

**Estate Duty (Amendment) Act, 1958**

**33 of 1958**

**[19 September 1958]**

CONTENTS

1. Short Title And Commencement
2. Amendment Of Section 2
3. Amendment Of Section 4
4. Amendment Of Section 9
5. Amendment Of Section 16
6. Amendment Of Section 17
7. Amendment Of Section 18
8. Amendment Of Section 19
9. Insertion Of New Section 20A
10. Amendment Of Section 21
11. Amendment Of Section 27
12. Amendment Of Section 33
13. Substitution Of New Section For Section 34
14. Amendment Of Section 35
15. Amendment Of Section 46
16. Amendment Of Section 47
17. Amendment Of Section 48
18. Amendment Of Section 50
19. Insertion Of New Section 50A
20. Amendment Of Section 53
21. Substitution Of New Sections For Sections 56 To 65
22. Substitution Of New Section For Section 67
23. Amendment Of Section 70
24. Amendment Of Section 72
25. Substitution Of New Sections For Section 73
26. Amendment Of Section 83
27. Substitution Of New Section For Section 84
28. Amendment Of The Second Schedule
29. Savings
30. Act Not To Apply To Agricultural Land

**Estate Duty (Amendment) Act, 1958**

**33 of 1958**

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An Act further to amend the Estate Duty Act, 1953. BE it enacted

by Parliament in the Ninth Year of the Republic of India as follows:-

### **1. Short Title And Commencement :-**

(1) This Act may be called the Estate Duty (Amendment) Act, 1958.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

### **2. Amendment Of Section 2 :-**

In section 2 of the Estate Duty Act, 1953 (31 of 1953) (hereinafter referred to as the principal Act)-

(a) after clause (1), the following clauses shall be inserted namely:-

(1A) "Appellate Controller" means a person appointed to be an Appellate Controller of Estate Duty under section 4;

(1B) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Indian Income-tax Act, 1922 (11 of 1922);;

(b) after clause (12), the following clause shall be inserted, namely:-

(12A) "person accountable" or "accountable person" means the person accountable for estate duty within the meaning of this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the principal value of the estate of the deceased;;

(c) after clause (14), the following clause shall be inserted, namely:-

(14A) "principal officer", in relation to a company or a corporation established by a Central, State or Provincial Act, means the manager, managing director, managing agent or secretary, and includes any person connected with the management of the company or corporation upon whom the Controller has served a notice of his intention of treating him as the principal officer for the purposes of this Act;.

### **3. Amendment Of Section 4 :-**

In section 4 of the Principal Act,-

(a) in sub-section (1), after clause (b), the following clause shall be inserted, namely:-

"(bb) Appellate Controllers of Estate Duty,";

(b) after sub-section (2), the following sub-section shall be inserted

namely:-

"(2A) The Central Government may appoint as many Appellate Controllers of Estate Duty as it thinks fit and they shall, subject to the control of the Board, perform their functions in respect of such estates or classes of estates or such areas as the Board may direct, and where such directions have assigned to two or more Appellate Controllers the same estate or classes of estates or the same area, they shall perform their functions in accordance with any orders which the Board may make for the distribution and allocation of the work to be performed.";

(c) to sub-section (5), the following provisions shall be added namely:-

"Provided that no such orders, instructions or directions shall be given by the Board so as to interfere with the discretion of the Appellate Controller of Estate Duty in the exercise of his appellate functions."

#### **4. Amendment Of Section 9 :-**

In section 9 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) The provisions of sub-section (1) shall not apply to-

(a) gift made in consideration of marriage, subject to a maximum of rupees ten thousand in value:

(b) gifts which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased, subject to a maximum of rupees ten thousand in value."

#### **5. Amendment Of Section 16 :-**

In section 16 of the principal Act, in clause (a) of sub-section (2), for the words "otherwise than for full consideration", the words "notwithstanding that the disposition was made for full consideration" shall be substituted.

#### **6. Amendment Of Section 17 :-**

In section 17 of the principal Act in clause (vi) of sub-section (4), for the word "even", the word "event" shall be substituted.

#### **7. Amendment Of Section 18 :-**

In section 18 of the principal Act, the Explanation shall be omitted.

## **8. Amendment Of Section 19 :-**

In section 19 of the principal Act-

(a) in sub-section (2), for the words "outside the territories to which this Act extends", the words "outside India" shall be substituted;

(b) in sub-section (4), for the words and figures "section 230 of the India Companies Act, 1913 (VII of 1913)" and "section 129 of the Indian Companies Act, 1913", the following words and figures shall respectively be substituted, namely:-

"section 530 of the Companies Act, 1956 (1 of 1956)" and "section 123 of the Companies Act, 1956 (1 of 1956)."

## **9. Insertion Of New Section 20A :-**

In Part II, after section 20 of the principal; Act, the following section shall be inserted, namely:-

"20A. Duty and liability of companies incorporated outside India in certain cases.-

Where a company incorporated outside India which carries on business in India has been treated for the purposes of the Indian Income-tax Act, ` 1922 (11 of 1922), as resident for two out of the three completed assessments for the year immediately preceding the date of death of any member of or debenture holder in the company. the company shall, within three months of the receipt of intimation of the death of the member or debenture holder, as the case may be, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company, and the company shall be accountable for the estate duty which shall be levied at the rates mentioned in Part II of the Second Schedule on the principal value of the shares or debentures held by the deceased in the company except in cases where the deceased was a person domiciled in India and the person accountable under any of the other provisions of this Act has obtained a certificate from the Controller showing that either the estate duty in respect thereof has been paid or will be paid or that none is due. as the case may be."

## **10. Amendment Of Section 21 :-**

In section 21 of the principal Act, in sub-section (1), for the words "outside the territories to which this Act extends" and "the said territories", wherever they occur, the words "outside India" and

"India" shall respectively be substituted.

**11. Amendment Of Section 27 :-**

In section 27 of the principal Act, for the word and figure "section 9" in both the places where they occur, the words "this Act" shall be substituted.

**12. Amendment Of Section 33 :-**

In section 33 of the principal Act, in sub-section (1),-

(a) in clause (a), for the words "under a gift", the words "under one or more gifts" shall be substituted:

(b) in clause (b), for the words:"under a gift", the words ":under one or more gifts" shall be substitute;

(c) in clause (k), for the words "rupees five thousand", the words "rupees ten thousand" shall be substituted;

(d) after clause (k), the following clauses shall be inserted, namely:-

"(1) any one building in the occupation of a Ruler declared by the Central Government as his official residence under Paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or Paragraph 15 of the Part B States (Taxation Concessions) Order, 1950;

(m) property belonging to the deceased who was a member of the armed forces of the Union and who was killed in action during operations against an enemy."

**13. Substitution Of New Section For Section 34 :-**

For section 34 of the principal Act, the following section shall substituted, namely:-

"34.Aggregation.-

(1) For the purpose of determining the rate of the estate duty to be paid on any property passing on the death of the deceased.

(a) all property so passing other than property exempted from estate duty under clauses (c), (d), (e), (i), (j), (l) and (m,) of sub-section (1) of section 33;

(b) agricultural land so passing, if any, situate in any State not specified in the First Schedule; and

(c) in the case of property so passing which consists of a coparcenary interested in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or

Aliyasantana law, also the interests in the joint family property of all the lineal descendants of the deceased member; shall be aggregated so as to form one estate and estate duty shall be levied thereon at the rate or rates applicable in respect of the principal value thereof.

(2) Where any such estate as is referred to in sub-section (1) includes any property exempt from estate duty, the estate duty leviable on the property not so exempt shall be an amount bearing to the total amount of duty which would have been payable on the whole estate had no part of it been so exempt, the same proportion as the value of the property not so exempt bears to the value of the whole estate.

Explanation.-

For the purposes of this sub-section, "property exempt from estate duty" means-

- (i) any property which is exempt from estate duty under section 33;
- (ii) any agricultural land situate in any State not specified in the First Schedule;
- (iii) the interests of all coparceners other than the deceased in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law.

(3) Notwithstanding anything contained in sub-section (1), or sub-section (2), any property passing in which the deceased never had an interest, not being a right or debt or benefit that is treated as property by virtue of the Explanations to clause (15) of section 2, shall not be aggregated with any property, but shall be an estate by itself, and the estate duty shall be levied at the rate or rates applicable in respect of the principal value thereof.

(4) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(5) For the purposes of this section, no property shall be aggregated more than once nor shall estate duty, in respect thereof be levied more than once on the same death."

#### **14. Amendment Of Section 35 :-**

In section 35 of the principal Act,-

(a) for sub-section (1), the following sub-section shall be substituted namely:-

"(1) The rates of estate duty shall be as mentioned in the Second

Schedule.";

(b) sub-section (2) shall be omitted.

**15. Amendment Of Section 46 :-**

In section 46 of the principal Act, in sub-section (2), for the figures "25", the figures "26" shall be substituted.

**16. Amendment Of Section 47 :-**

In section 47 of the principal Act, for the words "out of the territories to which this Act extends" and the words "the said territories" wherever they occur, the words "out of India" and "India" shall respectively be substituted.

**17. Amendment Of Section 48 :-**

In section 48 of the Principal Act, for the words "out of the territories to which this Act extends", the words "out of India" shall be substituted.

**18. Amendment Of Section 50 :-**

In section 50 of the principal Act, for the words "an amount which is equal to", the words "an amount which is equal to one-half of" shall be substituted.

**19. Insertion Of New Section 50A :-**

In part VI, after section 50 of the principal Act, the following section shall be inserted, namely:-

"50A. Relief from estate duty where gift-tax has been paid.-

Where tax has been paid under the Gift-tax Act, 1958 (8 of 1958), in respect of a gift of any property and the property is also included in the estate of the donor as property passing under this Act, then, notwithstanding anything contained in this Act, the estate duty payable under this Act shall be reduced by an amount equal to the amount of gift-tax paid in respect of any such property under that Act."

**20. Amendment Of Section 53 :-**

In section 53 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Every person accountable for estate duty under this section

shall, within six months of the death of the deceased, deliver to the Controller an account in the prescribed form and verified in the prescribed manner of all the properties in respect of which estate duty is payable:

Provided that the Controller may extend the period of six months aforesaid on such terms which may include payment of interest as may be prescribed."

## **21. Substitution Of New Sections For Sections 56 To 65 :-**

For section 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65 of the principal Act the following sections shall be substituted, namely:-

"56. Grant of representation, etc., not to be made unless particulars are furnished to the Controller.-

(1) In all cases in which a grant of representation is applied for-

(a) the executor of the deceased shall, to the best of his knowledge and belief, specify in an appropriate account annexed to the affidavit of valuation filed in court under section 19-I of the Court-fees Act, 1870 (7 of 1870), all the property in respect of which estate duty is payable upon the death of the deceased and shall deliver a copy of the affidavit with the account to the Controller, and

(b) no order entitling the applicant to the grant of representation shall be made upon his application until he has delivered the account prescribed in clause (a) and has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property included in the account has been or will be paid, or that none is due, as the case may be.

(2) In all cases in which a grant of a succession certificate is applied for, a copy of the application shall be furnished by the applicant to the Controller and no order entitling the applicant to the grant of such a certificate shall be made upon his application until he has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property mentioned in the application has been or will be paid, or that none is due, as the case may be.

57. Power to make provisional assessment in advance of regular assessment

(1) Estate Duty shall be due from the date of the death of the deceased, and the Controller may, at any time after the receipt of

account delivered under section 53 or section 56, proceed to make in a summary manner a provisional assessment of the estate duty payable by the person delivering the account on the basis of the account so delivered.

(2) Upon a provisional assessment being made under sub-section (1), the person so assessed shall pay to the Controller or furnish security to the satisfaction of the Controller for the payment of the estate duty, if any, payable on the provisional assessment, and the Controller shall thereupon grant him a certificate that such duty has been or will be paid or that none is due, as the case may be, in respect of the property mentioned in the certificate.

(3) After regular assessment has been made under section 58 any amount paid toward the provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment.

(4) No appeal shall lie against a provisional assessment made under sub-section (1), but nothing done or suffered by reason or in consequence of any such provisional assessment shall prejudice the determination on the merits of any issue which may arise in the course of the regular assessment under section 58.,

#### 58. Assessment

(1) If the Controller is satisfied without requiring the presence of the person accountable that an account delivered under section 53 or section 56 is correct and complete, he shall assess the principal value of the estate of the deceased, and shall determine the amount payable as estate duty.

(2) If the Controller is not so satisfied, he shall serve a notice on the person accountable, either to attend in person at his office on a date to be specified in the notice, or to produce, or cause to be produced on that date, any evidence on which the person accountable may rely in support of his account.

(3) The Controller, after hearing such evidence as the person accountable may produce and such other evidence as he may require on any specified points, shall, by order in writing, assess the principal value of the estate of the deceased and determine the amount payable as estate duty.

(4) In any case where no account has been delivered as required by section 53 or section 56, or the person accountable fails to comply with the terms of the notice served under sub-section (2), the Controller shall make the assessment to the best of his judgement and determine the amount payable as estate duty.

#### 59. Property escaping assessment

If the Controller,-

(a) has reason to believe that by reason of the omission or failure on the part of the person accountable to submit an account of the estate of the deceased under section 53 or section 56 or to disclose fully and truly all material facts necessary for assessment, any property chargeable to estate duty has escaped assessment by reason of under-valuation of the property included in the account or of omission to include therein any property which ought to have been included or of assessment at too low a rate or otherwise, or

(b) has, in consequence of any information in his possession, reason to believe notwithstanding that there has not been such omission or failure as is referred to in clause (a) that any property chargeable to estate duty has escaped assessment, whether by reason of under-valuation of the property included in the account or of omission to include therein any property which ought to have been included, or of assessment at too low a rate or otherwise.

He may at any time, subject to the provisions of section 73A, require the person accountable to submit an account as required under section 53 and may proceed to assess or re-assess such property as if the provisions of section 58 applied thereto.

60. Penalty for default or concealment

(1) If the Controller, the Appellate Controller or the Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person-

(a) has without reasonable cause failed to deliver the account of the property of the deceased under section 53 or section 56 or to comply with any requisition of the Controller under section 55 or section 59 or has without reasonable cause failed to deliver or submit any of the accounts or statements required under any of the sections aforesaid within the time allowed and in the manner required; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) of section 58; or

(c) has concealed the particulars of the property of the deceased or deliberately furnished inaccurate particulars thereof; or

(d) being a company referred to in section 20A, fails without reasonable cause, to pay the amount of estate duty due from the company under that section within the time specified in this behalf;

he or it may, by order in writing, direct that such person shall pay by way of penalty-

(i) in the case referred to in clause (a) or clause (d), in addition to the amount of the estate duty payable by him, a sum not

exceeding twice the amount of such duty; and

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of estate duty payable by him, a sum not exceeding twice the amount of the estate duty, if any, which would have been avoided if the principal value shown in the account of such person had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

#### 61. Rectification of mistakes

At any time within five years from the date of any order passed by him or it, the Controller, the Appellate Controller or the Appellate Tribunal may, on his or its own motion rectify any mistake apparent from the record and shall, within a like period rectify any such mistake which has been brought to the notice of the Controller, the Appellate Controller or the Appellate Tribunal, as the case may be, by the person accountable:

Provided that no such rectification shall be made which has the effect of enhancing the estate duty payable unless the person accountable has been given a reasonable opportunity of being heard in the matter.

#### 62. Appeal against orders of Controller

(1) Any person-

(a) objecting-

(i) to any valuation made by the Controller, or

(ii) to any order made by the Controller determining the estate duty payable under section 58, or section 59, or

(iii) to any penalty levied by the Controller under section 60, section 72 or section 84, or

(iv) to any penalty imposed by the Controller under sub-section (1) of section 46 of the Indian Income-tax Act, 1922 (11 of 1922), as applied under sub-section (5) of section 73 for the purposes of estate duty, or

(b) denying his liability to the amount of estate duty payable in respect of any property,

may, within thirty days of the date of the receipt of the notice of demand under section 73, appeal to the Appellate Controller in the prescribed form which shall be verified in the prescribed manner:

Provided that no appeal shall lie under sub-clause (iv) of clause (a) unless the duty has been paid before the appeal is filed.

(2) The Appellate Controller may admit an appeal after the expiry of

the thirty days referred to in sub-section (1) if he is satisfied that there was sufficient cause for not presenting it within that period.

(3) The Appellate Controller shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Controller may-

(a) at the hearing of an appeal, allow an appellant to go to any ground of appeal not specified in the grounds of appeal;

(b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Controller.

(5) In disposing of an appeal, the Appellate Controller may pass such order as he thinks fit which may include an order enhancing the estate duty or penalty:

Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) The Appellate Controller shall, on the conclusion of the appeal, communicate the order passed by him to the appellant and to the Controller.

63. Appeal to the Appellate Tribunal from the order of the Appellate Controller

(1) Any person accountable objecting to any order passed by an Appellate Controller under section 62, may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order.

(2) The Controller may, if he is not satisfied as to the correctness of any order passed by the Appellate Controller under section 62, appeal to the Appellate Tribunal against such order and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Controller.

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal under sub-section (2), be accompanied by a fee of rupees one hundred.

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such order may include an order enhancing the estate duty payable or penalty:

Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) Where the appellant objects to the valuation of any property, the Appellate Tribunal may, and if the appellant so requires, shall refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question is concerned, pass its orders under sub-section (5), conformably to the decision of the valuers:

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the person accountable, as the case may be, at whose instance the question was referred to the valuers:

Provided that where the person accountable has been wholly or partially successful in any reference made at his instance, the extent to which the costs shall be borne by him shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such orders to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the person accountable and to the Controller.

(10) Save as provided in section 64 any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Indian Income-tax Act, 1922 (11 of 1922), shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under that Act.

#### 64. Reference to the High Court

(1) Within ninety days of the date upon which he is served with an

order under section 63, the person accountable or the Controller may present an application in the prescribed form and, where the application is by the person accountable, accompanied by a fee of one hundred rupees to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Appellate Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal,-

(a) refuses to state a case on the ground that no question of law arises; or

(b) rejected it on the ground that it is time-barred;

the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that, if in any case where the Appellate Tribunal has been required by a person accountable to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the person accountable may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw the application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The Statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modifications therein as it may direct.

(6) The High Court upon hearing any such case, shall decide the question of law raised thereby, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver its judgment and shall send a copy of the judgment to the Appellate Tribunal

and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgement.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, over-paid as estate duty shall be refunded with such interest as the Controller may allow unless the High Court, on intimation being given by the Controller within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Controller to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the High Court.

(9) Section 5 of the Indian Limitation Act, 1908 (9 of 1908), shall apply to an application to the High Court under this section.

(10) When a case has been stated to the High Court under this section, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges:

Provided that 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.

#### 65. Appeal to the Supreme Court

(1) An appeal shall lie to the Supreme Court from any judgement of the High Court delivered on a case stated under section 64 in any case which the High Court, certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgement of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 64.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court."

#### **22. Substitution Of New Section For Section 67 :-**

For section 67 of the principal Act, the following section shall be

substituted, namely:-

"67. Certificate of payment of estate duty.-

Where the amount of estate duty determined by the Controller as payable on an assessment made under section 58 has been paid by the person accountable, the Controller shall, on application by that person, grant to him a certificate to that effect."

**23. Amendment Of Section 70 :-**

In section 70 of the principal Act, in sub-section (2), for the words "eight" and "sixteen", the words "four" and "eight" shall respectively be substituted.

**24. Amendment Of Section 72 :-**

In section 72 of the principal Act, for the words and figures shall be liable to the penalty mentioned in section 56", the following shall be substituted, namely:-

"shall be liable to pay by way of penalty a sum not exceeding rupees one thousand: provide that no penalty shall be imposed under this section unless the person concerned has been given a reasonable opportunity of being heard."

**25. Substitution Of New Sections For Section 73 :-**

For section 73 of the principal Act, the following sections shall be substituted, namely:-

"73. Notice of demand and recovery of duty, penalty, etc.-

(1) When any estate duty, penalty or interest is due in consequence of any order passed under this Act, the Controller shall serve upon the person accountable or other person liable to pay such duty, penalty or interest a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable.

(2) Any amount specified as payable in a notice of demand issued under sub-section (1) shall be paid within the time, at the place and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice and any person accountable failing so to pay shall be deemed to be in default.

(3) Where a person accountable has been assessed in respect of assets located in a country outside India, the laws of which prohibit or restrict the remittance of money to India, the Controller shall not

treat the person accountable as in default in respect of that part of the estate duty which is attributable to the assets in that country, and shall continue to treat the person accountable as not in default in respect of that part of the duty until the prohibition or restriction of remittance is removed.

(4) Notwithstanding anything contained in this section, where the person accountable has presented an appeal under section 62 the Controller may in his discretion treat the person accountable as not being in default as long as such appeal has not been disposed of.

(5) The provisions of sub-sections (1), (1A), (2), (3), (4), (5) (5A), (6) and (7) of section 46 and section 47 of the Indian Income-tax Act, 1922 (11 of 1922), shall apply as if the said provisions were provisions of this Act and referred to estate duty (including estate duty provisionally assessed) and sums imposed by way of penalty or interest under this Act instead of to income-tax and sums imposed by way of penalty or interest under that Act and to Controller of Estate Duty instead of to Income-tax Officer.

73A. Limitation for commencing proceedings for assessment or reassessment

No proceeding for the levy of any estate duty under this Act shall be commenced-

(a) in the case of a first assessment, after the expiration of five years from the date of death of the deceased in respect of whose property estate duty became payable; and

(b) in the case of a re-assessment, after the expiration of three years from the date of assessment of such property to estate duty under this Act."

## **26. Amendment Of Section 83 :-**

In section 83 of the principal Act,-

(a) after the words "legal practitioner or a chartered accountant", the words "or any other person having such qualifications as may be prescribed" shall be inserted; and

(b) for clause (b) of the Explanation, the following clause shall be substituted, namely:-

(b) "legal practitioner" means an advocate, vakil or attorney of any High Court, and includes pleader in practice..

## **27. Substitution Of New Section For Section 84 :-**

For section 84 of the principal Act, the following section shall be substituted, namely:-

"84.Companies to furnish particulars of deceased person to the Controller.-

(1) Where a company within the meaning of the Companies Act, 1956 (1 of 1956), has knowledge through any of its principal officers of the death of any member of or debenture-holder in the company, it shall within three months of receipt of intimation of the death.furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company; and it shall not be lawful for the company to register the transfer of any shares or debentures standing in the name of the deceased unless the transferee has acquired such shares or debentures for valuable consideration or a certificate from the Controller is produced before the company to the effect that the estate duty in respect of such shares or debentures has been paid or will be paid or that none is due, as the case may be.

(2) Where a corporation established by a Central, State or Provincial Act has knowledge through any of its principal officers of the death of any person who is a registered holder of stocks, shares or other securities in the corporation, it shall, within three months of the receipt of intimation of the death furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the corporation.

(3) Any company or corporation which without reasonable cause fails to comply with the provisions of this section shall be liable to pay a penalty of rupees one thousand."

## **28. Amendment Of The Second Schedule :-**

In the principal Act, for the Second Schedule, the following Schedule shall be substituted, namely:-

"THE SECOND SCHEDULE

(See sections 5.20A and 35)

RATES OF ESTATE DUTY

PART I

In the case of any property which passes or is deemed to pass on the death of the deceased-

Rate of Duty

|     |   |             |
|-----|---|-------------|
| (1) | On the first Rs.50,000 of the principal value of the estate | Nil         |
| (2) | On the next Rs.50,000 of the principal value of the estate  | 4 per cent. |
| (3) | On the next Rs.50,000 of the principal value of the         | 6 per cent. |

|      |   |              |
|------|---|--------------|
|      | estate  |              |
| (4)  | On the next Rs.50,000 of the principal value of the estate    | 10 per cent. |
| (5)  | On the next Rs.1,00,000 of the principal value of the estate  | 12 per cent. |
| (6)  | On the next Rs.2,00,000 of the principal value of the estate  | 15 per cent. |
| (7)  | On the next Rs.5,00,000 of the principal value of the estate  | 20 per cent. |
| (8)  | On the next Rs.10,00,000 of the principal value of the estate | 25 per cent. |
| (9)  | On the next Rs.10,00,000 of the principal value of the estate | 30 per cent. |
| (10) | On the next Rs.20,00,000 of the principal value of the estate | 35 per cent. |
| (11) | On the balance of the principal value of the estate           | 40 per cent. |

#### PART II

In the case of shares or debentures held by the deceased in any such company as is referred to in section 20A-

##### Rates of Duty

(1) If the principal value of the shares or debentures does not exceed Rs.5,000 - Nil

(2) If the principal value of the shares or debenture exceeds Rs.50,000 - 7.5 per cent.

### **29. Savings :-**

Nothing contained in section 21 shall affect-

(a) any appeal pending before the Board in respect of any order made by the Controller before the Commencement of this Act; or

(b) any right or remedy by way of appeal which has accrued to any person in respect of any order made by the Controller before such commencement;

and any such appeal may be disposed of and further proceedings taken in relation thereto and any such right or remedy may be enforced as if this Act had not been passed.

### **30. Act Not To Apply To Agricultural Land :-**

For the removal of doubts it is hereby declared that nothing contained in this Act shall have effect in respect of any matter enumerated in entry 48 of List II in the Seventh Schedule to the Constitution, and estate duty in respect of any estate which consists wholly or in part of agricultural land situate in the territories which immediately before the 1st day of November, 1956, were comprised in the States specified in the First Schedule

to the principal Act shall continue to be governed by the principal Act as if this Act had not been passed.