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer as per section 248, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets, which had been taken into custody from the person referred to in sub-section (1) (*a*) or (*b*) or (*c*) of the said section, had been found in the possession or control of that person in the course of a search under section 247.

Authorisation and assessment in case of search or requisition.

525. (1) Irrespective of anything contained in this Act,—

(*a*) it shall not be necessary to issue an authorisation under section 247 or make a requisition under section 248 separately in the name of each person;

(*b*) where an authorisation under section 247 has been issued or requisition under section 248 has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.

(2) Irrespective of an authorisation issued under section 247 or a requisition made under section 248 mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Bar of suits in civil courts.

526. No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act, and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done under this Act.

Power to make exemption, etc., in relation to participation in business of prospecting for, extraction, etc., of mineral oils.

527. (1) If the Central Government is satisfied that it is necessary or expedient in the public interest, it may, by notification, make an exemption, reduction in rate, or other modification of income-tax for any class of persons specified in sub-section (2) or in regard to the whole or any part of the income of such class of persons or the status in which such class of persons or the members thereof are to be assessed on their income from the business referred to in sub-section (2)(*a*), effective from tax year beginning on or after 1st April, 1992.

(2) The persons referred to in sub-section (1) shall be the following:—

(*a*) persons with whom the Central Government has entered into agreements for the association or participation of that Government, or any person authorised by that Government in any business of prospecting for or extraction or production of mineral oils;

(*b*) persons providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by sale or hire) for any business consisting of the prospecting for or extraction or production of mineral oils carried on by that Government, or any person specified by that Government by notification; and

(*c*) employees of the persons referred to in clause (*a*) or (*b*).

(3) Every notification issued under this section shall be laid before each House of Parliament.

(4) For the purposes this section,—

(*a*) "mineral oil" includes petroleum and natural gas;

(*b*) "status" means the category of person as defined in section 2(*77*) under which the assessee is assessed.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Power of Central Government or Board to condone delays in obtaining approval.

528. Where, the approval of the Central Government or the Board is required to be obtained before a specified date under this Act, it shall be open to the Central Government or the Board to condone, for sufficient cause, any delay in obtaining such approval.

Power to withdraw approval.

529. Where the Central Government or the Board or an income-tax authority, has the power to grant any approval under any provision of this Act to any assessee, the Central Government or the Board or such income-tax authority may, withdraw such approval at any time after recording the reasons therefor, even if such provision does not specifically allow for its withdrawal, after giving such assessee a reasonable opportunity of being heard.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Act to have effect pending legislative provision for charge of tax.

530. If on the 1st April in any tax year, provision has not yet been made by a Central Act for the charging of income-tax for that tax year, this Act shall nevertheless have effect until such provision is so made, as if the provision in force in the preceding tax year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force.

Power to rescind exemption in relation to certain Union territories already granted under section 294A of the Income-tax Act, 1961.

531. Where the Central Government considers it necessary or expedient so to do may, by general or special order, rescind an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessees or in regard to the whole or any part of the income of any assessee or class of assessees, made as per the provisions of section 294A of the Income-tax Act, 1961 (43 of 1961).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Power to frame schemes.

532. (1) The Central Government may, by notification, make a scheme for any of the purposes of this Act, so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface with the assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation.

(2) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (1), by notification, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in the notification.

(3) Where a scheme has been notified under the provisions of the Income-tax Act, 1961 (43 of 1961) with a view to eliminating the interface with the assessee or any other person, the Central Government may, by notification, amend or modify the said scheme as per the provisions of sub-section (1), and the provisions of sub-section (2) shall apply accordingly.

(4) Every notification issued under sub-sections (1), (2) and (3) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Power to make rules.

533. (1) The Board may, subject to the control of the Central Government, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(*a*) the ascertainment and determination of any class of income;

(*b*) the manner in which and the procedure by which the income shall be arrived at in the case of—

(*i*) income derived in part from agriculture and in part from business;

(*ii*) persons residing outside India;

(*iii*) operations carried out in India by a non-resident;

(*iv*) transactions or activities of a non-resident;

(*v*) an individual who is liable to be assessed under section 99(3) and (4);

(*c*) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;

(*d*) the percentage on the written down value which may be allowed as depreciation for buildings, machinery, plant or furniture;

(*e*) the matters specified in section 62;

(*f*) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 134;

(*g*) the matters specified in Chapter XI;

(*h*) the time within which any person may apply for the allotment of a Permanent Account Number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which Permanent Account Number shall be quoted on documents relating to such transactions under section 262;

(*i*) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 263(2)(*a*);

(*j*) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 263(2)(*a*);

(*k*) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under section 263(2)(*b*);

(*l*) the form of the report of audit or inventory valuation and the particulars which such report shall contain under section 268(5);

(*m*) remuneration of Chairperson and members of the Approving Panel under section 274(21) and procedure and manner for constitution of, functioning and disposal of references by, the Approving Panel under section 274(24);

(*n*) the form and manner in which the information relating to payment of any sum may be furnished under section 397(3)(*d*);

(*o*) the authority to be prescribed for any of the purposes of this Act;

(*p*) the procedure for giving effect to any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation entered into by the Central Government under this Act;

(*q*) the procedure for granting of relief or deduction, of any income-tax paid in any country or specified territory outside India, under section 159 or 160, against the income-tax payable under this Act;

(*r*) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;

(*s*) the manner in which any document required to be filed under this Act may be verified;

(*t*) the procedure to be followed on applications for refunds;

(*u*) the procedure for calculating interest payable by assessees or by the Government to assessees under this Act, including the rounding off of periods when a fraction of a month is involved, and specifying the circumstances under which and the extent to which petty amounts of interest payable by assessees may be ignored;

(*v*) the regulation of any matter for which provision is made in section 420;

(*w*) the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation referred to in section 358(3)(*b*) may be served;

(*x*) the circumstances, conditions and the manner in which, the Joint Commissioner (Appeals) or the Commissioner (Appeals) may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Assessing Officer;

(*y*) the form in which the statement under section 507 shall be delivered to the Assessing Officer;

(*z*) the maintenance of a register of persons other than legal practitioners or accountants practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in section 515(5);

(*za*) the issue of certificate verifying the payment of tax by assessees;

(*zb*) any other matter which by this Act is to be, or may be, prescribed.

(3) In cases falling under sub-section (2)(*b*), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee, which is unreasonable, the rules made under this section may—

(*a*) prescribe methods by which an estimate of such income may be made; and

(*b*) in cases of income derived in part from agriculture and in part from business, specify the proportion of the income which shall be deemed to be income liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made as per this Act.

(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees.

Laying before Parliament.

534. The Central Government shall cause—

(*a*) every rule made under this Act;

(*b*) rules of procedure framed by the Appellate Tribunal under section 364; or

(*c*) every notification issued under sections 263(3) and 264 and Chapter XIII-G,

to be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in such rule, or notification or both Houses agree that the rule, should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Removal of difficulties.

535. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) In particular, and without prejudice to the generality of the foregoing power, any order referred to in sub-section (1) may provide for the adaptations or modifications subject to which the Income-tax Act, 1961 (43 of 1961) shall apply in relation to the assessments for the tax year ending on the 31st March, 2026, or any earlier tax year.

(3) No order under sub-section (1) shall be made after the expiration of three years from the 1st April, 2026.

(4) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Repeal and savings.

536. (1) The Income-tax Act, 1961 (43 of 1961) is hereby repealed.

(2) Irrespective of the repeal of the Income-tax Act, 1961 (43 of 1961) (herein referred to as the repealed Income-tax Act), and subject to sub-section (3)—

(*a*) nothing shall affect the previous operation of the repealed Income-tax Act and orders or anything duly done or suffered thereunder; or

(*b*) nothing shall affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Income-tax Act or orders under such repealed Act;

(*c*) the provisions of the repealed Income-tax Act shall continue to apply to any proceeding pending on the date of commencement of this Act and to any proceedings initiated on or after the 1st April, 2026 (including notices, assessment, reassessment, recomputation, rectification, penalty, reference, revision and appeals) in respect of any tax year beginning before the 1st April, 2026 and such proceedings shall be carried out as per the procedure specified in the repealed Income-tax Act;

(*d*) any proceeding for the imposition of a penalty in respect of any tax year beginning before the 1st April, 2026, may be initiated and any such penalty may be imposed under the repealed Income-tax Act, as if this Act had not been enacted;

(*e*) any proceeding pending on the commencement of this Act before any income-tax authority or any other authority constituted under the repealed Income-tax Act, Appellate Tribunal, or any court, by way of application, appeal, reference or revision or by any other means, shall be continued and disposed of as if this Act had not been enacted;

(*f*) any election or declaration made, or option exercised, by an assessee under any provision of the repealed Income-tax Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made, or option exercised, under the corresponding provision of this Act;

(*g*) where in respect of any proceeding relating to any tax year beginning before the 1st April, 2026,—

(*i*) a refund falls due after commencement of this Act; or

(*ii*) default is made after such commencement in the payment of any sum due under such proceeding,

the provisions of this Act, relating to interest payable by the Central Government on refunds and interest payable by the assessee for default, shall apply for the period after the commencement of this Act;

(*h*) where any deduction has been allowed or any amount has not been included in the total income of any person, subject to fulfilment of certain conditions for any tax year beginning before the 1st April, 2026, and in case of violation of such conditions in any tax year beginning on or after 1st April, 2026, any sum (on account of deduction earlier allowed or amount not included) was required to be included in the total income of such subsequent tax year under the repealed Income-tax Act if it had not been so repealed, then such sum shall be—

(*i*) deemed to be the income of the tax year in which the violation takes place; and

(*ii*) included in the total income of the said person under the same head of income as it would have been included under the repealed Income-tax Act;

(*i*) any sum payable under the repealed Income-tax Act may be recovered under this Act without prejudice to any action already taken for the recovery of such sum under repealed Income-tax Act;

(*j*) any agreement entered into, appointment made, approval given, recognition granted, circular, direction, instruction, notification, order or rule or any scheme framed therein issued under any provision of the repealed Income-tax Act shall, so far as it is not inconsistent with the corresponding provisions of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision of this Act and shall continue in force accordingly;

(*k*) where the period provided for any application, appeal, reference or revision under the repealed Income-tax Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority;

(*l*) any amount of credit, in respect of tax paid, allowable to be carried forward in the case of an assessee, under the provisions of section 115JAA or 115JD of the repealed Income-tax Act for the tax year beginning before the 1st April, 2026, had the Income-tax Act, 1961 (43 of 1961) not been repealed,—

(*i*) shall be deemed to be the amount eligible for credit under corresponding provision of this Act in the case of said assessee; and

(*ii*) credit for the tax paid under the repealed Income-tax Act shall be allowed under this Act for the period for which it would have been allowed under the repealed Income-tax Act if the assessee otherwise continues to satisfy the conditions as specified in the corresponding provisions of this Act in such tax years;

(*m*) any amount of loss under the source or head of income specified in column B of the Table given below and referred to in the section of the repealed Income-tax Act specified in column C of the said Table, brought forward for the tax year beginning before the 1st April, 2026 had the Income-tax Act, 1961 (43 of 1961) not been repealed, shall be set off and carried forward against the income computed under this Act, in the manner provided in the respective section of the repealed Income-tax Act specified in column C of the said table, for the tax years beginning on or after the 1st April, 2026:

Table

Sl. No.	*Source or head of income under the repealed Income-tax Act*	*Section of the repealed Income-tax Act*
A	*B*	*C*
1.	Income from house property.	71B.
2.	Profits and gains of business or profession.	72.
3.	Speculation business.	73.
4.	Specified Business.	73A.
5.	Activity of owning and maintaining race horses.	74A.

(*n*) any amount of loss under the head capital gains, whether related to a long-term capital asset or a short term capital asset, referred to in section 74 of the repealed Income-tax Act, brought forward from the tax year beginning before the 1st April, 2026 had the Income-tax Act, 1961 (43 of 1961) not been repealed, shall be carried forward and set off, in accordance with the manner provided in the repealed Income-tax Act, against the income under the head "Capital gains" computed under this Act for any tax year beginning on or after the 1st April, 2026 upto eight financial years immediately succeeding the financial year in which such loss was first computed under the repealed Income-tax Act;

(*o*) any set off of loss or allowance for depreciation made in any tax year beginning before the 1st April, 2026 in the hands of the amalgamated company, successor company or the successor limited liability partnership, in accordance with the provisions of section 72A of the repealed Income-tax Act, shall be deemed to be the income of the amalgamated company, successor company or the successor limited liability partnership, as the case may be, chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with;

(*p*) any set off of accumulated loss or unabsorbed depreciation allowed in any tax year beginning before the 1st April, 2026 to the successor co-operative bank, in accordance with the provisions of section 72AB of the repealed Income-tax Act, shall be deemed to be the income of the successor co-operative bank chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with;

(*q*) any amount of profits or gains arising out of transfer of capital asset not charged under the head "capital gains" by virtue of the provisions contained in section 47(*iv*), (*v*), (*xiii*), (*xiiib*) or (*xiv*) of the repealed Income-tax Act in any tax year beginning before the 1st April, 2026 shall be deemed to be the income chargeable under the head "Capital gains" under this Act, for the tax year—

(*A*) in which the transfer took place if any of the conditions laid down in section 47A(1)(*i*) or (*ii*) of the repealed Income-tax Act are satisfied; or

(*B*) in which any of the conditions laid down in section 47(*xiii*), (*xiiib*) or (*xiv*) of the repealed Income-tax Act are not complied with,

as the case may be;

(*r*) where any allowance or part thereof, under section 32(2) or 35(4) of the repealed Income-tax Act, is to be carried forward to tax year beginning on the 1st April, 2026, had the Income-tax Act, 1961 (43 of 1961) not been repealed, then, the allowance or part thereof shall be added to the amount of capital allowances referred to corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for that tax year, be deemed to be allowance for that tax year;

(*s*) the deduction referred to in sections 35ABA, 35ABB, 35D, 35DD, 35DDA, 35E or the first proviso to section 36(1)(*ix*) of the repealed Income-tax Act, shall, on fulfilment of the conditions mentioned in the said provisions, continue to be allowed under this Act for tax year beginning on or after the 1st April, 2026 had the Income-tax Act, 1961 not been repealed and such deduction shall be added to the amount of deferred revenue expenditure allowance referred to corresponding provisions of this Act for the tax year beginning on or after the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for a tax year, be deemed to be that allowance for that tax year;

(*t*) credit balance in the provision for bad and doubtful debts account made under section 36(1)(*viia*) of the repealed Income-tax Act standing on the last day of the tax year beginning on 1st April, 2025 shall be added to the amount credited to the provision for bad and doubtful debts accounts referred to in the corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of amount credited to the provision for bad and doubtful debts accounts, or if there is no such amount credited for that tax year, be deemed to be amount credited for that tax year;

(*u*) any scheme which has been notified under the provisions of the repealed Income-tax Act with a view to eliminating the interface with the assessee or any other person, the said scheme shall be deemed to have been made—

(*i*) under the corresponding provisions of this Act; or

(*ii*) under section 532 where there is no such corresponding provision,

and shall continue in force accordingly; and

(*v*) where a search has been initiated under section 132 or requisition is made under section 132A prior to the commencement of this Act, the provisions of repealed Income-tax Act, shall continue to apply to any proceedings connected in respect of such search or requisition, as the case may be, as if this Act has not been enacted.

(3) Where any reference is made in this Act to any tax year commencing on the 1st April, 2025 or to any earlier tax year, the same shall be construed as a reference to the corresponding previous year under the repealed Income-tax Act.

(4) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply with regard to the effect of repeal.

SCHEDULE I

[*See* section 9(12)]

CONDITIONS FOR CERTAIN ACTIVITIES NOT TO CONSTITUTE BUSINESS CONNECTION IN INDIA

1. (1) The eligible investment fund referred to in section 9(12), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:—

(*a*) the fund is not a person resident in India;

(*b*) the fund is—

(*i*) a resident of a country or a specified territory with which an agreement referred to in section 159(1) or (2) has been entered into; or

(*ii*) established or incorporated or registered in a country or a specified territory as notified in this behalf;

(*c*) the aggregate participation or investment in the fund, directly, by persons resident in India does not exceed 5% of the corpus of the fund as on the 1st April and the 1st October of the tax year, subject to the conditions that—

(*i*) for the purposes of calculation of such aggregate participation or investment in the fund, any contribution made by the eligible fund manager during the first three years of operation of the fund, not exceeding twenty-five crore rupees, shall not be taken into account;

(*ii*) where the aforesaid aggregate participation or investment in the fund exceeds 5% on the 1st April or the 1st October of the tax year, the condition mentioned in this clause shall be deemed to be satisfied, if it is satisfied within four months of the 1st April or the 1st October of such tax year;

(*d*) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where such fund is established or incorporated or is a resident;

(*e*) the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;

(*f*) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding 10%;

(*g*) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than 50%;

(*h*) the fund shall not invest more than 25% of its corpus in any entity;

(*i*) the fund shall not make any investment in its associate entity;

(*j*) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees subject to the following:—

(*i*) if the fund has been established or incorporated in the tax year, then corpus of fund shall not be less than one hundred crore rupees at the end of twelve months from the last day of the month of its establishment or incorporation; and

(*ii*) this clause shall not apply to a fund which has been wound up in the tax year;

(*k*) the fund shall not carry on or control and manage, directly or indirectly, any business in India;

(*l*) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;

(*m*) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the amount calculated in such manner, as may be prescribed.

(2) The conditions specified in paragraph (1)(*e*), (*f*) and (*g*) shall not apply, in case of—

(*a*) an investment fund set up by the Government or the Central Bank of a foreign State or a sovereign fund; or

(*b*) such other fund as the Central Government may, by notification, specify in this behalf, subject to conditions, if any.

(3) The eligible fund manager, referred to in section 9(12), in respect of an eligible investment fund, means any person who is engaged in the activity of fund management and fulfils the following conditions:—

(*a*) the person is not an employee of the eligible investment fund or a connected person of the fund;

(*b*) the person is registered as a fund manager or an investment advisor in accordance with the regulations as specified;

(*c*) the person is acting in the ordinary course of his business as a fund manager;

(*d*) the person along with his connected persons shall not be entitled, directly or indirectly, to more than 20% of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.

(4) Every eligible investment fund shall, in respect of its activities in a tax year, furnish within ninety days from the end of the tax year, a statement in the prescribed form to the prescribed income-tax authority containing information relating to the fulfilment of the conditions specified in this Schedule, and also provide such other relevant information or documents, as may be prescribed.

(5) The provisions of this Schedule shall apply as per such guidelines and in such manner as the Board may prescribe in this behalf.

(6) The Central Government may, by notification, specify that any one or more of the conditions specified in sub-paragraph (1) or (3) shall not apply or shall apply with such modifications, as specified in case of an eligible investment fund and its eligible fund manager, if—

(*i*) the eligible fund manager is located in an International Financial Services Centre; and

(*ii*) has commenced its operations on or before the 31st March, 2030.

2. In this Schedule,—

(*a*) "associate" means an entity in which a director or a trustee or a partner or a member or a fund manager of the investment fund, or a director or a trustee or a partner or a member of the fund manager of such fund, holds, either individually or collectively, share or interest, being more than 15% of its share capital or interest, as the case may be;

(*b*) "connected person" shall have the meaning assigned to it in section 184(5);

(*c*) "corpus" means the total amount of funds raised for the purpose of investment by the eligible investment fund as on a particular date;

(*d*) "entity" means any entity in which an eligible investment fund makes an investment; and

(*e*) "specified regulations" means the Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020 or the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, or such other regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), which may be notified in this regard.

SCHEDULE II

[*See* section 11]

INCOME NOT TO BE INCLUDED IN TOTAL INCOME

In computing the total income of a person for a tax year, the income mentioned in column B of the Table below shall not be included, subject to fulfilment of the conditions mentioned in column C of the said Table, and the expressions used in columns B and C of the said Table, shall have the meaning respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	*Income not to be included in total income*	*Conditions*
A	*B*	*C*
1.	Agricultural income.	*Nil.*
2.	Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy.	(*a*) The insurance policies, issued during the period mentioned in column B of the table below, except where such sum is received on the death of a person, under a life Insurance policy issued by, shall fulfil the conditions mentioned in column C thereof: *Sl. No.* / *Period of issue of insurance policy* / *Conditions* *A* / *B* / C *1.* 1st April, 2003 to 31st March, 2012. — Premium to sum assured ratio is ≤ 20%. *2.* 1st April, 2012 to 31st March, 2013. — Premium to sum assured ratio is ≤ 10%. *3.* 1st April, 2013 to 31st January, 2021. — Premium to sum assured ratio is ≤ 15% for special policy; and ≤ 10% for other policies. *4.* 1st February, 2021 to 31st March, 2023. — *Unit linked insurance policy:*— *(A)* premium to sum assured ratio is ≤ 15% for special policy; and ≤ 10% for other policies; and *(B)* aggregate of premium for all such policies (in any of the tax years during the term of all of such policies) is ≤ ₹ 2,50,000. *Other than unit linked insurance policy:*— Premium to sum assured ratio is ≤ 15% for special policy; and ≤ 10% for other policies. *5.* On or after the 1st April, 2023. — *Unit linked insurance policy:*— *(a)* premium to sum assured ratio is ≤ 15% for special policy; and ≤ 10% for other policies; and *(b)* aggregate of premium for all such policies (in any of the tax years during the term of all of such policies) ≤ ₹ 2,50,000. *Other than Unit linked insurance policy:*— *(i)* premium to sum assured ratio is ≤ 15% for special policy; and ≤ 10% for other policies; and *(ii)* aggregate of premium for all such policies (in any of the tax years during the term of all of such policies) is ≤ ₹ 5,00,000; (*b*) the conditions of aggregate premium of ₹ 2,50,000 and ₹ 5,00,000 mentioned in clause (*a*) shall not apply to any sum received under a life Insurance policy issued on or after the 1st April, 2025, by the International Financial Services Centre Insurance Office; (*c*) the following sums shall not be eligible for exclusion from total income:— (*i*) any sum received under section 127(4); and (*ii*) any sum received under a Keyman insurance policy. *Note.*—For removal of difficulties, the Board may issue guidelines with the previous approval of the Central Government, which shall be binding on the income-tax authorities and the assessee and every guideline issued by the Board under this clause shall be laid before each House of Parliament.
3.	Any payment from a provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies, or from any other provident fund set up by the Central Government and notified by it in this behalf.	(*a*) The income by way of interest accrued during the tax year shall not be eligible for exclusion from total income where,— (*i*) it is attributable to the contribution (including aggregate thereof) made by that person on or after the 1st April, 2021; (*ii*) such contribution exceeds— (*A*) ₹ 5,00,000 in a tax year in such fund where no contribution is made by the employer of such person; (*B*) ₹ 2,50,000 in other cases; and (*b*) the amount of income not to be excluded from total income as referred to in clause (*a*) shall be computed in such manner, as may be prescribed.

4.	The accumulated balance due and becoming payable to an employee participating in a recognised provident fund to the extent provided in paragraph 8 of Part A of the Schedule XI.	(*a*) The income by way of interest accrued during the tax year shall not be eligible for exclusion from total income where,— (*i*) it is attributable to contribution (including aggregate thereof) made by that person on or after the 1st April, 2021; and (*ii*) such contribution exceeds— (*A*) ₹ 5,00,000 in a financial year in such fund where no contribution is made by the employer of such person; or (*B*) ₹ 2,50,000 in other cases; and (*b*) the amount of income not to be excluded from total income as referred to in clause (*a*) shall be computed in such manner as may be prescribed.
5.	Any payment from any account opened as per the Sukanya Samriddhi Account Scheme, 2019 made under the Government Savings Promotion Act, 1873 (5 of 1873).	*Nil.*
6.	Any payment from the National Pension System Trust.	(*a*) Such payment is on closure of account of the assessee or on his opting out of the pension scheme referred to in section 124; and (*b*) the said payment does not exceed 60% of the total amount payable at the time of such closure or his opting out of the scheme.
7.	Any payment from the *Agniveer* Corpus Fund to a person enrolled under the *Agnipath* Scheme or to his nominee.	*Nil.*
8.	Any payment from an approved superannuation fund.	Such payment is made— (*a*) on the death of a beneficiary; (*b*) to an employee *in lieu* of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; (*c*) by way of refund of contributions on the death of a beneficiary; (*d*) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest thereon; or (*e*) by way of transfer to the account of the employee under a pension scheme referred to in section 124 and notified by the Central Government in this behalf.
9.	Scholarships.	Such scholarship is granted to meet the cost of education.
10.	Any payment made, whether in cash or in kind for any award or reward.	Such payment is made— (*a*) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or (*b*) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in public interest.
11.	Income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits.	Such certificates and deposits are notified by the Central Government, subject to such conditions and limits as specified therein.
12.	Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government.	*Nil.*
13.	Interest on bonds issued by a local authority or by a State Pooled Finance Entity.	As specified by the Central Government, by notification.
14.	Any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002).	The transfer of such asset takes place on or after the 1st April, 2002.
15.	Any payment from the National Pension System Trust received by an assessee, who is a subscriber to the Unified Pension Scheme;	(*a*) such payment received at the time of his superannuation or voluntary retirement or retirement under rule 56(*j*) of the Fundamental Rules [which is not treated as penalty under the Central Civil Services (Classification, Control and Appeal) Rules, 1965]; and (*b*) the said payment does not exceed 60% of the Individual corpus, as defined in notification number FX-1/3/2024-PR of the Department of Financial Services, dated the 24th January, 2025;
16.	Any sum received as "lump sum amount" from the National Pension System Trust by an assessee being a subscriber to the Unified Pension Scheme.	The said "lump sum amount" is as per clause (*vi*) of Para 2, of the Notification number FX-1/3/2024-PR of the Department of Financial Services, dated the 24th January, 2025.

17.	Any income covered under section 10(*15*)(*iii*) or (*15*)(*iv*)(*c*), (*15*)(*iv*)(*d*), (*15*)(*iv*)(*e*), (*15*)(*iv*)(*f*), (*15*)(*iv*)(*g*) or (*15*)(*iv*)(*h*) or (*36*) of the Income-tax Act, 1961 (43 of 1961), subject to the conditions as provided therein.	*Nil*.

Note 1: For the purposes of Sl. No. 2,—

(*a*) "actual capital sum assured" shall have the meaning assigned to it in paragraph 2(*2*) of Schedule XV;

(*b*) "International Financial Services Centre Insurance Office" shall have the same meaning as assigned to it regulation 3(1)(*k*) of the International Financial Services Centre Authority (Registration of Insurance Business) Regulations, 2021, made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(*c*) "Keyman insurance policy" means a life insurance policy—

(*i*) taken by a person on the life of another person;

(*ii*) such person is or was the employee of the first-mentioned person or is or was connected in any manner with the business of the first-mentioned person; and

(*iii*) includes such policy which has been assigned to a person at any time during the term of the policy, with or without any consideration;

(*d*) "premium to sum assured ratio" shall mean the highest percentage of annual premium payable to the actual capital sum assured, during the term of the policy;

(*e*) "special policy" means any policy issued on life of any person, who is—

(*i*) a person with disability or a person with severe disability as referred to in section 154; or

(*ii*) suffering from disease or ailment as specified in the rules made under section 128;

(*f*) "United Linked Insurance Policy" means a unit linked life insurance policy,—

(*i*) which has components of both investment and insurance; and

(*ii*) is linked to a unit as defined in regulation 3(*ee*) of the Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 made under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

Note 2: For the purposes of Sl. No. 7, the expression "*Agniveer* Corpus Fund" and "*Agnipath* Scheme" shall have the meanings respectively assigned to them in section 125.

Note 3: For the purposes of Sl. No. 11, the expression "interest" includes hedging transaction charges on account of currency fluctuation.

Note 4: For the purposes of Sl. No. 13, the expression "State Pooled Finance Entity" means such entity which is set up as per the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Housing and Urban Affairs.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

SCHEDULE III

[*See* section 11]

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF ELIGIBLE PERSONS

In computing the total income of a tax year of any eligible person mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D therein shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	*Income not to be included in total income*	*Eligible persons*	*Conditions*
A	*B*	*C*	*D*
1.	Any sum received by a member from Hindu undivided family.	An individual who is a member of a Hindu undivided family.	(*a*) Such sum is not covered under the provisions of section 99(3) and (4); and (*b*) such sum has been paid out of— (*i*) the income of the family; or (*ii*) the income of the estate belonging to the family, in the case of any impartible estate.
2.	Any sum received by a partner towards his share in the total income of the firm.	A person who is a partner of a firm separately assessed as such.	The sum received as share in profit is as per the profit-sharing ratio provided in the partnership deed.
3.	Any amount received or receivable from the Central Government or a State Government or a local authority by way of compensation on account of any disaster.	Any individual or his legal heir.	No deduction of this amount was allowed earlier under this Act on account of any loss or damage caused by such disaster to such individual or his legal heir.
4.	Any payment from the National Pension System Trust under the pension scheme referred to in section 124.	(*i*) Any employee; or (*ii*) an assessee, being the guardian or parent of a minor.	(*a*) Such payment is on partial withdrawal made out of his account or the account of the minor, as the case may be, as per the terms and conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and the regulations made thereunder; and (*b*) exclusion shall not exceed 25% of the amount of contributions made by him.
5.	Daily allowance received.	Any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof.	*Nil*.
6.	Any allowance received.	Any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986 made under the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954).	*Nil*.
7.	Any constituency allowance received.	Any person by reason of his membership of any State Legislature under any State Act or rules made thereunder.	*Nil*.

8.	The value of any travel concession or assistance.	Any individual.	(*a*) Such sum is received by, or due to, such individual— (*i*) from his employer for himself and his family, in connection with his proceeding on leave to any place in India; (*ii*) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service; (*b*) such sum is subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount which shall be exempt per head); (*c*) the conditions in clause (*b*) shall have regard to the travel concession or assistance granted to the employees of the Central Government; and (*d*) the sum not included in the total income shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.
9.	Any allowances or perquisites paid or allowed as such outside India by the Government.	A citizen of India.	Such sum is paid or allowed for rendering service outside India.
10.	Income in the nature of a perquisite.	An employee, being an individual.	(*a*) Such perquisite is not provided for by way of monetary payment, within the meaning of section 17(1); and (*b*) the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee.
11.	Any special allowance from employer.	Any assessee.	(*a*) Such allowance is specifically granted to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee; (*b*) such allowance is to such extent as may be prescribed having regard to the area or place in which such accommodation is situated and other relevant considerations; (*c*) the residential accommodation occupied by the assessee is not owned by him; and (*d*) the assessee has actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him.
12.	Any special allowance or benefit to the extent to which such expenses are actually incurred for that purpose.	Any assessee.	(*a*) Such allowance or benefit is not in the nature of a perquisite within the meaning of section 17(1); and (*b*) such allowance or benefit is specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as may be prescribed.
13.	Any allowance.	Any assessee.	(*a*) Such allowance is granted to the assessee,— (*i*) to meet his personal expenses at the place where the duties of his office or place of employment of profit are ordinarily performed by him or at the place where he ordinarily resides; or (*ii*) to compensate him for the increased cost of living, to the extent as may be prescribed; and (*b*) any allowance to remunerate or compensate for performing duties of a special nature relating to office or employment shall not be excluded from total income unless such allowance is related to the place of his posting or residence.

14.	Pension received.	An individual who has been in the service of the Central Government or State Government and has been awarded "*ParamVir Chakra*" or "*Maha Vir Chakra*" or "*Vir Chakra*" or such other gallantry award as the Central Government may, by notification, specify in this behalf.	*Nil.*
15.	Family pension received.	Any member of the family of an individual referred against serial number 14.	*Nil.*
16.	Family pension received.	Widow or children or nominated heirs of a member of the armed forces (including paramilitary forces) of the Union.	The death of such member has occurred in the course of operational duties in such circumstances and subject to such conditions, as may be prescribed.
17.	Any income includible in the total income under section 99(1)(*c*).	In case of an individual referred to in that sub-section.	Exclusion of such income from the total income is to the extent such income does not exceed ₹ 1,500 in respect of each minor child whose income is so includible.
18.	Any income chargeable under the head "Capital gains" arising from the transfer of agricultural land.	An individual or a Hindu undivided family.	(*a*) Such land is situated in any area referred to in section 2(*22*)(*iii*); (*b*) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his; (*c*) such transfer is by way of compulsory acquisition under any law, or a transfer, the consideration for which is determined or approved by the Central Government or the Reserve Bank of India; and (*d*) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st April, 2004.
19.	Any income which accrues or arises— (*a*) from any source in the areas or States mentioned in column C; or (*b*) by way of dividend or interest on securities.	A member of a Scheduled Tribe,— (*a*) as defined in article 366(25) of the Constitution; and (*b*) residing in any area specified in Part I or II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura or in the areas covered by notification No. TAD/R/35/50/ 109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to the said paragraph 20(3) [as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (18 of 1971) or in the Union territory of Ladakh].	*Nil.*
20.	Any income which accrues or arises— (*a*) from any source in the State of Sikkim; or (*b*) by way of dividend or interest on securities.	An individual, being a Sikkimese.	*Nil.*
21.	The amount of any subsidy received from or through the concerned Board under a scheme.	An assessee who carries on the business of growing and manufacturing tea, rubber, coffee, cardamom or such other commodity in India as may be notified by the Central Government.	(*a*) Such scheme is for replantation or replacement of tea bushes, rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of tea, rubber, coffee, cardamom or such other commodity; (*b*) such scheme is notified by the Central Government; and (*c*) the assessee furnishes to the Assessing Officer, along with his return of income for the tax year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the tax year.

22.	The income which is chargeable under the head "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business.	Any local authority.	Income from trade or business is eligible for exclusion from total income if such income accrues or arises from the supply of— (*a*) a commodity or service (not being water or electricity) within its own jurisdictional area; or (*b*) water or electricity within or outside its own jurisdictional area.
23.	Any income of a research association.	A research association for the time being approved for the purpose of section 45(3)(*a*).	(*a*) Applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; (*b*) invests its funds received in the forms or modes specified in section 350; (*c*) satisfies such conditions as may be prescribed; and (*d*) the procedure for withdrawal of approval granted shall be in such manner as may be prescribed.
24.	Any income (other than income chargeable under the head "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments).	An association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of, law, medicine, accountancy, engineering or architecture or such other profession as the Central Government may, by notification specify in this behalf.	(*a*) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; (*b*) the association or institution is for the time being approved by the Central Government by general or special order; and (*c*) the procedure for withdrawal of approval granted shall be in such manner, as may be prescribed.
25.	Any income attributable to the business of production, sale, or marketing, of khadi or products of village industries.	An institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (21 of 1860), or under any other law corresponding to that Act in force in any part of India.	(*a*) Such institution exists solely for the development of khadi or village industries or both, and not for the purposes of profit; (*b*) such institution applies its income, or accumulates it for application, solely for the development of khadi or village industries, or both; (*c*) such institution is approved for such purpose by the Khadi and Village Industries Commission for a period not exceeding three tax years at any one time; and (*d*) the procedure for withdrawal of approval granted shall be in such manner as may be prescribed.
26.	Any income from the activity of securitisation.	A securitisation trust.	*Nil.*
27.	Any income, by way of contributions received from recognised stock exchanges and the members thereof.	Any Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately.	(*a*) Such fund is notified by the Central Government; and (*b*) where any amount standing to the credit of the Fund and not charged to income-tax during any tax year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall accordingly be chargeable to income-tax.
28.	Any income, by way of contributions received from commodity exchanges and the members thereof.	Any Investor Protection Fund set up by commodity exchanges in India, either jointly or separately.	(*a*) Such fund is notified by the Central Government; and (*b*) where any amount standing to the credit of the said Fund and not charged to income-tax during any tax year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall accordingly be chargeable to income-tax.
29.	Any income, by way of contributions received from a depository.	Any Investor Protection Fund set up as per the regulations by a depository.	(*a*) Such fund is notified by the Central Government; and (*b*) where any amount standing to the credit of the Fund and not charged to income-tax during any tax year is shared, either wholly or in part with a depository, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

30.	(*a*) Any income by way of contribution received from specified persons; (*b*) any income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; (*c*) any income from investment made by the Fund.	Any Core Settlement Guarantee Fund, set up by a recognised clearing corporation.	(*a*) Such fund is notified by the Central Government; and (*b*) where any amount standing to the credit of the Fund and not charged to income-tax during any tax year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the tax year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.
31.	Any income chargeable under the heads "Income from house property" and "Income from other sources".	(*a*) A registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen; or (*b*) an association of registered unions referred to in clause (*a*).	*Nil.*
32.	Any interest on securities, and any capital gains of the fund arising from the sale, exchange or transfer of such securities.	Provident Fund to which the Provident Funds Act, 1925 (19 of 1925) applies.	Such securities are held by, or are the property of such Provident Fund.
33.	Any income of the nature and to the extent, arising from the international sporting event held in India.	Any person notified by the Central Government.	(*a*) Such international sporting event— (*i*) is approved by the international body regulating the international sport relating to such event; (*ii*) has participation by more than two countries; and (*iii*) is notified by the Central Government for the purposes of this clause; and (*b*) nature and extent of such income is notified by the Central Government.
34.	Any income, of the nature and to the extent, which the Central Government may notify in this behalf.	A body or authority which has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government.	Such body or authority— (*a*) is established or constituted or appointed not for the purposes of profit; and (*b*) is notified by the Central Government.
35.	Any amount received as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in section 70(1)(*zh*).	Any individual.	*Nil.*
36.	Any income of the nature and to the extent which the Central Government may, by notification, specify in this behalf.	A body or authority or Board or Trust or Commission (by whatever name called), or a class thereof, other than those covered under Schedule VII (Table: Sl. No. 42).	Such body or authority or Board or Trust or Commission— (*a*) has been established or constituted by or under a Central Act, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public; (*b*) is not engaged in any commercial activity ; and (*c*) is notified by the Central Government.
37.	Any income accruing or arising as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance of the directions of the Central Government in this behalf.	Indian Strategic Petroleum Reserves Limited, being a wholly owned subsidiary of the Oil Industry Development Board under the Ministry of Petroleum and Natural Gas.	It shall not apply to an arrangement, if the crude oil is not replenished in the storage facility within three years from the end of the tax year in which the crude oil was removed from the storage facility for the first time.
38.	Any gratuity computed as per the provisions of section 19(1)(Table: Sl. No. 3.C) to (Table: Sl. No. 6.C).	Any widow, children or dependants on death of an employee.	*Nil.*
39.	Any income falling under section 10(*15*)(*iiic*) or (*15*)(*iv*)(*i*) or (*19A*) or (*40*) of the Income-tax Act, 1961(43 of 1961), shall be subject to the conditions as provided therein.		

Note 1.-For the purposes of Sl. No. 3, the expression "disaster" shall have the same meaning as assigned to it in section 2(*d*) of the Disaster Management Act, 2005 (53 of 2005).

Note 2.-For the purposes of Sl. Nos. 8 and 15, the expression "family" in relation to an individual, means—

(*i*) the spouse and children of the individual; and

(*ii*) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.

Note 3.-For the purposes of Sl. No. 18, the expression "compensation or consideration" includes the compensation or consideration enhanced or further enhanced by any court, Tribunal or other authority.

Note 4.-For the purposes of Sl. No. 20, the expression "Sikkimese" means—

(*i*) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (herein referred to as the "Register of Sikkim Subjects"), immediately before the 26th April, 1975;

(*ii*) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991;

(*iii*) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of the father or husband or paternal grand-father or brother from the same father of such individual has been recorded in that register;

(*iv*) any other individual, whose name does not appear in the Register of Sikkim Subjects but it is established that such individual was domiciled in Sikkim on or before the 26th April, 1975; or

(*v*) any other individual, who was not domiciled in Sikkim on or before the 26th April, 1975, but it is established beyond doubt that the father or husband or paternal grand-father or brother from the same father of such individual was domiciled in Sikkim on or before the 26th April, 1975.

Note 5.-For the purposes of Sl. No. 21, the expression "concerned Board" means—

(*i*) in relation to tea, the Tea Board shall mean the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);

(*ii*) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947);

(*iii*) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(*iv*) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986);

(*v*) in relation to any other commodity, any Board or other authority established under any law for the time being in force which the Central Government may, by notification, specify in this behalf.

Note 6.-For the purposes of Sl. No. 22, the expression "local authority" means—

(*i*) Panchayat as referred to in article 243(*d*) of the Constitution; or

(*ii*) Municipality as referred to in article 243P(*e*) of the Constitution; or

(*iii*) Municipal Committee and District Board,

legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or

(*iv*) Cantonment Board constituted under section 3 of the Cantonments Act, 2006 (4 of 2006).

Note 7.-For the purposes of Sl. No. 25,—

(*a*) "Khadi and Village Industries Commission" means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956); and

(*b*) "khadi" and "village industries" shall have the same meanings as respectively assigned to them in that Act.

Note 8.-For the purposes of Sl. No. 26,—

(*a*) "securitisation" shall have the same meaning as assigned to it,—

(*i*) in regulation 2(1)(*r*) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(*ii*) in section 2(1)(*z*) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); or

(*iii*) under the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(*b*) "securitisation trust" shall have the meaning assigned to it in section 221(6)(*d*).

Note 9.-For the purposes of Sl. No. 28,—

"commodity exchange" shall mean a registered association as defined in section 2(*jj*) of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Note 10.- For the purposes of Sl. No. 29,—

(*a*) "depository" shall have the same meaning as assigned to it in section 2(1)(*e*) of the Depositories Act, 1996 (22 of 1996);

(*b*) "regulations" shall mean the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Depositories Act, 1996 (22 of 1996).

Note 11: For the purposes of Sl. No. 30,—

(*a*) "recognised clearing corporation" shall have the same meaning as assigned to it in—

(*i*) regulation 2(1)(*p*) of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(*ii*) regulation 2(1)(*n*) of the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(*b*) "regulations" means—

(*i*) the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 made under the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(*ii*) the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(*c*) "specified person" means—

(*i*) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund;

(*ii*) any recognised stock exchange, being a shareholder in such recognised clearing corporation, or a contributor to the Core Settlement Guarantee Fund; and

(*iii*) any clearing member contributing to the Core Settlement Guarantee Fund.

SCHEDULE IV

[*See* section 11]

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF ELIGIBLE NON-RESIDENTS, FOREIGN COMPANIES AND OTHER SUCH PERSONS

In computing the total income of a tax year of any eligible person mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	*Income not to be included in total income*	*Eligible persons*	*Conditions*
A	*B*	*C*	*D*
1.	Any income by way of interest.	(*a*) A person being an individual, who is a resident outside India as defined in section 2(*w*) of the Foreign Exchange Management Act, 1999 (42 of 1999); or (*b*) a person being an individual who has been permitted by the Reserve Bank of India to maintain the said account.	Such interest is on moneys standing to the credit of such person in a Non-Resident (External) Account in any bank in India as per the said Act and the rules made thereunder.
2.	Any remuneration received for service in the capacity as an official mentioned in column C, not being a citizen of India.	An official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials.	(*a*) The remuneration received as a trade commissioner or other official representative in India of the government of a foreign State (not holding office as such in an honorary capacity), or as members of the staff, if any, of the government, resident for similar purposes in the country concerned enjoy a similar exemption in that country; and (*b*) the members of the staff are subjects of the country represented and are not engaged in any business or profession or employment in India otherwise than as members of such staff.
3.	Any remuneration received as an employee for services rendered by him during his stay in India.	A person who is an employee of a foreign enterprise, not being a citizen of India.	(*a*) The foreign enterprise is not engaged in any trade or business in India; (*b*) his stay in India does not exceed in the aggregate a period of ninety days in such tax year; and (*c*) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act.
4.	Any income chargeable under the head "Salaries", received or due as remuneration for services rendered in connection with his employment on a foreign ship.	Any individual being a non-resident, not being a citizen of India.	The total stay of such individual in India does not exceed in the aggregate a period of ninety days in the tax year.
5.	Any remuneration received as an employee of the Government of a foreign State.	An employee of the Government of a foreign State, not being a citizen of India.	Such remuneration is received during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by— (*a*) the Government; or (*b*) any company in which the entire paid-up share capital is held by the Central Government or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments; or (*c*) any company which is a subsidiary of a company referred to in clause (*b*); or (*d*) any corporation established by or under a Central Act or State Act or Provincial Act; or (*e*) any society registered under the Societies Registration Act, 1860 (21 of 1860), or under any other law and wholly financed by the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments.

6.	Any income arising by way of royalty or fees for technical services.	Any foreign company.	(*a*) Such company is notified by the Central Government; and (*b*) such income is received in pursuance of an agreement entered into with the Central Government for providing services in or outside India in projects connected with security of India.
7.	Any income arising by way of royalty from, or fees for technical services rendered in or outside India.	A non-resident, not being a company, or a foreign company.	(*a*) Such royalty is received from the National Technical Research Organisation; or (*b*) such fees is for technical services rendered to the National Technical Research Organisation.
8.	Interest received.	Non-resident or a person who is not ordinarily resident.	Such interest is received in India on a deposit made on or after the 1st April, 2005 in an Offshore Banking Unit referred to in section 2(*u*) of the Special Economic Zones Act, 2005 (28 of 2005).
9.	Income from lease rentals, by whatever name called, of cruise ship.	Foreign company.	(*a*) Such income is received from a specified company which operates such ship or ships in India; (*b*) such foreign company and the specified company are subsidiaries of the same holding company; and (*c*) such income is received or accrues or arises in India for any relevant tax year beginning on or before the 1st April, 2029.
10.	Any income derived in India by way of interest, dividends or Capital gains from investments made.	The European Economic Community.	Such investments are made out of its funds under such scheme as the Central Government may, by notification specify.
11.	Any income received in India in Indian currency.	A foreign company.	(*a*) Such income is on account of sale of crude oil or any other goods or rendering of services, as may be notified by the Central Government in this behalf, to any person in India; (*b*) receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; (*c*) such foreign company and the agreement or arrangement is notified by the Central Government, having regard to the national interest; and (*d*) such foreign company is not engaged in any activity in India, other than activity resulting in such income.
12.	Any income accruing or arising on account of storage of crude oil in a facility in India and sale of such crude oil to any person resident in India.	A foreign company.	(*a*) Such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and (*b*) such foreign company and the agreement or arrangement is notified by the Central Government, having regard to the national interest.
13.	Any income accruing or arising on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or arrangement referred to against serial number 12 or on termination of the said agreement or arrangement.	A foreign company.	Such sale shall be as per the terms mentioned in the said agreement or arrangement, subject to such conditions as may be notified by the Central Government in this behalf.
14.	Any income falling under section 10(*6A*), (*6B*), (*6BB*), (*15A*), (*15*)(*iiia*), (*15*)(*iiib*), (*15*)(*iiic*) or (15)(*iv*)(*a*), (*15*)(*iv*)(*b*) or (*15*)(*iv*)(*fa*) of the Income-tax Act, 1961 (43 of 1961) subject to the conditions as specified therein.		

Note 1.-For the purposes of Sl. No. 9,—

(*a*) "specified company" means any company, other than a domestic company which operates cruise ships in India and opts to pay tax as per the provisions of section 61(2) (Table: Sl. No. 2);

(*b*) "holding company", in relation to a foreign company or a specified company, means a company of which such companies are subsidiary companies; and

(*c*) "subsidiary company" or "subsidiary", in relation to a holding company, means a company in which the holding company exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies.

*Note 2:*For the purposes of Sl. No. 10,—

"European Economic Community" means the European Economic Community established by the Treaty of Rome of 25th March, 1957.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

SCHEDULE V

[*See* section 11]

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF CERTAIN ELIGIBLE PERSONS INCLUDING INVESTMENT FUNDS, BUSINESS TRUSTS AND THEIR UNIT HOLDERS

In computing the total income of a tax year of any eligible person mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D of the said Table shall have the meanings respectively assigned to them in Notes below the said table.

Table

Sl. No.	*Income not to be included in total income*	*Eligible persons*	*Conditions*
A	*B*	*C*	*D*
1.	Any income other than the income chargeable under the head "Profits and gains of business or profession".	An investment fund.	*Nil.*
2.	Any income referred to in section 224, accruing or arising to, or received being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession".	A unit holder of an investment fund.	*Nil.*
3.	Any income by way of— (*a*) interest received or receivable from a special purpose vehicle; or (*b*) dividend received or receivable from a special purpose vehicle.	A business trust.	*Nil.*
4.	Any income by way of renting or leasing or letting out any real estate asset owned directly by such business trust.	A business trust, being a real estate investment trust.	*Nil.*
5.	Any distributed income referred to in section 223.	Any unit holder of a business trust.	Exemption shall not be allowed on that proportion of the income which is of the same nature as— (*a*) interest received or receivable from a special purpose vehicle by the business trust; or (*b*) dividend received or receivable from a special purpose vehicle by the business trust (in a case where the special purpose vehicle has exercised the option under section 200); or (*c*) income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.
6.	Any income from investment in a venture capital undertaking.	Venture capital company or venture capital fund other than an investment fund specified in section 224(10)(*a*).	*Nil.*

7.	Any income of the nature of— (*a*) dividend; (*b*) interest; (*c*) any sum referred to in section 92(2)(*k*); or (*d*) long-term capital gains (whether or not such capital gains are deemed as short-term capital gains under section 76), arising from an investment made by a specified person in India, whether in the form of debt or share capital or unit.	A specified person.	(*a*) Such investment— (*i*) is made on or after the 1st April, 2020 but on or before the 31st March, 2030; (*ii*) is held for at least three years; and (*iii*) is in,— (*A*) a business trust being an eligible InvIT; (*B*) an eligible infrastructure entity; (*C*) an eligible Alternate Investment Fund; (*D*) an eligible domestic company; or (*E*) an eligible Nonbanking Financial Company; (*b*) if any difficulty arises in interpreting or implementing the provisions, the Board may issue guidelines; (*c*) such guidelines shall be— (*i*) issued with the previous approval of the Central Government; (*ii*) laid before each House of Parliament; and (*iii*) binding on the Incometax Authority and the specified person; (*d*) where any income has not been included in the total income of the specified person, and subsequently during any tax year the specified person fails to satisfy any of these conditions so that the said income would not have been eligible for such non-inclusion, such income shall be chargeable to income-tax as the income of the specified person of that tax year; (*e*) where an eligible Alternate Investment Fund has investment of less than 100% in one or more of eligible infrastructure entity or eligible domestic company or eligible Non-Banking Financial Company or in an eligible InvIT, income accrued or arisen or received or attributable to such investment, directly or indirectly, which is exempt herein shall be calculated proportionately to that investment made in one or more of the eligible infrastructure entity or eligible domestic company or eligible NonBanking Financial Company or in an eligible InvIT, in such manner as may be prescribed; (*f*) where an eligible domestic company has investment of less than 100% in one or more of the eligible infrastructure entity, income accrued or arisen or received or attributable to such investments, directly or indirectly, which is exempt herein shall be calculated proportionately to the investment made in one or more of the eligible infrastructure entity, in such manner, as may be prescribed; (*g*) where an eligible Non-Banking Financial Company has lending of less than 100% in one or more of the eligible infrastructure entity, income accrued or arisen or received or attributable to such lending, directly or indirectly, which is exempt herein shall be calculated proportionately to the lending made in eligible infrastructure entity, in such manner, as may be prescribed; (*h*) in case a sovereign wealth fund or pension fund has loans or borrowings, directly or indirectly, for the purposes of making investment in India, such fund shall be deemed to be not eligible for exclusion from total income.
8.	Any income falling under section 10(*23F*) and (*23FA*) of the Income-tax Act, 1961 (43 of 1961), subject to the conditions as specified therein.		

Note 1.-For the purposes of Sl. Nos. 1 and 2, the expression "investment fund" shall have the meaning assigned to it in section 224(*10*)(*a*).

Note 2.-For the purposes of Sl. No. 3, the expression "special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the law under which such trust is granted registration.

Note 3.-For the purposes of Sl. Nos. 4 and 5, the expression "real estate asset" shall have the same meaning as assigned to it in regulation 2(*1*)(*zj*) of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

Note 4.-For the purposes of Sl. No. 6,—

(*a*) "venture capital company" means a company which—

(*i*) has been granted a certificate of registration, before the 21st May, 2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 (herein referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or

(*ii*) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (herein referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and which fulfils the following conditions:—

(*A*) it is not listed on a recognised stock exchange;

(*B*) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and

(*C*) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding 10% of its equity share capital) holds, either individually or collectively, equity shares in excess of 15% of the paid-up equity share capital of such venture capital undertaking;

(*b*) "venture capital fund" means a fund—

(*i*) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), which—

(*A*) has been granted a certificate of registration, before the 21st May, 2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or

(*B*) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations or as referred to in regulation 18(*2*) of the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019), and which fulfils the following conditions:—

(*I*) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;

(*II*) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of 15% of the paid-up equity share capital of such venture capital undertaking;

(*III*) the units, if any, issued by it are not listed in any recognised stock exchange; and

(*IV*) any other condition as may be prescribed; or

(*ii*) operating as a venture capital scheme made by the Unit Trust of India;

(*c*) "venture capital undertaking" means—

(*i*) a venture capital undertaking as defined in regulation 2(*n*) of the Securities And Exchange Board Of India (Venture Capital Funds) Regulations, 1996; or

(*ii*) a venture capital undertaking as defined in regulation 2(*1*)(*aa*) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.

Note 5.-For the purposes of Sl. No. 7,—

(*a*) "specified person" means—

(*i*) a wholly owned subsidiary of the Abu Dhabi Investment Authority, which—

(*A*) is a resident of the United Arab Emirates; and

(*B*) makes investment, directly or indirectly, out of the fund owned by the Government of Abu Dhabi;

(*ii*) a sovereign wealth fund, which satisfies the following conditions:—

(*A*) it is wholly owned and controlled, directly or indirectly, by the government of a foreign country;

(*B*) it is set up and regulated under the law of such foreign country;

(*C*) the earnings of the said fund are credited either to the account of the government of that foreign country or to any other account designated by that government so that no portion of the earnings enures any benefit to any private person;

(*D*) the asset of the said fund vests in the government of such foreign country upon dissolution;

(*E*) the provisions of items (*C*) and (*D*) shall not apply to any payment made to creditors or depositors for loan taken or borrowing for the purposes other than for making investment in India;

(*F*) it does not participate in the day-to-day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee; and

(*G*) it is specified by the Central Government, by notification for this purpose and fulfils the conditions specified in such notification;

(*iii*) a pension fund, which—

(*A*) is created or established under the law of a foreign country including the laws made by any of its political constituents, being a province, State or local body, by whatever name called;

(*B*) is not liable to tax in such foreign country or if liable to tax, exemption from taxation for all its income has been provided by such foreign country;

(*C*) does not participate in the day-to-day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in day-to-day operations of the investee;

(*D*) is specified by the Central Government, by notification for this purpose and fulfils conditions specified in such notification; and

(*E*) satisfies such other conditions as may be prescribed;

(*iv*) the Public Investment Fund of the Government of the Kingdom of Saudi Arabia;

(*v*) a wholly owned subsidiary of the Public Investment Fund of the Government of the Kingdom of Saudi Arabia, which—

(*A*) is a resident of Saudi Arabia; and

(*B*) makes investment, directly or indirectly, out of the fund owned by such Government;

(*b*) "investee" means a business trust or eligible infrastructure entity or eligible Alternate Investment Fund or eligible domestic company or eligible Non-Banking Financial Company, in which the sovereign wealth fund or the pension fund has made the investment directly or indirectly;

(*c*) "loan and borrowing" means—

(*i*) any loan taken or borrowing by a sovereign wealth fund from or any deposit or investment made in a sovereign wealth fund by, any person other than the Government of the country in which the sovereign wealth fund is set up;

(*ii*) any loan taken or borrowing by a pension fund from or any deposit or investment made in a pension fund by any person, but shall not include —

(*A*) the deposit or investment which represents statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability or death benefits; or

(*B*) any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be;

(*d*) "eligible infrastructure entity" means a company or enterprise or an entity carrying on—

(*i*) the business of developing, or operating and maintaining, or developing, operating and maintaining an infrastructure facility as defined in section 138; or

(*ii*) such other business as the Central Government may, by notification, specify in this behalf;

(*e*) "eligible Alternate Investment Fund" means Category-I or Category-II Alternative Investment Fund—

(*i*) regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*ii*) having not less than 50% investment in one or more of the eligible infrastructure entity or eligible domestic company or eligible Non-Banking Financial Company or in an eligible InvIT, computed in such manner as may be prescribed;

(*f*) "eligible domestic company" means a domestic company—

(*i*) set up and registered on or after the 1st April, 2021; and

(*ii*) having minimum 75% investments in one or more of the eligible infrastructure entities, computed in such manner, as may be prescribed;

(*g*) "eligible Non-Banking Financial Company" means—

(*i*) a non-banking financial company registered as an Infrastructure Finance Company as referred to in notification number RBI/2009-10/316 issued by the Reserve Bank of India or in an Infrastructure Debt Fund, a non-banking finance company as referred to in the Reserve Bank of India (Non-Banking Financial Company-Scale Based Regulations) Directions, 2023, issued by the Reserve Bank of India; and

(*ii*) having minimum 90% lending to one or more of eligible infrastructure entities, computed in such manner, as may be prescribed; and

(*h*) "eligible InvIT" means an Infrastructure Investment Trust referred to in section 2(*21*)(*a*).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

SCHEDULE VI

[*See* section 11]

INCOME NOT TO BE INCLUDED IN TOTAL INCOME OF CERTAIN ELIGIBLE PERSONS IN INTERNATIONAL FINANCIAL SERVICES CENTRE OR HAVING INCOME THEREFROM

In computing the total income of a tax year of any eligible person, as mentioned in column C of the Table below, the income mentioned in column B of the said Table and the income as mentioned in savings clause shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D of the said Table, shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	*Income not to be included in total income*	*Eligible persons*	*Conditions*
A	*B*	*C*	*D*
1.	Any income accrued or arisen to, or received, as a result of transfer of capital asset referred to in section 70(1)(*r*) where such transfer takes place on a recognised stock exchange located in any International Financial Services Centre.	Any specified fund.	(*a*) Consideration is paid or payable in convertible foreign exchange; (*b*) Income shall not be included in the total income to the extent such income is attributable to— (*i*) units held by non-resident (not being the permanent establishment of a non-resident in India); or (*ii*) the investment division of offshore banking unit; and (*c*) The income exempt shall be computed in such manner as may be prescribed.
2.	Any income accrued or arisen to, or received, as a result of transfer of securities (other than shares in a company resident in India).	Any specified fund.	As specified in clauses (*b*) and (*c*) of column D against Sl. No. 1.
3.	Any income from securities issued by a non-resident where such securities are not issued by a permanent establishment of a nonresident in India.	Any specified fund.	(*a*) Such income otherwise does not accrue or arise in India; (*b*) As specified in clauses (*b*) and (*c*) of column D against Sl. No. 1.
4.	Any income from a securitisation trust, which is chargeable under the head "Profits and gains of business or profession".	Any specified fund.	As specified in clauses (*b*) and (*c*) of column D against Sl. No. 1.
5.	Any income accrued or arisen to, or received as a result of— (*a*) transfer of nondeliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or (*b*) distribution of income on offshore derivative instruments or over-the-counter derivatives.	Non-resident.	(*a*) Such contract, instrument or derivative is entered into with an offshore banking unit of an International Financial Services Centre as referred to in section 147 or any Foreign Portfolio Investor being a unit of an International Financial Services Centre; and (*b*) it fulfils such conditions, as may be prescribed.
6.	Any income by way of royalty or interest on account of lease of an aircraft or a ship in a tax year.	Non-resident.	(*a*) Such royalty or interest is paid by a unit of an International Financial Services Centre as referred to in section 147; and (*b*) such unit has commenced its operations on or before the 31st March, 2030.
7.	Any income received from— (*a*) portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of the nonresident; or (*b*) such activity carried out by such person, as may be notified by the Central Government.	Non-resident.	(*a*) Such income is received in an account maintained with an Offshore Banking Unit in any International Financial Services Centre as referred to in section 147; and (*b*) the income not to be included in the total income shall be to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

8.	Any income by way of Capital gains arising from the transfer of equity shares of domestic company where such domestic company is a Unit of an International Financial Services Centre as referred to in section 147.	A non-resident, or a Unit of an International Financial Services Centre as referred to in section 147, engaged primarily in the business of leasing of aircraft or a ship.	(*a*) The domestic company— (*i*) is engaged primarily in the business of leasing of an aircraft or a ship; (*ii*) has commenced operations on or before the 31st March, 2030; and (*b*) exclusion from total income shall be available for capital gains arising from the transfer of equity shares of such domestic company in a tax year falling within— (*i*) ten tax years beginning with the tax year in which the domestic company has commenced operations; or (*ii*) ten tax years beginning with the tax year commencing on the 1st April, 2023, where the period referred to in sub-clause (*i*) ends before the 1st April, 2033.
9.	Any income accruing or arising to, or received from a specified fund or on transfer of units in a specified fund.	A unit holder of a specified fund.	*Nil*.
10.	Any income of the nature of Capital gains, arising or received on account of transfer of share of a company resident in India.	Any non-resident or a specified fund.	(*a*) The Capital gain is on account of transfer of shares by the resultant fund or a specified fund; and (*b*) such shares were transferred from the original fund, or from its wholly owned special purpose vehicle, to the resultant fund in relocation, and the capital gains on such shares were not chargeable to tax if that relocation had not taken place; and (*c*) income not to be included in the total income shall be to the extent attributable to units held by non-residents (not being a permanent establishment of a non-resident in India) in such manner, as may be prescribed.
11.	Any income by way of dividends from a company being a Unit of an International Financial Services Centre primarily engaged in the business of leasing of an aircraft or a ship.	A Unit of any International Financial Services Centre.	Such Unit is primarily engaged in the business of leasing of an aircraft or a ship.
12.	Any income by way of interest payable.	Non- resident.	Such interest is payable by a Unit of an International Financial Services Centre in respect of moneys borrowed by it on or after the 1st September, 2019.

Note 1: For the purposes of Sl. Nos. 1 to 4,—

(*a*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules made thereunder;

(*b*) "investment division of offshore banking unit" means an investment division of a banking unit of a non-resident located in an International Financial Services Centre as referred to in section 147 and which has commenced its operations on or before the 31st March, 2030;

(*c*) "manager" shall have the same meaning as assigned to it in regulation 2(1)(*q*) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*d*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(*e*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and shall also include such other securities or instruments as may be notified by the Central Government in this behalf;

(*f*) "securitisation trust" shall have the meaning assigned to it in section 221(6)(*d*);

(*g*) "specified fund" means—

(*i*) a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate and located in International Financial Services Centres,—

(*A*) which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated—

(*I*) under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*II*) under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019); or

(*B*) which has been granted a certificate as a retail scheme or an Exchange Traded Fund, and satisfies the conditions laid down for such schemes or funds under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

of which all the units are held by non-residents except—

(*I*) the unit held by a sponsor or manager;

(*II*) where any unit holder or holders, being non-resident during the tax year when such unit or units were issued, becomes resident under section 6(2) or (3) or (4) or (5) or (6) or (7) in any tax year subsequent to that year;

(*III*) in case of sub-item (*II*), aggregate value and the number of units held by such resident unit holder or holders do not exceed 5% of the total units issued and shall fulfil such other conditions as may be prescribed; or

(*ii*) investment division of an offshore banking unit, which has been—

(*A*) granted a certificate of registration as a Category-I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and which has commenced its operations on or before the 31st March, 2025; and

(*B*) fulfils such conditions including maintenance of separate accounts for its investment division, as may be prescribed;

(*h*) "sponsor" shall have the same meaning as assigned to it in regulation 2(1)(*w*) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*i*) "trust" means a trust established under the Indian Trusts Act, 1882 (2 of 1882) or under any other law;

(*j*) "units" mean beneficial interest of an investor in the fund and shall include shares or partnership interests.

*Note 2:*For the purposes of Sl. No. 5,—

"Foreign Portfolio Investor" shall mean a person registered as per the provisions of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

Note 3: For the purposes of Sl. Nos. 6, 8 and 11,—

(*a*) "aircraft" means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof;

(*b*) "ship" means a ship or an ocean vessel, engine of a ship or ocean vessel, or any part thereof.

Note 4: For the purposes of Sl. No. 7,—

"portfolio manager" shall have the same meaning as assigned to it in regulation 2(1)(*z*) of the International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019).

Note 5: For the purposes of Sl. No. 9,—

(*a*) "specified fund" shall have the same meaning as assigned to it in Note 1(*g*);

(*b*) "unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests.

Note 6: For the purposes of Sl. No. 10,—

(*a*) "original fund", "relocation" and "resultant fund" shall have the meanings respectively assigned to them in section 70(2);

(*b*) "specified fund" shall have the meaning assigned to it in Note 1(*g*).

Note 7: For the purposes of Sl. No. 12,—

"Unit" shall have the same meaning as assigned to it in section 2(*zc*) of the Special Economic Zones Act, 2005 (28 of 2005).

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

SCHEDULE VII

[*See* section 11]

PERSONS EXEMPT FROM TAX

Any eligible person, mentioned in column B of the Table below, shall not be liable to pay income-tax on the total income for any tax year, subject to the conditions mentioned in column C of the said Table, and the expression used in columns B and C of the said Table, shall have the meanings respectively assigned to them in the Notes below the said Table.

Table

Sl. No.	*Eligible persons*	*Conditions*
A	*B*	*C*
1.	Any regimental Fund or Non-public Fund established by the armed forces of the Union.	Such Fund is for the welfare of the past and present members of the armed forces or their dependants.
2.	Any fund established for such purposes as may be notified by the Board for the welfare of employees or their dependants and such employees are members of such fund.	(*a*) Such fund— (*i*) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; and (*ii*) invests its funds and contributions and other sums received by it in the forms or modes specified in section 350; (*b*) such fund is approved by the Principal Commissioner or Commissioner in such manner as may be prescribed; and such approval shall at any one time have effect for such tax year or years not exceeding three tax years as specified in the order of approval.
3.	Any fund, by whatever name called, set up by the Life Insurance Corporation of India on or after the 1st August, 1996 or any other insurer under a pension scheme.	(*a*) The contribution is made to such pension scheme by any person for the purpose of receiving pension from such fund; and (*b*) such scheme is approved by the Controller of Insurance or the Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).
4.	An authority (whether known as the Khadi and Village Industries Board or by any other name).	Such authority is established in a State by or under a State Act or Provincial Act for the development of khadi or village industries in the State.
5.	Any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central Act or State Act or Provincial Act.	(*a*) Such body or authority provides for the administration of any one or more of public religious or charitable trusts or endowments (including, temples, gurudwaras, wakfs, churches, synagogues, agiaries or a mutt or other places of public religious worship) or societies for religious or charitable purposes, registered under the Societies Registration Act, 1860 (21 of 1860), or any other law; and (*b*) exclusion from total income as provided herein shall not be available to any trust, endowment or society being administered by such body or authority.
6.	SAARC Fund for Regional Projects set up by Colombo Declaration issued on the 21st December, 1991 by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on the 8th December, 1985 by the Charter of the South Asian Association for Regional Cooperation.	*Nil*
7.	Insurance Regulatory and Development Authority established under section 3(1) of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).	*Nil*
8.	Central Electricity Regulatory Commission constituted under section 76(1) of the Electricity Act, 2003 (36 of 2003).	*Nil*
9.	Prasar Bharati (Broadcasting Corporation of India) established section 3(1) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990).	*Nil*
10.	The Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND).	*Nil*

11.	The Prime Minister's Fund (Promotion of Folk Art).	*Nil*
12.	The Prime Minister's Aid to Students Fund.	*Nil*
13.	The National Foundation for Communal Harmony.	*Nil*
14.	The Swachh Bharat Kosh, set up by the Central Government.	*Nil*
15.	The Clean Ganga Fund set up by the Central Government.	*Nil*
16.	The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory as referred to in section 133(1)(*a*)(*xv*).	*Nil*
17.	Any University or other educational institution wholly or substantially financed by the Government.	(*a*) It exists solely for educational purposes and not for purposes of profit; and (*b*) if the Government grant to such University or other educational institution exceeds such percentage of the total receipts including any donations, as may be prescribed, of such University or other educational institution, it shall be considered as being substantially financed by the Government during the relevant tax year.
18.	Any hospital or other institution wholly or substantially financed by the Government.	(*a*) It is for the reception and treatment of persons suffering from illness or mental defectiveness, or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation; (*b*) it exists solely for philanthropic purposes and not for the purposes of profit; and (*c*) if the Government grant to such hospital or other institution exceeds such percentage of the total receipts including any donations, as may be prescribed, of such hospital or other institution, it shall be considered as being substantially financed by the Government during the relevant tax year.
19.	(*a*) Any University or other educational institution; (*b*) any hospital or other institution.	(*a*) Such University or other educational institution exists solely for educational purposes and not for the purposes of profit; (*b*) such hospital or other institution is for the reception and treatment of persons suffering from illness or mental defectiveness, or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation; (*c*) such hospital or other institution exists solely for philanthropic purposes and not for the purposes of profit; and (*d*) the aggregate of annual receipts of such University or Universities or educational institution or institutions, and hospital or hospitals or institution or institutions, does not exceed five crore rupees; (*e*) where such University or other educational institution or such hospital or other institution receives any anonymous donation defined under section 355(*a*), the provisions of section 337 (Table: Sl. No. 1) in respect of specified income shall apply *mutatis mutandis* as they apply in the case of a registered non-profit organisation and such anonymous donations shall be excluded from the income on which no tax is payable.
20.	A Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder.	*Nil.*
21.	Any Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India.	Such conditions as the Central Government may, by notification, specify.
22.	A recognised provident fund.	*Nil.*
23.	An approved superannuation fund.	*Nil.*
24.	An approved gratuity fund.	*Nil.*
25.	Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948 (46 of 1948).	*Nil.*
26.	Deposit-linked Insurance Fund established under section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).	*Nil.*
27.	Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948).	*Nil.*
28.	An agricultural produce market committee or board constituted under any law.	Such committee or board is constituted for the purpose of regulating the marketing of agricultural produce.
29.	A corporation established by a Central Act or State Act or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by the Government).	Such corporation or other body or institution or association has been established or formed for promoting the interests of the members of the Scheduled Castes or the Scheduled Tribes or backward classes, or of any two, or all of them.

30.	A corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.	*Nil.*
31.	Any corporation established by a Central Act or State Act or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.	*Nil.*
32.	Any co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes, or both.	Membership of such co-operative society shall consist of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies.
33.	Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942).	*Nil.*
34.	Rubber Board constituted under section 4(1) of the Rubber Board Act, 1947 (24 of 1947).	*Nil.*
35.	Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).	*Nil.*
36.	Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975).	*Nil.*
37.	Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972).	*Nil.*
38.	Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986).	*Nil.*
39.	Spices Board constituted under section 3(1) of the Spices Board Act, 1986 (10 of 1986).	*Nil.*
40.	Coir Board established under section 4 of the Coir Industry Act, 1953 (45 of 1953).	*Nil.*
41.	New Pension System Trust established on the 27th February, 2008 under the provisions of the Indian Trusts Act, 1882 (2 of 1882).	*Nil.*
42.	Any body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central Act or State Act with one or more of the following purposes,— (*a*) dealing with and satisfying the need for housing accommodation; (*b*) planning, development or improvement of cities, towns and villages; (*c*) regulating, or regulating and developing, any activity for the benefit of the general public; or (*d*) regulating any matter, for the benefit of the general public, arising out of the object for which it has been created.	Such body or authority or Board or Trust or Commission is notified by the Central Government.
43.	National Credit Guarantee Trustee Company Limited, being a company established and wholly financed by the Central Government for the purposes of operating credit guarantee funds established and wholly financed by the Central Government.	*Nil.*
44.	A credit guarantee fund established and wholly financed by the Central Government and managed by the National Credit Guarantee Trustee Company Limited.	*Nil.*
45.	Credit Guarantee Fund Trust for Micro and Small Enterprises, being a trust created by the Central Government and the Small Industries Development Bank of India established under section 3(1) of the Small Industries Development Bank of India Act, 1989 (39 of 1989).	*Nil.*
46.	An infrastructure debt fund.	Such fund is set up as per the guidelines issued by the Central Government, by notification.
47.	An institution established for financing the infrastructure and development set up under an Act of Parliament.	Such exclusion from total income is for ten consecutive tax years, beginning from the tax year in which such institution is set up and such institution is notified by the Central Government.
48.	A developmental financing institution, licensed by the Reserve Bank of India under an Act of Parliament referred to against serial number 47.	(*a*) Such institution is notified by the Central Government; (*b*) exclusion of such income from the total income is for five consecutive tax years beginning from the tax year in which the developmental financing institution is set up; and (*c*) the Central Government may, by notification extend the period of exclusion for a further period, not exceeding five more consecutive tax years, subject to fulfilment of such conditions as specified in the said notification.

Note 1.-For the purposes of Sl. No. 3, the expression "Controller of Insurance" shall have the same meaning as assigned to it in section 2(*5B*) of the Insurance Act, 1938 (4 of 1938).

Note 2.-For the purposes of Sl. No. 4, the expression "khadi" and "village industries" shall have the meanings respectively assigned to them in the Khadi and Village Industries Commission Act, 1956 (61 of 1956).

Note 3.-For the purposes of Sl. No. 21, the expression "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013 (18 of 2013).

Note 4.-For the purposes of Sl. No. 29,—

(*a*) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in article 366(24) or (25) of the Constitution;

(*b*) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified by the Central Government or any State Government.

Note 5.-For the purposes of Sl. No. 30, the expression "minority community" means a community notified as such by the Central Government.

Note 6.-For the purposes of Sl. No. 31, the expression "ex-servicemen" means persons—

(*i*) who have served in any rank, whether as combatant or non-combatant;

(*ii*) in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army);

(*iii*) for a continuous period of not less than six months after attestation;

(*iv*) who have been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency; and

(*v*) includes their wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependent upon such ex-servicemen, immediately before their death or incapacitation, in case of deceased or incapacitated ex-servicemen.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

SCHEDULE VIII

[*See* section 12]

INCOME NOT TO BE INCLUDED IN THE TOTAL INCOME OF POLITICAL PARTIES AND ELECTORAL TRUSTS

In computing the total income of a tax year of any eligible person, being a political party or an electoral trust, as mentioned in column C of the Table below, the income mentioned in column B of the said Table shall not be included, subject to the conditions mentioned in column D of the said Table, and the expressions used in columns B to D of the said Table, shall have the meanings respectively assigned to them in the Note below the said Table:

Table

Sl. No.	*Income not to be included in total income*	*Eligible persons*	*Conditions*
A	*B*	*C*	*D*
1.	Any income which is chargeable under the head "Income from house property" or "Income from other sources" or "Capital gains" or any income by way of voluntary contributions received from any person.	A political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).	(*a*) Such political party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom; (*b*) in respect of each such voluntary contribution other than contribution by way of electoral bond in excess of ₹ 20,000, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; (*c*) the accounts of such political party are audited by an accountant; (*d*) no donation exceeding ₹ 2,000 is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed or through electoral bond; (*e*) the treasurer of such political party or any other person authorised by that political party in this behalf submits a report under section 29C(3) of the Representation of the People Act, 1951 (43 of 1951) for such tax year; and (*f*) such political party furnishes a return of income for the tax year as per the provisions of section 263(1)(*a*)(*iii*) and 263(2) on or before the due date referred to in section 263(1)(*c*).
2.	Any voluntary contributions received.	An electoral trust.	(*a*) Such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951 (43 of 1951), during the said tax year, 95% of the aggregate donations received by it during the said tax year along with the surplus, if any, brought forward from any earlier tax year; and (*b*) such electoral trust functions as per the rules made by the Central Government.

Note.—For the purposes of this Schedule, "electoral bond" means a bond referred to in the *Explanation* to section 31(3) of the Reserve Bank of India Act, 1934 (2 of 1934).

SCHEDULE IX

[*See* section 48]

DEDUCTION FOR TEA DEVELOPMENT ACCOUNT, COFFEE DEVELOPMENT ACCOUNT AND RUBBER DEVELOPMENT ACCOUNT FOR COMPUTING INCOME UNDER THE HEAD "PROFITS AND GAINS OF BUSINESS OR PROFESSION"

Quantum of deduction.

1. (1) An assessee shall be allowed deduction of,—

(*a*) the amount or aggregate of the amounts deposited by the assessee in the account as specified in paragraph 2; or

(*b*) 40% of the profits of such business computed under the head "Profits and gains of business or profession" before making any deduction under this paragraph,

whichever is less.

(2) The deduction shall be allowed before allowing set off of loss, if any, brought forward from earlier tax years as per section 112.

Conditions for claiming deduction.

2. (1) The deduction under paragraph 1 shall be allowed if the assessee—

(*a*) is carrying on the business of growing and manufacturing tea or coffee or rubber in India during the tax year;

(*b*) has, before the expiry of six months from the end of the tax year or before the due date of furnishing the return of his income, whichever is earlier, deposited any amount in the specified account being,—

(*i*) a special account maintained with the National Bank in accordance with, and for the purposes specified in the special scheme; or

(*ii*) a deposit account in accordance with, and for the purposes specified in the deposit scheme; and

(*c*) gets the accounts of such business for the relevant tax year audited by an accountant before the specified date referred to in section 63 and furnishes the audit report, in such form and manner as may be prescribed and verified by such accountant, by that date.

(2) Where the assessee is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of sub-paragraph (1)(*c*), if such assessee—

(*a*) gets the accounts of such business audited under such law before the specified date referred to in section 63; and

(*b*) furnishes by that date the report of such audit and a report by an accountant in the form referred to in sub-paragraph (1)(*c*).

(3) If any deduction has been allowed under paragraph 1 in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

(4) Where the assessee referred to in paragraph 1 is a firm or an association of persons or body of individuals, the deduction under paragraph 1 shall not be allowed in computing the income of any of the partners or members of such assessee.

Withdrawal from special account or deposit account.

3. (1) Any amount standing to the credit of the assessee in the specified account shall not be allowed to be withdrawn except for the purpose specified in the special scheme or, in the deposit scheme, or in the circumstances specified below:—

(*a*) closure of business; or

(*b*) death of an assessee; or

(*c*) partition of a Hindu undivided family; or

(*d*) dissolution of a firm; or

(*e*) liquidation of a company.

(2) If any amount standing to the credit of the assessee in the specified account, is withdrawn during any tax year by the assessee in the circumstance referred to in sub-paragraph (1)(*a*) and (1)(*d*), the whole of such amount shall be deemed to be the profits and gains of business or profession of that tax year and shall accordingly be charged to income-tax for that tax year, as if the business had not been closed or, the firm had not been dissolved respectively.

(3) Irrespective of anything contained in sub-paragraph (1), if—

(*a*) any amount standing to the credit of the assessee in the specified account is released by the National Bank or withdrawn by the assessee from the Deposit account, during any tax year; and

(*b*) such amount is utilised for the purchase of specified articles or thing,

then whole of such amount so utilised shall be deemed to be the profits and gains of business of that tax year and shall accordingly be charged to income-tax for that tax year.

(4) If any amount standing to the credit of the assessee—

(*a*) in the specified account is released by the National Bank; or

(*b*) is withdrawn by the assessee from the deposit account,

during any tax year for utilisation for the purposes of such business as per the special scheme or deposit scheme and the same is not so utilised, either wholly or partly, within that tax year, such amount not so utilised shall be deemed to be the profits and gains of business of that tax year and shall accordingly be charged to income-tax for that tax year.

(5) The provisions of sub-paragraph (4) shall not apply in cases where amount is released during any tax year on closure of the account in circumstances referred to in sub-paragraph (1)(*b*), (1)(*c*) and (1)(*e*).

(6) In sub-paragraph (3), "specified article or thing" means—

(*a*) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(*b*) any office appliances (not being computers);

(*c*) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one tax year;

(*d*) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in Schedule XIII.

No deduction of expenditure met through the amount withdrawn from specified account.

4. If the amount standing to the credit of the assessee in specified account is utilised to incur any expenditure for the purpose of such business as per the special scheme or deposit scheme, no deduction against such expenditure shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

Sale or transfer of asset acquired as per special scheme or deposit scheme.

5. (1) Where any asset,—

(*a*) is acquired in accordance with the special scheme or the deposit scheme; and

(*b*) is sold or transferred to any person in the tax year at any time before expiry of eight years from the end of tax year in which such asset was acquired,

then, the part of cost of asset which is relatable to the deduction allowed under paragraph 1 shall be deemed to be the profits and gains of business of the tax year in which such asset is sold or transferred and shall accordingly be charged to income-tax for that tax year.

(2) The provisions of sub-paragraph (1) shall not apply, if the asset is sold or transferred—

(*a*) by the assessee to the specified person; or

(*b*) by a firm to a company in connection with succession of business or profession of the firm by such company subject to the following conditions:—

(*i*) the provisions of special scheme or deposit scheme is applicable to the company in the same manner as it applied to the firm;

(*ii*) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(*iii*) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(*iv*) all the shareholders of the company were partners of the firm immediately before the succession.

(3) In this paragraph, "specified person" means,—

(*a*) Government; or

(*b*) a local authority; or

(*c*) a corporation established by or under a Central, State or Provincial Act; or

(*d*) a Government company as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013).

Interpretation.

6. For the purposes of this Schedule,—

(*a*) "Coffee Board" means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(*b*) "deposit account" means an account opened by the assessee for making deposits by the assessee in accordance with and for the purposes specified in the deposit scheme;

(*c*) "deposit scheme" means the scheme made by the Tea Board or the Coffee Board or the Rubber Board, with the prior approval of the Central Government;

(*d*) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(*e*) "Rubber Board" means the Rubber Board constituted under section 4(1) of the Rubber Act, 1947 (24 of 1947);

(*f*) "special account" means an account maintained by the assessee with the National Bank for making deposits in accordance with and for the purposes specified in the special scheme;

(*g*) "special scheme" means the scheme approved in this behalf by the Tea Board or the Coffee Board or the Rubber Board;

(*h*) "specified account" means a special account or a deposit account;

(*i*) "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).

SCHEDULE X

[*See* section 49]

DEDUCTION FOR SITE RESTORATION FUND FOR COMPUTING INCOME UNDER THE HEAD "PROFITS AND GAINS OF BUSINESS OR PROFESSION"

Quantum of deduction.

1. (1) An assessee shall be allowed deduction of,—

(*a*) the amount or aggregate of the amount deposited by the assessee in the account as specified in paragraph 2; or

(*b*) 20% of the profits of such business computed under the head "Profits and gains of business or profession" before making any deduction under this paragraph,

whichever is less.

(2) The deduction shall be allowed before allowing set off of loss, if any, brought forward from earlier tax years as per section 112.

(3) Any interest credited in the specified account shall be deemed to be a deposit.

Conditions for claiming deduction.

2. (1) Deduction under paragraph 1 shall be allowed if the assessee—

(*a*) is, during the tax year, carrying on the business consisting of the prospecting for, or extraction or production of, petroleum or natural gas, or both in India, and has entered into an agreement with the Central Government for such business;

(*b*) has, before the end of the tax year, deposited any amount in the specified account, being,—

(*i*) a special account maintained with the State Bank of India in accordance with, and for the purposes specified in the special scheme; or

(*ii*) a site restoration account in accordance with, and for the purposes specified in the deposit scheme; and

(*c*) gets the accounts of such business for the relevant tax year audited by an accountant before the specified date referred to in section 63 and furnishes the audit report, in such form and manner, as may be prescribed and verified by such accountant, by that date.

(2) Where the assessee is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of sub-paragraph (1)(*c*), if such assessee—

(*a*) gets the accounts of such business audited under such law before the specified date referred to in section 63; and

(*b*) furnishes by that date the report of such audit and a report by an accountant in such form referred to in sub-paragraph (1)(*c*).

(3) If any deduction has been allowed under paragraph 1 in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

(4) Where the assessee referred to in paragraph 1 is a firm or an association of persons or body of individuals, deduction under paragraph 1 shall not be allowed in computing the income of any of the partners or members of such assessee.

Withdrawal from specified account.

3.(1) Any amount standing to the credit of the assessee in the specified account shall not be allowed to be withdrawn except for the purposes specified in the special scheme or in the deposit scheme.

(2)(*a*) Irrespective of anything contained in sub-paragraph (1), if the amount is utilised for the purchase of specified articles or things, then, such amount shall not be allowed as deduction under paragraph 1;

(*b*) for the purposes of this paragraph, "specified article or thing" means—

(*i*) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(*ii*) any office appliances (except computers);

(*iii*) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one tax year;

(*iv*) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in Schedule XIII.

(3) Where any amount standing to the credit of the assessee in specified account is withdrawn on closure of such account in any tax year, then the amount computed as under shall be deemed to be the profits and gains of business or profession for the tax year and accordingly the following amount shall be charged to income-tax for that tax year:

A = B - C

where,—

A = deemed profits and gains of business or profession of that tax year;
B = amount withdrawn from the specified account on its closure; and
C = amount, if any, payable to the Central Government by way of profit or production share as provided in agreement referred to in section 54.

(4) Where any amount is withdrawn on closure of specified account in a tax year in which the business of the assessee is no longer in existence, sub-paragraph (3) shall apply as if the business is in existence in that tax year.

(5) If any amount standing to the credit of the assessee—

(*a*) in the specified account is released by the State Bank of India; or

(*b*) is withdrawn by the assessee from the site restoration account,

during any tax year for utilisation for the purposes of such business as per the special scheme or deposit scheme and the same is not so utilised, either wholly or in part within that tax year, such amount shall be deemed to be the profits and gains of business of that tax year and accordingly be charged to income-tax for that tax year.

(6) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the deposit scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

No deduction of expenditure met through amount withdrawn from specified account.

4.(1) If the amount standing to the credit of the assessee in the specified account is utilised to incur any expenditure for the purpose of business as per the special scheme or deposit scheme, no deduction against such expenditure shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(2) In this paragraph, "amount standing to the credit of the assessee in the specified account" includes interest to such accounts.

Sale or transfer of asset acquired as per special scheme or deposit scheme.

5. (1) Where any asset,—

(*a*) is acquired as per the special scheme or the deposit scheme; and

(*b*) is sold or transferred to any person in the tax year at any time before the expiry of eight years from the end of tax year in which it was acquired,

then, the part of cost of asset as is relatable to the deduction allowed under paragraph 1 shall be deemed to be the profits and gains of business of the tax year in which such asset is sold or transferred and shall accordingly be charged to income-tax for that tax year.

(2) Sub-paragraph (1) shall not apply, if the asset is sold or transferred by—

(*a*) the assessee to the specified person; or

(*b*) a firm to a company in connection with succession of business or profession of the firm by such company subject to the following conditions:—

(*i*) the provisions of special scheme or deposit scheme is applicable to the company in the same manner as it applied to the firm;

(*ii*) all the properties of the firm relating to the business or profession immediately before the succession becomes the properties of the company;

(*iii*) all the liabilities of the firm relating to the business or profession immediately before the succession becomes the liabilities of the company; and

(*iv*) all the shareholders of the company were partners of the firm immediately before the succession.

(3) In this paragraph, "specified person" means—

(*a*) Government; or

(*b*) a local authority; or

(*c*) a corporation established by or under a Central, State or Provincial Act; or

(*d*) a Government company as defined in section 2(*45*) of the Companies Act, 2013 (18 of 2013).

Interpretation.

6. For the purposes of this Schedule,—

(*a*) "amount standing to the credit of the assessee" pertaining to the specified account includes interest accrued to such accounts;

(*b*) "deposit scheme" means a scheme made in this behalf by the Ministry of Petroleum and Natural Gas;

(*c*) "specified account" means a special account or site restoration account;

(*d*) "special account" means an account maintained with the State Bank of India for making deposits in accordance with, and for the purposes specified in the special scheme;

(*e*) "special scheme" means a scheme approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas;

(*f*) "site restoration account" means an account opened by the assessee for making deposits in accordance with, and for the purposes specified in the deposit scheme;

(*g*) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955).

SCHEDULE XI

[*See* section 2(*91*)]

PART A

RECOGNISED PROVIDENT FUNDS

Application of Part

1. This Part shall not apply to any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies.

Definitions.

2. For the purposes of this Part, unless the context otherwise requires,—

(*a*) "approving authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;

(*b*) "employer" means any person who maintains a provident fund for the benefit of his or its employees, being—

(*i*) a Hindu undivided family, company, firm or other association of persons, or

(*ii*) an individual engaged in a business or profession, the profits and gains whereof are assessable to income-tax under the head "Profits and gains of business or profession";

(*c*) "employee" means an employee participating in a provident fund, excluding personal or domestic servant;

(*d*) "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own funds, to the individual account of an employee, excluding any sum credited as interest;

(*e*) "balance to the credit of an employee" means the total amount to the credit of his individual account in a provident fund at any time;

(*f*) "annual accretion", in relation to the balance to the credit of an employee means the increase to such balance, in any year arising from contributions and interest;

(*g*) "accumulated balance due to an employee" means the balance to his credit, or portion thereof claimable by the employee under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund;

(*h*) "regulations of a fund" means the specific regulations governing the constitution and administration of a particular provident fund; and

(*i*) "salary" includes dearness allowance, if provided for in the terms of employment, but excludes all other allowances and perquisites.

Recognition to provident fund and its withdrawal.

3. (1) The approving authority may grant recognition to a provident fund, which in his opinion, satisfies the conditions prescribed in paragraph 4 and the rules made by the Board in this regard and may, at any time, withdraw such recognition if, in his opinion, the provident fund violates any of those conditions.

(2) An order granting recognition shall take effect on such date specified by the approving authority as per any rules made or may be made by the Board in this behalf, such date not being later than the last day of the tax year in which the order is made.

(3) An order withdrawing recognition shall take effect from the date on which it is made.

(4) An order according recognition to a provident fund shall not, unless the approving authority otherwise directs, be affected by the fact that—

(*a*) the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained; or

(*b*) the fund subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund.

Conditions to be satisfied by recognised provident funds.

4. In order to receive and retain recognition, a provident fund, shall, subject to the provisions of paragraph 5, satisfy the following conditions and any other conditions as may be prescribed—

(*a*) all employees shall be employed in India, or employed by an employer whose principal place of business is in India;

(*b*) the contributions of an employee in any year shall be a fixed proportion of his salary for that year, deducted by the employer from each periodical payment of salary in that proportion and credited to the employee's individual account in the fund;

(*c*) the employer's contributions to the employee's account in any year shall not exceed the employee's contribution in that year, and shall be credited to the employee's account at intervals not exceeding one year;

(*d*) the fund shall be vested in two or more trustees or the Official Trustee under a trust which shall not be revocable, except with the consent of all the beneficiaries;

(*e*) the fund shall consist only of—

(*i*) contributions as specified above, received by the trustees;

(*ii*) accumulations thereof;

(*iii*) interest credited in respect of such contributions and accumulations;

(*iv*) securities purchased there with; and

(*v*) any capital gains arising from the transfer of capital assets of the fund;

(*f*) the fund shall be the fund of an establishment—

(*i*) to which the provisions of section 1(3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) apply; or

(*ii*) notified by the Central Provident Fund Commissioner under section 1(4) of the said Act,

and such establishment shall be exempted from the operation of all or any of the provisions of any scheme mentioned in section 17 of the said Act;

(*g*) the employer, subject to clause (*h*), shall not be entitled to recover any sum from the fund, except when the employee—

(*i*) is dismissed for misconduct; or

(*ii*) voluntarily leaves his employment otherwise than due to ill-health or other unavoidable cause before the end of the term of service specified in the regulations of the fund;

(*h*) for the purposes of clause (*g*), the recovery made by the employer shall be limited to—

(*i*) the contributions made by him to the individual account of the employee;
(*ii*) interest credited in respect of such contributions as per the regulations of the fund; and
(*iii*) the accumulations thereof;

(*i*) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund;

(*j*) except as provided in clause (*i*) or as per conditions and restrictions prescribed, no portion of the balance to the credit of an employee shall be payable to him.

Relaxation of conditions.

5. (1) Irrespective of anything contained in paragraph 4(*a*), the approving authority may, if he thinks fit and subject to such conditions that he thinks proper to attach to such recognition, record recognition to a fund which is—

(*a*) maintained by an employer whose principal place of business is outside India; and

(*b*) the proportion of employees employed outside India does not exceed 10%.

(2) Irrespective of anything contained in paragraph 4(*b*), an employee who retains his employment—

(*a*) while serving in the armed forces of the Union; or

(*b*) when taken into or employed in the national service under any law for the time being in force,

may, contribute to the fund during such service in the armed forces or employment in the national service, a sum not exceeding the amount he would have contributed had he continued to serve the employer, whether he received any salary or not from the employer.

(3) Irrespective of anything contained in paragraph 4(*e*) or (*i*),—

(*a*) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may agree to retain the whole or any part of the accumulated balance to be drawn by him at any time on demand;

(*b*) when the accumulated balance due to such employee is retained in the fund as per clause (*a*), the fund may also include interest in respect of such accumulated balance; and

(*c*) the fund may also consist of any amount and interest thereof transferred from the employee's individual account in any recognised provident fund maintained by his former employer.

(4) Subject to any rules made by the Board, the approving authority may relax the provisions of paragraph 4(*c*) for any particular fund,—

(*a*) to permit the payment of larger contributions by an employer to the employee's individual account whose salary does not exceed five hundred rupees per month; and

(*b*) to permit the employers to credit the employees' individual accounts with periodical bonuses or contributions of a contingent nature, when the calculation and payment of such bonuses or contributions is provided for on definite principles by the regulations of the fund.

(5) Irrespective of anything contained in paragraph 4(*j*), in order to allow an employee to pay the amount of tax assessed on his total income under paragraph 11(4), such employee shall be allowed to withdraw from the balance amount to his credit in the recognised provident fund, a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in paragraph 11(2) had not been included in the total income.

Employer's annual contributions, when deemed to be income received by employee.

6. The portion of the annual accretion in the tax year to the employee's balance in a recognised provident fund consisting of—

(*a*) contributions made by the employer exceeding 12% of the employee's salary; and

(*b*) interest credited on the balance to the credit of an employee in so far as it is allowed at a rate exceeding such rate as fixed by the Central Government by notification,

shall be deemed to have been received by the employee and included in his total income for that tax year and shall be liable to income tax.

Exemption for employee's contributions.

7. An employee participating in a recognised provident fund shall, in respect of his own contributions to his individual account in the fund in the tax year, be entitled to a deduction in the computation of his total income of an amount determined as per section 123.

Exclusion from total income of accumulated balance

8. (1) Subject to the provisions of sub-paragraph (2), the accumulated balance due and payable to an employee shall be excluded from the computation of his total income—

(*a*) if the employee has rendered continuous service with his employer for five years or more; or

(*b*) even if, the employee has not served continuously, the service was terminated due to—
(*i*) the employee's ill-health; or
(*ii*) by the contraction or closure of the employer's business; or
(*iii*) other cause beyond the control of the employee;

(*c*) if, on the cessation of his employment, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer; or

(*d*) the entire balance standing to the employee's credit is transferred to his account under a pension scheme referred to in section 124 and notified by the Central Government.

(2) Where the accumulated balance due and payable to an employee includes any amount transferred from another recognised provident fund or funds of a previous employer or employers, the continuous service period for the purposes of sub-paragraph (1)(*a*) or (*b*) shall include the period or periods served under the aforesaid previous employer or employers.

Tax on accumulated balance.

9. Where the accumulated balance due to an employee is included in his total income owing to the provisions of paragraph 8 not being applicable, then—

(*a*) the Assessing Officer shall calculate the total of the various sums of tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund; and

(*b*) the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other tax for which he may be liable for the tax year in which the accumulated balance due to him becomes payable.

Deduction at source of tax payable on accumulated balance.

10. In cases where paragraph 9 applies—

(*a*) the trustees of a recognised provident fund; or

(*b*) any person authorised by the regulations of the fund to make payment of accumulated balances due to employees,

shall deduct from the accumulated balance at the time of payment, the amount payable under the rule and the provisions of Chapter XIX-B shall apply as if the accumulated balance were income chargeable under the head "Salaries".

Treatment of balance in newly recognised provident fund.

11. (1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect,—

(*a*) showing the balance to the credit of each employee on such day; and

(*b*) containing such further particulars as may be prescribed.

(2) The account shall also show in respect of balance to the credit of each employee—

(*a*) the amount thereof to be transferred to the employee's account in the recognised provident fund (herein referred to as transferred balance); and

(*b*) such "transferred balance" shall be shown as balance to his credit in the recognised provident fund on the date on which the recognition takes effect, and sub-paragraph (4) and paragraph 5(5) shall apply accordingly.

(3) Any part of the balance to the credit of each employee in the existing fund not transferred to the recognised fund shall be excluded from the recognised fund's account and shall be liable to income-tax as per the provisions of this Act, other than this Part.

(4) Subject to rules made by the Board in this behalf,—

(*a*) the Assessing Officer shall calculate the aggregate of all amounts in the transferred balance that would have been liable to income-tax if this Part had been in force since the fund's institution, without regard to any tax which may have been paid on any amount;

(*b*) the aggregate of amounts in a transferred balance, if any, shall be deemed to be income received by the employee in the tax year in which the recognition of the fund takes effect and shall be included in the employee's total income for that tax year;

(*c*) for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance.

(5) In cases of serious accounting difficulty, the approving authority may, subject to rules, make a summary calculation of the aggregate as provided in sub-paragraph (4).

(6) Nothing in this paragraph shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee prior to recognition, in any manner permitted by law.

Accounts of recognised provident funds.

12. (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund in such form, for such period, and contain such particulars, as may be prescribed.

(2) The accounts shall be available to inspection by the income-tax authorities at all reasonable times, and the trustees shall provide the Assessing Officer with the abstracts of such accounts as may be prescribed.

Appeal.

13. (1) An employer objecting to an order of the approving authority not granting recognition or withdrawing recognition from a provident fund may appeal to the Board, within sixty days of such order.

(2) The appeal shall be in such form and verified in such manner, and subject to the payment of such fee as may be prescribed.

Treatment of fund transferred by employer to trustee.

14. (1) When an employer who maintains a provident fund, whether recognised or not, for the benefit of his employees and has not transferred the fund or portion of it, transfers such fund or portion to trustees in trust for the participating employees, the transferred amount shall be deemed to be of the nature of capital expenditure.

(2) When an employee receives the accumulated balance due to him from the fund, any portion of such balance representing the employee's share of the amount transferred to the trustees (without addition of interest and exclusive of employee's contributions and interest thereon) shall be deemed to be,—

(*a*) employer's expenditure under section 34;

(*b*) incurred in the tax year in which the accumulated balance due to the employee is paid,

provided an arrangement for deduction of tax at source has been made from the amount of such share by the employer.

PART B

APPROVED SUPERANNUATION FUNDS AND GRATUITY FUNDS

Interpretation.

1. For the purposes of this Part, unless the context otherwise requires, "approving authority", "employer", "employee", "contribution" and "salary", in relation to superannuation funds and gratuity funds shall have, the meanings as assigned to those expressions in paragraph 2(*a*), (*b*), (*c*), (*d*) and (*i*) of Part A in relation to provident funds.

According approval to superannuation fund and its withdrawal.

2. (1) The approving authority may grant approval to any superannuation fund or its part, or any gratuity fund, as the case may be, which in his opinion satisfies the conditions prescribed in paragraph 3, and may withdraw such approval at any time, if, in his opinion, the circumstances cease to warrant such approval.

(2) The approving authority shall inform the trustees of the fund, in writing, the grant of approval with the date on which the approval is to take effect and the conditions subject to which such approval is granted, if any.

(3) The approving authority shall inform the trustees of the fund, in writing, any withdrawal of approval along with the reasons and the date on which the withdrawal is to take effect.

(4) The approving authority shall not refuse or withdraw any approval without giving the trustees a reasonable opportunity of being heard.

Conditions for approval.

3. In order to receive and retain approval, a superannuation fund or a gratuity fund, as the case may be, shall satisfy the following conditions, and any other conditions as may be prescribed:—

- (*a*) the fund shall be established under an irrevocable trust in connection with a trade or an undertaking carried on in India, with at least 90% employees employed in India;
- (*b*) the sole purpose of the fund shall be the provision of annuities or gratuity, as the case may be, for employees in the trade or undertaking—
  - (*i*) upon their retirement at or after a specified age;
  - (*ii*) upon incapacitation before retirement;
  - (*iii*) on termination of employment after a minimum period of service specified in the rules of the gratuity fund; or
  - (*iv*) for the widows, children or dependants of such employees on their death;
- (*c*) the employer in the trade or undertaking shall contribute to the fund; and
- (*d*) all annuities, pensions and other benefits, granted from the fund shall be payable only in India.

Application for approval.

4. (1) An application for approval of a superannuation fund or part of it, or any gratuity fund, as the case may be, shall be made in writing by the trustees to the Assessing Officer by whom the employer is assessable, and shall be accompanied by—

- (*a*) a copy of the instrument establishing the fund and two copies of the rules thereof; and
- (*b*) two copies of the accounts of the fund relating to such earlier year or years (not more than three years immediately preceding the year in which the said application is made) for which the accounts have been made up, if the fund has been in existence before the financial year in which the application for approval is made.

(2) In addition to the documents referred to in sub-paragraph (1), the approving authority may require such further information to be furnished as he thinks proper.

(3) If any alteration is made to the rules, constitution, objects or conditions of the fund after the date of the application for approval,—

- (*a*) the trustees shall immediately inform such alterations to the Assessing Officer mentioned in sub-paragraph (1); and
- (*b*) failure to inform such alterations may result in the approval given, if any, be deemed to be withdrawn from the date on which the alteration took effect, unless the approving authority orders otherwise.

Gratuity deemed to be salary.

5. If any gratuity is paid to an employee during his lifetime, the gratuity shall be treated as salary paid to the employee for the purposes of this Act.

Contributions of employee when deemed to be income of employer.

6. When contributions by an employer (including the interest, if any) are repaid to the employer, the amount so repaid shall be deemed for the purposes of income-tax to be the income of the employer of the tax year in which they are so repaid.

Deduction of tax on contributions paid to an employee.

7. (1) When any contributions made by an employer to an approved superannuation fund, including interest are paid to an employee during his lifetime under conditions other than those specified in Schedule II (Table: Sl. No. 8), tax on the amounts so paid shall be deducted at the average rate of tax applicable to the employee—

- (*a*) during the previous three years; or
- (*b*) during the period for which the employee was a member of the fund, if the period is less than three years.

(2) The trustees shall pay the tax so deducted to the Central Government within the time and manner, as may be prescribed.

Deduction from pay of and contributions on behalf of employee to be included in return.

8. When an employer deducts contributions from the emoluments of the employee or pays on his behalf any contributions to an approved superannuation fund, all such deductions or payments shall be included in the statement which is required under section 397(3)(*b*).

Appeal.

9. (1) An employer objecting to an order of the approving authority refusing to grant approval to a superannuation fund, or a gratuity fund, as the case may be, or withdrawing such approval may appeal to the Board within sixty days of such order.

(2) The appeal shall be in such form and verified in such manner and subject to the payment of such fee, as may be prescribed.

Liability of trustees on cessation of approval of superannuation fund.

10. If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved superannuation fund under the provisions of this Part.

Liabilities of trustees on cessation of approval of gratuity fund.

11. If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees shall nevertheless remain liable to tax on any gratuity paid to any employee.

Particulars to be furnished.

12. The trustees of an approved superannuation fund or an approved gratuity fund and any employer who contributes to such a fund shall furnish such returns, statement, particulars or information, as required by notice from the Assessing Officer within the specified period, not being less than twenty-one days from the date of the notice.

PART C

POWER TO MAKE RULES FOR PROVIDENT FUNDS, SUPERANNUATION FUNDS AND GRATUITY FUNDS

Power of Board to make rules for fund.

1. In addition to powers granted by Part A and Part B of this Schedule, the Board may make rules for a fund (provident fund or superannuation fund or gratuity fund) in respect of the following:—

(*a*) to provide for the statements and information to be submitted along with an application for approval or recognition for a fund;

(*b*) to provide for the returns, statements, particulars, or information which the Assessing Officer may require from the trustees of an approved superannuation fund or from the employer;

(*c*) to limit the ordinary annual and other contributions of an employer to the gratuity fund or an approved superannuation fund;

(*d*) to limit the contributions to a recognised provident fund by employees who are shareholders in the company;

(*e*) to regulate investment or deposit of the moneys of a recognised or an approved fund, subject to the condition that no rule shall require more than 50% of the fund's money to be invested in Government securities as defined in section 2(*f*) of the Government Securities Act, 2006 (38 of 2006);

(*f*) to provide for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised or an approved fund;

(*g*) to determine the extent and manner of exemption from payment of tax on contributions and interest credited to the individual account of the employee in a provident fund from which recognition has been withdrawn;

(*h*) to determine the extent and manner of exemption from payment of tax on any payment made from a superannuation fund from which approval has been withdrawn;

(*i*) to provide for the withdrawal of the approval of a superannuation fund or gratuity fund, which ceases to satisfy the requirements of this Part or the rules made thereunder; and

(*j*) to carry out any other the purpose of this Part and to secure such further control over the recognition or approval of the funds and the administration of such funds as it may deem requisite.

2. All rules made under this Part shall be subject to section 534.

SCHEDULE XII

[*See* section 51]

PART A

MINERALS

1. Aluminium ores.
2. Apatite and phosphatic ores.
3. Beryl.
4. Chrome ore.
5. Coal and lignite.
6. Columbite, Samarskite and other minerals of the “rare earths” group.
7. Copper.
8. Gold.
9. Gypsum.
10. Iron ore.
11. Lead.
12. Manganese ore.
13. Molybdenum.
14. Nickel ores.
15. Platinum and other precious metals and their ores.
16. Pitchblende and other uranium ores.
17. Precious stones.
18. Rutile.
19. Silver.
20. Sulphur and its ores.
21. Tin.
22. Tungsten ores.
23. Uraniferous allanite, monazite and other thorium minerals.
24. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.
25. Vanadium ores.
26. Zinc.
27. Zircon.

PART B

GROUPS OF ASSOCIATED MINERALS

1. Apatite, Beryl, Cassiterite, Columbite, Emerald, Felspar, Lepidolite, Mica, Pitchblende, Quartz, Samarskite, Scheelite, Topaz, Tantalite, Tourmaline.
2. Iron, Manganese, Titanium, Vanadium and Nickel minerals.
3. Lead, Zinc, Copper, Cadmium, Arsenic, Antimony, Bismuth, Cobalt, Nickel, Molybdenum, and Uranium minerals, and Gold and Silver, Arsenopyrite, Chalcopyrite, Pyrite, Pyrrhotite and Pentlandite.
4. Chromium, Osmiridium, Platinum and Nickel minerals.
5. Kyanite, Sillimanite, Corundum, Dumortierite and Topaz.
6. Gold, Silver, Tellurium, Selenium and Pyrite.
7. Barytes, Fluorite, Chalcocite, Selenium, and minerals of Zinc, Lead and Silver.
8. Tin and Tungsten minerals.
9. Limestone, Dolomite and Magnesite.
10. Ilmenite, Monazite, Zircon, Rutile, Garnet and Sillimanite.
11. Sulphides of Copper and Iron.
12. Coal, Fire clay and Shale.
13. Magnetite and Apatite.
14. Magnesite and Chromite.
15. Talc (Soapstone and Steatite) and Dolomite.
16. Bauxite, Laterite, Aluminous Clays, Lithomarge, Titanium, Vanadium, Gallium and Columbium minerals.

SCHEDULE XIII

[*See* section 45(2)]

LIST OF ARTICLES OR THINGS

1. Beer, wine and other alcoholic spirits.

2. Tobacco and tobacco preparations, such as, cigars and cheroots, cigarettes, biris, smoking mixtures for pipes and cigarettes, chewing tobacco and snuff.

3. Cosmetics and toilet preparations.

4. Tooth paste, dental cream, tooth powder and soap.

5. Aerated waters in the manufacture of which blended flavouring concentrates (including synthetic essence) in any form are used.

6. Confectionery and chocolates.

7. Gramophones, including record players, and gramophone records.

8. Projectors.

9. Photographic apparatus and goods.

10. Office machines and apparatus such as typewriters, calculating machines, cash registering machines, cheque writing machines, intercom machines and teleprinters including all machines and apparatus used in offices, shops, factories, workshops, educational institutions, railway stations, hotels and restaurants for doing office work and for data processing including calculating machines and calculating devices not being computers.

11. Steel furniture, whether made partly or wholly of steel.

12. Safes, strong boxes, cash and deed boxes and strong room doors.

13. Latex foam sponge and polyurethane foam.

14. Crown corks, or other fittings of cork, rubber, polyethylene or any other material.

15. Pilfer-proof caps for packaging or other fittings of cork, rubber, polyethylene or any other material.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

SCHEDULE XIV

[*See* section 55]

INSURANCE BUSINESS

A.-Life insurance business

Profits of life insurance business to be computed separately.

1. If a person is engaged in life insurance business during the tax year, the profits and gains of such business shall be computed separately from profits and gains of any other business.

Computation of profits of life insurance business.

2. (1) The profits and gains life insurance business shall be the annual average of the surplus after adjusting the surplus or deficit disclosed by the actuarial valuation made as per the Insurance Act, 1938 (4 of 1938) for the last inter-valuation period ending before the commencement of tax year, so as to exclude from it any surplus or deficit from any earlier inter-valuation period.

(2) Any expenditure which is inadmissible under section 34 in computing the profits and gains of a business, shall be added to such profits and gains of life insurance business.

Adjustment of tax paid by deduction at source.

3. When an assessment of the life insurance business profits is made based on the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the income-tax, payable for that year credit shall—

(*a*) not be given as per section 390 for the income-tax paid in the preceding tax year;

(*b*) be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period.

B.-Other insurance business

Computation of profits and gains of other insurance business.

4. (1) The profits and gains of any insurance business other than life insurance shall be the profit before tax and appropriations as disclosed in the profit and loss account prepared as per the Insurance Act, 1938 (4 of 1938) or the rules made thereunder or the Insurance Regulatory and Development Authority Act, 1999 (4 of 1999) or the regulations made subject to the following adjustments:—

(*a*) subject to the other provision of this rule, any expenditure or allowance including any amount debited to profit and loss account either by way of a provision for any tax, dividend, reserve, or any other provision as may be prescribed, which is inadmissible under sections 28 to 54 shall be added back;

(*b*) any gain or loss from realisation of investments shall be added or deducted, as the case may be, if not already credited or debited to the profit and loss account;

(*c*) any provision for diminution in investment value debited to the profit and loss account, shall be added back; and

(*d*) such amount carried over to a reserve for unexpired risks as may be prescribed shall be allowed as a deduction.

(2) The amount payable under section 37, which is added under sub-paragraph (1)(*a*) shall be allowed as deduction in the tax year in which it is actually paid.

C.-Other provisions

Profits and gains of non-resident person.

5. (1) The profits and gains of a person not-resident in India who is engaged in the insurance business through its branches in India may, in the absence of more reliable data, be deemed to be that proportion of his global income which corresponds to the proportion which his premium income derived from India bears to his total premium income.

(2) In this paragraph, the global income in relation to life insurance business of a person not resident in India shall be computed as per this Act for computing the profits and gains of life Insurance business carried on in India.

Interpretation.

6. (1) For the purposes of this schedule,—

(*a*) "investments" include securities, stocks and shares;

(*b*) "life insurance business" means life insurance business as defined in section 2(*11*) of the Insurance Act, 1938 (4 of 1938).

(2) References to the Insurance Act, 1938 (4 of 1938) in this Schedule regarding the Life Insurance Corporation of India shall be treated as references to that Act or section 43 of the Life Insurance Corporation Act, 1956 (31 of 1956).

SCHEDULE XV

[*See* section 123]

DEDUCTION IN RESPECT OF LIFE INSURANCE PREMIA, CONTRIBUTION TO PROVIDENT FUND, SUBSCRIPTION TO CERTAIN EQUITY SHARES, ETC.

Sums qualifying as deduction.

1. For any tax year, the following amounts shall qualify as deduction for the purpose of section 123—

(*a*) premium paid for a life insurance policy—

(*i*) in the case of an individual, on life of such individual, spouse of the individual and any child of the individual;

(*ii*) in the case of a Hindu undivided family, on life of any member of the Hindu undivided family,

subject to paragraph 2;

(*b*) sum paid under a deferred annuity contract other than the annuity plan referred to in clause (*1*) on life of the individual, spouse of the individual and any child of the individual, and such contract does not contain an option to receive cash payment *in lieu* of the annuity;

(*c*) sum deducted from salary payable by or on behalf of the Government to any individual for securing deferred annuity or making provision for his spouse or children, to the extent of 20% of salary;

(*d*) contribution by an individual to any provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies;

(*e*) contribution to an account with any provident fund, set up and notified by the Central Government, in the name of,—

(*i*) in the case of an individual, such individual, spouse of the individual and any child of the individual;

(*ii*) in the case of a Hindu undivided family, any member thereof;

(*f*) contribution by an employee to a recognised provident fund;

(*g*) contribution by an employee to an approved superannuation fund;

(*h*) subscription to any security or deposit scheme notified by the Central Government in the name of an individual or any girl child of that individual, or any girl child for whom such person is the legal guardian, if the scheme so specifies;

(*i*) subscription to savings certificate as mentioned in section 3(*k*) of the Government Savings Banks Act, 1873 (5 of 1873), as may be notified by the Central Government;

(*j*) contribution for participation in Unit-linked Insurance Plan, 1971 specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002),—

(*i*) in the case of an individual, in the name of such individual, spouse of the individual and any child of the individual;

(*ii*) in the case of a Hindu undivided family, in the name of any member thereof;

(*k*) contribution for participation in unit-linked insurance plan of Life Insurance Corporation Mutual Fund, referred to in Schedule VII (Table: Sl. No. 20 or 21), as may be notified by the Central Government,—

(*i*) in the case of an individual, in the name of such individual, spouse of the individual and any child of the individual;

(*ii*) in the case of a Hindu undivided family, in the name of any member thereof;

(*l*) sum paid to effect or to keep in force a contract for annuity plan of the Life Insurance Corporation or any other insurer notified by the Central Government;

(*m*) subscription to any units of any Mutual Fund referred to in serial number 20 or 21 of the Table in Schedule VII or from the Administrator or the specified company under any plan formulated in accordance with such scheme notified by the Central Government;

(*n*) contribution by an individual to any pension fund set up by—

(*i*) any Mutual Fund referred to in Schedule VII (Table: Sl. No. 20 or 21); or

(*ii*) the Administrator; or

(*iii*) the specified company,

as may be notified by the Central Government;

(*o*) subscription to a deposit scheme or contribution to a pension fund, set up by the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987), as may be notified by the Central Government;

(*p*) subscription to any deposit schemes of—

(*i*) a public sector company engaged in providing long-term finance for construction or purchase of houses in India for residential purposes; or

(*ii*) an authority constituted in India by any law, for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,

as may be notified by the Central Government;

(*q*) tuition fees (excluding any development fees or donation or payment of similar nature) paid by an individual to any University, college, school or other educational institution situated in India (at the time of admission or thereafter), for full time education of any two children of such individual;

(*r*) payment made for purchase or construction of a residential house property the income from which is chargeable to tax under the head "Income from house property" (or which would, if it had not been used for the own residence of the assessee, have been chargeable to tax under that head), subject to satisfaction of conditions laid down in paragraph 3;

(*s*) term deposit for a fixed period of not less than five years with a scheduled bank, and which is as per such scheme framed and notified by the Central Government;

(*t*) subscription to bonds issued by the National Bank for Agriculture and Rural Development, as may be notified by the Central Government;

(*u*) deposit in an account under the Senior Citizen Savings Scheme Rules, 2004;

(*v*) five years term deposit in an account under the Post Office Time Deposit Rules, 1981;

(*w*) contribution by an employee of the Central Government to an additional account referred to in section 20(3) of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) of the pension scheme notified by the Central Government, as referred to in section 124—

(*a*) for a fixed period of not less than three years; and

(*b*) which is as per the scheme as may be notified by the Central Government for the purposes of this clause;

(*x*) contribution made from income chargeable to tax to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from the fund referred to in Schedule VII (Table: Sl. No. 3);

(*y*) contribution made by an individual to a pension scheme notified by the Central Government, to the extent of—

(*i*) 10% of salary, including dearness allowance, if the terms of employment so provide, but excluding all other allowances and perquisites, during the tax year in the case of an employee of the Central Government or any other employer; or

(*ii*) 20% of gross total income during the tax year in the case of any other individual;

(*z*) subscription to—

(*i*) equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form;

(*ii*) any units of any mutual fund referred to in Schedule VII (Table: Sl. No. 20 or 21) and approved by the Board on an application made by such mutual fund in the prescribed form and if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

Payment on insurance policy.

2. (1) The deductions shall apply only to so much of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity, —

(*a*) as is up to 20% of the actual capital sum assured, in respect of a policy issued on or before the 31st March, 2012;

(*b*) as is up to 10% of the actual capital sum assured, in respect of a policy issued on or after the 1st April, 2012;

(*c*) as is up to 15% of the actual capital sum assured, if the policy is issued on or after the 1st April, 2013 and where such policy covers the life of,—

(*i*) a person with a disability or severe disability as referred to in section 154; or

(*ii*) a person suffering from a disease or ailment specified in the rules made under section 128.

(2) In this paragraph, "actual capital sum assured" shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account—

(*a*) the value of any premiums agreed to be returned; or

(*b*) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

Payments made for purchase or construction of residential house property.

3. The deduction in respect of amount spent for purchase or construction of a residential house property as provided in paragraph 1(*r*) shall—

(*a*) include payments that are made towards or by way of—

(*i*) any instalment or part payment of the amount due under any selffinancing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or

(*ii*) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(*iii*) repayment of the amount borrowed by the assessee from—

(*A*) the Central Government or any State Government; or

(*B*) any bank, including a co-operative bank; or

(*C*) the Life Insurance Corporation; or

(*D*) the National Housing Bank; or

(*E*) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under section 32(*e*); or

(*F*) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses; or

(*G*) the employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central Act or State Act; or

(*H*) the employer of the assessee where such employer is a public company or a public sector company or a University established by law or a college affiliated to such University or a local authority or a co-operative society; or

(*iv*) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee;

(*b*) not include any payment towards or by way of—

(*i*) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

(*ii*) the cost of any addition or alteration to, or renovation or repair of, the house property, which is carried out after the issue of the completion certificate in respect of the house property by the authority competent to issue it, or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf, or been let out; or

(*iii*) any expenditure in respect of which deduction is allowable under section 22.

Disallowance of and taxation of deduction already allowed.

4. The deductions in the nature of payments specified in column B of the Table below shall not be allowable in the tax year in which the conditions specified in column C of the said Table are fulfilled, and the aggregate amount of the deductions allowed thus far in the preceding tax year or tax years shall be deemed to be the income of the assessee and liable to tax in such tax year.

Table

Sl. No.	*Nature of payment*	*Conditions for disallowance of the deduction in respect of payment provided in column B*
A	*B*	*C*
1.	Premium paid for a life insurance policy.	Where the assessee terminates his contract of insurance, by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance,— (*a*) in case of any single premium policy, within two years after the date of commencement of insurance; or (*b*) in any other case, before premiums have been paid for two years.

2.	(*a*) Contribution for participation in the Unit-Linked Insurance Plan, 1971; (*b*) contribution for participation in the unit-linked insurance plan of Life Insurance Corporation Mutual Fund.	Where the assessee terminates his participation in such plan, by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years.
3.	Certain payments made for purchase or construction of residential house property.	Where the assessee— (*a*) transfers the house property before the expiry of five years from the end of the tax year in which possession of such property is obtained by him; or (*b*) receives back, whether by way of refund or otherwise, any sum specified in that clause.
4.	Certain payments for subscription to any equity shares or debentures forming part of any eligible issue of capital by a public company or by any public financial institution and approved by Board.	(*a*) Where the assessee sells or otherwise transfers to any person at any time within a period of three years from the date of their acquisition; and (*b*) such shares or debentures shall be treated as having acquired by the person on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.

Taxation of receipts where deduction already allowed.

5. Where deductions in the nature of payments specified in column B of the Table below have been allowed, and the conditions specified in column C of the said Table are fulfilled in any tax year, the amounts received shall be taxed in such tax year in the manner as provided in column D of the said Table:

Table

Sl. No.	*Nature of payment*	*Condition for taxation*	*Manner and amount of taxation in the tax year in which condition in column C is fulfilled*
A	*B*	*C*	*D*
1.	(*a*) Deposit in an account under the Senior Citizen Savings Scheme Rules, 2004; (*b*) five year term deposit in an account under the Post Office Time Deposit Rules, 1981.	If any amount, including interest accrued, in respect of the account provided in column B, is withdrawn by the assessee, before the expiry of the period of five years from the date of its deposit.	(*a*) The amount so withdrawn shall be deemed to be the income of the assessee of the tax year in which the amount is withdrawn and shall be liable to tax in the said year; (*b*) the amount liable to tax, as referred in clause (*a*), shall not include the following amounts:— (*i*) any amount of interest, which has been included in the total income of the assessee of the tax year or years preceding such tax year; and (*ii*) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the tax year or years preceding such tax year.
2.	Contribution to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from the fund referred to in Schedule VII (Table: Sl. No. 3).	Where any amount standing to the credit of the assessee in the pension fund, in respect of which a deduction has been allowed, together with the interest or bonus accrued or credited to the assessee account, if any, is received by the assessee or his nominee,— (*a*) on account of the surrender of the annuity plan whether in whole or in part, in any tax year; or (*b*) as pension received from the annuity plan.	An amount equal to the whole of the amount referred to in column C (*a*) or (*b*) shall be deemed to be the income of the assessee or his nominee, in the tax year in which such withdrawal is made or, pension is received, and shall be liable to tax in the said year.

3.	Contribution by an individual to a pension scheme notified by the Central Government.	Where any amount standing to the credit of the assessee in the pension scheme, in respect of which a deduction has been allowed, together with the amount accrued thereon, if any, is received by the assessee or his nominee, in whole or in part, in any tax year, and if such amount is not used for purchasing an annuity plan in the same year— (*a*) on account of closure or his opting out of the pension scheme (except when received by the nominee on the death of the assessee); or (*b*) as pension received from the annuity plan purchased or taken on such closure or opting out.	The whole of the amount referred to in column C (*a*) or (*b*) shall be deemed to be the income of the assessee or his nominee, in the tax year in which such amount is received, and shall be liable to tax in the said year.

Interpretation.

6. For the purposes of this Schedule,—

(*a*) "Administrator" means the Administrator as referred to in section 2(*a*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*b*) "contribution" to any fund shall not include any sums in repayment of loan;

(*c*) "insurance" shall include,—

(*i*) a policy of insurance on the life of an individual or the spouse or the child of such individual or a member of a Hindu undivided family securing the payment of specified sum on the stipulated date of maturity, if such person is alive on such date irrespective that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date;

(*ii*) a policy of insurance effected by an individual or a member of a Hindu undivided family for the benefit of a minor with the object of enabling the minor, after he has attained majority to secure insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf;

(*d*) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(*e*) "public company" shall have the same meaning as assigned to it in section 2(*71*) of the Companies Act, 2013 (18 of 2013);

(*f*) "security" means a Government security as defined in section 2(*f*) of the Government Securities Act, 2006 (38 of 2006);

(*g*) "specified company" means a company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(*h*) "transfer" shall be deemed to include also the transactions referred to in section 269UA(*f*) of the Income-tax Act, 1961 (43 of 1961);

(*i*) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in section 80-IA(4) of the Income-tax Act, 1961 (43 of 1961);

(*j*) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013 (18 of 2013).

SCHEDULE XVI

[*See* section 350]

PERMITTED MODES OF INVESTMENT OR DEPOSITS

forms or modes of investment or deposits by a registered non-profit organisation

1. The modes of investing or depositing the money referred to in section 350 shall be the following:—

(*1*) investment in savings certificates as defined in section 2(*c*) of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*2*) deposit in any account with the Post Office Savings Bank;

(*3*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);

(*4*) investment in units of the Unit Trust of India;

(*5*) investment in any security for money created and issued by the Central Government or a State Government;

(*6*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*7*) investment or deposit in any public sector company subject to the condition that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*a*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for three years from the date on which such public sector company ceases to be a public sector company;

(*b*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(*8*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under section 32(*e*);

(*9*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under section 32(*e*);

(*10*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India;

(*11*) investment in immovable property;

(*12*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*13*) investment in the units issued under any scheme of the mutual fund referred to in Schedule VII (Table: Sl. No. 20) or (Table: Sl. No. 21);

(*14*) any transfer of deposits to the Public Account of India;

(*15*) deposits made with an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;

(*16*) investment by way of acquiring equity shares of a depository as defined in section 2(1)(*e*) of the Depositories Act, 1996 (22 of 1996);

(*17*) investment made by a recognised stock exchange referred to in section 2(*f*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (herein referred to as investor) in the equity share capital of a company (herein referred to as investee)—

(*a*) which is engaged in dealing with securities or mainly associated with the securities market;

(*b*) whose main object is to acquire the membership of another recognised stock exchange for the sole purpose of facilitating the members of the investor to trade on the said stock exchange through the investee as per the directions or guidelines issued under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by the Securities and Exchange Board of India established under section 3 of that Act; and

(*c*) in which at least 51% of equity shares are held by the investor and the balance equity shares are held by members of such investor;

(*18*) investment made by a person, authorised under section 4 of the Payment and Settlement Systems Act, 2007 (51 of 2007), in the equity share capital or bonds or debentures of a company—

(*a*) which is engaged in operations of retail payments system or digital payments settlement or similar activities in India and abroad and is approved by the Reserve Bank of India for this purpose; and

(*b*) in which at least 51% of equity shares are held by National Payments Corporation of India;

(*19*) investment made by a person, authorised under section 4 of the Payment and Settlement Systems Act, 2007 (51 of 2007), in the equity share capital or bonds or debentures of Open Network for Digital Commerce Ltd., being a company incorporated under section 7(2) read with section 8(1) of the Companies Act, 2013 (18 of 2013), for participating in network based open protocol models which enable digital commerce and interoperable digital payments in India;

(*20*) investment by way of acquiring equity shares of an incubatee by an incubator;

(*21*) investment by way of acquiring shares of National Skill Development Corporation;

(*22*) investment in debt instruments issued by any infrastructure Finance Company registered with the Reserve Bank of India;

(*23*) investment in "Stock Certificate" as defined in clause (*c*) of paragraph 2 of the Sovereign Gold Bonds Scheme, 2015, published in the Official Gazette *vide* notification number G.S.R. 827(E), dated the 30th October, 2015;

(*24*) investment by way of Acquiring Units of Powergrid Infrastructure Investment Trust;

(*25*) shares in a public sector company;

(*26*) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st June, 1973;

(*27*) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any University or other educational institution or any hospital or other medical institution as on the 1st June, 1998, where it was approved at that time under the provisions of section 10(*23C*) of the Income-tax Act, 1961 (43 of 1961);

(*28*) any accretion to the shares, forming part of the corpus mentioned in sub-paragraph (26) or (27), by way of bonus shares allotted to the trust or institution;

(*29*) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st March, 1983;

(*30*) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification specify;

(*31*) any asset, not being an investment or deposit in any of the forms or modes specified in sub-paragraphs (1) to (30), where such asset is not so held up to one year from the end of the tax year in which such asset is acquired;

(*32*) any funds representing the profits and gains of business, being profits and gains of any tax year relevant to the tax year commencing on the 1st April, 1984 or any subsequent tax year so, however, where it has any other income in addition to profits and gains of business, these provisions shall not apply unless it maintains separate books of account in respect of such business.

Interpretation.

2. For the purposes of this Schedule,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*b*) "public company" shall have the same meaning as assigned to it in section 2(*71*) of the Companies Act, 2013 (18 of 2013);

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(*d*) "immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(*e*) "incubatee" shall mean such incubatee as may be notified by the Government of India in the Ministry of Science and Technology;

(*f*) "incubator" shall mean such Technology Business Incubator or Science and Technology Entrepreneurship Park as notified by the Government of India in the Ministry of Science and Technology.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT