

WEALTH TAX ACT, 1957

27 of 1957

[12th SEPTEMBER, 1957]

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WEALTH TAX ACT, 1957

[12th SEPTEMBER, 1957]

An Act to provide for the levy of wealth-tax BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. Short title, extent and commencement :-

1

(1) This Act may be called the Wealth-tax Act, 1957.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of April, 1957.

For effective date for the applicability of the Act in the State of Sikkim, see Notification No. SO 148(E), dated 23-2-1989. Refer Taxmann's Direct Taxes Circulars, 1994 edn.. Vol. 1, p. 1.2. See also Reference.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) **10/FNR>[***]**

2[(b) "Appellate Tribunal" means the Appellate Tribunal constituted under Section 252 of the Income tax Act, 1961 ;

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

(i) every person in respect of whom any proceeding under this Act has been taken for the determination of wealth-tax payable by him or by any other person or the amount of refund due to him or such other person :

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

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

37/FNR>[(ca) "Assessing Officer " means the Deputy Commissioner of Income-tax or the Assistant Commissioner or the Income-tax Officer who is vested with the relevant

jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of S.120 or any other provision of the Income tax Act, 1961 which apply for the purposes of wealth-tax under section 8 of this Act and also the 4[Additional Commissioner or] 37/FNR>[Additional Director or] Joint Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;]

6[(cb)] "assessment" includes reassessment ;

(d) "assessment year" means a period of twelve months commencing on the 1st day of April, every year ;]

44/FNR>[8(e)32/FNR>"assets" includes property of every description, movable or immovable, but does not include,-

(1) in relation to the assessment year commencing on the 1st day of April, 1969, or any earlier assessment year-

(i) agricultural land and growing crops, grass or standing trees on such land;

(ii) any building owned or occupied by a cultivator of, or receiver of rent or revenue out of, agricultural land :

Provided that the building is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of rent or revenue by reason of his connection with the land requires as a dwelling house or a store-house or an out-house;

(iii) animals;

(iv) a right to any annuity in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lump sum grant ;

(v) any interest in property where the interest is available to an assessee for a period not exceeding six years from the date the interest vests in the assessee ;

(2) in relation to the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year 10[but before the 1st day of April, 1993]-

(i) animals;

(ii) a right to any annuity 47[(not being an annuity purchased by the assessee or purchased by any other person in pursuance of a contract with the assessee)] in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lump sum grant ;

(iii) any interest in property where the interest is available to an assessee for a period not exceeding six years from the date the interest vests in the assessee :

12[Provided that in relation to the assessment year commencing on the 1st day of April, 1981, 13[and the assessment year commencing on the 1st day of April, 1982], this sub-clause shall have effect subject to the modification that for item (i) thereof, the following item shall be substituted, namely :-

"(i)

(a) agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation ;

(b) any building owned or occupied by a cultivator of, or receiver of rent or revenue out of, agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation:

Provided that the building is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of the rent or revenue by reason of his connection with the land requires as a dwelling-house or a store-house or an out-house ;

(c) animals;']

14[Provided further that in relation to the assessment year commencing on the 1st day of April, 1983 or any subsequent assessment year, this sub-clause shall have effect subject to the modification that for item (i) thereof, the following item shall be substituted, namely :-

"(i)

(a) agricultural land and growing crops (including fruits on

trees), grass or standing trees on such land ;

(b) one building or one group of buildings owned or occupied by a cultivator of, or receiver of rent or revenue out of, agricultural land:

Provided that such buildings or group of buildings is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of rent or revenue by reason of his connection with the land requires as store-house or for keeping livestock ;

(c) animals;"]

15[16[17[Provided also] that] in relation to the State of Jammu and Kashmir, this sub-clause shall have effect subject to the modification that for the assets specified in 18[item (i)] of this sub-clause, the assets specified in 19[items (i) to (iii)] of sub clause (1) shall be substituted and the other provisions of this Act shall be construed accordingly;]

20[(ea) "assets', in relation to the assessment year commencing on the 1st day of April, 1993, or any subsequent assessment year, means-

21[(i) any building or land appurtenant thereto (hereinafter referred to as "house"), whether used for residential or commercial purposes or for the purpose of maintaining a guesthouse or otherwise including a farmhouse situated within twenty-five kilometres from local limits of any municipality (whether known as municipality, municipal corporation or by any other name) or a cantonment board, but does not include-

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or director who is in whole-time employment, having a gross annual salary of less than two lakh rupees;

(2) any house for residential or commercial purposes which forms part of stock-in-trade ;

(3) any house which the assessee may occupy for the purposes of any business or profession carried on by him;]

The following sub-clause (i) shall be substituted for the

existing sub-clause (i) in clause (ea) of S.2 by the Finance (No. 2) Act, 1998, w.e.f. 1/4/1999 : (i) any building or land appurtenant thereto (hereinafter referred to as "house'), whether used for residential or commercial purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within twenty five kilometres from local limits of any municipality (whether known as Municipality, Municipal Corporation or by any other name) or a Cantonment Board, but does not include

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than five lakh rupees;

(2) any house for residential or commercial purposes which forms part of stock-in-trade;

(3) any house which the assessee may occupy for the purposes of any business or profession carried on by him;

(4) any residential property that has been let-out for a minimum period of three hundred days in the previous year;

(5) any property in the nature of commercial establishments or complexes;

(ii) motor cars (other than those used by the assessee in the business of running them on hire or as stock-in-trade) ;

(iii) jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals:

Provided that where any of the said assets is used by the assessee as stock-in-trade, such asset shall be deemed as excluded from the assets specified in this sub-clause ;

(iv) yachts, boats and aircrafts (other than those used by the assessee for commercial purposes) ;

(v) urban land;

(vi) cash in hand, in excess of fifty thousand rupees, of individuals and Hindu undivided families and in the case of

other persons any amount not recorded in the books of account. Explanation 1.-For the purposes of this clause,- (a) "jewellery" includes- (i) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel ; (ii) precious or semi-precious stones, whether or not set in any furniture, utensils or other article or worked or sewn into any wearing apparel ; (b) "urban land" means land situate- (i) in any area which is 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 according to the last preceding census of which the relevant figures have been published before the valuation date ; or (ii) in any area within such distance, not being more than eight kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (i), as the Central Government may, having regard to the extent of, and scope for, urbanisation of That area and other relevant considerations, specify in this behalf by notification 22 in the Official Gazette, but does not include land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated or the land occupied by any building which has been constructed with the approval of the appropriate authority or any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him 23[or any land held by the assessee as stock-in-trade for a period of 24[five] years from the date of its acquisition by him;]] 25[Explanation 2.- For the removal of doubts, it is hereby declared that "jewellery" does not include the Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government.'.]

(f) "Board" means the ²⁶[Central Board of Direct Taxes constituted under Central Boards of Revenue Act, 1963] ;

(g) ²⁷[***]

(gg) **28**[***]

29[(h) "company" shall have the meaning assigned to it in clause (17) of Section 2 of the Income tax Act, 1961 ;]

30[(ha) "co-operative society" means a co-operative society registered under Co-operative Societies Act, 1912 , or under any other law for the time being in force in any State for the registration of co-operative societies ;]

(hb) **31**[***]

(i) "executor" means an executor or administrator of the estate of a deceased person;

32[(ia) "High Court", in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, means the High Court at Bombay;]

33[(j) "Income-tax Act" means Income-tax Act, 1961;]

(k) **34**[***]

35[(ka) "India" means the territory of India as referred to in Art.1 of the Constitution of India , its territorial waters, seabed and subsoil 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;'.]

(l) **36**[***]

(la) **37**[***]

38[(lb) "legal representative" **39** has the meaning assigned to it in clause (11) of Section 2 of the Code of Civil Procedure, 1908 ;]

40[(lc) "maximum marginal rate" means the rate of wealth-tax applicable in relation to the highest slab of wealth in the case of an individual as specified in Part I of Schedule I;]

"(m) "net wealth" means the amount by which the aggregate value computed in accordance with the provisions of this Act of all the assets, wherever located, belonging to the assessee on the

valuation date, including assets required to be included in his net wealth as on that date under this Act, is in excess of the aggregate value of all the debts owed by the assessee ⁴¹[on the valuation date which have been incurred in relation to the said assets ;]

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

(o) "principal officer", used with reference to a company, means the secretary, manager, managing agent or managing director of the company, and includes any person connected with the management of the affairs of the company upon whom the ⁴²[Assessing Officer] has served a notice of his intention of treating him as the principal officer thereof;

⁴³[(oa) "public servant" ⁴⁴has the same meaning as in Section 21 of the Indian Penal Code, 1860 ;]

⁴⁵[(oaa) "registered valuer" means a person registered as a valuer under section 34AB ;]

⁴⁶[(ob) "regular assessment" means the assessment made under ⁴⁷[sub- section (3) or sub-section (5) of section 16 ;]

(p) "Ruler" ⁴⁸a means a Ruler as defined in clause (22) of Art.366 of the Constitution Of India ;

(q) "valuation date", in relation to any year for which an assessment is to be made under this Act, means the last day of the previous year as defined in ⁴⁹ Section 3 of the Income Tax Act, 1922 , if an assessment were to be made under that Act for that year : ⁵⁰[Provided that-

(i) [***]

(ii) in the case of a person who is not an assessee within the meaning of the Income-tax Act, the valuation date for the purposes of this Act shall be the 31st day of March immediately preceding the assessment year;

(iii) where an assessment is made in pursuance of section 19A , the valuation date shall be the same valuation date as would have been adopted in respect of the net wealth of the deceased if he were alive;]

⁵¹[(r) "Valuation Officer" means a person appointed as a Valuation

Officer under section 12A , and includes a Regional Valuation Officer, a District Valuation Officer, and an Assistant Valuation Officer;]

5253 [(s) the expressions "Chief Commissioner, Director-General, Commissioner, Commissioner (Appeals), Director, Additional Director of Income-tax, Additional Commissioner of Income-tax, Joint Director, Joint Commissioner of Income-tax, Deputy Director, Deputy Commissioner, Assistant Commissioner, Assistant-Director, Income-tax Officer, Inspector of Income-tax, and Tax Recovery Officer" shall have the meanings respectively assigned to them under Section 2 of the Income tax Act, 1961 .]

Omitted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988. Prior to its omission, clause (a) read as under : '(a) "Appellate Assistant Commissioner' means a person empowered to exercise the functions of an Appellate Assistant Commissioner of Wealth-tax under section 9 ;'

Substituted for original clauses (b), (c) and (d) by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Prior to its substitution, clause (ca) as inserted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988, read as under : "(ca) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of wealth-tax under section 8 of this Act, and also the Deputy Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act ;"

In section 2 of the Wealth-tax Act, 1957(27 of 1957) (hereinafter referred to as the Wealth-tax Act), in clause (ca) [after the words and figure "section 8 of this Act and also the", the Words "Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;] by Finance Act, 2007

In section 2 of the Wealth-tax Act, 1957(27 of 1957) in clause (ca) after the words "Additional Commissioner or", as so inserted, the words "Additional Director or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996 by Finance act, 2007;

Re lettered by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

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

For wealth-tax assessment in respect of property left in erstwhile East Pakistan, after Indo Pak Conflict of 1965, see also Circular No. 547, dated 18-10-1989. For details, see Referencer.

See also Circular No. 222, dated 10-6-1977, Circular No. 385, dated 3-7-1984, Circular No. 2-D(WT) of 1960, dated 26-2-1960, Circular No. 2(WT) of 1968, dated 16-3-1968, Circular No. 17, dated 10-6-1969 and Letter F.No. 326/1-72-WT, dated 17-6-1972. For details, see Referencer.

Inserted by the Finance Act, 1974, w.e.f. 1/4/1975.

Substituted by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981.

Substituted for "or any subsequent assessment year" by the Finance Act, 1982, w.e.f. 1-4-1983.

Inserted by the Finance Act, 1982, w.e.f. 1-4-1983.

Inserted by the Finance Act, 1970, with retrospective effect from 1-4-1969.

Substituted for "Provided that" by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981.

Substituted for "Provided further" by the Finance Act, 1982, w.e.f. 1-4-1983.

Substituted for "items (i) to (iii)" by the Finance Act, 1974, w.e.f. 1/4/1975.

Substituted for "items (i) to (v)", the Finance Act, 1974, w.e.f. 1/4/1975.

Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

Prior to its substitution, sub- clause (i), as inserted by the Finance Act, 1992, w.e.f. 1-4-1993, read as under : "(i) any guest house and any residential house [including a farm house situated within twenty-five kilometres from the local limits of any 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], but does not include (1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than two lakh rupees ; (2) any house for residential purposes which forms part of stock-in-trade ;"

For notified urban areas, see Taxmann's Direct Taxes Circulars, Vol. 3, 1995 edn., p. 1.2919.

Inserted by the Finance Act, 1993, w.e.f. 1-4-1994.

Substituted for "three" by the Finance Act, 1994, w.e.f. 1/4/1995. However, "ten" shall be substituted for "five" by the Finance (No. 2) Act, 1998, w.e.f. 1/4/1999.

Substituted for "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924)" by the Central Boards of Revenue Act, 1963, w.e.f. 1-1-1964.

Substituted for "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924)" by the Central Boards of Revenue Act, 1963, w.e.f. 1-1-1964.

Clause (g) omitted by the Direct Tax Laws (Amendment) Act, 1987

(as amended by the Finance Act, 1988), w.e.f. 1-4-1988. Prior to its omission, clause (g) stood as under : '(g) "Commissioner" means a person empowered to exercise the functions of a Commissioner of Wealth-tax under section 10 ;'

Clause (gg) omitted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988. Prior to its omission, clause (gg), as inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under : '(gg) "Commissioner (Appeals)" means a person empowered to exercise the functions of a Commissioner of Wealth-tax (Appeals) under section 9A ;'

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Clause (h) was first substituted, amplified and amended by the Finance Act, 1958, with retrospective effect from 1-4-1957, then by the Taxation Laws (Extension to Union Territories) Regulation, 1963, w.e.f. 1-4-1963, then by the Finance (No. 2) Act, 1967, with retrospective effect from 1-4-1957, and then by the Finance Act, 1975, w.e.f. 1/4/1975. Immediately before its substitution by the Amendment Act, 1987, it stood as under : '(h) "company" means a company formed and registered under the Companies Act, 1956 (1 of 1956), and includes- (i) a company formed and registered under any law relating to companies formerly in force in any part of India ; (ii) a corporation established by or under a Central, State or Provincial Act ; (iii) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which the Board may, having regard to the nature and objects of such institution, association or body, declare by general or special order to be a company : Provided that such institution, association or body shall be deemed to be a company only for such assessment year or assessment years (whether commencing before the 1st day of April, 1975, or on or after that date) as may be specified in the declaration ; (iv) any body corporate incorporated by or under the laws of a country outside India;'

Inserted by the Finance Act, 1972, with retrospective effect from 1-4-1957.

Clause (hb) omitted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988. Prior to its omission, clause (hb), as inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965 and amended by the Finance Act, 1972, with retrospective effect from 1-4-1965, stood as under : '(hb) "Director of Inspection" includes an Additional Director of Inspection, a Deputy Director of Inspection and an Assistant Director of Inspection ;'

Inserted by the Taxation Laws (Extension to Union Territories) Regulation, 1963, w.e.f. 1-4-1963.

Clause (k) omitted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988. Prior to its omission, clause (k) stood as under : '(k) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act;'

In section 2 of the Wealth-tax Act, 1957(27 of 1957) in for clause (ka), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 25th day of August, 1976, namely:-- Old Clause is following:- [(ka)"India" shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry- (i) as respects any period, for the purposes of section 6 ; and (ii) as respects any period included in the year ending with the valuation date, for the purpose of making any assessment for the assessment year commencing on the 1st day of April, 1963 or for any subsequent year;]

Clause (l) omitted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988. Prior to its omission, clause (l), as inserted by the Taxation Laws (Extension to Union Territories) Regulation, 1963, w.e.f. 1-4-1963 stood as under: '(l) "Inspecting Assistant Commissioner of Wealth-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Wealth-tax under section 11;'

Clause (la) omitted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988. Prior to its omission, clause (la), as inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965, stood as under : '(la) "Inspector of Wealth-tax" means an Inspector of Income-tax empowered to work as an Inspector of Wealth-tax under section 11 A ;'

Clause (11) of section 2 of the Code of Civil Procedure defines legal representative" as follows: '(11) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued ;'

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

Substituted for the words beginning with "on the valuation date other than-" and ending with "under sub-section (1A) of section 5 by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution this portion, as amended by the Finance Act, 1959, w.r.e.f. 1-4-1957, the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965, the Finance Act, 1987, w.e.f. 1-4-1988 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989, read as under : "on the valuation date other than- (i) debts which under section 6 are not to be taken into account ; (ii) debts which are secured on, or which have been incurred in relation to, any property in respect of which wealth-tax is not chargeable under this Act; and (iii) the amount of the tax, penalty or interest payable in consequence of any order passed under or in pursuance of this Act or any law relating to taxation of income or profits, or the Estate Duty Act, 1953 (34 of 1953), the Expenditure-tax Act, 1957 (29 of 1957), or the Gift-tax Act, 1958 (18 of 1958),- (a) which is outstanding on the valuation date and is claimed by the assessee in appeal, revision or other

proceeding as not being payable by him ; or (b) which, although not claimed by the assessee as not being payable by him, is nevertheless outstanding for a period of more than twelve months on the valuation date. Explanation 1.-A building or part thereof referred to in clause (iii), clause (iiia) or clause (iiib) of section 27 of the Income-tax Act shall be includible in the net wealth of the person who is deemed under the said clause to be the owner of that building or part thereof. Explanation 2.-Where a debt falling under sub-clause (ii) is secured on, or has been incurred in relation to. any asset which is not to be included wholly or partly in the net wealth by virtue of the provisions of sub-section (1A) of section 5, the amount of such debt shall, for the purposes of the said sub-clause, be limited to the value of the said asset which is not includible in the net wealth under sub-section (1A) of section 5."

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

For definition of "public servant" under section 21 of the Indian Penal Code, see Appendix.

Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 15-11-1972.

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted for "section 16" by the Finance Act, 1990, w.r.e.f. 1/4/1989.

Substituted for 'clause (11) of section 2" by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted by the Taxation Laws (Amendment) Act, .1972. w.e.f. 15-1 1-1972.

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

Prior to its substitution, clause (s), as amended by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965 and the Taxation Laws (Amendment) Act, 1972, w.e.f. 15-11-1972 and later on substituted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988 and again amended by the Finance Act, 1994, w.e.f. 1-6-1994, read as under : '(s) the expressions "Chief Commissioner", "Director-General", "Commissioner", "Com- missioner (Appeals)", "Director", "Additional Director of Income-tax", "Additional Commissioner of Income-tax ", "Additional Commissioner of Income-tax (Ap- peals)", "Deputy Director", "Deputy Commissioner", "Deputy Commissioner (Ap- peals)". "Assistant Commissioner", 'Income-tax Officer", "Inspector of Income-tax" and "Tax Recovery Officer" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.'

CHAPTER 2

CHARGE OF WEALTH-TAX AND ASSETS SUBJECT TO SUCH CHARGE

3. Charge of wealth-tax :-

⁴[(1)] ²[Subject to the other provisions contained in this Act], there shall be charged for every ³[assessment year] commencing on and from the first day of April, 1957 ⁴[but before the first day of April, 1993], a tax (hereinafter referred to as wealth-tax) in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company ⁵at the rate or rates specified in ⁶[Schedule I].

⁷ [(2) Subject to the other provisions contained in this Act, there shall be charged for every assessment year commencing on and from the 1st day of April, 1993, wealth-tax in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company, at the rate of one per cent of the amount by which the net wealth exceeds fifteen lakh rupees.]

Section 3 renumbered as sub-section (1) of section 3 by the Finance Act, 1992, w.e.f. 1-4-1993.

Amendment introduced by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989, has become redundant in view of omission of provision relating to additional wealth-tax.

Substituted for "financial year" by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Levy of wealth-tax was withdrawn on companies by the Finance Act, 1960, w.e.f. 1-4-1960. However, levy of wealth-tax was revived in a limited way by section 40 of the Finance Act, 1983, w.e.f. 1-4-1983. Section 40 of the 1983 Act was omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

Substituted for "the Schedule" by the Finance Act, 1976, w.e.f. 1-4-1977.

Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

4. Net wealth to include certain assets :-

(1) ⁷[In computing the net wealth-

(a) of an individual, there shall be included, as belonging to that individual, the value of assets which on the valuation date are held-]

9/FNR>[(i) by the spouse of such individual to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, or

(ii) by a minor child, not being ³[a minor child suffering from any disability of the nature specified in Section 80U of the Income tax

Act, 1961 or] a married daughter, of such individual, **8/FNR>[***]**
or

(iii) by a person or association of persons to whom such assets have been transferred by the individual **5**[directly or indirectly] otherwise than for adequate consideration for the immediate or deferred benefit of the individual, his or her spouse **11/FNR>[***], or]**

(iv) by a person or association of persons to whom such assets have been transferred by the individual otherwise than under an irrevocable transfer, **7**[or]

19/FNR>[(v) by the son's wife, 9[*] of such individual, to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration,] 19[or]**

5[(vi) by a person or association of persons to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration for the immediate or deferred benefit of the son's wife, **5**[***] of such individual or both,] whether the assets referred to in any of the sub-clauses aforesaid are held in the form in which they were transferred or otherwise :

5[Provided that where the transfer of such assets or any part thereof is either chargeable to gift-tax under Gift-tax Act, 1958, or is not chargeable under section 5 of that Act, for any assessment year commencing after the 31st day of March, 1964, **5**[but before the 1st day of April, 1972,] the value of such assets or part thereof, as the case may be, shall not be included in computing the net wealth of the individual :] **11**[Provided further that nothing contained in sub-clause (ii) shall apply in respect of such assets as have been acquired by the minor child out of his income referred to in the proviso to sub-section (1A) of Section 64 of the Income tax Act, 1961 and which are held by him on the valuation date:

Provided also that where the assets held by a minor child are to be included in computing the net wealth of an individual, such assets shall be included,-

(a) where the marriage of his parents subsists, in the net wealth of that parent whose net wealth (excluding the assets of the minor child so includible under this sub-section) is greater ; or

(b) where the marriage of his parents does not subsist, in the net wealth of that parent who maintains the minor child in the previous year as defined in Section 3 of the Income tax Act, 1961 , and where any such assets are once included in the net wealth of either parent, any such assets shall not be included in the net wealth of the other parent in any succeeding year unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do ;]

26[(b) of an assessee who is a partner in a firm or a member of an association of persons (not being a co-operative housing society), there shall be included, as belonging to that assessee, the value of his **17**[interest in the assets of the firm] or association determined in the manner laid down in Schedule III : **18**[Provided that where a minor is admitted to the benefits of partner-

19[(1A) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it **20**[into the common stock of the family or been transferred by the individual, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property)], then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computing the net wealth of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1972,-

(a) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly ;

(b) the converted property or any part thereof **21**[***] shall be deemed to be assets belonging to the individual and not to the family ;

22[(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the converted property or any part thereof which is

received by the spouse **23**[***] of the individual on such partition shall be deemed to be assets transferred indirectly by the individual to the spouse **24**[***] and the provisions of sub-section (1) shall, so far as may be, apply accordingly:]

Provided that the property referred to in clause (b) or clause (c) shall, on being included in the net wealth of the individual, be excluded from the net wealth of the family or, as the case may be, the spouse **25**[***] of the individual.]

26(2) [Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989.]

27(3) [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993]

(4) Nothing contained in clause (a) of sub-section (1) shall apply to any such transfer as is referred to therein made by an individual before the 1st day of April, 1956, and the value of any assets so transferred shall not be induced in the computation of his net wealth.

28[(4A) Notwithstanding anything in sub-section (4), nothing contained in clause

(a) of sub-section (1) shall apply to any such transfer as is referred to therein made before the 1st day of April, 1963, by an individual who but for the extension of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, would not have been an assessee, and the value of any assets so transferred shall not be included in the computation of his net wealth.]

(5) The value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor as and when the power to revoke arises to him.

29[(5A) Where a gift of money from one person to another is made by means of entries in the books of account maintained by the person making the gift or by an individual or a Hindu undivided family or a firm or an association of persons or body of individuals with whom or which he has business or other relationship, the value of such gift shall be liable to be included in computing the net wealth of the person making the gift unless he proves to the satisfaction of the **30**[Assessing Officer] that the money has actually been delivered to the other person at the time the entries were

made.]

84

[(6) For the purposes of this Act, the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.]

85 [(7) Where the assessee is a member of a co-operative society, company or other association of persons and a building or part thereof is allotted or leased to him under a house building scheme of the society , company or association, as the case may be, the assessee shall, notwithstanding anything contained in this Act or any other law for the time being in force, be deemed to be the owner of such

(8) A person-

(a) 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 ³¹ Section 53A of the Transfer of Property Act, 1882 ;

(b) 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 part thereof by virtue of any such transaction as is referred to in clause (f) of Section 269UA of the Income tax Act, 1961 , shall be deemed to be the owner of that building or part thereof and the value of such building or part shall be included in computing the net wealth of such person.]

Explanation.-For the purposes of this section,- (a) the expression "transfer" includes any disposition, settlement, trust, covenant, agreement or arrangement ; ³²[***] ³³[(aa) the expression "child" includes a step-child and an adopted child;] ³⁴[(b) the expression "irrevocable transfer" includes a transfer of assets which, by the terms of the instrument effecting it, is not revocable for a period exceeding six years or during the lifetime of the transferee, and under which the transferor derives no direct or indirect benefit, but does not include a transfer of assets if such instrument- (i) contains any provision for the retransfer, directly or indirectly, of the whole or any part of the assets or income therefrom to the transferor, or ³⁵[and] ³⁶[(c) the expression "property" includes any interest in any property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into

any other property by any method, such other property ³⁷[***].]
38 [***]

Substituted for "In computing the net wealth of an individual, there shall be included, as belonging to that individual- (a) the value of assets which on the valuation date are held- 'by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was also amended by the Wealth- tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted for sub-clauses(i), (ii) and (iii) by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted by the Finance Act, 1994, w.e.f. 1/4/1995.

Words "to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration," omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

Words "or minor child (not being a married daughter) or both" omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

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

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

Words "or the son's minor child,' omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

Substituted for the following clause (b), as amended by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989 : "(b) where the assessee is a partner in a firm or a member of an association of persons (not being a co-operative housing society), the value of his interest in the firm or association determined in the prescribed manner."

Substituted for 'interest in the firm' by the Finance Act, 1992, w.e.f. 1-4-1993.

Substituted by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution existing proviso read as under: 'Provided that where a minor is admitted to the benefits of partnership in a firm, the value of the interest of such minor in the firm, determined in the manner specified above, shall be included in the net wealth of that parent of the minor whose net wealth (excluding the interest of minor in the firm referred to in this clause) is greater; and where any such interest is once included in the net wealth of either parent for any assessment year, any such interest in any succeeding year shall not be included in the net wealth of the other parent unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do."

Substituted for 'into the common stock of the family (such property being hereinafter referred to as the converted property)" by the Finance Act, 1979, w.e.f. 1-4-1980.

"insofar as it is attributable to the interest of the individual in the

property of the family" omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

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

Words "or minor child" omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

Prior to its substitution, sub-section (2) stood as under : "(2) In making any rules with reference to the valuation of the interest referred to in clause (b) of sub-section (1), the Board shall have regard to the law for the time being in force relating to the manner in which accounts are to be settled between partners of a firm and members of an association on the dissolution of a firm or association, as the case may be."

Prior to omission, sub-section (3) as amended by the Finance Act, 1975, w.e.f. 1-4-1975 and the Finance Act, 1979, w.e.f. 1-4-1980, read as under : "(3) Where the value of any assets is to be included in the net wealth of an assessee in accordance with clause (a) of sub-section (1) or sub-section (1A),- (a) there shall be deducted from such value any debts owing on the valuation date by the transferee mentioned in that clause insofar as such debts are referable to such assets; and (b) the provisions of section 5 shall apply in relation to such assets as if such assets were assets belonging to the assessee.

Inserted by the Taxation Laws (Extension to Union Territories) Regulation, 1963, w.e.f. 1-4-1963.

Substituted for 'Wealth-tax Officer' by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

For text of section 53A of the Transfer of Property Act, 1882, see Appendix.

"and" omitted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

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

Inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

"and" and clause (d) omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Original clause (d) was inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

5. Exemptions in respect of certain assets :-

²[[***] Wealth-tax shall not be payable by an assessee in respect of the following assets], and such assets shall not be included in the net wealth of the assessee-

(i) any property held by him under trust or other legal obligation for any public purpose of a charitable or religious nature in India :

³[Provided that nothing contained in this clause shall apply to any property forming part of any business, not being a business referred to in clause (a) or clause (b) of sub-section (4A) of Section 11 of the Income tax Act, 1961 in respect of which separate books

of account are maintained or a business carried on by an institution, fund or trust referred to in ⁴[clause (22) or clause (22A) or] clause (23B) or clause (23C) of section 10 of that Act;]

(ii) the interest of the assessee in the coparcenary property of any Hindu undivided family of which he is a member;

(iii) ⁵[any one building in the occupation of a Ruler, being a building which immediately before the commencement of the Constitution (26 Amendment) Act, 1971, was his official residence by virtue of a declaration by the Central Government] under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or States (Taxation Concessions) Order, 1950;

(iv) to ⁶[Omitted by- the Finance Act, 1992, w.e.f. 1-4-1993.] (xiii)

⁷(iv) ⁸jewellery in the possession of any Ruler, not being his personal property, which has been recognised before the commencement of this Act, by the Central Government as his heirloom or, where no such recognition exists, which the Board may, subject to any rules that may be made by the Central Government in this behalf, recognise as his ⁹[Provided that in the case of jewellery recognised by the Central Government as aforesaid, such recognition shall be subject to the following conditions, namely :-

(i) that the jewellery shall be permanently kept in India and shall not be removed outside India except for a purpose and period approved by the Board ;

(ii) that reasonable steps shall be taken for keeping the jewellery substantially in its original shape ;

(iii) that reasonable facilities shall be allowed to any officer of Government authorised by the Board in this behalf to examine the jewellery as and when necessary ; and

(iv) that if any of the conditions hereinbefore specified is not being duly fulfilled, the Board may, for reasons to be recorded in writing, withdraw the recognition retrospectively with effect from the date of commencement of clause (b) of S.5 of the Rulers of Indian States (Abolition of Privileges) Act, 1972, and in such a case, wealth-tax shall become payable by the Ruler for all the assessment years after such commencement for which the jewellery was exempted on account of the recognition. Explanation.-For the

purposes of clause (iv) of the foregoing proviso, the fair market value of any jewellery on the date of the withdrawal of the recognition in respect thereof shall be deemed to be the fair market value of such jewellery on each successive valuation date relevant for the assessment years referred to in the said proviso: Provided further that the aggregate amount of wealth-tax payable in respect of any jewellery under clause (iv) of the foregoing proviso for all the assessment years referred to therein shall not in any case exceed fifty per cent of its fair market value on the valuation date relevant for the assessment year in which recognition was withdrawn;]

(xv) to ¹⁰[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.] (xxxii)

¹¹[¹²[(v)] ¹³in the case of an assessee, being a person of Indian origin ¹⁴[or a citizen of India (hereafter in this clause referred to as such person)] who was ordinarily residing in a foreign country and who, on leaving such country, has returned to India with the intention of permanently residing therein, moneys and the value of assets brought by him into India and the value of the assets acquired by him out of such moneys ¹⁵[within one year immediately preceding the date of his return and at any time thereafter] : Provided that this exemption shall apply only for a period of seven successive assessment years commencing with the assessment year next following the date on which such person returned to India.

Explanation ¹⁶[1].-A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India.]

¹⁷[Explanation 2.-For the removal of doubts, it is hereby declared that moneys standing to the credit of such person in a Non-resident (External) Account in any bank in India in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder, on the date of his return to India, shall be deemed to be moneys brought by him into India on that date;]

¹⁸[(vi) ¹⁹one house or part of a house belonging to an individual or a Hindu undivided family;] S.5 by the Finance (No. 2) Act, 1998, w.e.f. 1/4/1999 : (vi) one house or part of a house or a plot of land belonging to an individual or a Hindu undivided family : Provided that wealth-tax shall not be payable by an assessee in respect of

an asset being a plot of land comprising an area of five hundred square meters or less.

(xxxiv) ²⁰[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(1A) ²¹[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(2) ²²[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(3) ²³[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(4) ²⁴ [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993]

Words "(1) Subject to the provisions of sub-section (1A)," omitted by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier the expression was amended by the Finance Act, 1970, w.e.f. 1-4-1971.

Restored to its original provision by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Proviso was earlier substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. It was originally inserted by the Finance Act, 1985, w.e.f. 1-4-1986.

Words "clause (22) or clause (22A) or" shall be omitted by the Finance (No. 2) Act, 1998, w.e.f. 1/4/1999.

Substituted for "any one building in the occupation of a Ruler declared by the Central Government as his official residence" by the Rulers of Indian States (Abolition of Privileges) Act, 1972, with retrospective effect from 28-12-1971.

Prior to omission, clause (iv) to (xiii), as amended by the Finance Act, 1964, w.e.f. 1-4-1964, the Finance Act, 1969, w.e.f. 1-4-1970, the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1965, the Finance Act, 1970, w.e.f. 1-4-1971, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972 /w.e.f. 1-4-1963, the Finance Act, 1974, w.e.f. 1/4/1975, the Finance Act, 1975, w.e.f. 1/4/1975/w.e.f. 1-4-1976, the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, the Finance Act, 1976, w.e.f. 1/4/1975/w.e.f. 1-4-1977, the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981, the Finance Act, 1982, w.e.f. 1-4-1983, the Finance Act, 1983, w.e.f. 1-4-1984, the Finance Act, 1984, w.e.f. 1-4-1985, and the Finance Act, 1985, w.e.f. 1-4-1986, read as under: '(iv) one house or part of a house belonging to the assessee : [* * *] (iva) [* * *] (ivb) [* * *] (ivc) one or more dwelling units (each such dwelling unit having a plinth area not exceeding eighty square metres) and the land appurtenant thereto, belonging to the assessee, where the construction of such dwelling unit or units is begun on or after the 1st day of April, 1976 : Provided that this exemption shall apply in respect of any dwelling unit or units and the land appurtenant thereto only for a period of five successive assessment years next following the date on which the construction of such dwelling unit or units is completed. Explanation.-For the purposes of this clause,- (a) "dwelling unit" means a unit of

accommodation used solely for the purpose of residence; (b) 'land appurtenant', in relation to any dwelling unit or units comprising a building, means.- (i) in an area where there is any law in force providing for the minimum extent of land contiguous to the land occupied by any building to be kept as open space for the enjoyment of such building, the minimum extent of land contiguous to the land occupied by the building comprising such law; (ii) in any other area. an extent of land not exceeding one-third of the plinth area of the building comprising the dwelling unit or units at the ground level contiguous to the land occupied by such building ; (v) the rights under any patent or copyright belonging to the assessee : Provided that they are held by him in his own right as the inventor or author of such patent or copyright, as the case may be, and have not been assigned to, or acquired by, him under a contract or by way of inheritance or otherwise : (vi) the right or interest of the assessee in any policy of insurance before the moneys covered by the policies become due and payable to the assessee : Provided that in the case of a policy of insurance the premium or other payment whereon is payable during a period of less than ten years, the amount that shall not be included in the net wealth of the assessee under this clause shall be a sum that bears to the value of the right or interest of the assessee in the policy the same proportion as the number of years during which the premium or other payment on the policy is payable bears to ten ; (via) the right of the assessee to receive any annuity payable by the Central Government under the provisions of section 280D of the Income-tax Act ;(vii) the right of the assessee to receive a pension or other life annuity in respect of past services under an employer ; (viii) furniture, household utensils, wearing apparel, provisions and other articles intended for the personal or household use of the assessee but not including jewellery : Provided that the furniture, utensils or other articles are neither made wholly or partly of, nor contain (whether by way of embedding, covering or otherwise), gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals: Provided further that nothing in this clause shall operate to exclude from the net wealth of the assessee any conveyance or conveyances to the extent the value or the aggregate value thereof exceeds the sum of seventy-five thousand rupees. Explanation 1.-For the purposes of this clause and clause (xiii), "jewellery" includes- (a) ornaments made of gold, silver, platinum or any other precious metals or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel ; (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. Explanation 2. -For the purposes of this clause, "conveyance" means any motor car or other mechanically propelled vehicle, aircraft or boat: (viiiia) [* * *] (viiiib) [* * *] (ix) the tools, implements and equipments used by the assessee for the

cultivation, conservation, improvement or maintenance of agricultural land, or for the raising or harvesting of any agricultural or horticultural produce on such land. Explanation. -For the purposes of this clause, tools, implements and equipment do not include any plant or machinery used in any tea or other plantation in connection with the processing of any agricultural produce or in the manufacture of any article from such produce;] (x) the tools and instruments necessary to enable the assessee to carry on his profession or vocation, subject to a maximum of fifty thousand rupees in value ; (xa) in the case of an assessee who is carrying on a profession (being legal, medical, engineering or architectural profession or the profession of accountancy or such other profession as is notified by the Central Government in this behalf) and who regularly maintains books of account on the cash system of accounting, the amount of any fee due to him in respect of the services rendered by him in such professional capacity: (xi) instruments and other apparatus used by the assessee for purposes of scientific research: (xii) any works of art, archaeological, scientific or art collections, books or manuscripts belonging to the assessee and not intended for sale ; (xiii) any drawings, paintings, photographs, prints and any other heirloom not falling within clause (xii) and not intended for sale, but not including jewellery :'

Renumbered for "(xiv)" by the Finance Act, 1992, w.e.f. 1-4-1993. See Circular No. 3D(WT) of 1960. dated 1-4-1960. For details, see Referencer.

Inserted by the Rulers of Indian States (Abolition of Privileges) Act, 1972, w.e.f. 9-9-1972.

Prior to omission, clauses (xv) to (xxxii), as amended by the Finance Act, 1958, w.r.e.f. 1-4-1957, the Taxation Laws (Amendment) Act, 1962, w.e.f. 13-12-1962, the Finance (No. 2) Act, 1962, w.e.f. 1-4-1962, the Finance Act, 1963, w.e.f. 1-4-1963, the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965, the Finance Act, 1965, w.e.f. 1-4-1965, the Finance (No. 2) Act, 1965, w.e.f. 1-4-1965, the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965, w.e.f. 4-12-1965, the Finance Act, 1968, w.e.f. 1-4-1969, the Finance Act, 1970, w.e.f. 1-4-1971, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, the Finance Act, 1972, w.e.f. 1-4-1973/w.r.e.f. 1-4-1957, the Finance Act, 1975, w.e.f. 1/4/1975, the Labour Provident Fund Laws (Amendment) Act, 1976, w.e.f. 1-8-1976, the Finance Act, 1976, w.e.f. 1-4-1976/ 1-4-1977, the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981, the Special Bearer Bonds (Immunities and Exemptions) Act, 1981, w.e.f. 12-1-1981, the Finance Act, 1982, w.e.f. 1-4-1983, the Finance Act, 1983, w.e.f. 1-4-1983/1-4-1984, the Finance Act, 1984, w.e.f. 1-4-1985, the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985, the Finance Act, 1986, w.e.f. 1-4-1986, the Finance Act, 1987, w.e.f. 1-4-1988, the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, the Finance Act, 1988, w.e.f. 1-4-1988/1/4/1989, the Finance Act, 1989, W.r.e.f. 1-4-1988, the Direct Tax Laws (Amendment) Act, 1989, w.e.f.

1/4/1989/1-4-1990, the Finance Act, 1990, w.e.f. 1/4/1991 and the Finance (No.2) Act, 1991, w.r.e.f. 1-4-1984/w.e.f. 1-10-1991, read as under: (xv) deposits under any scheme framed by the Central Government and notified* by it in this behalf in the Official Gazette, to the extent to which the amounts of such deposits do not exceed the maximum amount permitted to be deposited therein ; (xvi) ten-year treasury savings deposit certificates, fifteen-year annuity certificates, deposits in post office savings banks, post office cash certificates, post office national savings certificates, post office national plan certificates and twelve-year national plan savings certificates, ten-year defence deposit certificates and twelve-year national defence certificates, to the extent to which the amount of such certificates or deposits do not exceed in each case the maximum amount permitted to be invested or deposited therein ; (xvii) 6 per cent Gold Bonds, 1977, 7 per cent Gold Bonds, 1980, and National Defence Gold Bonds, 1980; (xviii) Special Bearer Bonds, 1991 : (xix) in the case of an individual, being a citizen of India or a person of Indian origin who is not resident in India, during the year ending on the valuation date, any foreign exchange asset. Explanation.-For the purposes of this clause,- (a) a person shall be deemed to be of Indian origin if he or either of his parents or any of his grand-parents was born in undivided India ; (b) an individual shall be deemed to be not resident in India during the year ending on the valuation date if in respect of that year the individual is not resident in India within the meaning of the Income-tax Act ; (c) "foreign exchange asset" shall have the meaning assigned to it in clause (b) of section 115C of the Income-tax Act ; (xvii) in the case of an individual, being a citizen of India or a person of Indian origin who is resident in India, during the year ending on the valuation date, any foreign exchange asset [being an asset referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of clause (f) of section 115C of the Income-tax Act], where such asset was not includible by virtue of the provisions of clause (xix) in computing his net wealth on any earlier valuation date. Explanation. -For the purposes of this clause,- (a) an individual shall be deemed to be resident in India during the year ending on the valuation date if in respect of that year the individual is resident in India within the meaning of the Income-tax Act ; (b) the expressions 'person of Indian origin' and 'foreign exchange asset' shall have the same meanings as in the Explanation below clause (xix) ; (xviii) in the case of an individual or a Hindu undivided family, such Capital Investment Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf ; (xvix) in the case of an individual or a Hindu undivided family, such debentures issued by a public sector company, as the Central Government may, by notification' in the Official Gazette, specify in this behalf. Explanation. -For the purposes of this clause, "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the

Companies Act, 1956 (1 of 1956); (xvif) in the case of an individual or a Hindu undivided family, such Relief Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf; (xvig) in the case of an individual who is a non-resident Indian during the year ending on the valuation date, or a nominee or survivor of such individual or an individual receiving by way of gift from such individual, the bonds specified under sub-clause (iid) of clause (15) of section 10 of the Income-tax Act : Provided that where an individual, who is a non-resident Indian during the year ending on the valuation date in which the bonds are acquired, becomes a resident in India in any subsequent year ending on the valuation date. the provisions of this clause shall continue to apply in relation to such individual. Explanation. -For the purposes of this clause, an individual shall be deemed to be a non-resident Indian during the year ending on the valuation date if in respect of that year the individual is a non-resident Indian within the meaning of clause (e) of section 115C of the Income-tax Act ; (xvii) the amount standing to the credit of an assessee, being a salaried employee, in any provident fund maintained by his employer to which the Provident Funds Act, 1925 (19 of 1925), applies or which is a recognised provident fund within the meaning of clause (38) of section 2 of the Income-tax Act ; (xviiia) the amount standing to the credit of : (a) an individual ; or (b) a Hindu undivided family ; or (c) an association of persons or body of individuals consisting, in either case, only of husband and wife governed by the system of community of property in force in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, in any provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette ; (xviiib) any property held by the trustees on behalf of any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies or which is a recognised provident fund within the meaning of clause (38) of section 2 of the Income-tax Act ; (xviiiba) any property held- (a) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit- linked Insurance Fund established under section 3G of that Act ; or (b) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit- linked Insurance Fund established under section 6C of that Act ; (xviiic) any property held by the trustees on behalf of any gratuity fund which is an approved gratuity fund within the meaning of clause (5) of section 2 of the Income- tax Act; (xviid) any property held by the trustees on behalf of any superannuation fund which is an approved superannuation fund within the meaning of clause (6) of section 2 of the Income-tax Act; (xviii) the property received by an assessee from Government in pursuance of any gallantry or merit award instituted or approved by the Central Government ; (xviiiia) any property being a medal, trophy or an award in kind received by the assessee for any attainment, work or contribution in any field if

such medal, trophy or award in kind is received by the assessee from Government or from a University established by law or an institution affiliated to such University or from any such institution, association or body as is approved for the purposes of this clause by the Central Government. Explanation. -Any approval for the purposes of this clause may be given by the Central Government so as to have effect from a date not earlier than the 1st day of April, 1983 ; (xix) the value of any shares held by the assessee in any other company in any case where the assessee is a company ; (xx) the value of any equity shares in any company of the type referred to in clause (d) of section 45, where such shares form part of the initial issue of equity share capital made by the company after the 31st day of March, 1964, but before the 1st day of June, 1971, for a period of five successive assessment years commencing with the assessment year next following the date on which such company commences the operations for which it has been established ; (xxa) the value of any equity shares in any company of the type referred to in clause (d) of section 45 which is established with the main object of carrying on the business of manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule to the Income-tax Act, where such shares form part of the initial issue of equity share capital made by the company after the 28th day of February, 1975, for a period of five successive assessment years commencing with the assessment year next following the date on which such shares were first issued ; (xxi) that portion of the net wealth of a company established with the object of carrying on an industrial undertaking in India within the meaning of the Explanation to clause (d) of section 45, as is employed by it in a new and separate unit set up after the commencement of this Act by way of substantial expansion of its under-taking : Provided that- (a) separate accounts are maintained in respect of such unit; and (b) the conditions specified in clause (d) of section 45 are complied with in relation to the establishment of such unit : Provided further that this exemption shall apply to any such company only for a period of five successive assessment years commencing with the assessment year next following the date on which the company commences operations for the establishment of such unit ; (xxii) any security of the Central Government or a State Government [not being a security referred to in clause (xvi) or clause (xvii)]; (xxiii) any shares not being shares referred to in clause (xx) or clause (xxa) in any Indian company where the assessee is an individual or a Hindu undivided family ; (xxiv) such debentures, issued by any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank) or any other institution or authority, as the Central Government may, by notification * in the Official Gazette, specify in this behalf; (xxiva) units of a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act; (xxv) units in the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963); (xxva) any deposits under such National

Deposit Scheme as may be framed by the Central Government and notified by it in this behalf in the Official Gazette ; (xxvb) any deposits made under any scheme referred to in clause (i) of sub-section (1) of section 80CCA of the Income-tax Act ; (xxvc) the right or interest of the assessee in any annuity plan of the Life Insurance Corporation referred to in clause (ii) of sub-section (1) of section 80CCA of the Income-tax Act; (xxvi) any deposits with 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 with 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); (xxvii) any deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India or with 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: Provided that the corporation or, as the case may be, the company is for the time being approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36 of the Income-tax Act ; (xxviiia) any deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) ; (xxviiib) any deposits with any 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 ; (xxviiic) any deposits made in accordance with the scheme referred to in item (i) of sub-clause (iv) of clause (15) of section 10 of the Income-tax Act, by any employee of the Central Government or a State Government ; or a public sector company. Explanation.-For the purposes of this clause, "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956); (xxviid) any deposits made with the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987) ; (xxviii) any shares in any co-operative society ; (xxix) any deposits with a co-operative society, not being deposits referred to in clause (xxvi) or clause (xxx), made by a member of the society ; (xxx) any deposits with a co-operative housing society made by a member of the society to whom a building or part thereof is allotted or leased under a house building scheme of the society, where such deposits have been made under such scheme ; (xxxia) the value of one or more dwelling units (each having a plinth area of eighty square metres or less) belonging to the assessee and used solely for the purpose of residence of persons employed by the assessee in any plantation or industrial undertaking belonging to the assessee ; (xxxii) the value as determined in the prescribed manner, of assets

(not being any land or building or any rights in any land or building or any asset referred to in any other clause of this sub-section) forming part of an industrial undertaking belonging to the assessee. Explanation.-For the purposes of clause (xxxa), this clause, clause (xxxii) and clause (xxxiv), the term 'industrial undertaking' means an undertaking engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining: (xxxii) the value, as determined in the prescribed manner, of the interest of the assessee in the assets (not being any land or building or any rights in any land or building or any asset referred to in any other clause of this sub-section) forming part of an industrial undertaking belonging to a firm or an association of persons of which the assessee is a partner or, as the case may be, a member ;' Tor notified schemes of fixed deposits under clause (xv), prior to its omission, refer Taxmann's Direct Taxes Circulars, 1994 edn., Vol. 3, p. 1.2977, see also Circular No. 627, dated 27-2-1992. For notified bonds of public sector companies under clause (xvie), prior to its omission, refer Taxmann's Direct Taxes Circulars, 1994 edn.. Vol. 3. pp. 1.2980-1.2988. For debentures notified under clause (xxiv), refer Taxmann's Direct Taxes Circulars, 1994 edn., Vol. 3, p. 1.2995. For notified National Deposit Scheme under clause (xxva), refer Taxmann's Direct Taxes Circulars, 1994 edn.. Vol. 3, p 1.2296. Public Provident Fund Scheme was notified under clause (xviia) vide Notification No. SO 2432, dated 2-7-1968. Refer Taxmann's Direct Taxes Circulars, 1994 edn.. Vol. 3, p] .2989. Renumbered for "(xxxiii)" by the Finance Act, 1992, w.e.f. 1-4-1993.

Inserted by the Finance Act, 1976, w.e.f. 1-4-1977.

See Circular No. 411, dated 25-2-1985. For details, see Referencer. Inserted by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from 1-4-1977.

Inserted by the Finance Act, 1986, w.e.f. 1-4-1987.

Inserted by the Finance Act, 1986, w.r.e.f. 1-4-1977.

Inserted, by the Finance Act, 1986, w.r.e.f. 1-4-1977.

Inserted by the Finance Act, 1993, w.e.f. 1-4-1994.

For relevant circulars, see Referencer.

Prior to omission, clause (xxxiv) as inserted by the Finance Act, 1976, w.e.f. 1-4-1976, read as under: (xxxiv) in the case of an individual, being a citizen of India, who is not resident in India during the year ending on the valuation date, the value of any equity shares in any company of the type referred to in clause (d) of section 45 which is engaged in the business of manufacture or production of any one or more of the articles or things specified in Schedule II or which is certified by the prescribed authority* to have undertaken the export of such percentage of its total production as may be specified in this behalf by the prescribed authority, where such shares form part of the initial issue of the equity share capital made by the company after the 31st day of March, 1976, or where such shares form part of an issue of equity

share capital which is certified by the prescribed authority to have been made by the company after the 31st day of March, 1976, for the purposes of expansion or diversification of its industrial undertaking. Explanation.-An individual shall be deemed to be not resident in India during the year ending on the valuation date if in respect of that year the individual is not resident in India within the meaning of the Income-tax Act." See rule 1AA.

Prior to omission, sub-section (1A), as amended by the Finance Act, 1970, w.e.f. 1-4-1971, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, the Finance Act, 1972, w.e.f. 1-4-1973, the Finance Act, 1974, w.e.f. 1-4-1975, the Finance Act, 1975, w.e.f. 1/4/1975, the Finance Act, 1982, w.e.f. 1-4-1983, the Finance Act, 1984, w.e.f. 1-4-1985, the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985, the Finance Act, 1985, w.e.f. 1-4-1986, the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, the Finance Act, 1988, w.e.f. 1/4/1989, the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989 and the Finance Act, 1989, w.e.f. 1-4-1990, read as under: (1A) Nothing contained in sub-section (1) shall operate to exclude from the net wealth of the assessee any assets referred to in clauses (iv), (xv), (xvi), (xvii), (xxii), (xxiii), (xxiv), (xxiva), (xxv), (xxva), (xxvi), (xxvii), (xxviii), (xxviiib), (xxviid), (xxviii), (xxix), (xxxii) and (xxxiii), [not being deposits under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959*, to the extent the value thereof exceeds, in the aggregate, a sum of five hundred thousand rupees: Provided that where the assets include any assets referred to in clause (xv) or clause (xvi) [not being deposits under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959*, which have been owned by the assessee continuously from a date prior to the 1st day of March, 1970, and the value of the assets so included exceeds the limit of five hundred thousand rupees by any amount, such limit shall be raised by the said amount : Provided further that nothing contained in this sub-section shall apply to any assets referred to in clause (xvii) which are sold by a public sector company before the 1st day of June, 1988: Provided also that where the value of any assets, being deposits referred to in clause (xxva), has not been excluded from the net wealth of the assessee under the foregoing provisions of this sub-section, so much of the value of such assets as has not been so excluded shall be excluded from the net wealth of the assessee; so, however, that the value of the assets so excluded under this proviso shall not exceed twenty-five thousand rupees. Explanation. - Where a debt is secured on, or has been incurred in relation to, any asset referred to in this sub-section, the exemption under this sub-section shall be allowed first against the value of the asset on which or in relation to which such debt is secured or incurred and, thereafter, against the value of any other asset so referred to." *Since repealed ; now Post Office Cumulative Time Deposit Rules, 1981.

Prior to omission, sub-section (2), as amended by the Taxation Laws (Amendment) Act, 1962. w.e.f. 13-12-1962 and the Finance

Act, 1968, w.e.f. 1-4-1969, read as under : "(2) Wealth-tax shall not be payable by an assessee in respect of any deposit made by the assessee with the Government or in any security of the Government or of a local authority not specified in clause (xv) or clause (xvi) or clause (xvii) of sub-section (1) which the Central Government may, by notification in the Official Gazette, exempt from wealth-tax, but the value of any deposit or security so exempted shall be included in computing the net wealth of the assessee."

Prior to omission, sub-section (3), as amended by the Finance Act, 1963, w.e.f. 1-4-1963, the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965, the Finance Act, 1970, w.e.f. 1-4-1971, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, the Finance Act, 1972, w.e.f. 1-4-1973, the Finance Act, 1975, w.e.f. 1/4/1975, the Finance Act, 1982, w.e.f. 1-4-1983, the Finance Act, 1984, w.e.f. 1-4-1985, the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985, the Finance Act, 1985, w.e.f. 1-4-1986, the Finance Act, 1986, w.e.f. 1-4-1986 and the Finance Act, 1988, w.e.f. 1-4-1988, read as under : "(3) Notwithstanding anything contained in sub-section (1), wealth-tax shall be payable by an assessee in respect of the assets referred to in clauses (xv), (xvi), (xvii), (xviii), (xvix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), (xxviii), (xxix) and (xxx) of sub-section (1) or in sub-section (2) for any assessment year unless the assets are owned by him- (a) in the case of shares in a company, from the date on which the shares were first issued by the company, or for a period of at least six months ending with the relevant valuation date, whichever is shorter ; (aa) in the case of Capital Investment Bonds referred to in clause (xvii), or debentures referred to in clause (xviii), or Relief Bonds referred to in clause (xvix), of sub-section (1), from the date on which the Bonds or debentures or Relief Bonds, as the case may be, were subscribed to by the assessee, or for a period of at least six months ending with the relevant valuation date, whichever is shorter; and (b) in the case of other assets, for a period of at least six months ending with the relevant valuation date: Provided that for the purpose of making any assessment for the assessment year commencing on the 1st day of April, 1963, the provisions of clause (b) shall not apply to ten-year defence deposit certificates and twelve-year national defence certificates held by the assessee on the relevant valuation date. Explanation.-For the purposes of clause (a) or clause (aa) or clause (b) of this sub-section, in computing the period of six months in relation to any asset (not being any share or security held as stock-in-trade for the purposes of the business of the assessee) in a case where such asset (hereafter in this Explanation referred to as the relevant asset) was acquired by the assessee by conversion of, or in exchange for, or with the proceeds of, or with the money constituting, any other asset exempt from wealth-tax under sub-section (1) or sub-section (2), there shall be included, if the assessee acquired the relevant asset within sixty days after he ceased to own such other asset, so much

of the period for which the assessee has owned such other asset as falls within the period of twelve months ending with the relevant valuation date."

Prior to omission, sub-section (4), as inserted by the Direct Tax Laws (Amendment) Act 1989, w.e.f. 1/4/1989, read as under : "(4) Where the assessee is a partner of a firm or member of an association of persons, and the firm or association owns any one or more of the assets which are exempt under sub section (1), then, for the purposes of his assessment under this Act, the value of his interest in the firm or association shall be deemed to include the value of a part of each such asset of the firm or association in the same proportion in which he is entitled to share the profits of the firm or association and the assessment shall be made after allowing the exemption under sub-section (1) in respect of those assets on the basis of such proportionate value."

6. Exclusion of assets and debts outside India :-

In computing the net wealth of an individual ²[who is not a citizen of India or of an individual] or a Hindu undivided family not resident in India or resident but not ordinarily resident in India, or of a company not resident in India during the year ending on the valuation date-

(i) the value of the assets and debts located outside India ; and

(ii) the value of the assets in India represented by any loans or debts owing to the assessee in any case where the interest, if any, payable on such loans or debts is not to be included in the total income of the assessee under ³ Section 10 of the Income Tax Act, 1922 : shall not be taken into account.

Explanation 1.-An individual or a Hindu undivided family shall be deemed to be not resident in India or resident but not ordinarily resident in India during the year ending on the valuation date if in respect of that year the individual or the Hindu undivided family, as the case may be, is not resident in India or resident but not ordinarily resident in India within the meaning of the Income- tax Act.

⁴[Explanation 1A.-Where in the case of an individual the value of an asset in India is represented by any debt owing to him, being any moneys to his credit in a Non-resident (External) Account, the interest payable on which is not to be included in his total income under ⁵[sub-clause (ii) of clause (4)] of section 10 of the Income-tax Act, the provisions of this section shall, in relation to such asset, apply subject to the modification that the reference in this

section to an individual not resident in India shall be construed as a reference to a person ⁶ of the Foreign Exchange Regulation Act, 1973 (46 of 1973)].

Explanation 2-A company shall be deemed to be resident in India during the year ending on the valuation date, if- (a) it is a company formed and registered under the Companies Act, 1956 (1 of 1956), or is an existing company within the meaning of that Act; or (b) during that year the control and management of its affairs is situated wholly in India.

Inserted by the Finance Act, 1958, with retrospective effect from 1-4-1957.

Substituted for "sub-section (3) of section 4" by the Wealth-tax (Amendment) Act, 1964 w.e.f. 1-4-1965.

Inserted by the Finance Act, 1982, w.e.f. 1-4-1982.

Substituted for "clause (4A)" by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989-1989.

Clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973, defines "person resident outside India" as follows : '(q) "person resident outside India" means a person who is not resident in India ;'

7. Value of assets, how to be determined :-

(1) Subject to the provisions of sub-section (2), the value of any asset, other than cash, for the purposes of this Act shall be its value as on the valuation date determined in the manner laid down in Schedule III.

(2) The value of a house belonging to the assessee and exclusively used by him for residential purposes throughout the period of twelve months immediately preceding the valuation date, may, at the option of the assessee, be taken to be the value determined in the manner laid down in Schedule III as on the valuation date next following the date on which he became the owner of the house or the valuation date relevant to the assessment year commencing on the 1st day of April, 1971, whichever valuation date is later : ³ [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

Explanation.-For the purposes of this sub-section,- (i) where the house has been constructed by the assessee, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed; (ii) "house" includes a part of a house being an independent residential unit.]

Prior to omission, existing proviso read as under : "Provided that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of this sub-section shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf in the return of net wealth,"

CHAPTER 3

WEALTH-TAX AUTHORITIES

8. Wealth-tax authorities and their Jurisdiction :-

The income-tax authorities specified in Section 116 of the Income tax Act, 1961 shall be the wealth-tax authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a wealth-tax authority under this Act in respect of any individual, Hindu undivided family or company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act. Explanation.-For the purposes of this section, the wealth-tax authority having jurisdiction in relation to a person who is not an assessee within the meaning of the Income-tax Act shall be the wealth-tax authority having jurisdiction in respect of the area in which that person resides.]

8A. Powers of Commissioner respecting specified areas, cases, persons, etc. :-

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

Prior to its omission, section 8A, as inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965 and later on amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967 and Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, stood as under : "8A. Powers of Commissioner respecting specified areas, cases, persons, etc.- (1) The Commissioner may, by general or special order in writing, direct that- (a) the powers conferred on the Wealth-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner ; (b) such of the functions assigned to the Wealth-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases, or classes of cases or specified persons or classes of persons, be performed by an Inspector of Wealth-tax or any member of the ministerial staff appointed to work under the Commissioner or any other wealth-tax authority subordinate to him, and specified in such order, subject to such

conditions, restrictions or limitations as may be specified therein: Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board, by general or special order in writing, make an order under clause (b) in relation to the functions of a Wealth-tax Officer mentioned in the following provisions of this Act, namely, sections 15B, 16, 17, 18, 20, 22, 24, 32, 37 and 37A, (2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,-(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to include references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply; (b) where such order is made under clause (b) of the said sub-section, references in this Act or any rule made thereunder to the Wealth-tax Officer shall be deemed to include references to the Inspector of Wealth-tax or the member of the ministerial staff specified in such order."

8AA. Concurrent jurisdiction of Inspecting Assistant Commissioner and Wealth-tax Officer :-

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

8B. Power to transfer cases :-

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

9. Control of wealth-tax authorities :-

Section 118 of the Income tax Act, 1961 and any notification issued thereunder shall apply in relation to the control of wealth-tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any wealth-tax authority.]

9A. Commissioners of Wealth-tax (Appeals) :-

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

10. Instructions to subordinate authorities :-

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

of the Board : Provided that no such orders, instructions or directions shall be issued-

(a) so as to require any wealth-tax authority to make a particular

(b) so as to interfere with the discretion of the Deputy Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,-

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time, (whether by way of relaxation of any of the provisions of sections ² [14, 15, 16, 17, 17B,] 18 and 35 or otherwise), general or special orders in respect of any class of cases, setting forth directions or instructions (not being prejudicial to assesseees) as to the guidelines, principles or procedures to be followed by other wealth-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any wealth-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals), to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.]

Substituted for 16, 17" by the Finance Act, 1990, w.e.f. 1-4-1990.

10A. Directors of Inspection :-

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

11. 11 :-

¹[Jurisdiction of Assessing Officers and power to transfer cases.

(1) The provisions of sections 124 and S.127 of the Income Tax Act, 1922 Act shall, so far as may be, apply for the purposes of this

Act as they apply for the purposes of the Income-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be the following, namely:-

(a) in Section 124 of the Income tax Act, 1961 , -

(i) in sub-section (3), references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of the Wealth-tax Act ;

(ii) sub-section (5) shall be omitted ;

(b) in Section 127 of the Income tax Act, 1961 , in the Explanation below sub- section ² [(4)], references to proceedings under the Income-tax Act shall be construed as including references to proceedings under the Wealth-tax Act.]

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Prior to its substitution, section 11, as amended by the Finance (No.2) Act, 1967, w.e.f. 1-4-1967, stood as under: "11. Inspecting Assistant Commissioner of Wealth-tax.-The Commissioner of Wealth-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Wealth-tax, and on being so empowered the Inspecting Assistant Commissioners of Wealth-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Commissioner may direct and where such directions have assigned to two or more Inspecting Assistant Commissioners the same area or the same persons or the same classes of persons they shall have concurrent jurisdiction and shall perform such functions in respect of the said areas or persons or classes of persons as the Commissioner may, by general or special order in writing, specify, for the distribution and allocation of the work to be performed."

Substituted for "(5)" by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988.

11A. Inspector of Wealth-tax :-

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

11AA. Commissioner competent to perform any function or functions :-

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

11B. Wealth-tax Officer competent to perform any function

or functions :-

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

12. Control of wealth-tax authorities :-

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

12A. Appointment of Valuation Officers :-

² (1) The Central Government may appoint as many Valuation Officers as it thinks fit. (2) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a wealth-tax authority may appoint as many overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions].

See rule 3A.

13. Wealth-tax authorities to follow orders, etc., of the Board :-

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

13A. Powers of 42 [Director-General or Director], 43 [Chief Commissioner or Commissioner] and 44 [Joint Commissioner] to make enquiries :-

The ²[Director-General or Director], the ³[Chief Commissioner or Commissioner] and the ⁴[Joint Commissioner] shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an ⁵ [Assessing Officer] has under this Act in relation to the making of enquiries.]

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

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

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

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

CHAPTER 4

ASSESSMENT

14. Return of wealth :-

2[(1) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum amount which is not chargeable to wealth-tax, shall, on or before the due date, furnish a return of his net wealth or the net wealth of such other person as on that valuation date in the prescribed form and verified in the prescribed manner setting forth particulars of such net wealth and such other particulars as may be prescribed.

Explanation. -In this sub-section, "due date" in relation to an assessee under this Act shall be the same date as that applicable to an assessee under the Income-tax Act under the Explanation to sub-section (1) of section 139 of the Income-tax Act.

(2) Notwithstanding anything contained in any other provisions of this Act, a return of net wealth which shows the net wealth below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished : Provided that this sub-section shall not apply to a return furnished in response to a notice under section 17 .]

(3) **3** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.]

Substituted for sub-sections (1) and (2) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to their substitution, sub-sections (1) and (2), as amended by the Repealing and Amending Act, 1960, w.e.f. 26-12-1960, Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965 and Finance Act, 1970, w.e.f. 1-4-1970, stood as under : "(1) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date was of such an amount as to render him liable to wealth-tax under this Act, shall, before the 30th day of June of the corresponding assessment year, furnish to the Assessing Officer a return in the prescribed form and verified in the prescribed manner setting forth the net wealth as on that valuation date: Provided that in the case of a person whose net wealth or the net wealth of any other person in respect of which he is assessable under this Act includes the value of any assets held in a business or profession and the time (whether fixed originally or on extension) for furnishing the return of his total income or, as the case may be, of the total income of the other person aforesaid for the said assessment year under sub-section (1) or sub-section (2) or sub-section (3) of section 139 of the Income-tax Act, expires on or after the 30th day of June aforesaid, the return in respect of such net wealth for the assessment year may be furnished before the expiry of the time of furnishing such return

of income. (2) If the Assessing Officer is of the opinion that any person is assessable under this Act, whether in respect of his net wealth or the net wealth of any other person, then, notwithstanding anything contained in sub-section (1), he may serve a notice upon such person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner (setting forth along with such other particulars as may be required by the notice), the net wealth of such person as on the valuation date mentioned in the notice."

Prior to its omission, sub-section (3) stood as under : "(3) The Assessing Officer may, if he is satisfied that it is necessary so to do, extend the date for the delivery of the return under this section.'

15. Return after due date and amendment of return :-

If any person has not furnished a return within the time allowed under sub-section (1) of section 14 or under a notice issued under clause (i) of sub-section (4) of section 16, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier: Provided that-

(a) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, it may be furnished at any time up to and inclusive of the 31st day of March, 1990 or before the completion of the assessment, whichever is earlier;

(b) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time up to and inclusive of the 31st day of March, 1991 or before the completion of the assessment, whichever is earlier.]

15A. Return by whom to be signed :-

The return made under section 14 or section 15 shall be signed and verified-

2[(a) in the case of an individual,- (i) by the individual himself : (ii) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf ; (iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and (iv) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;]

(b) in the case of a Hindu undivided family, by the karta, and, where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family ; and

3[(c) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign and verify the return or where there is no managing director, by any director thereof:]] **4** [Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return : Provided further that,-

(a) where the company is being wound up, whether under the orders of the court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (1) of Section 178 of the Income tax Act, 1961 ;

(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof.]

Substituted for the following by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989: "(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; where the individual is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf ; and where for any other reason it is impossible for the individual to sign the return, by any person competent to act on his behalf ;"

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

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

15B. Self-assessment :-

(1) Where any tax is payable on the basis of any return furnished under section 14 or section 15 or in response to a notice under

clause (i) of sub-section (4) of section 16 or under section 17 , after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act, for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

Explanation.-Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.

(2) After the regular assessment under section 16 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment.

(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all the provisions of this Act shall apply accordingly.]

2 [(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

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

15C. Provisional assessment :-

Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Original section was inserted by the Wealth-tax. (Amendment) Act, 1964, w.e.f. 1-4-1965}

16. Assessment :-

2(1) Where a return has been made under Section 14 or Section 15

or in response to a notice under clause (i) of sub-section (4),-

(i) if any tax or interest is found due on the basis of such return, after adjustment of any amount paid by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under Section 30 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee and an intimation to this effect shall be sent to the assessee: Provided that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section where either no sum is payable by the assessee or no refund is due to him: Provided further that no intimation under this sub-section shall be sent after the expiry of two years from the end of the assessment year in which the net wealth was first assessable.

3[(1A)[**4*]

5[(1B) [**6*]

(2) **7**[Where a return has been made under section 14 or section 15 , or in response to a notice under clause (i) of sub-section (4) of this section, the Assessing Officer shall, if he] considers it necessary or expedient to ensure that the assessee has not understated the net wealth or has not underpaid the tax in any manner, **8**[* * *] serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return: **9**[Provided that no notice under this sub-section shall be served on the assessee after the expiry of twelve months from the end of the month in which the return is furnished.]

(3) On the day specified in the notice issued under sub-section (2) 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 shall, by order in writing, assess the net wealth of the assessee and determine the sum payable by him on the basis

of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 14 or section 15 or in whose case the time allowed under sub-section (1) of section 14 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,-

(i) where such person has not made a return ¹⁰[within the time allowed under sub-section (1) of section 14] to furnish a return of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date, in the prescribed form and verified in the prescribed manner, setting forth the particulars of such net wealth and such other particulars as may be prescribed, or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person,-

(a) fails to make the return required under sub-section (1) of section 14 and has not made a return or a revised return under section 15 , or

(b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4), the Assessing Officer, after taking into account, all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the net wealth to the best of his judgment and determine the sum payable by the person on the basis of such assessment : Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment: Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.]

¹¹[(6) Where a regular assessment under sub-section (3) or sub-section (5) 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.

(7) [****12 ***]

[100]Substituted for " (1) (a) Where a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4),- (i) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 30 and all the provisions of this Act shall apply accordingly ; and (ii) if any refund is due on the basis of such return, it shall be granted to the assessee: Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the net wealth declared in the return, namely :- (i) any arithmetical errors in the return, accounts or documents accompanying it, shall be rectified ; (ii) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents, is prima facie admissible but which is not claimed or made in the return, shall be allowed; (iii) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is prima facie inadmissible, shall be disallowed : [Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments : [Provided [also] that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the net wealth was first assessable.] (b) Where as a result of an order made under [sub-section (3) or sub-section (5) of this section or] section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (a), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,- (i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly, and (ii) if any refund is due, it shall be granted to the assessee : Provided

that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed. ", vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

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

[101]Omitted for " (a) Where in the case of any person, the net wealth, as a result of the adjustments made under the 65 [first] proviso to clause (a) of sub-section (1), exceeds the net wealth declared in the return by any amount, the Assessing Officer shall- (i) further increase the amount of tax payable under sub-section (1) by an additional wealth-tax calculated at the rate of twenty per cent of the tax payable on such excess amount and specify the additional wealth-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1) ; (ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional wealth-tax calculated under sub-clause (i). (b) Where as a result of an order under section 23 or section 24 or section 25 or section 27 or section 29 or section 35 , the amount on which additional wealth-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional wealth-tax shall be increased or reduced accordingly, and,- (i) in a case where the additional wealth-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 30 ; (ii) in a case where additional wealth-tax is reduced, the excess amount paid, if any, shall be refunded. Explanation.-For the purposes of this sub-section, "tax payable on such excess amount" means the difference between the tax on the net wealth and the tax that would have been chargeable had such net wealth been reduced by the amount of adjustments.] ", vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

Inserted by the Finance Act, 1990, w.r.e.f. 1/4/1989,

[102]Omitted for "Where an assessee furnishes a revised return under section 15 after the issue of an intimation, or the grant of refund, if any, under sub-section (1) of this section, the provisions of sub-sections (1) and (1A) of this section shall apply in relation to such revised return and- (i) the intimation already sent for any wealth-tax, additional wealth-tax or interest shall be amended on the basis of the said revised return and where any amount payable by way of wealth-tax, additional wealth- tax or interest specified in the said intimation has already been paid by the assessee then, if any such amendment has the effect of- (a) enhancing the amount already paid, the intimation amended under this clause shall be sent to the assessee specifying the excess amount payable by him

and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly ; (b) reducing the amount already paid, the excess amount paid shall be refunded to the assessee : (ii) the amount of the refund already granted shall be enhanced or reduced on the basis of the said revised return and where the amount of refund already granted is- (a) enhanced, only the excess amount of refund due to the assessee shall be paid to him ; (b) reduced, the excess amount so refunded shall be deemed to be the tax payable by the assessee and an intimation shall be sent to the assessee specifying the amount so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly : Provided that an assessee, who has furnished a revised return under section 15 after the service upon him of the intimation under sub-section (1) of this section, shall be liable to pay additional wealth-tax in relation to the adjustments made under the first proviso to clause (a) of sub-section (1) and specified in the said intimation, whether or not he has made the said adjustments in the revised return.] ", vide The Finance Act, 1999 (27 Of 1999), Dt.11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

Substituted for "In a case referred to in sub-section (1), if the Assessing Officer" by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1/4/1989.

"he shall" omitted, by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1/4/1989.

Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991. Prior to substitution, proviso read as under: "Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or the expiry of six months from the end of the month in which the return is furnished, whichever is later.'

Substituted for "before the end of the relevant assessment year" by the Finance Act, 1990, w.e.f. 1-4-1990.

Substituted for the following clause (b), as amended by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989 : "(b) where the assessee is a partner in a firm or a member of an association of persons (not being a co-operative housing society), the value of his interest in the firm or association determined in the prescribed manner."

[103]Omitted for "The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any assessment for the assessment year commencing on the 1 st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions for the time being in force and applicable to the relevant assessment year.] [Explanation.-An

intimation sent to the assessee under sub-section (1) or sub-section (1B) shall be deemed to be an order for the purposes of sub-section (1) of section 25.] ", vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Part II, Section I, dated 11-05/1999, pp. 1-98, No. 33

16A. Reference to Valuation Officer :-

3

(1) For the purpose of making an assessment (including an assessment in respect of any assessment year commencing before the date of coming into force of this section) under this Act, ⁵[where under the provisions of section 7 read with the rules made under this Act, or, as the case may be, the rules in Schedule III, the market value of any asset is to be taken into account in such assessment,] the ⁵[Assessing Officer] may refer the valuation of any asset to a Valuation Officer-

(a) in a case where the value of the asset as returned is in accordance with the estimate made by a registered valuer, if the ⁵[Assessing Officer] is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the [Assessing Officer] is of opinion-

⁶(i) that the fair market value of the asset exceeds the value of the asset as returned by more than such percentage of the value of the asset as returned or by more than such amount as may be prescribed in this behalf ; or

(ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

(2) For the purpose of estimating the value of any asset in pursuance of a reference under sub-section (1), the Valuation Officer may serve on the assessee a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Valuation Officer may require.

(3) Where the Valuation Officer is of opinion that the value of the asset has been correctly declared in the return made by the assessee under section 14 or section 15 , he shall pass an order in writing to that effect and send a copy of his order to the ⁷[Assessing Officer] and to the assessee.

(4) Where the Valuation Officer is of opinion that the value of the asset is higher than the value declared in the return made by the assessee under section 14 or, section 15 , or where the asset is not disclosed or the value of the asset is not declared in such return or where no such return has been made, the Valuation Officer shall serve a notice on the assessee intimating the value which he proposes to estimate and giving the assessee an opportunity to state, on a date to be specified in the notice, his objections either in person or in writing before the Valuation Officer and to produce or cause to be produced on that date such evidence as the assessee may rely in support of his objections.

(5) On the date specified in the notice under sub-section (4), or as soon thereafter as may be, after hearing such evidence as the assessee may produce and after considering such evidence as the Valuation Officer may require on any specified points and after taking into account all relevant materials which he has gathered, the Valuation Officer shall, by order in writing, estimate the value of the asset and send a copy of his order to the ⁸[Assessing Officer] and to the assessee.

(6) On receipt of the order under sub-section (3) or sub-section (5) from the Valuation Officer, the ⁹ [Assessing Officer] shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer.]

See rules 3A to 3C.

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

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

See rule 3B. (Prescribed percentage/amount is 33 1-3 96 and Rs. 50,000, respectively).

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

17. Wealth escaping assessment :-

⁵[(1) If the Assessing Officer ⁶[has reason to believe] that the net wealth chargeable to tax in respect of which any person is assessable under this Act has escaped assessment for any assessment year (whether by reason of under- section 17A . serve on such person a notice requiring him to furnish within such period, ⁶[***], as may be specified in the notice, a return in the

prescribed form and verified in the prescribed manner setting forth the net wealth in respect of which such person is assessable as on the valuation date mentioned in the notice, along with such other particulars as may be required by the notice, and may proceed to assess or reassess such net wealth and also any other net wealth chargeable to tax in respect of which such person is assessable, which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year), and the provisions of this Act shall, so far as may be, apply as if the return were a return required to be furnished under section 14 : Provided that where an assessment under sub-section (3) of section 16 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any net wealth chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 14 or section 15 or in response to a notice issued under sub-section (4) of section 16 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year : ⁴[Provided further that the Assessing Officer shall, before issuing any notice under this sub-section, record his reasons for doing so.] Explanation.-Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

(1A) No notice under sub-section (1) shall be issued for the relevant assessment year, - **5**

"(a)if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

6

(b)if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees ten lakh or more for that year."

(1B)

(a) In a case where an assessment under sub-section (3) of section 16 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) [by an Assessing Officer, who is below the rank of Assistant Commissioner [or Deputy Commissioner], unless the ⁷[Joint] Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice] : Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) In a case other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of ⁸[Joint] Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the ⁹[Joint] Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.]

¹⁰[(2) Nothing contained in this section limiting the time within which any proceeding for assessment or reassessment may be commenced, shall apply to an assessment or reassessment to be made on such person in consequence of or to give effect to any finding or direction contained in an order under section 23 , rule 24, rule 25, rule 27 or section 29 ¹¹ [or by a Court in any proceedings under any other law] : Provided that the provisions of this sub-section shall not apply in any case where any such assessment or reassessment relates to an assessment year in respect of which an assessment or reassessment could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any provision limiting the time within which any action for assessment or reassessment may be taken.]

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to its substitution, sub-section (1), as amended by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965, stood as under : "(1) If the Assessing Officer- (a) has reason to believe that by reason of the omission or failure on the part of any person to make a return under section 14 of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act for any assessment year or to disclose fully and truly all material facts necessary for assessment of his net wealth or the net

wealth of such other person for that year. the net wealth chargeable to tax has escaped assessment for that year, whether by reason of underassessment or 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 been no such omission or failure as is referred to in clause (a), that the net wealth chargeable to tax has escaped assessment for any year, whether by reason of underassessment or assessment at too low a rate or otherwise, he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on such person a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 14, and may proceed to assess or reassess such net wealth, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section."

Prior to omission, sub-section (3) as amended by the Finance Act, 1975, w.e.f. 1-4-1975 and the Finance Act, 1979, w.e.f. 1-4-1980, read as under : "(3) Where the value of any assets is to be included in the net wealth of an assessee in accordance with clause (a) of sub-section (1) or sub-section (1A),- (a) there shall be deducted from such value any debts owing on the valuation date by the transferee mentioned in that clause insofar as such debts are referable to such assets; and (b) the provisions of section 5 shall apply in relation to such assets as if such assets were assets belonging to the assessee.

The words "not being less than thirty days," omitted by "The Finance Act, 2003", w.r.e.f. 1-4-1989.

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

Substituted by The Finance Act, 2001, W.e.f. May 11, 2001

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

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

17A. Time limit for completion of assessment and reassessment :-

2[(1) No order of assessment shall be made under section 16 at any time after the expiry of two years from the end of the assessment year in which the net wealth was first assessable :

3[Provided that-

(a) where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, such assessment may be made on or before the

31st day of March, 1991;

(b) where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1988, such assessment may be made on or before the 31st day of March, 1992.]

(2) No order of assessment or reassessment shall be made under section 17 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served : Provided that-

(i) where the notice under clause (a) of sub-section (1) of section 17 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990 ;

(ii) where the notice under clause (b) of sub-section (1) of section 17 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

Explanation.-References to section 17 in the proviso shall be construed as references to that section as it stood before amendment by the Direct Tax Laws (Amendment) Act, 1987.]

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order passed on or after the 1st day of April, 1975, under section 23 , section 24 or section 25 setting aside or cancelling an assessment, may be made at any time before the expiry of ⁴[two years] from the section 23 or section 24 is received by the ⁵[Chief Commissioner or Commissioner] or, as the case may be, the order under section 25 is passed by the Commissioner : ⁶[Provided that where the order setting aside or cancelling an assessment was passed during the financial year commencing on the 1 st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990.]

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or reassessment made on the assessee or any other person in consequence of, or to give effect to, any finding or

direction contained in an order under section 23 , section 24 , section 25 , section 27 or section 29 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, and such assessment or reassessment may, subject too to the provisions of sub-section (3), be completed at any time.

Explanation 1.-In computing the period of limitation for the purposes of this section- (i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be reheard under the proviso to section 39, or (ii) the period during which the assessment proceeding is stayed by an order or injunction of any court, or ⁷[(iia) the period (not exceeding sixty days) commencing from the date on which the ⁸ [Assessing Officer] received the declaration under sub- section (1) of section 18C and ending with the date on which the order under sub-section (3) of that section is made by him, or] (iii) in a case where an application made before the Wealth-tax Settlement Commission under section 22C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order under sub-section (1) of section 22D is received by the Commissioner under sub-section (2) of that section, shall be excluded:

"Provided that where the notice under sub-section (1) of section 17 was served on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such assessment or reassessment may be made at any time up to the 31st day of March, 2002.";

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to their substitution, sub-sections (1) and (2) stood as under : "(1) No order of assessment shall be made under section 16 at any time after the expiration of a period of- (a) four years commencing on and from the 1st day of April, 1975 or one year from the date of the filing of a return or a revised return under section 15, whichever is later, where the assessment year is an assessment year commencing before that date ; (b) four years from the end of the assessment year in which the net wealth was first assessable, or one year from the date of the filing of a return or a revised return under section 15, whichever is later, where the assessment year is an assessment year commencing on or after the 1st day of April, 1975. (2) No order of assessment or reassessment shall be made under section 17,- (a) where any proceeding for an assessment or reassessment is pending on the first day of April, 1975, at any time after the expiration of a period of four years commencing on and from that date ; (b) where the assessment or

reassessment is to be made in a case falling within clause (a) of sub-section (1) of section 17 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, at any time after the expiration of a period of four years from the end of the assessment year in which such notice was served; (c) where the assessment or reassessment is to be made in a case falling under clause (b) of sub-section (1) of section 17 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, after the expiration of a period of- (i) four years from the end of the assessment year in which the net wealth was first assessable, or (a) one year from the date of service of such notice, whichever period expires later."

Substituted for the following by the Finance Act, 1989, w.e.f. 1/4/1989 : "Provided that where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment may be made on or before the 31st day of March, 1990."

Substituted for "four years" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

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

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

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

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

17B. Interest for defaults in furnishing return of net wealth

:-

(1) Where the return of net wealth for any assessment year under sub-section (1) of section 14 or section 15, or in response to a notice under clause (i) of sub-section (4) of section 16, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of ⁴[one per cent] for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,-

(a) where the return is furnished after the due date, ending on the date of furnishing of the return, or

(b) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 16, on the amount of tax payable on the net wealth as determined ²[under sub-section (1) of section 16 or] on regular assessment.

Explanation 1.-In this section, "due date" means the date specified

in sub- section (1) of section 14 as applicable in the case of the assessee.

4[Explanation 2.-In this sub-section, "tax payable on the net wealth as determined under sub-section (1) of section 16" shall not include the additional wealth- tax, if any, payable under section 16.]

Explanation 3.-Where, in relation to an assessment year, an assessment is made for the first time under section 17, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

5[Explanation 4.-In this sub-section, "tax payable on the net wealth as determined under sub-section (1) of section 16 or on regular assessment" shall, for the purposes of computing the interest payable under section 15B, be deemed to be tax payable on the net wealth as declared in the return.]

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 15B towards the interest chargeable under this section.

(3) Where the return of net wealth for any assessment year, required by a notice under sub-section (1) of section 17 , issued **6**[after the determination of net wealth under sub-section (1) of section 16 or] after the completion of an assessment under sub-section (3) or sub-section (5) of section 16 or section 17 , is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent for every

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return ; or

(b) where no return has been furnished, ending on the date of completion of the reassessment under section 17 , on the amount by which the tax on the net wealth determined on the basis of such reassessment exceeds the tax on the net wealth as determined **7**[under sub- section (1) of section 16 or] on the basis of the earlier assessment aforesaid. Explanation- **8** [* * *]

(4) Where, as a result of an order under section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of

section 22D , the amount of tax on which interest was payable under this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and,-

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly, and

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments, for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]

Substituted for the words "one and one-fourth per cent" by Taxation Laws (Amendment) Act, 2003, [NO.54 OF 2003], [December 30, 2003], Published in the Gazette of India, Extra., Part II, S.1, pp.1-6. No.68

Substituted, by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989.

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

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

Omitted, by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989.

18. Penalty for failure to furnish returns, to comply with notices and concealment of assets, etc :-

(1) If the 1/FNR>[Assessing Officer], 4[Deputy Commissioner (Appeals)], 3/FNR>[Commissioner(Appeals),] 6[Chief Commissioner or Commissioner] or Appellate Tribunal in the course of any proceedings under this Act is satisfied that any person.

(a) 4/FNR>[* * *]

(b) has 8[* * *] failed to comply with a notice under sub-section (2) or sub- section (4) of section 16 ; or

(c) has concealed the particulars of any assets or furnished inaccurate particulars of any assets or debts, he or it may, by order in writing, direct that such person shall pay by way of penalty-

(i) 3/FNR>[* * *]

10[(ii) in the cases referred to in clause (b), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure ;]

4[(iii) in the cases referred to in clause (c), in addition to any wealth-tax. payable by him, a sum which shall not be less than, but which shall not exceed five times, the amount of tax sought to be evaded by reasason of the concealment of particulars of any assets or the furnishing of inaccurate particulars in respect of any assets or debts : 12[Provided that in the cases referred to in clause (b), no penalty shall be imposable if the person proves that there was a reasonable cause for the failure referred to in that clause.]

Explanation 1.-For the purposes of clause (iii) of this subsection, the expression "the amount of tax sought to be evaded"- (a) in a case to which Explanation 3 applies, means the tax on the net wealth assessed; (b) in any other case, means the difference between the tax on the net wealth assessed and the tax that would have been chargeable had the net wealth assessed been reduced by the amount which represents the value of any assets in respect of which particulars have been concealed or inaccurate particulars have been furnished and of any debts in respect of which inaccurate particulars have been furnished.

Explanation 2.-Where in respect of any facts material to the computation of the net wealth of any person under this Act,- (A) such person fails to offer an explanation or offers an explanation which is found by the 13[Assessing Officer] or the 14[Deputy Commissioner (Appeals)] 15[or the Commissioner (Appeals)] 16["or the Commissioner"] to be false, or (B) such person offers an explanation which he is not able to substantiate 17[and fails to prove that such explanation is bona fide and that all the facts relating to the same and material to the computation of his net wealth have been disclosed by him], then, the amount added or disallowed in computing the net wealth of such person as a result thereof shall, for the purposes of clause (c) of this

sub-section, be deemed to represent the value of the assets in respect of which particulars have been concealed. 18[* * *]]

19[Explanation 3.-Where any person who has not previously been assessed under this Act, fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 17A, a return of his net wealth which he is required to furnish under section 14 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the period aforesaid, no notice has been issued to him under clause (i) of sub-section (4) of section 16 or sub-section (1) of section 17 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has assessable net wealth, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his assets or furnished inaccurate particulars of any assets or debts in respect of such assessment year, notwithstanding that such person furnishes a return of his net wealth at any time after the expiry of either of the periods aforesaid applicable to him in pursuance of a notice under section 17.]

Explanation 4.-Where the value of any asset returned by any person is less than seventy per cent of the value of such asset as determined in an assessment under section 16 or section 17, such person shall be deemed to have furnished inaccurate particulars of such asset within the meaning of clause (c) of this sub-section, unless he proves that the value of the asset as returned by him is the correct value.]

20[Explanation 5.-Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this Explanation referred to as assets) and the assessee claims that such assets represent or form part of his net wealth,- (a) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or, where such return has been furnished

before the said date, such assets have not been declared in such return ; or (b) on any valuation date falling on or after the date of the search, 21[unless- (1) such assets are recorded,- (i) in a case falling under clause (a), before the date of the search and (ii) in a case falling under clause (b), on or before such date, in the books of account, if any, maintained by him or such assets are otherwise disclosed to the 22[Chief Commissioner or Commissioner] before the said date ; or (2) he, in the course of the search, makes a statement under sub-section (4) of section 37A that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control, forms part of his net wealth which has not been disclosed so far in his return of net wealth to be furnished before the expiry of the time specified in sub-section (1) of section 14, and also specifies in the statement the manner in which such net wealth has been acquired and pays the tax, together with interest, if any, in respect of such net wealth].]

23[Explanation 6.-Where any adjustment is made in the wealth declared in the return under the proviso to clause (a) of sub-section (1) of section 16 and additional wealth-tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustments so made.]

(1A) 24[* * *]

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

(2A) and (2B) 25[* * *]

26[(3) No order imposing a penalty under sub-section (1) shall be made,-

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

(ii) by the Assistant Commissioner 27[or Deputy Commissioner], where the penalty exceeds twenty thousand rupees, except with the prior approval of the 28[Joint] Commissioner.]

(3A) 29[* * *]

(4) A ³⁰[Deputy Commissioner (Appeals)], ³¹[a Commissioner (Appeals),] ³²[Chief Commissioner or Commissioner] or the Appellate Tribunal on making an order under this section imposing a penalty, shall forthwith send a copy of the same to the ³³[Assessing Officer.]

34 [(5) No order imposing a penalty under this section shall be passed-

(i) in a case where the assessment to which the proceedings for imposition of penalty relate is the subject-matter of an appeal to the Deputy section 23 or an appeal to the Appellate Tribunal under sub-section (2) of section 24 , after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever is later;

(ii) in a case where the relevant assessment is the subject-matter of revision under sub-section (2) of section 25 , after the expiry of six months from the end of the month in which such order of revision is passed;

(iii) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation.-In computing the period of limitation for the purposes of this section,-

(i) any period during which the immunity granted under section 22H remained in force;

(ii) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 39 ; and

(iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court, shall be excluded.

(6) The provisions of this section as they stood immediately before

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

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

Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its omission, clause (a), as amended by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under: "(a) has failed to furnish the return which he is required to furnish under sub-section (1) of section 14 or by notice given under sub-section (2) of section 14 or section 17, or has failed to furnish within the time allowed and in the manner required by sub-section (1) of section 14 or by such notice, as the case may be ; or"

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

Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its omission, clause (i), as amended by the Finance Act, 1969, w.e.f. 1-4-1969, Finance (No.2) Act, 1971, w.e.f. 1-4-1972 and Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under: '(i) in the cases referred to in clause (a), in addition to the amount of wealth-tax, if any, payable by him, a sum equal to two per cent of the assessed tax for every month during which the default continued. Explanation-In this clause, "assessed tax" means the wealth-tax chargeable under the provisions of this Act ;'

Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its substitution, clause (ii), as amended by the Finance Act, 1969, w.e.f. 1-4-1969 and Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under : "(ii) in the cases referred to in clause (b), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than ten per cent, but which shall not exceed fifty per cent of the amount of the wealth-tax, if any, which would have been avoided if the net wealth returned by such person had been accepted as the correct net wealth;"

Substituted, along with Explanations I and 2, by the Finance Act, 1968, w.e.f. 1-4-1968 and later on substituted, along with clauses (i), (ii) and (iii) and Explanations I and 2, by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1/4/1975.

Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its substitution, proviso, as inserted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act,

1986, w.e.f. 10-9-1986, stood as under : "Provided that in the cases referred to in clause (a) or clause (b), no penalty shall be imposable if the person proves that there was reasonable cause for the failure referred to in those clauses."

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

Substituted for "Appellate Assistant Commissioner", by the Direct Tax Laws (Amendment) Act, 1987.

In sec.18, sub-sec.(1),Explanation 2, in clause (A) the word ["or the Commissioner"] shall be inserted by Finance Act, 2002 (20 of 2002), Published in the Gazette of India, Extra.,Part II, Section 1,dated 13/05/2002.

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

Omitted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986. Prior to its omission, proviso stood as under: 'Provided that nothing contained in this Explanation shall apply to a case referred to in clause (B) in respect of any amount added or disallowed as a result of the rejection of any explanation offered by such person, if such explanation is bona fide and all the facts relating to the same and material to the computation of his net wealth have been disclosed by him.'

Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its substitution. Explanation 3, as amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978 and Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under: "Explanation 3.-Where any person who has not previously been assessed under this Act fails to furnish within the period specified in clause (a) or, as the case may be, clause (b) of sub-section (1) of section 17 A, a return of his net wealth which he is required to furnish under section 14 in respect of any assessment year and, until the expiry of either of the periods applicable to him, no notice had been issued to him under sub-section (2) of section 14 or sub-section (1) of section 17 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has assessable net wealth, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his assets or furnished inaccurate particulars of any assets or debts in respect of such assessment year, notwithstanding that such person furnishes a return of his net wealth at any time after the expiry of either of the periods aforesaid applicable to him in pursuance of a notice under section 17."

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

Substituted for the following portion by the Taxation Laws (Amendment and Miscellaneous Provisions) Act. 1986, w.e.f. 10-9-1986: "unless such assets are recorded.- (i) in a case falling under clause (a), before the date of the search : and (ii) in a case falling

under clause (b), on or before such date. in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Commissioner before the said date."

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

Omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Original sub-section was inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

Omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Provisions of sub-sections (2A) and (2B) have been incorporated in section 18B. These sub-sections were inserted by the Finance (No. 2) Act, 1965, w.e.f. 11-9-1965. Sub-section (2A) was later on amended by inserting proviso thereto by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its substitution, sub-section (3), as amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under : "(3) Notwithstanding anything contained in clause (iii) of sub-section (1), if, in a case falling under clause (c) of that sub-section, the amount (as determined by the Assessing Officer on assessment) in respect of which penalty is imposable under clause (c) aforesaid exceeds a sum of twenty-five thousand rupees, the Assessing Officer shall not issue any direction under sub-section (1) for payment by way of penalty without the previous, approval of the Deputy Commissioner."

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

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

Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its omission, sub-section (3A) stood as under : "(3A) Notwithstanding anything contained in this section, the penalty imposed under clause (iii) of sub-section (1) read with Explanation 3 to that sub-section and the penalty imposed under clause (i) of that sub-section shall not exceed, in the aggregate, five times the amount of the tax sought to be evaded."

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

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

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

Substituted for "-Wealth-tax Officer", by the Direct Tax Laws (Amendment) Act, 1987, w.e.f.

Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its substitution, sub-section (5), as amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, Taxation Laws (Amendment) Act, 1975, we.f. 1-4-1976 and Finance (No.2) Act, 1977, w.e.f. 10-7-1978, stood as under : "(5) No order imposing a penalty under this section shall be passed- (a) in a case where the assessment to which the proceedings for imposition of

penalty relate is the subject-matter of an appeal of the Deputy Commissioner (Appeals) or Commissioner (Appeals) under section 23 or an appeal to the Appellate Tribunal under sub-section (2) of section 24, after the expiration of a period of- (i) two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or (ii) six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later ; (b) in any other case, after the expiration of two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed. Explanation.-In computing the period of limitation for the purposes of this section,- (i) any period during which the immunity granted under section 22H remained in force (ii) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 39 ; and (iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court, shall be excluded."

18A. Penalty for failure to answer questions, sign statements, furnish information, allow inspection, etc :-

(1) If any person,- (a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a wealth-tax authority in the exercise of his powers under this Act; or (b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a wealth-tax authority may legally require him to sign ; or (c) to whom a summons is issued under sub-section (1) of section 37 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 38 , he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues: Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

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

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a wealth-tax authority not lower in rank than a ¹[Joint] Director or a ¹[Joint] Commissioner, by such wealth-tax authority ;

(b) in any other case, by the ¹[Joint] Director or the ¹[Joint] Commissioner.

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

Explanation.-In this section, "wealth-tax authority" includes a Director General, Director, ⁶[Joint] Director, Assistant Director ⁷ [or Deputy Director] and a Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the matters specified in sub-section (1) of section 37.]

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

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

18B. Power to reduce or waive penalty in certain cases :-

(1) Notwithstanding anything contained in this Act, the ^{2/FNR>} ^{3[* * *]} Commissioner] may, in his discretion, whether on his own motion or otherwise,-

(i) ^{4[* * *]}

(ii) reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section (1) of section 18, if he is satisfied that such person,-

(a) ^{5[* * *]}

(b) in the case referred to in clause (ii), has, prior to the detection by the ⁶[Assessing Officer], of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith made full and true disclosure of such particulars, and also has co-operated in any inquiry relating to the assessment of his

net wealth and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation 7[* * *].-For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of the particulars of his assets or- debts in any case where the excess of net wealth assessed over the net wealth returned is of such a nature as not to attract the provisions of clause (c) of sub- section (1) of section 18.8[* * *]

(2) Notwithstanding anything contained in sub-section (1), if in a case falling under clause (c) of sub-section (1) of section 18 , the net wealth in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the net wealth for any one of the relevant assessment years, exceeds five hundred thousand rupees, no order reducing or waiving the penalty under sub-section (1) shall be made by ⁹[the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be].

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order : ¹⁰[Provided that where an order has been made in favour of any person under sub-section (1) on or before the 24th day of July, 1991, such person shall be entitled to further relief only once in relation to other assessment year or years if he makes an application to the wealth-tax authority referred to in sub-section (4) at any time before the 1st day of April, 1992.]

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the ¹¹[[* * *] Commissioner] may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that-

(i) to do otherwise would cause genuine hardship to the assessee,

having regard to the circumstances of the case, and

(ii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.]

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

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

Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its omission, clause (i) stood as under : "(i) reduce or waive the amount of penalty imposed or imposable on a person under clause (i) of sub-section (1) of section 18 for failure without reasonable cause to furnish the return of net wealth which such person was required to furnish under sub-section (1) of section 14 ; or"

Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Prior to its omission, clause (a) stood as under: "(a) in the case referred to in clause (i), has, prior to the issue of a notice to him under sub- section (2) of section 14, voluntarily and in good faith made full and true disclosure of his net wealth, and"

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

"1" omitted by the Finance Act, 1985, w.e.f. 24-5-1985. Earlier, "1" was inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

Explanation 2 omitted by the Finance Act, 1985, w.e.f. 24-5-1985. Earlier, it was inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 and read as under : "Explanation 2.-Where any books of account or other documents belonging to a person are seized under section 37A and within fifteen days of such seizure, the person makes a full and true disclosure of his net wealth to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Wealth-tax Officer of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable,

voluntarily and in good faith, a disclosure of such particulars.'

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

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

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

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

CHAPTER 4A

SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

18C. Procedure when assessee claims identical question of law is pending before High Court or Supreme Court :-

2(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the **2**[Assessing Officer] or any appellate authority (such section 27 **2**["or in appeal under Section 27A before the High Court"] or in appeal before the Supreme Court under section 29 (such case being hereafter in this section referred to as the other case), he may furnish to the **2**[Assessing Officer] or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the **2**[Assessing Officer] or the appellate authority, as the case may be, agrees to apply to 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 in appeal before any appellate authority or **2/FNR>**["in appeal before the High Court under section 27A or Supreme Court under Section 29"]

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the **7**[Assessing Officer] on the correctness of the claim made by the assessee and, where the **2/FNR>**[Assessing Officer] makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The **9**[Assessing Officer] or the appellate authority, as the case may be, may, by order in writing,-

(i) 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

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),-

(a) the **10**[Assessing Officer] or, as the case may be, 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 **11**["in appeal before the High Court under section 27A or Supreme Court under Section 29"]

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the **12**[Assessing Officer] or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.-In this section,-

(a) "appellate authority" means the **13** [Deputy 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 net wealth of the assessee or for the imposition of any penalty on him.]

See rule 4C and Form DB.

In sec.18C, sub-sec.(1),the word ["or in appeal under Section 27A before the High Court" shall be inserted by Finance Act, 2002 (20 of 2002), Published in the Gazette of India, Extra.,Part II, Section 1,dated 13/05/2002.

In sec.18C, sub-sec.(1),the word ["for the reference before the High Court or the Supreme Court under Section 27 or in appeal before the Supreme Court under Section 29"] shall be substituted by Finance Act, 2002 (20 of 2002), Published in the Gazette of India, Extra.,Part II, Section 1,dated 13/05/2002.

In sec.18C, sub-sec.(4) in clause (b) ,the word ["for the reference

before the High Court or the Supreme Court under Section 27 or in appeal before the Supreme Court under Section 29"] shall be substituted by Finance Act, 2002 (20 of 2002), Published in the Gazette of India, Extra., Part II, Section 1, dated 13/05/2002.

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

Substituted for "Appellate Assistant Commissioner", by the Direct Tax Laws (Amendment) Act, 1987, w.e.f.

CHAPTER 4B

CHARGE OF ADDITIONAL WEALTH-TAX IN CERTAIN CASES

18D. Additional wealth-tax :-

Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Chapter IVB, consisting of section 18D, was inserted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.]

CHAPTER 5

LIABILITY TO ASSESSMENT IN SPECIAL CASES

19. Tax of deceased person payable by legal representative.

:-

(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the wealth-tax assessed as payable by such person, or any sum, which would have been payable by him under this Act if he had not died.

(2) Where a person dies without having furnished a return under the provisions of section 14 or after having furnished a return which the ¹[Assessing Officer] has reason to believe to be incorrect or incomplete, the ² [Assessing Officer] may make an assessment of the net wealth of such person and determine the wealth tax payable by the person on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might under the provisions of section 16 have been required from the deceased person.

(3) The provisions of section 14, section 15 and rule 17 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in those sections.

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

19A. Assessment in the case of executors :-

(1) Subject as hereinafter provided, the net wealth of the estate of a deceased person shall be chargeable to tax in the hands of the executor or executors.

(2) The executor or executors shall for the purposes of this Act be treated as an individual.

(3) The status of the executor or executors shall for the purposes of this Act as regards residence and citizenship be the same as that of the deceased on the valuation date immediately preceding his death.

(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 net wealth or on the net wealth of the deceased under section 19 .

(5) Separate assessments shall be made under this section in respect of the net wealth as on each valuation date as is included in the period from the date of the death of the deceased to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(6) In computing the net wealth on any valuation date under this section, any assets of the estate distributed to, or applied to the benefit of, any specific legatee of the estate prior to that valuation date shall be excluded, but the assets so excluded shall, to the extent such assets are held by the legatee on any valuation date, be included in the net wealth of such specific legatee on that valuation date.

Explanation.-In this section, "executor" includes an administrator or other person administering the estate of a deceased person.]

20. Assessment after partition of a Hindu undivided family.

:-

(1) Where, at the time of making an assessment, it is brought to the notice of the ¹[Assessing Officer] that a partition has taken place among the members of a Hindu undivided family, and the ¹[Assessing Officer], after inquiry, is satisfied that the joint family

property has been partitioned as a whole among the various members or group of members in definite portions, he shall record an order to that effect and shall make assessment on the net wealth of the undivided family as such for the assessment year or years, including the year relevant to the previous year in which the partition has taken place, if the partition has taken place on the last day of the previous year and each member or group of members shall be liable jointly and severally for the tax assessed on the net wealth of the joint family as such.

(2) Where the ³ [Assessing Officer] is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family liable to be assessed as such.

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

20A. Assessment after partial partition of a Hindu undivided family :-

Where a partial partition has taken place after the 31st day of December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,-

(a) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place ;

(b) 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

(c) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition, and the provisions of this Act shall apply accordingly.

Explanation.-For the purposes of this section, "partial partition" shall have the meaning assigned to it in clause (b) of the Explanation to section 171 of the Income-tax Act.]

21. Assessment when assets are held by courts of wards, administrators-general, etc :-

(1) ^{3/FNR}>[Subject to the provisions of sub-section (1A), in the case of assets chargeable to tax under this Act], which are held by a court of

wards or an administrator-general or an official trustee or any receiver or manager or any other person, by whatever name called, appointed under any order of a court to manage property on behalf of another, or any trustee appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including a trustee under a valid deed of wakf), the wealth-tax shall be levied upon and recoverable from the court of wards, administrator-general, official trustee, receiver, manager or trustee, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from the person on whose behalf ²[or for whose benefit] the assets are held, and the provisions of this Act shall apply accordingly. ^{5/FNR}>[Explanation.-A trust which is not declared by a duly executed instrument in writing (including a valid deed of wakf) shall be deemed, for the purposes of this sub-section, 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 trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the ⁴[Assessing Officer],- (i) where the trust has been declared before the 1st day of June, 1981, within a period of three months from that day ; and (ii) in any other case, within three months from the date of declaration of the trust.]

^{11/FNR}>[(1A) Where the value or aggregate value of the interest or interests of the person or persons on whose behalf or for whose benefit such assets are held falls short of the value of any such assets, then, in addition to the wealth-tax leviable and recoverable under sub-section (1), the wealth-tax shall be levied upon and recovered from the court of wards, administrator-general, official trustee, receiver, manager or other person or trustee aforesaid in respect of the value of such assets, to the extent it exceeds the value or aggregate value of such interest

(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf ⁶[or for whose benefit] the assets above referred to are held, or the recovery from such person of the tax payable in respect of such assets.

(3) Where the guardian or trustee of any person being a minor, lunatic or idiot ^{12/FNR}>[* **] holds any assets on behalf ⁸[or for the benefit] of such beneficiary, the tax under this Act shall be levied upon and recoverable from such guardian or trustee, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from any such beneficiary if of full age, of sound mind and in direct ownership of such assets.

^{5/FNR}>[(4) Notwithstanding anything contained in ¹⁰[the

foregoing provisions of] this section, where the shares of the persons on whose behalf or for whose benefit any such assets are held are indeterminate or unknown, the wealth-tax shall be levied upon and recovered from the court of wards, administrator-general, official trustee, receiver, manager, or other person aforesaid 11[, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India] for the purposes of this Act, and-

(a) at the rates specified in Part I of 12[Schedule I] 13[* * *] ; or

(b) at the rate of 14[three per cent], whichever course would be more beneficial to the revenue : Provided that in a case where-

(i) such assets are held 15[under a trust declared by any person by will and such trust is the only trust so declared by him] ; or

16[(ia) none of the beneficiaries has net wealth exceeding the amount not chargeable to wealth-tax in the case of an individual who is a citizen of India and resident in India for the purposes of this Act or is a beneficiary under any other trust ; or]

(ii) such assets are held under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the 17[Assessing Officer] is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created bona fide exclusively for the benefit of the relatives of the settlor or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance ; or

(iii) such assets are held 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, wealth-tax shall be charged at the rates specified in Part I

of 18[Schedule I] 19[* * *].]

20[Explanation 1.-For the purposes of this sub-section, the shares of the persons on whose behalf or for whose benefit any such assets are held shall be deemed to be indeterminate or unknown unless the shares of the persons on whose behalf or for whose benefit such assets are held on the relevant valuation date are expressly stated in the order of the court or instrument of trust or deed of wakf, as the case may be, and are ascertainable as such on the date of such order, instrument or deed.]

21[Explanation **22**[2].- Notwithstanding anything contained in section 5, in computing the net wealth **23**[for the purposes of this sub-section or sub-section (4A) in any case, not being a case referred to in the proviso to this sub-section], any assets referred to in clauses (xv), (xvi), (xxa), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), (xxviii) and (xxix) of sub-section (1) of that section shall not be excluded.]

24[(4A) Notwithstanding anything contained in this section, where the assets chargeable to tax under this Act are held by a trustee under an oral trust, the wealth-tax shall be levied upon and recovered from such trustee in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India for the purposes of this Act, and-

(a) at the rates specified in Part I of Schedule I ; or

(b) at the rate of three per cent, whichever course would be more beneficial to the revenue. Explanation.-For the purposes of this sub-section, "oral trust" means a trust which is not declared by a duly executed instrument in writing (including a valid deed of wakf) and which is not deemed under the Explanation to sub-section (1) to be a trust declared by a duly executed instrument in writing.]

25[(5) Any person who pays any sum by virtue of the provisions of this section in respect of the net wealth of any beneficiary, shall be entitled to recover the sum so paid from such beneficiary, and may retain out of any assets that he may hold on behalf or for the benefit of such beneficiary, an amount equal to the sum so paid. Explanation.-In this section, the term "beneficiary" means any

person including a minor, lunatic or idiot on whose behalf or for whose benefit assets are held by any other person.]

26 [(6) Nothing contained in this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1993 or any subsequent assessment year.]

Substituted for "In the case of assets chargeable to tax under this Act" by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1980.

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

'(all of which persons are hereinafter in this sub-section included in the term "beneficiary")' omitted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted, '(all of which persons are hereinafter in this sub-section included in the term "beneficiary")' omitted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted by the Finance Act, 1970, w.e.f. 1-4-1971. Earlier, it was amended by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

Substituted for 'as if the persons on whose behalf or for whose benefit the assets are held were an individual who is a citizen of India and resident in India' by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1980.

Substituted for "one and one-half per cent" by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1980.

Substituted for "under a trust declared by will" by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1980.

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

Substituted for "the Schedule" by the Finance Act, 1976, w.e.f. 1-4-1977.

"in the case of an individual" omitted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

Inserted by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1980.

Inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

Renumbered by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1980.

Substituted for "for the purposes of this section, in any case not being a case referred to in the proviso" by the Finance Act, 1981, w.e.f. 1-4-1981.

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

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

21A. Assessment in cases of diversion of property, or of income from property, held under trust for public charitable or religious purposes :-

³[Notwithstanding anything contained in clause (i) of section 5, where any property is held] under trust for any public purpose of a charitable or religious nature in India and-

10/FNR>[(i) any part of such property or any income of such trust [whether derived from such property or from voluntary contributions referred Section 2 of the Income tax Act, 1961] is used or applied, directly or indirectly, for the benefit of 4[any person referred to in sub-section (3) of Section 13 of the Income tax Act, 1961], or (ii) any part of the income of the trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of Section 2 of the Income tax Act, 1961], being a trust created on or after the 1st day of April, 1962, enures, directly or indirectly, for the benefit of 10/FNR>[any person referred to in sub-section (3) of section 13 of the said Act, or]

⁶[(iii) any funds of the trust are invested or deposited, or any shares in a company are held by the trust, in contravention of the provision of clause (d) of sub-section (1) of Section 13 of the Income tax Act, 1961 ,] wealth-tax shall be leviable upon, and recoverable from, the trustee or manager (by whatever name called) in the like manner and to the same extent as if the property were held by an individual who is a citizen of India and resident in India for the purposes of this Act, ⁷[* * *]: Provided that in the case of a trust created before the 1st day of April, 1962, the provisions of clause (i) shall not apply to any use or application, whether directly or indirectly, of any part of such property or any income of such trust for the benefit of ⁸[any person referred to in sub-section (3) of S.13 of the Income- tax Act], if such use or application is by way of compliance with a mandatory term of the trust : ⁹[Omitted by the Finance Act, 1992,w.e.f. 1-4-1993.]

10[Provided ¹¹[further] that- ¹²[(a) in the case of any association referred to in clause (21) of Section 10 of the Income tax Act, 1961 ,-

(i) the provisions of clause (i) and clause (ii) shall not apply ; and

(ii) the other provisions of this section shall apply with the modifications that,-

(1) for the words, brackets, letter and figures "in contravention of the provisions of clause (d) of sub-section (1) of Section 13 of the Income tax Act, 1961 ", the words, brackets and figures "in contravention of the provisions contained in the proviso to clause (21) of Section 10 of the Income tax Act, 1961 " had been substituted; and

(2) for the words "at the maximum marginal rate", the words and figures "at the rates specified in **13**[sub-section (2) of section 3]" had been substituted ;]

(b) in the case of any institution, fund or trust referred to in clause (22) or clause (22A) or clause (23B) or clause (23C) of Section 10 of the Income tax Act, 1961 , the provisions of **14**[clauses (i) to (iii)] shall not apply.]

Explanation.-For the purposes of this section,- **15**[(a) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any person referred to in sub-section (3) of Section 13 of the Income tax Act, 1961 in every case in which it can be so deemed to have been used or applied within the meaning of clause (c) of sub-section (1) of that section at any time during the period of twelve months ending with the relevant valuation date ; **16** (aa) [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.] (b) "trust" includes any other legal obligation.]

Substituted for "Where any property is held" by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1993. Earlier words "Where any property is held" were substituted for 'Notwithstanding anything contained in clause (i) of sub-section (1) of section 5, where any property is held" by the Finance Act. 1992, w.e.f. 1-4-1993.

Substituted for the following, as amended by the Finance Act, 1976,w.e.f. 1-4-1977, by the Finance Act, 1984, w.e.f. 1-4-1985. "

(i) any part of such property or any income of such trust whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-Tax Act is used or applied, or (ii) any part of the income of the trust whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act, being a trust created on or after the 1st day of April, 1962, enures, directly or indirectly, for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act, wealth-tax shall be leviable upon and recoverable from the

trustee or manager (by whatever name called) in the like manner and to the same extent as if the property were held by an individual who is a citizen of India and resident in India for the purposes of this Act, and- (a) at the rates specified in Part I of Schedule I in the case of an individual ; or (b) at the rate of one-half per cent, whichever course is more beneficial to the revenue ;"

Restored to its original expression by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. This expression was earlier substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

Restored to its original version by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, clause (iii) was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

Words "but without excluding the value of any asset under sub-section (1) of section 5, and at the maximum marginal rate" omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

Restored to its original expression by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Earlier, this expression was substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

Prior to omission, second proviso, as amended by the Direct Tax Laws (Amendment) Act 1987, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989, read as under: "Provided further that in a case where the aggregate of the funds of the trust invested in a concern in which any person referred to in sub-section (3) of section 13 of the Income-tax Act has a substantial interest as provided in Explanation 3 to that section does not exceed 5 per cent of the capital of that concern, the exemption under clause (i) of sub-section (1) of section 5 shall not be denied in relation to any property other than such investment, by reason only that the funds of the trust have been invested in a concern in which any person referred to in the aforesaid sub-section (3) has such substantial interest:"

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

Substituted for "also" by the Finance Act, 1992, w.e.f. 1-4-1993.

Substituted for 'Part I of Schedule I in the case of an individual' by the Finance Act, 1992, w.e.f. 1-4-1993.

Restored to their original provision by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Earlier, the same was substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

Prior to omission, clause (aa), as inserted by the Finance Act, 1984, w.e.f. 1-4-1985, read as under: '(aa) "maximum marginal rate" means the rate of wealth-tax applicable in relation to the highest slab of wealth in the case of an individual as specified in Part I of Schedule I;'

21AA. Assessment when assets are held by certain associations of persons :-

(1) Where assets chargeable to tax under this Act are held by an association of persons, other than a company or co-operative society ⁴[or society registered under Societies Registration Act, 1860 or ³[purposes of this Act ⁴[***]]].

(2) Where any business or profession carried on by an association of persons referred to in sub-section (1) has been discontinued or where such association of persons is dissolved, the ⁵[Assessing Officer] shall make an assessment of the net wealth 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 penalty or any other sum chargeable under any provisions of this Act, so far as may be, shall apply to such assessment.

(3) Without prejudice to the generality of the provisions of sub-section (2), if the ⁶[Assessing Officer] or the ⁷[Deputy Commissioner (Appeals)] or the Commissioner (Appeals) in the course of any proceedings under this Act in respect of any such association of persons as is referred to in sub-section (1) is satisfied that the association of persons was guilty of any of the acts specified in section 18 or section 18A , he may impose or direct the imposition of a penalty in accordance with the provisions of the said sections.

(4) 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.

(5) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (4) 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. ⁸
Explanation-[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

Inserted by the Finance Act, 1989, w.e.f. 1/4/1989.

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989 for the following: "purposes of this Act, and- (a) at the

rates specified in Part I of Schedule I; or (b) at the rate of three per cent, whichever course would be more beneficial to the revenue."

Words ", and at the maximum marginal rate" omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

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

Substituted for "Appellate Assistant Commissioner", by the Direct Tax Laws (Amendment) Act. 1987, w.e.f.

Prior to its omission Explanation read as under : "Explanation.- Notwithstanding anything contained in section 5, in computing the net wealth for the purposes of this section in any case, any assets referred to in clauses (xv), (xvi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), (xxviii) and (xxix) of sub-section (1) of that section shall not be excluded."

22. Assessment of persons residing outside India :-

(1) Where the person liable to tax under this Act resides outside India, the tax may be levied upon and recovered from his agent, and the agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person referred to in sub-section (1) or through whom such person is in the receipt of any income, profits or gains, or who is in possession or has custody of any asset of such person and upon whom the ¹[Assessing Officer] has caused a notice to be served of his intention of treating him as the agent of such person shall, for the purposes of sub-section (1), be deemed to be the agent of such person. ¹[* * *]

³[(3) No person shall be deemed to be the agent of any person residing outside India unless he has had an opportunity of being heard by the ⁴[Assessing Officer] as to his being treated as such.

(4) Any agent, 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 capacity as such agent, an amount equal to the sum so paid.

(5) Any agent, or any person who apprehends that he may be assessed as an agent, may retain out of any money payable by him to the person residing outside India on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this section, and in the

event of any disagreement between the principal and such agent or person, as to the amount to be so retained, such agent or person may secure from the ⁵ [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.

(6) The amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such agent or person may at such time have in his hands additional assets of the principal.

(7) Notwithstanding anything contained in this section, any arrears of tax due from a person residing outside India may be recovered also in accordance with the provisions of this Act from any assets of such person which are or may at any time come within India.

Proviso omitted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

CHAPTER 5A

SETTLEMENT OF CASES

22A. Definitions :-

¹In this Chapter, unless the context otherwise requires,-

(a) "Bench" means a Bench of the Settlement Commission ;

²(b) "case" means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 22C is made: Provided that--

(i) a proceeding for assessment or reassessment under section 17;

(ii) a proceeding for making fresh assessment in pursuance of an order under section 23A or section 24 or section 25, setting aside or cancelling an assessment;

(iii) a proceeding for assessment or reassessment which may be initiated on the basis of a search under section 37A or requisition under section 37B, shall not be a proceeding for assessment for the

purposes of this clause.

Explanation--For the purposes of this clause--

(i) a proceeding for assessment or reassessment referred to in clause (i) of the proviso shall, in case where a notice under section 17 is issued but not on the basis of search under section 37A or requisition under section 37B, be deemed to have commenced from the date on which a notice under section 17 is issued;

(ii) a proceeding for making fresh assessment referred to in clause (ii) of the proviso shall be deemed to have commenced from the date on which the order under section 23A or section 24 or section 25, setting aside or cancelling an assessment was passed;

(iii) a proceeding for assessment or reassessment referred to in clause (iii) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 37A or requisition under section 37B;

(iv) a proceeding for assessment for an assessment year, other than the proceeding of assessment or reassessment referred to in clause (i) or clause (ii) or clause (iii) of the proviso, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made;'

(c) "Chairman" means the Chairman of the Settlement Commission;

(d) "Member" means a Member of the Settlement Commission, and includes the Chairman and a Vice-Chairman ;

(e) "Settlement Commission" means the Income-tax Settlement Commission constituted under Section 245B of the Income tax Act, 1961 ;

(f) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission ³ [and includes a Member who is senior amongst the Members of a Bench];

(g) "wealth-tax authority" means an income-tax authority specified in Section 116 of the Income tax Act, 1961 who is treated as a wealth-tax authority under section 8 .

Substituted for the following section 22A [which was earlier amended by the Finance (No. 2) Act, 1977, w.e.f 10-7-1978 and the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984] by

the Finance Act, 1987, w.e.f. 1-6-1987 : '22A. Definitions.-In this Chapter, unless the context otherwise requires,- (a) "case" means any proceeding under this Act, for the assessment or reassessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or reassessment, which may be pending before a wealth-tax authority on the date on which an application under sub-section (1) of section 22C, is made ; (b) "wealth tax authority" means a Director of Inspection, a Commissioner, a Commissioner (Appeals), an Appellate Assistant Commissioner, an Inspecting Assistant Commissioner or a Wealth-tax Officer.'

In section 22A of the Wealth-tax Act, with effect from the 1st day of June, 2007, for clause (b), the following shall be substituted, namely by Finance Act, 2007 Old Clause (b) is following:- (b) "case" means any proceeding under this Act for the assessment or reassessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or reassessment, which may be pending before any wealth-tax authority on the date on which an application under sub-section (1) of section 22C is made: Provided that where any appeal or application for revision has been preferred after the expiry of the period specified for the filing of such appeal or application for revision under this Act and which has not been admitted, such appeal or revision shall not be deemed to be a proceeding pending within the meaning of this clause ;

In section 22A of the Wealth-tax Act, with effect from the 1st day of June, 2007, in clause (f), after the words "Settlement Commission", the words "and includes a Member who is senior amongst the Members of a Bench" shall be inserted by Finance Act, 2007

22B. Wealth-tax Settlement Commission :-

(1) The Central Government shall constitute a Commission to be called the Wealth-tax Settlement Commission ¹[* * *] for the settlement of cases under this Chapter.

(2) The Settlement Commission shall consist of a Chairman ²[and as many Vice- Chairmen and other members as the Central Government thinks fit] and shall function within the Department of the Central Government dealing with direct taxes.

(2A) ³[* * *]

(3) The Chairman ⁴[, Vice-Chairman] and other members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, problems relating to direct taxes and business accounts : Provided that,

where a member of the Board is appointed as the Chairman ⁵[, Vice-Chairman] or as a member of the Settlement Commission, he shall cease to be a member of the Board. ⁶ [* * *]

'(hereafter in this Chapter referred to as 'the Settlement Commission'))' omitted by the Finance Act, 1987, w.e.f. 1-6-1987. Substituted for "and two other members" by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

Omitted, by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986. Prior to its omission, sub-section (2A), as inserted by the Finance Act, 1982, w.e.f. 1-4-1982, stood as under "(2A) Notwithstanding anything contained in sub-section (2), when the post of one of the other members of the Settlement Commission is vacant for any reason, the Chairman and the other member of the Settlement Commission may function as, and exercise and discharge the powers and functions of, the Settlement Commission under this Chapter : Provided that if in any case the Chairman and member so functioning differ on any point or points, they shall state the point or points on which they differ and refer the same, as soon as may be after the said vacancy is filled, to the member appointed to fill the vacancy for hearing on such point or points and such point or points shall be decided according to his opinion."

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

Inserted, by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f.

Omitted, by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. Prior to its omission, the second proviso stood as under : "Provided further that until the members are appointed under this sub-section, it shall be competent for the Central Government to require, from time to time, any two members of the Board to serve as members of the Settlement Commission for such period as the Central Government thinks fit, in addition to their duties as members of the Board."

22BA. Jurisdiction and powers of Settlement Commission :-

(1) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of the Settlement Commission may be exercised by Benches thereof.

(2) Subject to the other provisions of this section, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of two other Members.

(3) The Bench for which the Chairman is the Presiding Officer shall be the principal Bench and the other Benches shall be known as

additional Benches.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the Chairman may authorise the Vice-Chairman or other Member appointed to one Bench to

(5) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person be the Presiding Officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness CM- any other cause or in the event of the occurrence of any vacancy either in the office of the Presiding Officer or in the office of one or the other Members of the Bench, the remaining two persons may function as the Bench and if the Presiding Officer of the Bench is not one of the remaining two persons, the senior among the remaining persons shall act as the Presiding Officer of the Bench : Provided that if at any stage of the hearing of any case or matter, it appears to the Presiding Officer that the case or matter is of such a nature that it ought to be heard by a Bench consisting of three Members, the case or matter may be referred by the Presiding Officer of such Bench to the Chairman for transfer to such Bench as the Chairman may deem fit.

¹[(5A) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a Special Bench consisting of more than three Members.]

(6) Subject to the other provisions of this Chapter, the places at which the principal bench and the additional Benches shall ordinarily sit, shall be such as the Central Government may, by notification in the Official Gazette, specify ³ [and the Special Bench shall sit at a place to be fixed by the Chairman.]

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

22BB. Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances :-

(1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice- Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall act as the Chairman

until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.]

22BC. Power of Chairman to transfer cases from one Bench to another :-

On the application of the assessee or the ² [Chief Commissioner or Commissioner] and after notice to them, and after hearing such of them as may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.]

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

22BD. Decision to be by majority :-

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 make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.]

22C. Application for settlement of cases :-

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(1)²An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his wealth which has not been disclosed before the ³[Assessing Officer], the manner in which such wealth has been derived, the additional amount of wealth-tax payable on such wealth and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of

in the manner hereinafter provided:

4,5[Provided that no such application shall be made unless such wealth-tax and the interest thereon, which would have been paid under the provisions of this Act had the wealth declared in the application been declared in the return of wealth before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.;]

(1A) For the purposes of sub-section (1) of this section **6**[***], the additional amount of wealth-tax payable in respect of the wealth disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

7[(1B) Where the wealth disclosed in the application relates to only one previous year,-

8(i) if the applicant has not furnished a return in respect of the net wealth of that year, then, wealth-tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth;

9(ii) if the applicant has furnished a return in respect of the net wealth of that year, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth.";

(iii) if the proceeding pending before the wealth-tax authority is in the nature of a proceeding for reassessment of the applicant under section 17 or by way of appeal or revision in connection with such reassessment, and the applicant has not furnished a return in respect of the net wealth of that year in the course of such proceeding for reassessment, wealth-tax shall be calculated on the aggregate of the net wealth as assessed in the earlier proceeding for assessment under section 16 or section 17 and the wealth disclosed in the application as if such aggregate were the net wealth.]

10[(1C) The additional amount of wealth-tax payable in respect of the wealth disclosed in the application relating to the previous year referred to in sub-section (1B) shall be,-

(a) in a case referred to in clause (i) of that sub-section, the amount of wealth-tax calculated under that clause :

(b) in a case referred to in clause (ii) of that sub-section, the amount of wealth-tax calculated under that clause as reduced by the amount of wealth-tax calculated on the net wealth returned for that year ;

11(c)[***]

(1D) Where the wealth disclosed in the application relates to more than one assessment year, the additional amount of wealth-tax payable in respect of the wealth disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application.

(1E) Where any books of account or other documents belonging to an assessee are seized under section 37A , the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.

(2) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

12 [(4) An assessee shall, on the date on which he makes an application under sub-section (1) to the Settlement Commission, also intimate the Assessing Officer in the prescribed manner of having made such application to the said Commission.].

Substituted for the following sub-section (1) by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984: "(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner and containing such particulars as may be prescribed to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided."

See rules 4A, 4AA and Form DA.

Substituted for "Wealth tax Officer' by the Direct Tax Laws

(Amendment) Act, 1987, w.e.f. 1-4-1988.

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

In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007, in sub-section (1), for the proviso, the following proviso shall be substituted by Finance Act, 2007, namely: Old proviso is following:- [Provided that no such application shall be made unless the assessee has furnished the return of wealth which he is or was required to furnish under any of the provisions of this Act.]

In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007, in sub-section (1A), the words, brackets, figures and letters "and sub-sections (2A) to (2D) of section 22D" shall be omitted by Finance act, 2007;.

Substituted for the following sub-section (1B) by the Finance Act, 1987, w.e.f. 1-6-1987 : "(1B) Where the wealth disclosed in the application relates to only one assessment year- (a) If the applicant has not furnished a return in respect of the net wealth for that year and no assessment has been made in respect of the net wealth for that year, wealth- tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth ; (b) if the applicant has furnished a return in respect of the net wealth for that year and no assessment has been made in pursuance of such return, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth ; and (c) if an assessment in respect of the net wealth for that year has been made, wealth- tax shall be calculated on the aggregate of the net wealth as assessed and the wealth disclosed in the application as if such aggregate were the net wealth."

In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007, for sub-section (1B), the following sub-section shall be substituted, namely by Finance Act, 2007: Old sub-Section (1B) is following:- [(i) if the applicant has not furnished a return in respect of the net wealth of that year (whether or not an assessment has been made in respect of the net wealth of that year), then, except in a case covered by clause(iii), wealth-tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth ;

In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007, for sub-section (1B), the following sub-section shall be substituted, namely by Finance Act, 2007: Old sub-Section (1B) is following:- (ii) if the applicant has furnished a return in respect of the net wealth of that year (whether or not an assessment has been made in pursuance of such return), wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth ;]

Substituted for the following sub-section (1C) by the Finance Act, 1987, w.e.f. 1-6-1987 : "(1C) The wealth-tax as calculated under sub-section (1B) shall,- (a) in a case referred to in clause (b) of

sub-section (1B), be reduced by the wealth-tax, if any, paid by the applicant under section 15B ; and (b) in a case referred to in clause (c) of sub-section (1B), be reduced by the aggregate of the wealth-tax referred to in clause (a) and the wealth-tax, if any, paid by the applicant in pursuance of the assessment made in respect of the net wealth for that year, and the amount referred to in clause (a) of sub-section (1B) or, as the case may be, the resultant amount arrived at under clause (a) or clause (b), as the case may be, shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application relating to that year."

In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007, in sub-section (1C), clause (c) shall be omitted; Omitted sub_section is following:- [(c) in a case referred to in clause (iii) of that sub-section, the amount of wealth-tax calculated under that clause as reduced by the amount of wealth-tax calculated on the net wealth assessed in the earlier proceeding for assessment under section 16 or section 17.]

In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007, after sub-section (3), the sub-section(4) inserted, namely by Finance Act, 2007

22D. Procedure on receipt of an application under section 22C :-

123, ⁴[(1) On receipt of an application under Section 22C , the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with: Provided that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.";

5(1A)[Omitted by the Finance (No.2)Act, 1991, w.e.f. 27-9-1991.]

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner.

6"(2A) Where an application was made under section 22C/before the 1st day of June, 2007 but an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional wealth-

tax on the wealth disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

Explanation.--In respect of the application referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (1).

(2B) The Settlement Commission shall,--

(i) in respect of an application which is allowed to be proceeded with under sub-section (1), within thirty days from the date on which the application was made; or

(ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that subsection, on or before the 7th day of August, 2007, call for a report from the Commissioner, and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(2C) Where a report of the Commissioner called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the material contained in such report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Commissioner:

Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(2D) Where an application was made under sub-section (1) of section 22C before the 1st day of June, 2007 and an order under the provisions of subsection (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before

the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional wealth-tax on the wealth disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.";

7(3) The Settlement Commission, in respect of--

(i) an application which has not been declared invalid under subsection (2C); or

(ii) an application referred to in sub-section (2D) which has been allowed to be further proceeded with under that sub-section, may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish his report within the aforesaid period, the Settlement Commission may proceed to pass an order under subsection (4) without such report.

(4) After examination of the records and the report of the Commissioner, if any, received under--

(i) sub-section (2B) or sub-section (3), or

(ii) the provisions of sub-section (1), as they stood immediately before their amendment by the Finance Act, 2007, and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order, as it thinks fit, on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner.

(4A) The Settlement Commission shall pass an order under sub-

section (4),--

(i) in respect of an application referred to in sub-section (2A) or subsection (2D), on or before the 31st day of March, 2008;

(ii) in respect of an application made on or after the 1st day of June, 2007, within twelve months from the end of the month in which the application was made.";

8[(5) Subject to the provisions of section 22BA , the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (4) and, in relation to the passing of such order, the provisions of section 22BD shall apply.]

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of **9**[tax, penalty or interest], the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

10[(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at **11**[one and one-fourth per cent. for every month or part of a month] on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.]

(7) Where a settlement becomes void as provided in sub-section (6), the proceedings with respect of the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the wealth-tax authority concerned may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement became void.

12[(8) For the removal of doubts, it is hereby declared that

nothing contained in section 17A shall apply to any order passed under sub-section (4) or to any order of assessment or reassessment required to be made by the ¹³ [Assessing Officer] in pursuance of any directions contained in such order passed by the Settlement Commission.]

See rules 4A, 4AA and Form DA.

In sec.22D, sub-sec.(1),the word ["the Settlement Commission may, by order, allow the application to be proceeded with or reject the application"] shall be substituted by Finance Act, 2002 (20 of 2002), Published in the Gazette of India, Extra.,Part II, Section 1, dated 13/05/2002.

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

In section 22D of the Wealth-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely: Old sub-section is following:- [(1) On receipt of an application under section 22C, the Settlement Commission shall call for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, ["the Settlement Commission shall, where it is possible, by order, reject the application or allow the application to be proceeded with within a period of one year from the end of the month in which such application was made under Section 22-C"]: Provided that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard: [Provided further that the Commissioner shall furnish the report within a period of one hundred and twenty days of the receipt of communication from the Settlement Commission in case of all applications made under section 22C on or after the date on which the Finance (No. 2) Act, 1991 receives the assent of the President and if the Commissioner fails to furnish the report within the said period, the Settlement Commission may make the order without such report.]

Prior to omission, sub-section (1A), as inserted by the Finance Act, 1979,w.e.f. 1-4-1979, read as under:"(1A) Notwithstanding anything contained in sub-section (1), an application shall not be proceeded with under that sub-section if the Commissioner objects to the application being proceeded with on the ground that concealment of particulars of the net wealth on the part of the applicant or perpetration of fraud by him for evading any tax or other sum chargeable or imposable under this Act has been established or is likely to be established by any wealth-tax authority, in relation to the case: Provided that where the Settlement Commission is not satisfied with the correctness of the objection raised by the Commissioner, the Settlement Commission may, after giving the Commissioner an opportunity of being heard, by order, allow the application to be proceeded with under sub-

section (1) and send a copy of its order to the Commissioner."

In section 22D of the Wealth-tax Act for sub-sections (2A), (2B), (2C) and (2D), the following sub-sections shall be substituted by Finance Act, 2007 with effect from the 1st day of June, 2007, namely Old sub-sections is following:- [(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1) [allowing the application to be proceeded with], pay the additional amount of wealth-tax payable on the wealth disclosed in the application and shall furnish proof of such payment to the Settlement Commission. (2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of wealth-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof. (2C) Where the additional amount of wealth-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A). (2D) Where the additional amount of wealth-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of wealth-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount of wealth-tax may be imposed and recovered, in accordance with the provisions of Chapter VII, by the [Assessing Officer] having jurisdiction over the assessee.]

In section 22D of the Wealth-tax Act, for sub-sections (3), (4) and (4A), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely by Finance Act, 2007:- Old subsection for sub-section 3,4 and 4A is following:- (3)Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case. (4) After examination of the records and the report of the Commissioner received under sub-section (1) and the report, if any, of the Commissioner received under sub-section (3), and after giving an

opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application but referred to in the report of the Commissioner under sub-section (1) or sub-section (3). "(4A) In every application, allowed to be proceeded with under subsection (1), the Settlement Commission shall, where it is possible, pass an order under sub-section (4) within a period of four years from the end of the financial year in which such application was allowed to be proceeded with."

Inserted by the Finance Act, 1987, w.e.f. 1-6-1987, Original sub-section (5) was omitted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986. Prior to its omission, sub-section (5), as amended by the Finance Act, 1982 stood as under: "(5) Subject to the provisions of sub-section (2A) of section 22B, the materials brought on record before the Settlement Commission shall be considered by all the members thereof before passing any order under sub-section (4), and, in the case of a difference of opinion among the members, the opinion of the majority shall prevail and such order shall be expressed in terms of the views of the majority."

Substituted for "tax or penalty" by the Finance Act, 1987, w.e.f. 1-6-1987. Earlier "tax or penalty" was substituted for "tax, penalty or interest" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

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

In section 22D of the Wealth-tax Act, in sub-section (6A), for the words "fifteen per cent. per annum", the words "one and one-fourth per cent. for every month or part of a month" shall be substituted with effect from the 1st day of April, 2008 by Finance Act, 2007

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

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

22DD. Power of Settlement Commission to order provisional attachment to protect revenue :-

(1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner provided in Income tax Act, 1961 as made applicable to this Act by section 32 :

Provided that where a provisional attachment made under section 34C is pending immediately before an application is made under section 22C , an order under this sub-section shall continue such provisional attachment up to the period up to which an order made under section 34C would have continued if such application had not been made:

Provided further that where the Settlement Commission passes an order under this sub-section after the expiry of the period referred to in the preceding proviso, the provisions of sub-section (2) shall apply to such order as if the said order had originally been passed by the Settlement Commission.

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

Provided that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit.² [***]

In section 22DD of the Wealth-tax Act, in sub-section (2), in the proviso, the words ", so, however, that the total period of extension shall not in any case exceed two years" shall be omitted with effect from the 1st day of June, 2007 by Finance act, 2007

22E. Power of Settlement Commission to reopen completed proceedings :-

If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case, but which has been completed under this Act by any wealth-tax authority before the application under section 22C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also: ¹[Provided that no proceeding shall be reopened by the Settlement Commission under this section if the period between the end of the assessment year to which such a proceeding relates and the date of application for settlement under section 22C exceeds nine years.]

² ["Provided further that no proceeding shall be reopened by the

Settlement Commission under this section in a case where an application under Section 22C is made on or after the 1st day of June, 2007.".]

Substituted for the following proviso by the Finance Act, 1987, w.e.f. 1-6-1987 : "Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of a period of eight years from the end of the assessment year to which such proceeding relates."

In section 22E of the Wealth-tax Act, after the proviso, the following proviso shall be inserted by Finance Act, 2007 with effect from the 1st day of June, 2007, namely:--

22F. Powers and procedure of Settlement Commission :-

(1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in a wealth-tax authority under this Act.

(2) Where an application made under section 22C has been allowed to be proceeded with under section 22D, the Settlement Commission shall, until an order is passed under sub-section (4) of section 22D, have, subject to the provisions of sub-section (3) of that section, exclusive jurisdiction to exercise the powers and perform the functions of a wealth-tax authority under this Act in relation to the case.

2"Provided that where an application has been made under section 22C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made: Provided further that where--

(i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 22D; or

(ii) an application is not allowed to be proceeded with under sub-section (2A) of section 22D, or, as the case may be, is declared invalid under sub-section (2C) of that section; or

(iii) an application is not allowed to be further proceeded with under subsection (2D) of section 22D, the Settlement Commission, in respect of such application shall have such exclusive jurisdiction up to the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be."

(3) Notwithstanding anything contained in sub-section (2) and in

the absence of any express direction to the contrary by the Settlement Commission, nothing contained in this section shall affect the operation of any other provisions of this Act requiring the applicant to pay tax on the basis of self-assessment in relation to the matters before the Settlement Commission.

(4) For the removal of doubt, it is hereby declared that, in the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act insofar as they relate to any matters other than those before the Settlement Commission.

(5) ²[* * *]

(6) ³[* * *]

⁴ (7) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of its exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

In section 22F of the Wealth-tax Act, in sub-section (2), the following provisos shall be inserted by Finance act, 2007 with effect from the 1st day of June, 2007, namely

Omitted by the Finance Act, 1987, w.e.f. 1-6-1987. Omitted sub-sections (5) and (6), which were earlier substituted for sub-section (5) by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986, stood as under : "(5) The powers or functions of the Settlement Commission may be exercised or discharged by Benches constituted by the Chairman of the Settlement Commission from amongst the members thereof.

(6) A Bench constituted under sub-section (5) shall consist of three members, one of whom shall be the Chairman or a Vice-Chairman." Inserted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986.

22G. Inspection, etc., of reports :-

No person shall be entitled to inspect, or obtain copies of, any reports made by any wealth-tax authority to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on the record against him in any such report, the Settlement Commission shall,

on an application made in this behalf and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

22H. Powers of Settlement Commission to grant immunity from prosecution :-

(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 22C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his net wealth and the manner in which such wealth has been acquired, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code, 1860 or under any other Central Act for the time being in force ¹[and also (either wholly or in part) from the imposition of any penalty] under this Act, with respect to the case covered by the settlement:

²Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 22C .

³"Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code(45 of 1860) or under any Central Act other than this Act and the Income-tax Act, 1961(43 of 1961) to a person who makes an application under section 22C on or after the 1st day of June, 2007."

⁴(1A) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of settlement passed under sub-section (4) of section 22D within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person ⁵ [***] had, in the course of the settlement proceedings, concealed any particular material to the

settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

Substituted for "and also form the imposition of any penalty' by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

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

In section 22H of the Wealth-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely: by Finance act, 2007

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

"has not complied with the conditions subject to which the immunity was granted or that such person", omitted, by the Finance Act, 1987, w.e.f. 1-6-1987. by the Finance Act, 1987, w.e.f. 1-6-1987.

22HA. Abatement of proceedings before settlement Commission :-

1

(1) Where,--

(i) an application made under section 22C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 22D ; or

(ii) an application made under section 22C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under subsection (2D) of section 22D; or

(iii) an application made under section 22C has been declared as invalid under sub-section (2C) of section 22D; or

(iv) in respect of any other application made under section 22C, an order under sub-section (4) of section 22D has not been passed within the time or period specified under sub-section (4A) of section 22D, the proceedings before the Settlement Commission shall abate on the specified date.

Explanation.--For the purposes of this sub-section, "specified date" means--

(a) in respect of an application referred to in clause (i), the date on which the application was rejected;

(b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;

(c) in respect of an application referred to in clause (iii), the last day of the month in which the application was declared invalid;

(d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of section 22D expires.

(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other wealth-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 22C had been made.

(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other wealth-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other wealth-tax authority or held or recorded by him in the course of the proceedings before him.

(4) For the purposes of the time-limit under Section 17A , Section 32 and Section 35 and for the purposes of payment of interest under Section 34A , in case referred to in sub-section (2), the period commencing on and from the date of a application to the Settlement Commission under section 22C and ending with "specified date" referred to in subsection (1) shall be excluded.

After section 22H of the Wealth-tax Act, section 22HA inserted with effect from the 1st day of June, 2007, namely:--

22HAA. Credit for tax paid in case of abatement of proceedings :-

1

Where an application made under section 22C on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 22D , or any other application made under section 22C is not allowed to be proceeded with under sub-section (2A) of section 22D or is declared invalid under sub-section (2C) of section 22D or has not

been allowed to be further proceeded with under subsection (2D) of section 22D or an order under sub-section (4) of section 22D has not been passed within the time or period specified under sub-section (4A) of section 22D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.'

After section 22HA of the Wealth-tax Act, 22HAA inserted with effect from the 1st day of June, 2007, namely:--

22I. Order of settlement to be conclusive :-

Every order of settlement passed under sub-section (4) of section 22D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

22J. Recovery of sums due under order of settlement :-

Any sum specified in an order of settlement passed under sub-section (4) of section 22D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of section 32 by the ¹ [Assessing Officer] having jurisdiction over the person who made the application for settlement under section 22C .

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

22K. Bar on subsequent application for settlement :-

1

(1) Where,--

(i) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his net wealth; or

(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case; or

(iii) the case of any such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002, then, he shall not be entitled to apply for settlement

under section 22C in relation to any other matter.

(2) Where a person has made an application under section 22C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 22D, such person shall not be subsequently entitled to make an application under section 22C".

For section 22K of the Wealth-tax Act, the following section shall be substituted by Finance Act, 2007 with effect from the 1st day of June, 2007, namely:-- Old section is following:- [Section 22K. Bar on subsequent application for settlement in certain cases. Where- (i) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his net wealth ; or (ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case ; or [(iii) the case of any such person is sent back to the [Assessing Officer] by the Settlement Commission under section 22HA,] then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.]

22L. Proceedings before the Settlement Commission to be judicial proceedings :-

Any proceeding under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and S.228 of the Income Tax Act, 1922, and for the purposes of ¹ Section 196 of the Indian Penal Code, 1860 .

For text of sections 193, 196 and 228 of the Indian Penal Code, see Appendix.

22M. Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission :-

Omitted by the Finance Act, 1987, w.e.f. 1-6-1987.]

CHAPTER 6

APPEALS, REVISIONS AND REFERENCES

23. Appeal to the 52 [Deputy Commissioner (Appeals)]R1before the 1st day of June, 2000 from orders of 53 [Assessing Officer :-
].

(1) **5**[Subject to the provisions of sub-section (1A), any person,-]

(a) objecting to the amount of **5/FNR>[* * *] net wealth determined under this Act; or**

(b) objecting to the amount of wealth-tax determined as payable by him under this Act ; or

(c) denying his liability to be assessed under this Act ; or

5[(d) objecting to any penalty imposed by the Assessing Officer under section 18 **5/FNR>[* * *] ; or]**

(e) objecting to any order of the **7**[Assessing Officer] under sub-section (2) of section 20 ; or

(f) objecting to any penalty imposed by the **13/FNR>[Assessing Officer] under the provisions of 9S.221 of the Income Tax Act, 1922 as applied under section 32 for the purposes of wealth-tax ; 5[or]**

19[(g) Objecting to any order made by the **9**[Assessing Officer] under section 22 treating him as the agent of a person residing outside India; or

(h) objecting to any order of the **23**[Assessing Officer] under section 35 having the effect of enhancing the assessment or reducing a refund or refusing to allow the claim made by the assessee under the said section; or]

19[(ha) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section ; **23**[* * *]

(i) **5**[* * *]] may appeal to the **5**[Deputy Commissioner (Appeals)] against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

23[(1A) Notwithstanding anything contained in sub-section (1), any person,-

(a) objecting to the amount of net wealth determined under this Act or objecting to the amount of wealth-tax determined as payable by him under this Act or denying his liability to be assessed under this Act, where the net wealth determined on assessment made under section 16 exceeds fifteen lakh rupees ; or

9[(b) objecting to any penalty imposed under sub-section (1) of section 18 with the previous approval of the **24**[Joint] Commissioner as specified in sub-section (3) of that section ;]

23[(c) objecting to any assessment or order referred to in clauses (a) to (h) (both inclusive) of sub-section (1), where such assessment or order has been made by the [Joint] Commissioner in exercise of the powers or functions conferred on or assigned to him under section 8 or section 11 ; or

(d) objecting to any penalty imposed by the [Joint] Director or the [Joint] Commissioner under section 18A ; or]

(e) objecting to an order made by an **8**[Assessing Officer] in the case of such persons or classes of persons as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct, may appeal to the **24**before the 1st day of June, 2000 against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.]

23

"(1-AA) Notwithstanding anything contained in sub-section (1), every appeal filed, on or after the 1st day of October, 1998, but before the 1st day of June, 2000, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day."

24[(1B) Notwithstanding anything contained in sub-section (1), the Board or the Director General or Chief Commissioner or Commissioner, if so authorised by

(2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him, but the **23**[Deputy Commissioner (Appeals)] **24**[or, as the case may be, the Commissioner (Appeals)] may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

23[(2A) Where a return has been filed by an assessee, no appeal under this section shall be admitted unless at the time of filing of the appeal he has paid the tax due on the net wealth returned by him. **24**[* * *]

(3) The **23**[Deputy Commissioner (Appeals)] **31**[or, as the case may be, the Commissioner (Appeals)] shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

32[(3A) If the valuation of any asset is objected to in an appeal under clause (a) of sub-section (1) **33**[or of sub-section (1A)], the **34**[Deputy Commissioner (Appeals)] **35**[or, as the case may be, the Commissioner (Appeals)] shall,-

(a) in a case where such valuation has been made by a Valuation Officer under section 16A , give such Valuation Officer an opportunity of being heard;

(b) in any other case, on a request being made in this behalf by the **36**[Assessing Officer], give an opportunity of being heard to any Valuation Officer nominated for the purpose by the **37**[Assessing Officer].]

(4) The **38**[Deputy Commissioner (Appeals)] **39**[or, as the case may be, the Commissioner (Appeals)] may-

(a) at the hearing of an appeal, allow an appellant to go into 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 **40**[Assessing Officer] **41**[or, as the case may be, the Valuation Officer].

(5) In disposing of an appeal, the **42**[Deputy Commissioner (Appeals)] **43**[or, as the case may be, the Commissioner (Appeals)] may pass such order as he thinks fit which may include an order enhancing the assessment or penalty: Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

44[(5A) In disposing of an appeal, the **45**[Deputy Commissioner (Appeals)] **46**[or, as the case may be, the Commissioner (Appeals)]

may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the ⁴⁷[Deputy Commissioner (Appeals)] ⁴⁸[or, as the case may be, the Commissioner (Appeals)] by the appellant.

(5B) The order of the ⁴⁹[Deputy Commissioner (Appeals)] ⁵⁰[or, as the case may be, 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.]

(6) A copy of every order passed by the ⁵¹[Deputy Commissioner (Appeals)] ⁵²[or, as the case may be, the Commissioner (Appeals)] under this section shall be forwarded to the appellant and the ⁵³ [Chief Commissioner or Commissioner].

Substituted for "Any person-" by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

"his" omitted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to its substitution, clause (d), as amended by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1964, stood as under : "(d) objecting to any penalty imposed by the Assessing Officer under section 15B or section 18: or"

"as it stood immediately before the 1st day of April, 1989 or under section 18 as amended by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988)" omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989.

Substituted for "sub-section (1) of section 46" by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted, for "sub-section (1) of section 46" by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to its omission, clause (i) as inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965 and later on amended by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-4-1973, stood as under: "(i) objecting to any order of the Assessing Officer or Valuation Officer imposing a fine under sub-section (2) of section 37,"

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

Substituted for clause (b) by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989. Earlier substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date was

replaced. Clause (b), as it stood prior to its substitution by the Amendment Act, 1987, read as under : "(b) objecting to any penalty imposed under clause (c) of sub-section (1) of section 18 where the penalty has been imposed with the previous approval of the Deputy- Commissioner under sub-section (3) of section 18; or" Substituted for "Deputy" by the Finance (No.2) Act, 1998, w.e.f. 1-10-1998.

Substituted for clauses (c) and (d) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to their substitution, clauses (c) and (d) stood as under : "(c) objecting to any assessment or order referred to in clauses (a) to (h) (both inclusive) or clause (!) of sub-section (1), where such assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 8AA ; or (d) objecting to any penalty imposed by a deputy Commissioner under section 18A; or" 70a. Substituted for "Deputy" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

[R2]Interested by S.72 of The Finance Act, 2000

[R3]Interested by S.72 of The Finance Act, 2000

Substituted for sub-sections (IB)and(IC) bythe Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to their substitution, sub-sections (1B) and (1C), as inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978 and Finance Act, 1979, w.e.f. 1-6-1979, respectively, stood as under: '(1B) Every appeal against any assessment or order referred to in sub-section (1A) which is pending immediately before the appointed day before an Appellate Assistant Commissioner or a Commissioner and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with the appeal or matter from the stage at which it was on that day : Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be reheard. Explanation.-In this sub-section, 'appointed day' means the date appointed under section 39 of the Finance (No. 2) Act, 1977. (1C) Notwithstanding anything contained in sub-section (1), the Board may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending to the Commissioner (Appeals) if the Board is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred : Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be reheard'.

Inserted by the Finance (No. 2) Act, 1977, w.e.f. 10.7-1978.

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

10-1975.

Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to its omission, the proviso, as amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under: "Provided that, on an application made by the appellant in this behalf, the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provision of this sub-section."

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

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

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

Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

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

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

23A. Appealable orders before Commissioner (Appeals) :-

(1) Any person- (a) objecting to the amount of net wealth determined under this Act; or

(b) objecting to the amount of wealth-tax determined as payable by him under this Act; or

(c) denying his liability to be assessed under this Act; or

(d) objecting to any penalty imposed by the Assessing Office under section 18 or section 18A ; or

(e) objecting to any order of the Assessing Officer under sub-section (2) of section 20 ; or

(f) objecting to any penalty imposed by the Assessing Officer under the provisions of Section 221 of the Income tax Act, 1961 as applied under section 32 for the purposes of wealth-tax; or

(g) objecting to any order made by the Assessing Officer under section 22 treating him as the agent of a person residing outside India; or

(h) objecting to any order of the Assessing Officer under section 35

having the effect of enhancing the assessment or reducing a refund or refusing to allow the claim made by the assessee under the said section; or

(i) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section; or

(j) objecting to any penalty imposed by the Deputy Director or Deputy Commissioner under section 18A , may appeal to the Commissioner (Appeals) against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner and on payment of a fee of two hundred and fifty rupees. Explanation.-For the purposes of this sub-section, where on or before the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director the references in this sub-section for "Deputy Commissioner" and "Deputy Director" shall be substituted by "Joint Commissioner" and "Joint Director" respectively.

(2) Notwithstanding anything contained in sub-section (1) of section 23 , every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeals or matter from the stage on which it was on that day: Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceedings or any part thereof be re-opened or that he be re-heard,

Explanation.-For the purposes of this sub-section, "appointed day" means the day appointed under section 246A of the Income-tax Act.

(3) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to or the day on which any order objected to is communicated to him, but the Commissioner (Appeals) may admit an appeal after the expiration of the period aforesaid, if he is satisfied that the appellant had sufficient cause for not presenting

the appeal within that period.

(4) Where a return has been filed by an assessee, no appeal under this section shall be admitted unless at the time of filing of the appeal, he has paid the tax due on the net wealth returned by him.

(5) The Commissioner (Appeals) shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

(6) If the valuation of any asset is objected to in an appeal under clause (a) or clause (i) of sub-section (1) the Commissioner (Appeals) shall,-

(a) in case where such valuation has been made by a Valuation Officer- under section 16A , give such Valuation Officer an opportunity of being heard;

(b) in any other case on request being made in this behalf by the Assessing Officer, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the Assessing Officer.

(7) The Commissioner (Appeal) may,-

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

(b) before disposing of any appeal, make such further enquiry as he thinks fit or cause further enquiry to be made by the Assessing Officer or, as the case may be, by the Valuation Officer.

(8) In disposing of an appeal, the Commissioner (Appeals) may pass such order as he thinks fit which may include an order enhancing the assessment or penalty: Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

2 (8-A) In every appeal, the Commissioner (Appeals), where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year, in which such appeal is filed under sub-section (1).

(9) In disposing of an appeal, the Commissioner (Appeals) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that

such matter was not placed before the Commissioner (Appeals) by the appellant.

(10) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determining the decision thereon and reasons for the decision.

(11) A copy of every order passed by the Commissioner (Appeals) under this section shall be forwarded to the appellant and the Chief Commissioner or Commissioner.]

[104]Inserted vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

24. Appeal to the Appellate Tribunal from orders of the 87 [Deputy Commissioner (Appeals) :-]

3/FNR>[(1) An assessee objecting to an order passed by the 2[Deputy Commissioner (Appeals)], 11/FNR>[or the Commissioner (Appeals)] under section 18 or section 18A or section 23 4[or section 23A] or sub-section (2) of section 37 3/FNR>[* * *] may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.]

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by ⁶[a Commissioner (Appeals) under sub-section (10) of section 23A], direct t h e ^{12/FNR>} [Assessing Officer] to 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 Commissioner.

⁸[(2A) ^{7/FNR>}The ¹⁰[Assessing Officer] or the assessee, as the case may be, on receipt of notice that an appeal against the order of ¹⁷[* * *] ⁸[⁷[* * *] the Commissioner (Appeals)] has been preferred uereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections verified in the prescribed manner, against any part of the order of ¹⁴[* * *] ¹⁵[¹⁶[* * *] the Commissioner (Appeals)] 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 (1) or sub-section (2).]

¹⁷[(3) 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 (1) or sub-section (2) or sub-section (2A), if it is satisfied that there was sufficient cause for not presenting it within that period.]

18(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 referred to in sub-section (2), be accompanied by a fee of **19**[one thousand] rupees. **20**["Provided that in the case of an appeal not relating to net wealth as computed by the Assessing Officer, the appeal shall be accompanied by a fee of five hundred rupees.";]

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the assessment or penalty : **21**[Provided that if the valuation of any asset is objected to, the Appellate Tribunal shall,-

(a) in a case where such valuation has been made by a Valuation Officer under section 16A , also give such Valuation Officer an opportunity of being heard;

(b) in any other case, on a request being made in this behalf by the **22**[Assessing Officer], give an opportunity of being heard also to any Valuation Officer nominated for the purpose by the **23**[Assessing Officer]:

24(5-A) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year in which such appeal is filed under sub-section (1) or **25**Sub-section(2)

(5-B) The cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

(6), (7), (8), (8A), and (8B) **26**[* * *]

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

(10) Save as provided in section 27 , **27**["or Section 27-A"] any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of **28** [sub-sections (1), (4) and (5) of S.255 of the Income- tax Act, 1961 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 the Income-tax Act.

Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Sub-section (1) was also substituted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

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

"or, an order passed by the Inspecting Assistant Commissioner under section 18A" omitted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

Substituted for the words "a Deputy Commissioner (Appeals) or a Commissioner (Appeals) under section 23" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier the quoted portion was amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

See rule 6(2) and Form G.

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

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

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

Word "or" omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "or" was inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

Substituted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

See rule 6(1) and Form F.

Substituted for "two hundred" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "two hundred" was substituted for "one hundred and twenty-five" by the Finance Act, 1981, w.e.f. 1-6-1981 and "one hundred and twenty-five" was substituted for "one hundred" by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

[105]Inserted vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

Proviso omitted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

[106]Inserted vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II,

Section I, dated 11-05/1999, pp. 1-98, No. 33

[R4]Interested by the S.73 of The Finance Act, 2000

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

[107]Inserted vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

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

25. Powers of Commissioner to revise orders of subordinate authorities :-

(1) The Commissioner may, either of his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry, or cause such enquiry to be made, and, subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as the Commissioner thinks fit: Provided that the Commissioner shall not revise any order under this sub-section in any case-

(a) where an appeal against the order lies to the ²[Deputy Commissioner (Appeals)] ¹[or to the Commissioner (Appeals)] or to the Appellate ²[to the Commissioner (Appeals)] or to the Appellate Tribunal the assessee has not waived his right of appeal;

(b) where the order is the subject of an appeal before the ¹[Deputy Commissioner (Appeals)] **8/FNR>[or the Commissioner (Appeals)] or the Appellate Tribunal;**

(c) where the application is made by the assessee for such revision, unless-

(i) the application is accompanied by a fee of twenty-five rupees; and

(ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and

(d) where the order is sought to be revised by the Commissioner of his own motion, if such order is made more than one year

previously.

Explanation.-For the purposes of this sub-section,- (a) the ⁶[Deputy Commissioner (Appeals)] shall be deemed to be an authority subordinate to the Commissioner; and (b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section (1), the Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by an ⁷[Assessing Officer] is erroneous in so far as it is prejudicial to the interests of 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 an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

⁸[Explanation.-For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,- (a) an order passed ⁹[on or before or after the 1 st day of June, 1988] by the Assessing Officer shall include an order made by the ¹⁰[Joint] Section 120 of the Income tax Act, 1961 read with section 8 of this Act; (b) "record", ¹¹[shall include and shall be deemed always to have included] all records relating to any proceeding under this Act available at the time of examination by the Commissioner; (c) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject matter of any appeal ¹²[filed on or before or after the first day of June, 1988], the power of the Commissioner under this sub-section shall extend ¹³[and shall be deemed always to have extended] to such matters as had not been considered and decided in such appeal.]

¹⁴[(3) No order shall be made under sub-section (2) after the expiry of two years ¹⁵[from the end of the financial year in which the order sought to be revised was passed.]

¹⁶[(3A) On every application made by an assessee for revision under sub-section (1), an order shall be passed by the Commissioner within one year from the end of financial year in which such application is made by the assessee for revision.

Explanation.-In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.]

17 [(4) Notwithstanding any thing contained in sub-section (3) or sub-section (3A), an order in revision under sub-section (1) or sub-section (2) may be passed at any time in consequence of, or to give effect to, any finding or direction contained in an order of Appellate Tribunal, the High Court or the Supreme Court.]

Explanation.-In computing the period of limitation for the purposes of sub-section (3), the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 39 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.]

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

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

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

Substituted by the Finance Act, 1988, w.e.f. 1-6-1988. Prior to its substitution, the Explanation, as inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 and later on amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, stood as under : "Explanation : For the removal of doubts, it is hereby declared that, for the purpose of this sub-section, an order passed by an Assessing Officer shall include an order passed by a Deputy Commissioner in exercise of the powers or in performance of the functions of an Assessing Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 8A or under sub-section (1) of section 8AA."

Inserted by the Finance Act, 1989, with retrospective effect from 1-6-1988.

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

Substituted for "includes" by the Finance Act, 1989, w.r.e.f. 1-6-1988.

Inserted, for "includes" by the Finance Act, 1989, w.r.e.f. 1-6-1988.

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Substituted for "from the date of the order sought to be revised" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1.10-1984.

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

Substituted, by the Finance (No, 2) Act, 1998. Prior to its

substitution, sub-section (4) read as under : "(4) Notwithstanding anything contained in sub-section (3), an order in revision under sub-section (2) 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 an order of the Appellate Tribunal, the High Court or the Supreme Court."

26. Appeal to the Appellate Tribunal from orders of enhancement by 18 [Chief Commissioners or Commissioners :-
].

(1) Any assessee objecting to ¹[an order passed by the ²[Chief Commissioner or Commissioner] under section 18 ³[or section 18A] or sub-section (2) of section 25] ⁴[or an order passed by the Director General or Director under section 18A] may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

⁵(2) An Appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of ⁶[two hundred] rupees.

(3) The provisions of ⁷ [sub-sections (3), (5), (9) and (10)] of section 24 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.

Substituted for "an order of enhancement made by the Commissioner under section 25" by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

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

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

See rule 6(1) and Form F.

Substituted for "one hundred and twenty-five" by the Finance Act, 1981, w.e.f. 1-6-1981. Earlier "one hundred and twenty-five" was substituted for "one hundred" by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

Substituted for "sub-sections (3) and (5) to (10) inclusive" by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

27. Reference to High Court :-

9/FNR>[(1) 2The assessee or the 9/FNR>[Chief

Commissioner or Commissioner] may, within sixty days of the date upon which he is served with notice of an order 4["passed before the 1st day of June, 1999"] under section 24 or section 26 5[or clause (e) of sub-section (1) of section 35], by application in the prescribed form, accompanied, where the application is made by the assessee, by a fee of 6[two hundred] rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

(2) The Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period specified in sub-section (1), allow it to be presented within a further period not exceeding thirty days.]

(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) rejects it on the ground that it is time barred; the applicant may, within ⁷[ninety days] 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 an assessee to state a case, the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

8[(3A) If, on an application made under this section, the Appellate Tribunal is of the opinion that, on account of a conflict in the decisions of the High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.]

(4) The statement to the High Court ⁹[or the Supreme 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 ¹⁰[or the Supreme 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 ¹¹[or the Supreme Court], upon hearing any such case, shall decide the question of law raised therein, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the ground on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

12 [(7) The cost of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference, shall be in the discretion of the Court.]

Substituted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

See rule 7 and Form H.

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

[108]Inserted vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

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

Substituted for "one hundred and twenty-five" by the Finance Act, 1981, w.e.f. 1-6-1981. Earlier "one hundred and twenty-five" was substituted for "one hundred" by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

Substituted for "three months" by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

Inserted, by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

27A. Appeal to High Court :-

(1) The assessee or the Chief Commissioner or Commissioner may, within one hundred and twenty days of the day upon which he is served with notice of an order under section 24 or section 26 or clause (e) of sub-section (1) of section 35 , file on or after the 1st day of October, 1998, an appeal to the High Court.

(2) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, under sub-section (1) of section 24 only if the High Court is satisfied that the case involves a substantial question of law.

(3) In an appeal under this section, the Memorandum of Appeal shall precisely state the substantial question of law involved in the appeal, ²[***]

(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 respondent shall, at the time of hearing of the appeal, be allowed to argue that the case does not involve such question : Provided that nothing in this sub-section shall be deemed to 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.

(6) 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.

(7) The Assessing Officer shall give effect to the order of the High Court on the basis of a certified copy of judgment delivered under sub-section (6).]

3 (8) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) relating to appeals to High Court shall, so far as may be, apply in the case of appeals under this section.

[109]Omitted for "and, where the appeal is made by the assessee, shall be accompanied by a fee of five thousand rupees. ", vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

[110]Inserted vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

28. Hearing by High Court :-

When a case has been stated to the High Court under section 27 ¹ [or an appeal filed before the High Court under section 27A], 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 of such Judges, if any: 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 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.

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

29. Appeal to Supreme Court :-

(1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 27 ¹ [or an appeal filed section 27A] in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgment 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 27 ² [or in sub-section (7) of section 27A].

(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.

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

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

29A. Tax to be paid notwithstanding reference, etc :-

Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, wealth-tax shall be payable in accordance with the assessment made in the case.]

29B. Definition of High Court :-

In this Chapter, "High Court" means-

(i) in relation to any State, the High Court of that State;

²[(ii) in relation to the Union territory of Delhi, the High Court of Delhi;]

(iia) ³[* * *]

⁴[(iii) in relation to the Union territories of Arunachal Pradesh and Mizoram, the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura);]

(iv) in relation to the Union territory of Andaman and Nicobar Islands, the High Court at Calcutta;

(v) in relation to the Union territory of ⁵[Lakshadweep], the High Court of Kerala:

(vi) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay;

(vii) in relation to the Union territory of Pondicherry, the High Court at Madras;]

⁶ [(viii) in relation to the Union territory of Chandigarh, the High Court of Punjab and Haryana.]

Substituted by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws of Union Subjects) Order, 1968, with retrospective effect from 1-11-1966.

Omitted by the State of Himachal Pradesh (Adaptation of Laws on Union Subjects) Order, 1973, with retrospective effect from 25-1-1971.

Substituted by the North Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, with retrospective effect from 21-1-1972.

Substituted for "the Laccadive, Minicoy and Amindivi Islands" by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974, with retrospective effect from 1-11-1973.

Inserted by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws of Union Subjects) Order, 1968, with retrospective effect from 1-11-1966.

CHAPTER 7

PAYMENT AND RECOVERY OF WEALTH-TAX

30. Notice of demand :-

²When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the ³ [Assessing Officer] shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable.]

See rule 4 and Form C.

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

31. When tax, etc., payable and when assessee deemed in default :-

(1) Any amount specified as payable in a notice of demand under section 30 shall be paid within ¹[thirty days] of the service of the notice at the place and to the person mentioned in the notice: Provided that, where the ^{5/FNR>}[Assessing Officer] has any reason to believe that it will be detrimental to revenue if the full period of ⁵[thirty days] aforesaid is allowed, he may, with the previous approval of the ^{6/FNR>}[Joint Commissioner], direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of ⁷[thirty days] aforesaid, as may be specified by him in the notice of demand.

(2) If the amount specified in any notice of demand under section 30 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at ^{15/FNR>}[one per cent] for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid:] section 23 , or 9 Section 23A section 24 , or section 25 , or section 26 , or section 27 , or section 29 , or section 35 ¹⁰[or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D], the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded: ¹¹[Provided further that in respect of any period commencing on or before the 31st day of March, 1989, and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of ¹²[one per cent] for every month or part of a month.]

¹³[(2A) Notwithstanding anything contained in sub-section (2), the ¹⁴[Chief Com- missioner or Commissioner] may reduce or waive the amount of interest ¹⁵[paid or] payable by an assessee under the said sub-section if ¹⁶[he is satisfied that]-

¹⁷[(i) payment of such amount has caused or would cause genuine

hard- ship to the assessee;

(ii) 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]

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.]

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub- section (1), the ¹⁸[Assessing Officer] may 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.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default.

(5) If in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time

(6) Where an assessee has presented an appeal under section 23 ,or ¹⁹ Section 23A ²⁰[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, as long as such appeal remains undisposed of.

(7) Where an assessee 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 ²¹ [Assessing Officer] shall not treat the assessee as in default in respect of that part of the tax which is attributable to those assets, and shall continue to treat the assessee as not in default in respect of that part of the tax until the prohibition or restriction of remittance is removed.]

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

Substituted for 'thirty-five days" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

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

Substituted for "thirty-five days" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

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

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

Substituted for the words "one and one-fourth per cent" by Taxation Laws (Amendment) Act, 2003, [NO.54 OF 2003], [December 30, 2003], Published in the Gazette of India, Extra., Part II, S.1, pp.1-6. No.68

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

Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Earlier the word "Commissioner" was substituted for "Board" by the Finance Act, 1987, w.e.f. 1-4-1987.

Inserted by the Finance Act, 1987, with retrospective effect from 1-10-1984.

Substituted for ", on the recommendation made by the Commissioner in this behalf, it is satisfied that", by the Finance Act, 1987, w.e.f. 1-4-1987.

Substituted for the following clauses (i) and (ii), by the Finance Act, 1987, with retrospective effect from 1-10-1984: "(i) payment of such amount would cause genuine hardship to the assessee; (ii) default in the payment of the amount on which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee ; and" 58. Substituted for "Wealth-tax Officer" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

"as it stood immediately before the 1st day of April, 1989 or under section 18 as amended by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988)" omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989.

[R5] Inserted by S.74 of The Finance Act, 2000

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

32. Mode of recovery :-

The provisions contained in sections 221 to S.227 of the Income Tax Act, 1922, ²S.228A of the Income Tax Act, 1922 S.229 of the Income Tax Act, 1922, S.231 of the Income Tax Act, 1922 and S.232 of the Income Tax Act, 1922 and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to wealth-tax and sums imposed by way of

penalty, fine and interest under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under that Act ³[and to the corresponding wealth-tax authorities instead of to the income-tax authorities specified therein.]

Explanation I.-Any reference to section 173 and sub-section (2) or sub-section (6) or sub-section (7) of section 220 of the Income-tax Act in the said provisions of that Act or the rules made thereunder shall be construed as references to sub-section (7) of section 22 and sub-section (2) or sub-section (6) or sub-section (7) of section 31 of this Act, respectively.

4 [Explanation II.-The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding wealth-tax authorities for the purpose of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act.]

Inserted by the Finance Act, 1972, w.e.f. 1-4-1972.

Substituted for "and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior its substitution, as amended by the Finance (No.2) Act, 1971, w.e.f. 1-4-1972, stood as under: "Explanation II.- The Tax Recovery Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the Tax Recovery Commissioner and the Tax Recovery Officer for the purposes of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act."

33. Liability of transferees of properties in certain cases :-

(1) Where by reason of the provisions contained in section 4, the value of any assets transferred to any of the persons mentioned in that section have to be included in the net wealth of an individual, the person in whose name such assets stand shall, notwithstanding anything contained in any law to the contrary, be liable, on the service of a notice of demand by the ¹ [Assessing Officer] in this behalf, to pay that portion of the tax assessed on the assessee as is attributable to the value of the asset standing in his name as aforesaid: Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax as is attributable to the value of the asset so jointly held.

(2) Where any such person as is referred to in sub-section (1) defaults in making payment of any tax demanded from him, he shall be deemed to be an assessee in default in respect of such sum, and all the provisions of this Act relating to recovery shall apply accordingly.

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

34. Restrictions on registration of transfers of immovable property In certain cases :-

Omitted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965. See Section 230 of the Income tax Act, 1961 .]

CHAPTER 7A REFUNDS

34A. Refunds :-

(1) Where, as a result of any order passed in appeal or other proceeding (including a rectification proceeding) under this Act, refund of any amount becomes due to the assessee, the ¹[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[Provided that where, by the order aforesaid,- (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 ³[net wealth] returned by the assessee.]

⁴[(2) Where refund of any amount becomes due to the assessee as a result of an order under this Act or under the provisions of sub-section (1) of section 16 after a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4) of section 16 and the Assessing Officer is of the opinion, having regard to the fact that-

(i) a notice has been issued, or is likely to be issued, under sub-section (2) of section 16 in respect of the said return; or

(ii) the order is the subject-matter of an appeal or further proceeding: or

(iii) any other proceeding under this Act is pending, that the grant

of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund till such time as the Chief Commissioner or Commissioner may determine.]

(3) Where a refund is due to the assessee in pursuance of an order referred to in sub-section (1) and the ⁵[Assessing Officer] does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at ["six per cent"] per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

⁶[(3A) Where the whole or any part of the refund referred to in sub-section (3) is due to the assessee as a result of any amount having been paid by him after the 31st day of March, 1975, in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (3) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted:

(4) Where a refund is withheld under the provisions of sub-section (2), the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of six months from the date of the order referred to in that sub-section to the date the refund is granted.

⁷[(4A) The provisions of sub-sections (3), (3A) and (4) shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year.

(4B)

(a) ⁸[Where refund of any amount becomes due to the assessee under this Act], he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount,

simple interest thereon calculated at the rate of ["one-half per cent"] for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.-For the purposes of this clause, "date of payment of the tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 30 is paid in excess of such demand.

(b) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, period of the delay so attributable to him shall be excluded from the period for which interest is payable and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where as a result of an order under ⁹[sub-section (3) or sub-section (5) of section 16 or] section 17 or section 23 or ¹⁰ Section 23A section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D , the amount on which interest was payable under clause (a) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly and, in a case where the interest is section 30 and the provisions of this Act shall apply accordingly.

(d) The provisions of this sub-section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years.]

(5) Where under any of the provisions of this Act, a refund is found to be due to any person, the ¹¹[Assessing Officer], ¹²[Deputy Commissioner Appeals], ¹³[Com- missioner (Appeals)] or ¹⁴ [Chief Commissioner or Commissioner], as the case may be, may, in lieu off 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 the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.]

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

Substituted for "total income" by the Direct Tax Laws (Amendment)

Act, 1989, w.e.f. 1/4/1989.

Substituted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier sub-section (2), as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 and Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989, read as under: "(2) Where an order giving rise to refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Assessing Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner withhold the refund till such time as the Chief Commissioner or Commissioner may determine."

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

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

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

Substituted for "Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee" by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989.

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

[R5] Inserted by S.74 of The Finance Act, 2000

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

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

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

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

CHAPTER 7B

REGISTERED VALUERS

34AA. Appearance by registered valuers :-

Notwithstanding anything contained in this Act, any assessee who is entitled to or required to attend before any wealth-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer.

34AB. Registration of valuers :-

(1) The ¹[Chief Commissioner or Director General] shall maintain a register to be called the Register of Valuers in which shall be entered the names and addresses of persons registered under sub-section (2) as valuers.

(2) Any person who possesses the qualifications prescribed" in this behalf may apply to the ²[Chief Commissioner or Director General] in the prescribed form ³for being registered as a valuer under this section: Provided that different qualifications may be prescribed for valuers of different classes of assets.

⁴(3) Every application under sub-section (2) shall be verified in the prescribed manner, shall be accompanied by such fees as may be prescribed and shall contain a declaration to the effect that the applicant will-

(i) make an impartial and true valuation of any asset which he may be required to value;

(ii) furnish a report of such valuation in the prescribed form;

(iii) charge fees at a rate not exceeding the rate or rates prescribed in this behalf;

(iv) not undertake valuation of any asset in which he has a direct or indirect interest.

⁵ (4) The report of valuation of any asset by a registered valuer shall be in the prescribed form and be verified in the prescribed manner.

See rule 8A

Substituted for "Board" by the Finance Act, 1988, w.e.f. 1-6-1988.

See rule 8B and Form N.

See rule 8C.

See rule 8D and Forms 0-1 to 0-10.

34AC. Restrictions on practice as registered valuer :-

(1) No person, either alone, or in partnership with any other person, shall practise, describe himself or hold himself out as a registered valuer for the purposes of this Act or permit himself to be so described or held out unless he is registered as a valuer or, as the case may be, unless he and all his partners are so registered under this Chapter.

(2) No company or other body corporate shall practise, describe itself or hold itself out as registered valuers for the purposes of this Act or permit itself to be so described or held out.

34ACC. Furnishing of particulars in certain cases :-

Where any person who is registered as a valuer under section 34AB

or who has made an application for registration as a valuer under that section is, at any time thereafter,-

(a) convicted of any offence and sentenced to a term of imprisonment; or

(b) in a case where he is a member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of architecture, accountancy, or company secretaries or such other profession as the Board may specify in this behalf by notification in the Official Gazette, found guilty of misconduct in his professional capacity, by such association or institution, he shall immediately after such conviction or, as the case may be, finding, intimate the particulars thereof to the ² [Chief Commissioner or Director General].]

Substituted for "Board" by the Finance Act, 1988, w.e.f. 1-6-1988.

34AD. Removal from register of names of valuers and restoration :-

(1) The ²[Chief Commissioner or Director General] may remove the name of any person from the register of valuers where ¹[he] is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as ¹[he] thinks fit to make,-

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact:

(ii) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which, in the opinion of the ⁵[Chief Commissioner or Director General], renders him unfit to be kept in the register.

(2) The ⁶[Chief Commissioner or Director General] may, on application and on sufficient cause being shown, restore to the register the name of any person removed therefrom.]

⁷ [(3) Without prejudice to the provisions of sub-sections (1) and (2), the Chief Commissioner or Director General shall, once in three years review the performance of all the registered valuers and may remove the name of any person from the Register of Valuers where he is satisfied, after giving that person a reasonable

opportunity of being heard and after such further inquiry, if any, as he thinks fit to make, that his performance is such that his name should not remain on the Register of Valuers.

(4) The Chief Commissioner or Director General may himself conduct the inquiry referred to in sub-section (1) or sub-section (3) or appoint an Inquiry Officer not below the rank of a Commissioner to conduct such inquiry, and for the purposes of such inquiry, the Chief Commissioner or Director General and the Inquiry Officer so appointed shall have the same powers as are vested in a court under Code of Civil Procedure, 1908 , when trying a suit in respect of the following matters, namely:-

(a) discovery and inspection;

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

(c) compelling the production of books of account and other documents;

(d) issuing commission.]

Substituted for "it/its", by the Finance Act, 1988, w.e.f. 1-6-1988.

Substituted for "Board' by the Finance Act, 1988, w.e.f. 1-6-1988.

Inserted, for "it/its", by the Finance Act, 1988, w.e.f. 1-6-1988.

34AE. Existing registered valuers to apply afresh :-

(1) Notwithstanding anything contained in this Chapter, every person whose name is included in the Register of Valuers immediately before the 1st day of June, 1988, shall, if he intends to continue to be registered under this Act, make an application under sub-section (2) of section 34AB within a period of three months from that date, for being registered afresh as a valuer

(2) The provisions of this Chapter regarding the registration of a person as a valuer and other matters shall, so far as may be, apply to every application made under sub-section (1).

(3) Every application pending before the Board immediately before the 1st day of June, 1988, shall be deemed to be an application received by the Chief Commissioner or Director General under sub-section (1).]

CHAPTER 8

MISCELLANEOUS

34B. Transfers to defraud revenue to be void :-

(1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under R.2 of the Income tax Act, 1961 as made applicable to this Act by section 32 , any assessee creates a charge on, or parts with (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) 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: Provided that such charge or transfer shall not be void, if it is made-

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

(ii) with the previous permission of the ² [Assessing Officer].

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

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

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

34C. Provisional attachment to protect revenue in certain cases :-

(1) Where, during the pendency of any proceeding for the assessment of net wealth or for the assessment or reassessment of net wealth which has escaped assessment, the ²[Assessing Officer] is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, ³[Chief Commissioner or Commissioner], by order in writing, attach provisionally any property belonging to the assessee in the manner provided in Income tax Act, 1961 as made applicable to this Act by section 32 .

⁴[Explanation.-For the purposes of this sub-section, the

proceedings under sub- section (5) of section 37A shall be deemed to be proceedings for the assessment of any net wealth or for the assessment or reassessment of any net wealth which has escaped assessment.]

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1): Provided that the ⁵[Chief Commissioner or Commissioner] may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so however, that the total period of extension shall not in any case exceed two years]: ⁶ [Provided further that where an application for settlement under section 22C is made, the period commencing from the date on which such application is made and ending with the date on which an order under sub-section (1) of section 22D is made shall be excluded from the period specified in the preceding proviso.]

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

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

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

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

35. 35 :-

⁷[Rectification of mistakes.

(1) With a view to rectifying any mistake apparent from the record-

(a) the ^{2/FNR>}[Assessing Officer] may amend any order of assessment or of refund or any other order passed by him;

3(aa) a wealth tax authority may amend any intimation or deemed intimation under sub-section (1) of Section 16;

^{2/FNR>}[⁵[(aaa)] the Valuation Officer may amend any order passed by him under section 16A ;]

^{12/FNR>}[(b) the ⁷[Joint] Director or ^{15/FNR>}[Joint] Commissioner or Director or Com- missioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 18A ;]

⁹[(c) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 23 ²

Section 23A ¹¹[* * *];

(d) the Commissioner may amend any order passed by him under section 25 ;

(e) the Appellate Tribunal may amend any order passed by it under section 24 .]

(2) Where the amount of tax, penalty or interest determined as a result of the first appeal or revision against the order referred to in sub-clause (iii) of clause (m) of section 2 ¹²[, as it existed immediately before its amendment by the Finance Act, 1992,] is paid within six months of the date of the order passed in such appeal or revision, the ¹³[Assessing Officer] may, notwithstanding anything to the contrary in this Act, rectify the assessment by allowing a deduction to the extent the tax, penalty or interest so paid stood disallowed therein as if such rectification were a rectification of a mistake apparent from the record.

(3) Subject to the other provisions of this section, the authority concerned-

(a) may make an amendment under sub-section (1) or sub-section (2) of its own motion;

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the ¹⁴[Valuation Officer or the] ¹⁵[Deputy Commissioner (Appeals)] ¹⁶[or the Commissioner (Appeals)] or the Appellate Tribunal, by the ¹⁷[Assessing Officer] also.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the wealth-tax authority concerned or the Tribunal, as the case may be.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the ¹⁸[Assessing

Officer] shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 30 and the provisions of this Act shall apply accordingly.

19[(6A) Where any amendment made by the Valuation Officer under clause (aa) of sub-section (1) has the effect of enhancing the valuation of any asset, he shall send a copy of his order to the **20**[Assessing Officer] who shall thereafter proceed to amend the order of assessment in conformity with the order of the Valuation Officer and the provisions of sub-section (6) shall apply accordingly.]

(7) No amendment under this section shall be made after the expiry of four years-

(a) in the case of an amendment under sub-section (2), **21**[from the end of the financial year in which the order was passed in the first appeal or revision] referred to in that sub-section; and

(b) in any other case, **22**[from the end of the financial year in which the order sought to be amended was passed].

23[(7A) Notwithstanding anything contained in sub-section (7), where the valuation of any asset has been enhanced by the Valuation Officer under this section, the consequential amendment to the order of assessment may be made by the **24** [Assessing Officer] at any time before the expiry of one year from the date of the order of the Valuation Officer under this section.]

(8) Where any matter has been considered and decided in a proceeding by way of an appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any other law for the time being in force, amend the order under this section in relation to any matter other than the matter which has been so considered and decided.]

Substituted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

[111]Substituted for " 4 [(aa) a wealth-tax authority may amend any intimation sent by it under sub-section (1) of section 16 or enhance or reduce the amount of refund granted by it under that sub-section;] ", vide The Finance Act, 1999 (27 Of 1999), Dt. 11-05/1999 Published in Received the assent of the President on 11-

05/1999 and published in the Gazette of India, Extra., Pan II, Section I, dated 11-05/1999, pp. 1-98, No. 33

Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

Relettered by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution clause (b), as amended by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978, stood as under: "(b) the Deputy Commissioner (Appeals) or the Commissioner (Appeals) may amend any order passed by him under section 18 or under section 23,"

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

Substituted for clauses (d) and (e) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to their substitution, clauses (d) and (e) stood as under: '(d) the Chief Commissioner or Commissioner may amend any order passed by him under section 18 or under section 25; (e) the Appellate Tribunal may amend any order passed by it under section 18 or under section 24.' Original clause (c) was omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

[R5] Inserted by S.74 of The Finance Act, 2000

"or section 23A" omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1/4/1989.

Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

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

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

Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

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

Substituted for "from the date of the order passed in the first appeal or revision" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

Substituted for 'from the date of the order sought to be amended' by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

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

35A. Wilful attempt to evade tax, etc :-

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

punishable,-

(i) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall

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

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

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

35B. Failure to furnish returns of net wealth :-

If a person wilfully fails to furnish in due time the return of his net wealth which he is required to furnish under sub-section (1) of section 14 or by notice given under sub-section (2) of section 14 or under sub-section (1) of section 17 , he shall be punishable,-

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

(ii) in any other case, with rigorous imprisonment for a term which

shall not be less than three months but which may extend to three years and with fine: Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of net wealth under sub-section (1) of section 14 -

(i) for any assessment year commencing prior to the 1st day of April, 1975; or

(ii) for any assessment year commencing on or after the 1st day of April, 1975, if-

(a) the return is furnished by him before the expiry of the assessment year; or

(b) the tax payable by him on his net wealth determined on regular assessment does not exceed three thousand rupees.

35C. Failure to produce accounts, records, etc :-

If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice under sub-section (4) of section 16 , such accounts, records and documents as are referred to in the notice, he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both.

35D. False statement in verification, etc., made under certain provisions of the Act :-

If a person makes a statement in any verification under this Act (other than under section 34AB) or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,-

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

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

35E. False statement in verification mentioned in section

34AB :-

If a person makes a statement in a verification mentioned in section 34AB which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

35EE. Failure to furnish particulars under section 34ACC :-

If a person referred to in section 34ACC fails²[* * *] to intimate to the Board the particulars of conviction or finding referred to in the said section, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine]:³ [Provided that no person shall be punishable under this section if he proves that there was reasonable cause or excuse for the said failure.]

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

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

35EEE. Contravention of order made under second proviso to sub-section (1) or sub-section (3A) of section 37A :-

If a person contravenes any order referred to in the second proviso to sub-section (1) or sub-section (3A) of section 37A , he shall be punishable with rigorous imprisonment for a term which may extend to two years and with fine.]

35F. Abetment of false return, etc :-

If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any net wealth chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 35A , 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 one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three

years and with fine.

35G. Punishment for second and subsequent offences :-

If any person convicted of an offence under sub-section (1) of section 35A or section 35B or section 35D or section 35F is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

35H. Offences by Hindu undivided families :-

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

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

35HA. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it

is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

35I. Prosecutions to be with the previous sanction of certain wealth-tax authorities and their power to compound offences :-

2[(1)A person shall not be proceeded against for an offence under this Act except with the previous sanction of the Commissioner or Commissioner (Appeals):

(2) Any such offence may, either before or after the institution of proceedings, be compounded by the Chief Commissioner or a Director General.]]

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

Substituted by the Finance (No.2) Act, 1991, w.e.f. 1-10-1991. Prior to their substitution sub- sections (1) and (2), as substituted by the Finance Act, 1988, w.e.f. 1/4/1989, stood as under: "(1) A person shall not be proceeded against for an offence under this Act except with the previous sanction of the Chief Commissioner or Director General or Commissioner: Provided that no such sanction shall be required if the prosecution is at the instance of the Commissioner (Appeals). (2) Any such offence may, either before or after the institution of proceedings, be compounded by (a) The Board or a Chief Commissioner or a Director General authorised by the Board in this behalf, in a case where the prosecution would lie at the instance of the Commissioner (Appeals); (b) The Chief

Commissioner or Director General or Commissioner, in any other case."

Inserted by the Finance (No.2) Act 1991, w.r.e.f. 1/4/1975.

35J. Certain offences to be non-cognizable :-

Notwithstanding anything contained in Code of Criminal Procedure, 1973 , an offence punishable under section 35A or section 35B or S.35D of the Central Excises Act, 1944 or section 35F shall be deemed to be non-cognizable within the meaning of that Code.

35K. Bar on prosecution and on inadmissibility of evidence in certain circumstances. :-

(1) A person shall not be proceeded against for an offence under section 35A or section 35D in relation to the assessment for ¹[an assessment year] in respect of which the penalty imposed or imposable on him under clause (iii) of sub-section (1) of section 18 has been reduced or waived by an order under section 18B .

(2) Where any proceeding for prosecution has been taken against any person under this Act, any statement made or account or other document produced by such person before ² [any wealth-tax authority (not being an Inspector of Income-tax)] shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty imposable would be reduced or waived under section 18B or that the offence in respect of which such proceeding was taken would be compounded.

Substituted for 'the assessment year commencing on the 1st day of April, 1983, or any earlier assessment year' by the Finance Act, 1990, w.r.e.f 1/4/1989. Earlier these words were substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

Substituted for "any of the wealth-tax authority specified in sections 8, 9, 9A, 10, 10A and 11" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

35L. Jurisdiction of courts :-

No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

35M. Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply :-

Nothing contained in S.360 of Code of Criminal Procedure, 1973, or in Probation of Offenders Act, 1958, shall apply to a person

convicted of an offence under this Act unless that person is under eighteen years of age.

35N. Presumption as to books of account, etc., in certain cases :-

(1) Where during the course of any search made under section 37A , any books of account or other documents, articles or things including money have been found in the possession or control of any person and such books of account or other documents are tendered, or such articles or things including money are relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (5) of section 37A shall, so far as may be, apply in relation to such books of account or other documents, articles or things including money.

(2) Where-

(i) any books of account or other documents, taken into custody, from the possession or control of any person by any officer or authority under clause (a) or clause (b) of sub-section (1) of section 37B , are delivered to the requisitioning officer under sub-section (2) of that section; or

(ii) any note or inventory of any articles or things including money taken into custody, from the possession of any person, by any officer or authority under clause (c) of sub-section (1) of section 37B , is furnished to the requisitioning officer under sub-section (2) of that section, and such books of account or other documents are tendered, or such note or inventory is relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (5) of section 37A shall, so far as may be, apply in relation to such books of account or other documents or, as the case may be, the articles or things including money, covered by such note or inventory.

35O. 35O :-

¹ [Presumption as to culpable mental state.

(1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such

mental state with respect to the act charged as an offence in that prosecution. Explanation.-In this sub-section, "culpable mental state" includes intention, motive or knowledge of a fact, or belief in, or reason to believe, a fact.

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

Inserted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 19-9-1986.

36. Proof of entries in records or documents :-

Entries in the records or other documents in the custody of a wealth-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Act, and all such entries may be proved either by the production of the records or other documents in the custody of the wealth-tax authority containing such entries or by the production of a copy of the entries certified by the wealth-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.]

36A. Power to tender immunity from prosecution :-

(1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) 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 particulars of net wealth or to the evasion of payment of tax on net wealth, it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under Indian Penal Code, 1860 or under any other Central Act for the time being in force and also from the 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 particulars of net wealth or evasion of payment of tax on net wealth.

(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 has not complied with the condition on which the tender was made or is wilfully concealing anything or 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, and any such person 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 the imposition of any penalty under this Act to which he would otherwise have been liable.]

37. Power to take evidence on oath, etc :-

(1) The ²[Assessing Officer], ³[Valuation Officer,] ⁴[Deputy Commissioner (Appeals)], ⁵[Commissioner (Appeals),] ⁶[Chief Commissioner or Commissioner] and the Appellate Tribunal shall, for the purposes of this Act, have the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:-

(a) discovery and inspection;

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

(c) compelling the production of books of account and other documents; and

(d) issuing commissions.

⁷[(1A) If the Director General or Director or ⁸[Joint] Director or Assistant Director ⁹[or Deputy Director], or the authorised officer referred to in sub-section (1) of section 37A before he takes action under clauses (i) to (vi) of that sub-section, has reason to suspect that any net wealth has been concealed, or is likely to be concealed, by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the wealth-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other wealth-tax authority.]

10(2) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.]

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) **11**[or sub-section (1A)] may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act: Provided that **12**[an Assessing Officer] **13**[or a Valuation Officer] **14**[or an Assistant Director **15**[or a Deputy Director]] shall not-

(a) impound any books of account or other documents without recording his reasons for so doing, or

(b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the **16**[**17**[Chief Commissioner or Director General or Commissioner or Director therefor, as the case may be]].

(4) Any proceeding under this Act before a wealth-tax authority or the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and S.228 of the Income Tax Act, 1922, and for the purposes of **18** Section 196 of the Indian Penal Code, 1860 .]

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

Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

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

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

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

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

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

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

Prior to its omission, sub-section (2), stood as under "(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued other to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the authority empowered to issue such summons may impose upon him such fine not exceeding five hundred rupees, as it thinks fit, and

the fine so levied may be recovered in the manner provided in Chapter VII of this Act."

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

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

Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

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

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

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

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

For text of sections 193,196 and 228 of the Indian Penal Code, see Appendix.

37A. Power of search and seizure :-

5/FNR>(1) Where the 4[Director General or Director] or the 11/FNR>[Chief Commissioner or Commissioner] or any such 6[Joint Director] or 9/FNR>[Joint Commissioner] as may be empowered in this behalf by the Board, in consequence of information in his possession, has reason to believe that-

(a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons, or

(b) any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce, or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under this Act, or

(c) any person is in possession of 8[any money, bullion, jewellery or other valuable article or thing] disproportionate to his known assets, particulars of which will be useful for, or relevant to, any proceeding under this Act, then, -

(A) the 5/FNR>[Director-General or Director] or the

10[Chief Commissioner or Commissioner], as the case may be, may authorise any 10[Joint Director], 11[Joint Commissioner], 12[Assistant Director 11[or Deputy'Director]], 13[Assistant Commissioner 17[or Deputy Commissioner] or Income-tax Officer], or

(B) such 17[Joint Director] or 17[Joint Commissioner] may authorise any 4[Assistant Director] 17[or Deputy Director] or 26[Assistant Commissioner 27[or Deputy Commissioner] or Income-tax Officer], (the officer so authorised in all cases being hereafter in this section referred to as the authorised officer) to-

(i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account or other documents, 29[money, bullion, jewellery or other valuable article or thing] are kept;

(ii) 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 or other documents, 30[money, bullion jewellery or other valuable article or thing];

(iii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

26[(iv) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;]

(v) place marks of identification on any such books of account or other documents or make, or cause to be made, extracts or copies there- from;

(vi) make a note or an inventory of 26[any money, bullion, jewellery or other valuable article or thing] found which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:

27Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any 28[Chief Commissioner or

Commissioner] but such 29[Chief Commissioner or Commissioner] has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of this sub-section, then, notwithstanding anything contained in 30[section 8], it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the 31[Chief Commissioner or Commissioner] having jurisdiction over such person may be prejudicial to the interests of the revenue : 32[Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iv) of this sub-section.]

33(2) Where any **34**[Chief Commissioner or Commissioner], in consequence of information in his possession, has reason to suspect that any books of account or other documents, **35**[money, bullion, jewellery or other valuable article or thing] in respect of which an officer has been authorised by the **36**[Director General or Director] or any other **37**[Chief Commissioner or Commissioner] or any such **38**[Joint Director] or **39**[Joint Commissioner] as may be empowered in this behalf by the Board to take action under clauses (i) to (vi) of sub-section (1) are kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), s u c h **40**[Chief Commissioner or Commissioner] may, notwithstanding anything contained in **41**[section 8], authorise the

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

42[(3A) The authorised officer may, where it is not practicable to

seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section. Explanation.-For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iv) of sub-section (1).]

(4) The authorised officer may, during the e coue course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account or other documents, articles or things including money and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act. ⁴³[Explanation.- For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of matters relevant for the purposes of any investiga- tion connected with any proceedings under this Act.]

(5) Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search, it may be presumed that-

(i) such books of account or other documents, articles or things includ- ing money belong to such person;

(ii) the contents of such books of account or other documents are true; and

(iii) 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 that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

82 [(5A) Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in section 37B and Section 37C referred to as the assets) is seized under sub-section (1) or sub-section (2), the Assessing Officer, after affording a reasonable opportunity to the person concerned of being heard and making such inquiry as may be prescribed, shall, within one hundred and twenty days of the seizure, make an order, with the previous approval of the 82a [Joint] Commissioner,- (i) estimating the undisclosed net wealth in a summary manner to the best of his judgment on the basis of such materials as are available with him; (ii) calculating the amount of tax on the net wealth so estimated in accordance with the provisions of this Act; (iii) determining the amount of interest payable and the amount of any penalty imposable in accordance with the provisions of this Act, as if the order had been the order of regular assessment; (iv) specifying the amount that will be required to satisfy any existing liability under this Act in respect of which such person is in default or is deemed to be in default, and retain in his custody such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in clauses (ii), (iii) and (iv) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized: Provided that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (ii), (iii) and (iv) or any part thereof, the Assessing Officer, may with the previous approval of the Chief Commissioner or Commissioner release the assets or such part thereof as he may deem fit in the circumstances of the case.

(5B) The assets retained under sub-section (5A) may be dealt with in accordance with the provision of section 37C .

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

(6) The books of account or other documents, seized under sub-section (1) or sub-section (2), shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the ⁴⁴[Chief Commissioner or Commissioner] for such retention is

obtained: Provided that the ⁴⁵[Chief Commissioner or Commissioner] shall not authorise the retention of the books of account or other documents for a period exceeding thirty days after all the proceedings under this Act in respect of the years for which the books of account or other documents are relevant are completed.

⁴⁶[(6A) An order under sub-section (3A) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded in writing by him, extends the period of operation of the order beyond sixty days, after obtaining the approval of the ⁴⁷[Director or, as the case may be. Commissioner] for such extension: Provided that the ⁴⁸[Director or, as the case may be. Commissioner] shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.]

(7) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (2) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

(8) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents seized under that sub-section shall be handed over by the authorised officer to the ⁴⁹[Assessing Officer] having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (6) or sub-section (7) shall be exercisable by such ⁵⁰[Assessing Officer].

(9) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (2) objects for any reason to the approval given by the ⁵¹[Chief Commissioner or Commissioner] under sub-section (6), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents.

52[(9A) If any person objects for any reason to an order made under sub-section (5A), he may, within thirty days from the date of such order, make an application to the Chief Commissioner or Commissioner stating therein the reasons for such objection and requesting for appropriate relief in the matter.]

53[(10) On receipt of the application under sub-section (9), the Board, or on receipt of the application under sub-section (9A), the Chief Commissioner or Commis

(11) The provisions of Code of Criminal Procedure, 1973 , relating to searches shall apply, so far as may be, to searches under this section.

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

(i) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

(ii) for ensuring the safe custody of any books of account or other documents seized. **54** [Explanation 1.-In computing the period referred to in sub-section (5A) for the purposes of that sub-section, any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded. Explanation 2.-In this section, the word "proceeding" means any proceeding in respect of any year under this Act which may be pending on 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 proceedings under this Act which may be commenced after such date in respect of any year.]

See rule 10(2)(a), Form M.

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

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

Substituted for "any articles or things including money" by the Direct Tax Laws (Amend- ment) Act, 1987,w.e.f. 1/4/1989.

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

Substituted for "Commissioner", by the Direct Tax Laws (Amendment) Act, 1987.

Substituted for "Deputy Director" by the Finance (No. 2) Act, 1998

w.e.f 1-10-1998. Earlier "Deputy Director" was substituted for "Deputy Director of Inspection", by the Direct Tax Laws (Amendment) Act, 1987, w.e.f 1-10-1988.

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

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

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

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

Substituted for "articles or things including money" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

Substituted for the following by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989: "(iv) seize any such books of account or other documents;"

Substituted for "any articles or things including money" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

See rule 10(2)(b) and Form M-1.

Substituted for "section 10" by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

Inserted, for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 w.e.f. 1/4/1989.

See rule 10(2)(c) and Form M-2.

Substituted for "articles or things including money" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989.

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

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

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

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

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

Substituted for "section 10" by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

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

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

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

was made by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

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

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

Inserted, by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, w.e.f. 1-4-1989.

Substituted for the following sub-section (10) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989: "(10) On receipt of the application under sub-section (9), the Board may, after giving the applicant an opportunity of being heard, pass such orders thereon as it thinks fit."

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

37B. Power to requisition books of account, etc :-

10/FNR>(1) Where the 2[Director General or Director] or the 3[Chief Commissioner or Commissioner], in consequence of information in his possession, has reason to believe that-

(a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

(b) any books of account or other documents will be useful for, or relevant to, any proceeding under this Act and any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce or cause to be produced such books of account or other documents on the return of such books of account or other documents by any officer or authority b" whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(c) 4[any assets] disproportionate to the known assets of any person, particulars of which will be useful for, or relevant to, any proceeding under this Act, have been taken

into custody by any officer or authority under any other law for the time being in force, from the possession of such person, then, the 5[Director-General or Director] or the 6[Chief Commissioner or Commissioner] may authorise any 7[Joint Director], 8[Joint Commissioner], 9[Assistant Director 10[or Deputy Director]] or 11[Assistant Commissioner 12[or Deputy Commissioner] or Income-tax Officer] (hereafter in this section referred to as the requisitioning officer) to require such officer or authority 13[to deliver such books of account, other documents, or assets to the requisitioning officer].

(2) On a requisition being made under sub-section (1), ¹⁴[the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents, or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.]

15 [(3) Where any books of account, other documents, or assets have been delivered to the requisitioning officer, the provisions of sub-sections (5) to (12) (both inclusive) of section 37A and section 37C shall, so far as may be, apply as if such books of account, other documents, or assets had been seized under sub-section (1) of section 37A by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1) of this section and as if for the words "the authorised officer" occurring in sub-sections (5) to (12) aforesaid, the words "the requisitioning officer" were substituted.]

See rule 10A(1) and Form M-3.

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

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

Substituted for "any articles or things including money" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

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

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

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

(Amendment) Act, 1987, w.e.f. 1-4-1988.

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

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

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

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

Substituted for clauses (i) and (ii) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989. Prior to their substitution, clauses (i) and (ii) stood as under: "(i) in a case falling under clause (a) or clause (b), to deliver such books of account or other documents to the requisitioning officer; (ii) in case falling under clause (c), to furnish a note or an inventory of such articles or things including money to the requisitioning officer."

Substituted for clauses (i) and (ii), by the Direct Tax Laws (Amendment) Act, 1987 Prior to their substitution, clauses (i) and (ii) stood as under. "(i) in a case falling under clause (a) or clause (b) of that sub-section, the officer or authority referred to therein shall deliver the books of account or other documents 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; (ii) in a case falling under clause (c). the officer or authority referred to therein shall furnish the note or inventory to the requisitioning officer within a reasonable period."

Substituted for the following by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1/4/1989: (3) Where any books of account or other documents have been delivered to the requisitioning officer, the provisions of sub-sections (5) to (12) (both inclusive) of section 37A shall, so far as may be, apply as if such books of account or other documents had been seized under sub-section (1) of that section by the requisitioning officer from the custody of the person referred to in clause (d) or clause (b), as the case may be, of sub-section (1) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections, the words "the requisitioning officer" were substituted.'

37C. Application of retained assets :-

(1) The assets retained under sub-section (5A) of section 37A may be dealt with in the following manner, namely :-

(i) the amount of the existing liability referred to in clause (iv) of the said sub-section and the amount of the liability determined on completion of the regular assessment or reassessment for all the assessment years for which the net wealth referred to in clause (i) of that sub-section is assessable to tax (including any penalty

levied or interest payable, in connection with such assessment or reassessment) and in respect of which the assessee is in default or is deemed to be in default may be recovered out of such assets;

(ii) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liabilities to the extent of the money so applied;

(iii) the assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer under authorisation from the Chief Commissioner or Commissioner under sub-section (5) of Section 226 of the Income tax Act, 1961 as made applicable to this Act by section 32 , and the Assessing Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in Income tax Act, 1961 as made applicable to this Act by section 32 .

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

(3) Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(4)

(a) The Central Government shall pay simple interest at the rate of fifteen per cent per annum on the amount by which the aggregate of the money retained under section 37A and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (iv) of sub-section (5A) of that section exceeds the aggregate of the amount required to meet the liabilities referred to in clause (i) of sub-section (1) of this section.

(b) Such interest shall run from the date immediately following the expiry of the period of six months from the date of the order under sub-section (5A) of section 37A to the date of the regular assessment or reassessment referred to in clause (i) of sub-section

(1) or, as the case may be, to the date of the last of such assessments or reassessments.]

38. Information, returns and statements :-

⁴[Where, for the purposes of this Act], it appears necessary for ²[any wealth- tax authority] to obtain any statement or information from any individual, company ³[(including a banking company)], firm, Hindu undivided family or other person, ⁴[such wealth-tax authority] may serve a notice requiring such individual, company, firm, Hindu undivided family or other person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and the individual or the principal officer concerned or the manager of the Hindu undivided family, as the case may be, shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to ⁵[such wealth-tax authority]: Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by ⁶ S.126 of the Indian Evidence Act, 1872.

Substituted for "Where, for the purposes of determining the wealth-tax payable by any person" by the Direct Tax Laws (Amendment) Act. 1987, w.e.f. 1/4/1989.

Substituted for "the Wealth-tax Officer", by the Direct Tax Laws (Amendment) Act. 1987, w.e.f. 1/4/1989.

Inserted, for "the Wealth-tax Officer", by the Direct Tax Laws (Amendment) Act. 1987, w.e.f. 1/4/1989.

Substituted for 'the Wealth-tax Officer', for "the Wealth-tax Officer", by the Direct Tax Laws (Amendment) Act. 1987, w.e.f. 1/4/1989.

For text of section 126 of the Indian Evidence Act,1872, see Appendix.

38A. Powers of Valuation Officer, etc :-

² (1) For the purposes of this Act, a Valuation Officer or any overseer, surveyor or assessor authorised by him in this behalf may, subject to any rules made in this behalf and at such reasonable times as may be prescribed,-

(a) enter any land within the limits of the area assigned to the Valuation Officer, or

(b) enter any land, building or other place belonging to or occupied by any person in connection with whose assessment a reference

has been made under section 16A to the Valuation Officer, or

(c) inspect any asset in respect of which a reference under section 16A has been made to the Valuation Officer, and require any person in charge of, or in occupation or possession of, such land, building or other place or asset to afford him the necessary facility to survey or inspect such land, building or other place or asset or estimate its value or inspect any books of account, document or record which may be relevant for the valuation of such land, building or other place or asset and gather other particulars relating to such land, building or other place or asset: Provided that no Valuation Officer, overseer, surveyor or assessor shall enter any building or place referred to in clause (b), or inspect any asset referred to in clause (c) (unless with the consent of the person in charge of, or in occupation or possession of, such building, place or asset) without previously giving to such person at least two days' notice in writing of his intention to do so.

(2) If a person who, under sub-section (1), is required to afford any facility to the Valuation Officer or the overseer, surveyor or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers under sub-sections (1) and (2) of section 37 for enforcing compliance of the requirements made.]

See rule 3C.

39. Effect of transfer of authorities on pending proceedings

:-

Whenever in respect of any proceeding under this Act any wealth-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor: ¹ [Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.]

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

40. Computation of periods of limitation :-

In computing the period of limitation prescribed for an appeal under this Act or for an application under section 27 , the day on

which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

41. Service of notice :-

(1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under Code of Civil Procedure, 1908 .

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of ¹[a company, or] any other association of persons be addressed to the principal officer thereof.

²[(3) After a finding of total partition has been recorded by the ³[Assessing Officer] under section 20 in respect of any Hindu family, notices under this Act in respect of the net wealth of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all surviving adults who were members of the Hindu family immediately before the partition.]

⁴ [(4) Where an association of persons referred to in section 21AA is dissolved, notices under this Act in respect of any matter relating to the association may be served on any person who was a member of the association immediately before its dissolution.]

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

Inserted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

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

42. Prohibition of disclosure of information :-

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

42A. Publication of information respecting assesseees :-

(1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assesseees and any other particulars relating to any proceedings ²[or prosecutions] under this Act in respect of such assesseees, it may cause to be published such names and particulars in such

manner as it thinks fit.]

³[(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the ⁴[Deputy Commissioner (Appeals)] ⁵[or, as the case may be, the Commissioner (Appeals)] has expired without an appeal having been presented or the appeal, if presented, has been disposed of.] ⁶ [Explanation.-In the case of a company, the names of the directors, secretaries and treasurers, or managers of the company, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.]

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

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

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

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

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

42B. Disclosure of information respecting assesseees :-

²Where a person makes an application to the ³[Chief Commissioner or Commissioner] in the prescribed form for any information relating to any assessee in respect of any assessment made under this Act, the ⁴ [Chief Commissioner or Commissioner] may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for in respect of that assessment only and his decision in this behalf shall be final and shall not be called in question in any court of law.]

See rule 9 and Forms I to L.

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

Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

42C. Return of wealth, etc., not to be invalid on certain grounds :-

¹ No return of wealth, 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 wealth, assessment, notice, summons or other proceeding if such return of wealth, assessment, notice, summons

or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.

Inserted by the Taxation Law's (Amendment) Act, 1975, w.e.f. 1-10-1975.

42D. Presumption as to assets, books of account, etc. :-

¹ Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search under section 37A, it may, in any proceeding under this Act, be presumed that--

(i) such books of account or other documents, articles or things including money belong to such person;

(ii) the contents of such books of account or other documents are true; and

(iii) 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 that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested."

After section 42C of the Wealth-tax Act, the section 42D inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely by Finance Act, 2007

43. Bar of jurisdiction :-

No suit shall lie in any civil court to set aside or modify any ¹[proceeding taken or] ²[order] made under this Act, and no prosecution, suit or other legal proceeding shall lie against ³ [the Government or] any officer of the Government for anything in good faith done or intended to be done under this Act.

Inserted by the Finance Act, 1988 with retrospective effect from 1-3-1988.

Substituted for "assessment" by the finance Act, 1987, with retrospective effect from 1-3-1987.

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

44. Appearance before wealth-tax authorities by authorised representatives :-

(1) Any assessee who is entitled to or required to attend before any

wealth- tax authority or the Appellate Tribunal in connection with any proceeding under this Act, except where he is required under this Act to attend in person, may attend by a person who would be entitled to represent him before any income-tax authority or the Appellate Tribunal under Section 288 of the Income Tax Act, 1961 .

(2) Notwithstanding anything in sub-section (1)-

(i) no person who has been convicted of an offence connected with any wealth-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under clause (i) or clause (ii) of sub-section (1) of section 18 shall be qualified to represent an assessee under sub-section (1) for such time as the ³[Chief Commissioner or Commissioner] may by order determine;

⁴ (ii) if any person who is not a legal practitioner or a chartered accountant, is found guilty of misconduct in connection with any wealth-tax proceeding by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1);

(iii) no person not qualified to represent an assessee under Income-tax Act, 1922, Estate Duty Act, 1953 , Expenditure-tax Act, 1957, or Gift-tax Act, 1958 (18 of 1958), shall be entitled to appear on behalf of any assessee under this Act: Provided that any order or direction under clause (i) or clause (ii) shall be subject to the following conditions, namely :-

(a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom any such order or direction is made may, within one month of the making of the 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 the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.]

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

See rule 11.

44A. Agreement for avoidance or relief of double taxation with respect to wealth- tax :-

²[The Central Government may enter into an agreement with the Government of any reciprocating country-

(a) for the avoidance or relief of double taxation with respect to wealth-tax payable under this Act and under the corresponding law in force in the reciprocating country, or

(b) for exchange of information for the prevention of evasion or avoidance of wealth-tax chargeable under this Act or under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or

(c) for recovery of tax under this Act and under the corresponding law in force in that country, and may, by notification ³ in the Official Gazette, make such provision as may be necessary for implementing the agreement.]

Explanation.-The expression "reciprocating country" for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.]

Substituted for the portion beginning with "The Central Government may" and ending with "for implementing the agreement" by the Finance Act, 1972, w.e.f 1-4-1972.

For notified countries, see Referencer.

44B. Countries with which no agreement exists :-

Where the net wealth of any assessee includes any foreign wealth and he proves that, in respect of such foreign wealth, he has paid in any country, with which there is no reciprocal arrangement under section 44A for the relief or avoidance of double taxation, a tax in respect of wealth, under the law in force in that country, he shall be entitled to the deduction from the Indian wealth-tax payable by him of a sum calculated on such doubly taxed foreign wealth at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

Explanation.-In this section- (1) the expression "Indian wealth-tax" means wealth-tax charged in accordance with the provisions of this Act; (2) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian wealth-tax after deduction of any relief due under the provisions of this Act but before the deduction of any relief due under this section by the net wealth; (3) the expression "rate of tax of the said country" means

any tax in respect of wealth, actually paid in the said country, in accordance with 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 wealth assessed in the said country ; (4) the expression "foreign wealth", in relation to any assessee, means the value of all his assets located in any country outside India as reduced by the value of his debts in that country.]

44C. Rounding off of net wealth :-

The amount of net wealth computed in accordance with the foregoing provisions of this Act shall be rounded off to the nearest multiple of one hundred rupees and, for this purpose, any part of a rupee consisting of paise shall be ignored and thereafter, if such amount contains a part of one hundred rupees, then, if such part is fifty rupees or more, the amount shall be increased to the next higher amount which is a multiple of one hundred and, if such part is less than fifty rupees, the amount shall be reduced to the next lower amount which is a multiple of one hundred; and the amount so rounded off shall be deemed to be the net wealth of the assessee for the purposes of this Act.]

44D. Rounding off of tax, etc :-

The amount of wealth-tax, interest, penalty. Fine or any other sum payable, and the amount of refund due, under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored.]

45. Act not to apply in certain cases :-

²[No tax shall be levied under this Act in respect of the net wealth of-]

(a) to (e) ³[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(f) any company registered under ⁴ Section 25 of the Companies Act, 1956 ;

⁵[(g) any co-operative society;]

⁶[(h) any social club;]

⁷[(i) any political party.

Explanation.-For the purposes of clause (i), "political party" shall have the meaning assigned to it in the Explanation to section 13A of the Income-tax Act;]

8 [(j) a Mutual Fund specified under clause (23D) of Section 10 of the Income tax Act, 1961 .]

Substituted for "The provisions of this Act shall not apply to-" by the Finance Act, 1972, w.e.f. 1-4-1972.

Prior to omission, clauses (a) to (e), read as under: "(a) a banking company as defined in section 5 of the Banking Companies Act, 1949 (10 of 1949); (b) an insurer within the meaning of the Insurance Act, 1938 (4 of 1938); (c) any company established with the object of financing, whether by way of making loans or advances to, or subscribing to the capital of, private industrial enterprises in India, in any case where the Central Government has made or agreed to make to the company a special advance for the purpose or has guaranteed or agreed to guarantee the payment of moneys borrowed by the company from any institution outside India; (d) any company established with the object of carrying on an industrial undertaking in India in any case where the company is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of any building, machinery or plant used in a business which was being previously carried on: Provided that the exemption granted by clause (d) shall apply to any such company as is referred to therein only for a period of five successive assessment years commencing with the assessment year next following the date on which the company is established, which period shall, in the case of a company established before the commencement of this Act, be computed in accordance with this Act from the date of its establishment as if this Act had been in force on and from the date of its establishment. Explanation.-For the purposes of clause (d), "industrial undertaking" means an undertaking engaged in the manufacture, production or processing of goods or articles or in mining or in the generation or distribution of electricity or any other form of power; (e) any company solely engaged in the business of transporting goods or passengers by ships;"

For text of section 25 of the Companies Act, 1956, see Appendix.

Inserted by the Finance Act, 1972, with retrospective effect from 1-4-1957.

Substituted by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, clause (h), as inserted by the Finance Act, 1975, WJ.e.f. 1-4-1957, read as under: "(h) any company incorporated outside India which has no place of business in India;"

Inserted by the Taxation Laws (Amendment) Act, 1978, w.e.f. 1-4-1979,

Inserted by the Direct Tax Laws (Amendment) Act, 1987 (as amended by the Finance Act, 1988), w.e.f. 1-4-1988.

46. Power to make rules :-

(1) The Board may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for-

(a) the manner in which the market value of any asset may be determined;

(b) ¹the form in which returns under this Act shall be made and the manner in which they shall be verified;

(c) ²the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified; ³[(cc) ⁴the circumstances in which, the conditions subject to which, and the manner in which, the ⁵[Deputy Commissioner (Appeals)] ⁶[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 ⁷[Assessing Officer];]

(d) ⁸the form of any notice of demand under this Act; ⁹[(dd) ¹⁰the procedure to be followed in calculating interest payable by assesseees or interest payable by the Government to assesseees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assesseees may be ignored;]

¹¹[(e) the areas ¹²within which Valuation Officers may exercise jurisdiction; ¹³the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their powers under sub-section (1) of section 38A ;]

(f) any other matter which has to be, or may be, prescribed for the purposes of this Act.

¹⁴[(3) 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.]

15[(4) The Central Government shall cause every rule made under this Act **16**[and the rules of procedure framed by the Settlement Commission under sub-section (7) of section 22F] to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two **17**[or more] successive sessions, and if before the expiry of the session **18** [immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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.]

See rule 3 and Form A and Form B.

See rules 5, 6 and 7 and Forms E to H

Inserted by the Finance Act, 1972, w.e.f. 1-4-1972.

See rule 5A.

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

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

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

See rule 4 and Form C.

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

See rule 12.

Substituted for clause (e) by the Taxation Laws (Amendment) Act, 1972, w.e.f. 15-11-1972.

See rules 3A and 3B.

See rule 3c.

Substituted by the Direct Taxes (Amendment) Act, 1974, w.e.f. 18-8-1974.

Substituted by the Wealth-tax (Amendment) Act, 1964, w.e.f. 1-4-1965.

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

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

Substituted for "in which it is so laid or the session immediately following" by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

46A. Power to make exemption, etc., in relation to certain Union territories :-

If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of wealth-tax in favour of any class of assets or in regard to the whole or any part of the net wealth of any assessee or class of assessee: Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for (he purposes of rescinding an exemption, reduction or modification already made.)]

47. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty: Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.]

SCHEDULE 1

FORM OF RECEIPT

PART

RATES OF WEALTH-TAX

PART

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SCHEDULE 2

SCHEDULE

SCHEDULE 3

RULES FOR DETERMINING THE VALUE OF ASSETS

1. Value of assets how to be determined :-

The value of any asset, other than cash, for the purposes of this Act, shall be determined in the manner laid down in these rules.

2. Definitions :-

In this Schedule, unless the context otherwise requires,-

- (1) "accounting year" in relation to a company means a period in respect of which any profit and loss account of the company laid before it in the annual general meeting is made up;
- (2) "debenture" includes debenture stock, bonds and any other securities of a company, whether constituting a charge on the assets of the company or not;
- (3) "equity share" means any share in the share capital of a company other than a preference share;
- (4) "gold" means gold, including its alloy, whether virgin, melted, remelt- ed, wrought or unwrought, in any shape or form of a purity of not less than nine carats and includes any gold coin (whether legal tender or not), any gold ornament and other article of gold;
- (5) "gold ornament" means any article in a finished form, meant for personal adornment or for the adornment of any idol, deity or any other object of religious worship made of, or manufactured from, gold, whether or not set with stones or gems, real or artificial, or with pearls, real, cultured or imitation, or with all or any of them and includes parts, pendants or broken pieces of gold ornaments ;
- (6) "investment company" means a company whose gross total income consists mainly of income which is chargeable to income-tax under the heads "Income from house property", "Capital gains" and "Income from other sources".

Explanation.-In this clause, the expression "gross total income" shall have the meaning assigned to it in section 80B of the Income-tax Act;

(7) "jewellery" includes-

- (a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel;
- (b) precious or semi-precious stones, whether or not set in any furniture, utensils or other article or worked or sewn into any apparel;

(8) "preference share" has the meaning assigned to it in ¹ Section 85 of the Companies Act, 1956 ;

(9) "quoted share" or "quoted debenture", in relation to an equity

share or a preference share or, as the case may be, a debenture, means a share or debenture quoted on any recognised stock exchange with regularity from time to time, where the quotations of such shares or debentures are based on current transactions made in the ordinary course of business. Explanation.-Where any question arises whether a share or debenture is a "quoted share" or a "quoted debenture" within the meaning of this clause, a certificate to that effect furnished by the concerned stock exchange in the prescribed form² shall be accepted as conclusive ;

(10) "recognised stock exchange" has the meaning assigned to it in clause (f) of³ S.2 of the Securities Contracts (Regulation) Act, 1956 ;

(11) "unquoted share" or "unquoted debenture", in relation to an equity share or a preference share or, as the case may be, a debenture, means a share or debenture which is not a quoted share or a quoted debenture.

For text of section 85 of the Companies Act, 1956, see Appendix. See rule 13(a) and Form O-11.

Part C of Schedule III dealing with shares/debentures omitted with effect from 1-4-1993.

3. Valuation of immovable property :-

Subject to the provisions of rule 4, rule 5, rule 6, rule 7 and rule 8, for the purposes of sub-section (1) of section 7, the value of any immovable property, being a building or land appurtenant thereto, or part thereof, shall be the amount arrived at by multiplying the net maintainable rent by the figure 12.5 : Provided that in relation to any such property which is constructed on leasehold land, this rule shall have effect as if for the figure 12.5,-

(a) where the unexpired period of the lease of such land is fifty years or more, the figure 10.0 had been substituted; and

(b) where the unexpired period of the lease of such land is less than fifty years, the figure 8.0 had been substituted :

4. Net maintainable rent how to be computed :-

For the purposes of rule 3, "net maintainable rent" in relation to an immovable property referred to in that rule, shall be the amount of gross maintainable rent as reduced by-

(i) the amount of taxes levied by any local authority in respect of the property; and

(ii) a sum equal to fifteen per cent of the gross maintainable rent.

5. Gross maintainable rent how to be computed :-

For the purposes of rule 4, "gross maintainable rent", in relation to any immovable property referred to in rule 3, means-

(i) where the property is let, the amount received or receivable by the owner as annual rent or the annual value assessed by the local authority in whose area the property is situated for the purposes of levy of property tax or any other tax on the basis of such assessment, whichever is higher;

(ii) where the property is not let, the amount of annual rent assessed by the local authority in whose area the property is situated for the purpose of levy of property tax or any other tax on the basis of such assessment, or, if there is no such assessment or the property is situated outside the area of any local authority the amount which the owner can reasonably be expected to receive as annual rent had such property been let.

Explanation.-In this rule,- (1) "annual rent" means,- (a) where the property is let throughout the year ending on the valuation date (hereinafter referred to as "previous year"), the actual rent received or receivable by the owner in respect of such year; (b) where the property is let for only a part of the previous year, the amount which bears the same proportion to the amount of actual rent received or receivable by the owner for the period for which the property is let as the period of twelve months bears to the number of months (including part of a month) during which the property is let during the previous year : Provided that in the following cases, such actual rent under sub- clauses (a) and (b) shall be increased in the manner specified below:- (i) where the property is in the occupation of a tenant and taxes levied by any local authority in respect of the property are borne wholly or partly by the tenant, by the amount of the taxes so borne by the tenant; (ii) where the property is in the occupation of a tenant and expenditure on repairs in respect of the property is borne by the tenant, by one-ninth of the actual rent ; (iii) where the owner has accepted any amount as deposit (not being advance payment towards rent for a period of three months or less), by the amount calculated at the rate of 15 per cent per annum on the amount of deposit outstanding from month to month, for the number of months (excluding part of a month) during which such deposit was held by the owner in the previous year, and if the owner is liable to pay interest on such

deposit, the increase to be made under this clause shall be limited to the sum by which the amount calculated as aforesaid exceeds the interest actually paid ; (iv) where the owner has received any amount by way of premium or otherwise as consideration for leasing of the property or any modification of the terms of the lease, by the amount obtained by dividing the premium or other amount by the number of years of the period of the lease ; (v) where the owner derives any benefit or perquisite, whether convertible into money or not, as consideration for leasing of the property or any modification of the terms of the lease by the value of such benefit or perquisite. (2) "rent received or receivable" shall include all payments for the use of the property, by whatever name called, the value of all benefits or perquisites whether convertible into money or not, obtained from a tenant or occupier of the property and any sum paid by a tenant or occupier of the property in respect of any obligation which, but for such payment, would have been payable by the owner.

6. Adjustments to value arrived at under rule 3, for unbuilt area of plot of land :-

Where the unbuilt area of the plot of land on which the property referred to in rule 3 is constructed exceeds the specified area, the value arrived at in accordance with the provisions of rule 3 shall be increased by an amount calculated in the following manner, namely :-

(a) where the difference between the unbuilt area and the specified area exceeds five per cent but does not exceed ten per cent of the aggregate area, by an amount equal to twenty per cent of such value ;

(b) where the difference between the unbuilt area and the specified area exceeds ten per cent but does not exceed fifteen per cent of the aggregate area, by an amount equal to thirty per cent of such value ;

(c) where the difference between the unbuilt area and the specified area exceeds fifteen per cent but does not exceed twenty per cent of the aggregate area, by an amount equal to forty per cent of such value.

Explanation.-For the purposes of this rule and rule 6,- (a) "aggregate area", in relation to the plot of land on which the property is constructed, means the aggregate of the area on which

the property is constructed and the unbuilt area; (b) "specified area", in relation to the plot of land on which the property is constructed, means- (i) where the property is situate at Bombay, Calcutta, Delhi or Madras, sixty per cent of the aggregate area; (ii) where the property is situate at Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Cochin, Hyderabad, Indore, Jabalpur, Jamshedpur, Kanpur, Lucknow, Ludhiana, Madurai, Nagpur, Patna, Pune, Salem, Sholapur, Srinagar, Surat, Tiruchirappalli, Trivandrum, Vadodara (Baroda) or Varanasi (Benaras), sixty-five per cent of the aggregate area; and (iii) where the property is situate at any other place, seventy per cent of the aggregate area : Provided that where, under any law for the time being in force, the minimum area of the plot of land required to be kept as open space for the enjoyment of the property exceeds the specified area, such minimum area shall be deemed to be the specified area; (c) "unbuilt area", in relation to the aggregate area of the plot of land on which the property is constructed, means that part of such aggregate area on which no building has been erected.

7. Adjustment for unearned increase in the value of the land :-

Where the property is constructed on land obtained on lease from the Government, a local authority or any authority referred to in clause (20A) of Section 10 of the Income tax Act, 1961 , and the Government or any such authority is, under the terms of the lease, entitled to claim and recover a specified part of the unearned increase in the value of the land at the time of the transfer of the property, the value of such property as determined under rule 3 shall be reduced by the amount so liable to be claimed and recovered or by an amount equal to fifty per cent of the value of the property as so determined, whichever is less, as if the property had been transferred on the valuation date. Explanation.-For the purpose of this rule, "unearned increase" means the difference between the value of such land on the valuation date as determined by the Government or such authority for the purpose of calculating such increase and the amount of the premium paid or payable to the Government or such authority for the lease of the land.

8. Rule 3 not to apply in certain cases :-

Nothing contained in rule 3 shall apply,-

(a) where, having regard to the facts and circumstances of the

case, the Assessing Officer, with the previous approval of the Deputy Commissioner, is of opinion that it is not practicable to apply the provisions of the said rule to such a case; or

(b) where the difference between the unbuilt area and the specified area exceeds twenty per cent of the aggregate area; or

(c) where the property is constructed on leasehold land and the lease expires within a period not exceeding fifteen years from the relevant valuation date and the deed of lease does not give an option to the lessee for the renewal of the lease, and in any case referred to in clause (a) or clause (b) or clause (c), the value of the property shall be determined in the manner laid down in rule 20.

14. Global valuation of assets of business :-

(1) Where the assessee is carrying on a business for which accounts are maintained by him regularly, the net value of the assets of the business as a whole, having regard to the balance-sheet of such business on the valuation date after adjustments specified in sub-rule (2) shall be taken as the value of such assets for the purposes of this Act.

(2) For the purposes of sub-rule (1)-

(a) the value of any asset as disclosed in the balance-sheet shall be taken to be,-

(i) in the case of an asset on which depreciation is admissible, its written-down value;

(ii) in the case of an asset on which no depreciation is admissible, its book value;

(iii) in the case of closing stock its value adopted for the purposes of assessment under the Income-tax Act for the previous year relevant to the corresponding assessment year;

(b) where the value of any of the assets referred to in clause (a), determined in accordance with the provisions of this Schedule as applicable to that particular asset or if there are no such provisions, determined in accordance with rule 20, exceeds the value arrived at in accordance with clause (a) by more than 20 per cent, then the higher value shall be taken to be the value of that asset ;

(c) the value of an asset not disclosed in the balance-sheet, shall be taken to be the value determined in accordance with the

provisions of this Schedule as applicable to that asset;

(d) the value of the following assets which are disclosed in the balance sheet shall not be taken into account, namely :-

(i) any amount paid as advance tax under the Income-tax Act ;

(ii) the debt due to the assessee according to the balance-sheet or part thereof which has been allowed as a deduction under clause (vii) of sub-section (1) of Section 36 of the Income tax Act, 1961 , for the purposes of assessment for the previous year relevant to the corresponding assessment year under that Act ;

(iii) the value of any asset in respect of which wealth-tax is not payable under this Act;

(iv) any amount shown in the balance-sheet including the debit balance in the profit and loss account or profit and loss appropriation account which does not represent the value of any asset;

(v) any asset shown in the balance-sheet not really pertaining to the business;

(e) the following amounts shown as liabilities in the balance-sheet shall not be taken into account, namely:-

(i) capital employed in the business other than that attributable to borrowed money;

(ii) reserves by whatever name called ;

(iii) any provision made for meeting any future or contingent liability;

(iv) any liability shown in the balance-sheet not really pertaining to the business;

(v) any debt owed by the assessee to the extent to which it has been specifically utilised for acquiring an asset in respect of which wealth-tax is not payable under this Act: Provided that where it is not possible to calculate the amount of debt so utilised, it shall be taken as the amount which bears the same proportion to the total of the debts owed by the assessee as the value of that asset bears to the total value of the assets of the business.

Explanation.-Provision for any purpose other than taxation shall be treated as a reserve.

15. Valuation of interest in firm or association of persons :-

The value of the interest of a person in a firm of which he is a partner or in an association of persons of which he is a member shall be determined in the manner provided in rule 16.

16. Computation of net wealth of the firm or association and its allocation amongst the partners or members :-

The net wealth of the firm or association of persons on the valuation date shall first be determined as if it were the assessee and, thereafter,-

(i) that portion of the net wealth of the firm or association as is equal to the amount of its capital shall be allocated among the partners or members in the proportion in which capital has been contributed by them;

(ii) the residue of the net wealth of the firm or association shall be allocated amongst the partners or members in accordance with the agreement of partnership or association for the distribution of assets in the event of dissolution of the firm or association or, in the absence of such agreement, in the proportion in which the partners or members are entitled to share the profits, and the sum total of amounts so allocated to a partner or member under clause (i) and clause (ii) shall be treated as the value of the interest of that partner or member in the firm or association: Provided that in determining the net wealth of the firm or association for the purposes of this rule, no account shall be taken of the exemptions in sub-sections (1) and (1A) of section 5 .

Explanation.-For the purposes of this rule,- (a) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets located outside India, the value of the interest of any partner or member in the assets located in India shall be determined having regard to the proportion which the value of assets located in India diminished by the debts relating to those assets bears to the net wealth of the firm or association; (b) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets which are exempt from inclusion in the net wealth under sub-sections (1) and (1A) of section 5, the value of the interest of a partner or member shall be shall apply to him accordingly ; (c) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets referred to in sub-section (2) of section 5, the value of the interest of a partner or member shall

be deemed to include the value of his proportionate share in the said assets, and the provisions of sub-section (2) of section 5 shall apply to him accordingly.

17. Valuation of life interest :-

(1) For the purposes of sub-section (1) of section 7, the value of the life interest of an assessee shall be arrived at by multiplying the average annual income that accrued to the assessee from the life interest by the fraction $\frac{1 - \frac{p+d}{1+i}}$, where 'P' represents the annual premium for a whole life insurance without profits on the life of the life tenant for unit sum assured as specified in the Appendix to these rules, and 'd' is equal to 'i' being the rate of interest

Explanation.-In this rule,- (a) "life tenant" means a person for the duration of whose life the life interest is to subsist; (b) "average annual income" means the average of the gross income derived by the assessee from the life interest during each year of the period ending on the valuation date, reduced by the average of the expenses incurred on the collection of such income in each of those years: Provided that the amount of the reduction for such expenses shall, in no case, exceed five per cent of the average of the annual gross income: Provided further that in case the income so derived is for a period exceeding three years, only that income derived during the three years ending on the valuation date shall be taken into account ; (c) the rate of interest shall be 6% per cent per annum.

(2) Notwithstanding anything contained in sub-rule (1),-

(a) the Assessing Officer may, if he is of the opinion that in the case of the life tenant, a life insurance company would not take the risk of insuring his life at the normal premium rates in force but would demand a higher premium, vary the valuation suitably;

(b) the value of the life interest so determined shall, in no case, exceed the value as on the valuation date as determined under this Schedule, of the corpus of the trust from which the life interest is derived.

18. Valuation of jewellery :-

2

(1) The value of the jewellery shall be estimated to be the price which it would fetch if sold in the open market on the valuation date (hereafter in this rule referred to as fair market value).

(2) The return of net wealth furnished by the assessee shall be supported by,-

(i) a statement in the prescribed form, where the value of the jewellery on the valuation date does not exceed rupees five lakhs ;

(ii) a report of a registered valuer in the prescribed form, where the value of the jewellery on the valuation date exceeds rupees five lakhs.

(3) Notwithstanding anything mentioned in sub-rule (2), the Assessing Officer may, if he is of opinion, that the value of the jewellery declared in the return,-

(a) is less than its fair market value by such percentage or such amount as is prescribed under sub-clause (i) of clause (b) of sub-section (1) of section 16A ;

(b) is less than its fair market value as referred to in clause (a) of sub-section (1) of section 16A , he may refer the ,valuation of such jewellery to a Valuation Officer under sub-section (1) of the said section and the value of such jewellery shall be the fair market value as estimated by the Valuation Officer.]

See rule 13(c) and Form No. O-8A. See also Circular No. 646, dated 15-3-1993. For details, see Referencer.

19. Adjustment in value of jewellery for subsequent assessment years :-

The value of any jewellery determined in accordance with ¹ [sub-rule (3)] of rule 18 for any assessment year (hereinafter referred to as the first assessment year), shall be taken to be the value of such jewellery for the subsequent four assessment years, subject to the following adjustments, namely:-

(a) where the jewellery includes gold or silver or any alloy containing gold or silver, the value of such gold or silver or such alloy as on the valuation date relevant to the concerned subsequent assessment year shall be substituted for the value of such gold or silver or alloy on the valuation date relevant to the first assessment year ;

(b) where any jewellery or part of jewellery is sold or otherwise disposed of by the assessee, or any jewellery or part of jewellery is acquired by him, on or before the valuation date relevant to the

concerned subsequent year, the value of the jewellery determined for the first assessment year shall be reduced or increased, as the case may be, and the value as so reduced or increased shall be the value of the jewellery for such subsequent assessment year.

Substituted for "clause (b)" by the Finance Act, 1990, w.e.f. 1-4-1990.

20. Valuation of assets in other cases :-

(1) The value of any asset, other than cash, being an asset which is not covered by rule 3 to rule 19, for the purposes of this Act, shall be estimated to be the price which, in the opinion of the Assessing Officer, it would fetch if sold in the open market on the valuation date.

(2) Notwithstanding anything contained in sub-rule (1), where the valuation of any asset referred to in that sub-rule is referred by the Assessing Officer to the Valuation Officer under section 16A , the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.

(3) Where the value of any asset cannot be estimated under this rule because it is not saleable in the open market, the value shall be determined in accordance with such guidelines or principles as may be specified by the Board from time to time by general or special order.

21. Restrictive covenants to be ignored in determining market value :-

For the removal of doubts, it is hereby declared that the price or other consideration for which any property may be acquired by or transferred to any person under the terms of a deed of trust or through or under any restrictive covenant in any instrument of transfer shall be ignored for the purposes of determining under any provision of this Schedule, the price such property would fetch if sold in the open market on the valuation date.