

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

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

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

CHAPTER XIV

PROCEDURE FOR ASSESSMENT

Return of income.

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

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

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

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

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

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

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

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

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

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

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

previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year in the prescribed form⁹⁵ and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

⁹⁶[**Provided** that a person, not furnishing return under this sub-section and residing in such area as may be specified by the Board in this behalf by a notification⁹⁷ in the Official Gazette, and who at any time during the previous year fulfils any ⁹⁸[one] of the following conditions, namely :—

- (i) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified⁹⁹ by the Board in this behalf; or
- (ii) is the owner or the lessee of a motor vehicle ^{99a}[*other than a two-wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not*]; or
- (iii) is a subscriber to a telephone; or
- (iv) has incurred expenditure for himself or any other person on travel to any foreign country;

(Contd. from p. 1.528)

“(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed—

- (a) in the case of every person whose total income, or the total income of any other person in respect of which he is assessable under this Act, includes any income from business or profession, before the expiry of four months from the end of the previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year, or before the 30th day of June of the assessment year, whichever is later;
- (b) in the case of every other person, before the 30th day of June of the assessment year:

Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date is so extended, interest shall be chargeable in accordance with the provisions of sub-section (8).”

95. See rule 12. Returns prescribed are as follows :

- In case of companies (except section 25 companies) Form No. 1
- In case of an assessee (other than company) having business income Form No. 2 or 2D
- In case of resident individual having no business income and whose total income does not exceed Rs. 2,00,000 Form No. 2A or 2D or 3
- In case of an assessee having no business income Form No. 3 or 2D
- In case of trust/section 25 companies claiming exemption under section 11 Form No. 3A

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

97. For notified areas, see Taxmann’s Master Guide to Income-tax Act.

98. Substituted for “two” by the Finance (No. 2) Act, 1998, w.e.f. 1-8-1998.

99. For specified floor areas, see Taxmann’s Master Guide to Income-tax Act.

99a. Inserted by the Finance Act, 1999, w.e.f. 1-6-1999.

¹[(v) is the holder of the credit card, not being an “add-on” card, issued by any bank or institution; or

(vi) is a member of a club where entrance fee charged is twenty-five thousand rupees or more,]

shall furnish a return, of his income during the previous year, on or before the due date in the prescribed form² and verified in the prescribed manner and setting forth such other particulars as may be prescribed:]

¹[**Provided further** that the Central Government may, by notification³ in the Official Gazette, specify the class or classes of persons to whom the provisions of the first proviso shall not apply.]

⁴[*Explanation 1*].—In this sub-section, “due date” means—

(a) where the assessee is a company, the ⁵[30th day of November] of the assessment year;

(b) where the assessee is a person, other than a company,—

⁶[(i) in a case where the accounts of the assessee are required under this Act or any other law to be audited or where the report of an accountant is required to be furnished under section 80HHC or section 80HHD or where the prescribed certificate is required to be furnished under section 80R or section 80RR or sub-section (1) of section 80RRA, or in the case of a co-operative society or in the case of a working partner of a firm whose accounts are required under this Act or any other law to be audited, the 31st day of October of the assessment year ;]

(ii) in a case where the total income referred to in this sub-section includes any income from business or profession, not being a case falling under sub-clause (i), the 31st day of August of the assessment year;

(iii) in any other case, the 30th day of June of the assessment year.]

⁷[*Explanation 2*.—For the purposes of sub-clause (i) of clause (b) of *Explanation 1*, the expression “working partner” shall have the meaning assigned to it in *Explanation 4* of clause (b) of section 40.]

⁸[*Explanation 3*.—For the purposes of this sub-section, the expression “motor vehicle” shall have the meaning assigned to it in clause (28) of section 2⁹ of the Motor Vehicles Act, 1988 (59 of 1988).]

1. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-8-1998.

2. See rule 12 and Form No. 2C.

3. For notified persons, see Taxmann’s Master Guide to Income-tax Act.

4. Existing *Explanation* renumbered as *Explanation 1* by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

5. Substituted for “31st day of December” by the Finance Act, 1994, w.e.f. 1-4-1994.

6. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to its substitution, sub-clause (i), as amended by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989, the Finance Act, 1990, w.e.f. 1-4-1991 and the Finance Act, 1992, w.e.f. 1-4-1993.

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

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

9. For definition of “motor vehicle”, see footnote 96 on p. 1.493 *ante*.

¹⁰[*Explanation 4.*—For the purposes of this sub-section, the expression “travel to any foreign country” does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification¹¹ in the Official Gazette.]

(1A) ¹²[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

¹³[***]

¹⁴[***]

10. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-8-1998.

11. For notified places of pilgrimage and neighbouring countries, *see* Taxmann’s Master Guide to Income-tax Act.

12. Prior to omission, sub-section (1A), as amended by the Finance Act, 1963, w.r.e.f. 1-4-1962, the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, the Finance Act, 1974, w.e.f. 1-4-1975, the Finance Act, 1982, w.e.f. 1-4-1983, the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985 and the Finance Act, 1985, w.e.f. 1-4-1986, read as under:

‘(1A) Notwithstanding anything contained in sub-section (1), no person need furnish under that sub-section a return of his income or the income of any other person in respect of whose total income he is assessable under this Act, if his income or, as the case may be, the income of such other person during the previous year consisted only of income chargeable under the head “Salaries” or of income chargeable under that head and also income of the nature referred to in any one or more of clauses (i) to (ix) of sub-section (1) of section 80L and the following conditions are fulfilled, namely :—

- (a) where he or such other person was employed during the previous year by a company, he or such other person was at no time during the previous year a director of the company or a beneficial owner of shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power;
- (b) his income or the income of such other person under the head “Salaries”, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed twenty-four thousand rupees;
- (c) the amount of income of the nature referred to in clauses (i) to (ix) of sub-section (1) of section 80L, if any, does not, in the aggregate, exceed the maximum amount allowable as deduction in his case under that section; and
- (d) the tax deductible at source under section 192 from the income chargeable under the head “Salaries” has been deducted from that income.’

13. *Explanation* omitted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985. Omitted *Explanation* read as under :

‘*Explanation.*— For the purposes of this sub-section, “salary” shall have the meaning assigned to it in clause (1) of section 17.’

14. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its omission, sub-section (2), as amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, Finance Act, 1972, w.e.f. 1-4-1972 and Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under :

“(2) In the case of any person who, in the Assessing Officer’s opinion, is assessable under this Act, whether on his own total income or on the total income of any other person during the previous year, the Assessing Officer may, before the end of the relevant assessment year, issue a notice to him and serve the same upon him requiring him to furnish, within thirty days from the date of service of the notice, a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

Provided that, on an application made in the prescribed manner, the Assessing Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date is so extended, interest shall be chargeable in accordance with the provisions of sub-section (8).”

(3) If any person who ¹⁵[***] has sustained a loss in any previous year under the head “Profits and gains of business or profession” or under the head “Capital gains” and claims that the loss or any part thereof should be carried forward under sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (1) ¹⁶[or sub-section (3)] of section 74, ¹⁷[or sub-section (3) of section 74A], he may furnish, within the time allowed under sub-section (1) ¹⁸[***], a return of loss in the prescribed form¹⁹ and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub-section (1).

²⁰[(4) Any person who has not furnished a return within the time allowed to him under sub-section (1), or within the time allowed under a notice issued under sub-section (1) of section 142, may furnish the return for any previous year 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 where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.]

15. “has not been served with a notice under sub-section (2),” omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

16. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

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

18. “or by the thirty-first day of July of the assessment year relevant to the previous year during which the loss was sustained” omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its omission, the said expression was substituted for “within such further time which, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion allow” by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987. Original expression was inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

19. See rules 12 and 12A.

20. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, sub-section (4), as substituted by the Finance Act, 1968, w.e.f. 1-4-1968 and amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, stood as under : “(4)(a) Any person who has not furnished a return within the time allowed to him under sub-section (1) or sub-section (2) may, before the assessment is made, furnish the return for any previous year at any time before the end of the period specified in clause (b), and the provisions of sub-section (8) shall apply in every such case.

(b) The period referred to in clause (a) shall be—

- (i) where the return relates to a previous year relevant to any assessment year commencing on or before the 1st day of April, 1967, four years from the end of such assessment year;
- (ii) where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1968, three years from the end of the assessment year;
- (iii) where the return relates to a previous year relevant to any other assessment year, two years from the end of such assessment year.”

²¹[²²[(4A) ²³Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).]]

²⁴[(4B) ²⁵The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of every political party shall, if the total income in respect of which the political party is assessable (the total income for this purpose being computed under this Act without giving effect to the provisions of section 13A) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act, shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).]

²⁶[(5) If any person, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (1) of section 142, discovers any omission or any wrong statement therein, he may furnish a revised return 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 where the return relates to the previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.]

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

22. Substituted by the Finance Act, 1972, w.e.f. 1-4-1973. Original sub-section was inserted by the Finance Act, 1970, w.e.f. 1-4-1971.

23. See rules 12 and 12A.

24. Inserted by the Taxation Laws (Amendment) Act, 1978, w.e.f. 1-4-1979.

25. See rules 12 and 12A.

26. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, sub-section (5) stood as under :

“(5) If any person having furnished a return under sub-section (1) or sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the assessment is made.”

²⁷[(6) The prescribed form of the returns referred to ²⁸[in sub-sections (1) and (3) of this section, and in clause (i) of sub-section (1) of section 142] shall, in such cases as may be prescribed, require the assessee to furnish the particulars of income exempt from tax, assets of the prescribed nature ^{28a}[*value and belonging to him, his bank account and credit card held by him*], expenditure exceeding the prescribed limits incurred by him under prescribed heads and such other outgoings as may be prescribed.

(6A) Without prejudice to the provisions of sub-section (6), the prescribed form of the returns referred to ²⁹[in ³⁰[***] this section, and in clause (i) of sub-section (1) of section 142] shall, in the case of an assessee engaged in any business or profession, also require him to furnish ³¹[the report of any audit ³²[referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, a copy of such report together with proof of furnishing the report], the] particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and, if he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.]

(7) ³³[***]

³⁴[³⁵(8)(a) ³⁶[Where the return under sub-section (1) ³⁶[or sub-section (2) or sub-section (4) for an assessment year is furnished after the specified date, or is not furnished, then [whether or not the ³⁷[Assessing] Officer has extended the date for furnishing the return under sub-section (1) or sub-section (2)], the assessee

27. Substituted for sub-section (6) by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

28. Substituted for "in sub-sections (1), (2) and (3)" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

28a. Substituted for "and value and belonging to him" by the Finance Act, 1999, w.e.f. **1-6-1999**.

29. Substituted for "in sub-sections (1), (2) and (3)" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

30. Words "sub-sections (1) and (3) of" omitted by the Finance Act, 1995, w.e.f. 1-7-1995.

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

32. Substituted for "obtained under section 44AB" by the Finance Act, 1995, w.e.f. 1-7-1995.

33. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its omission, sub-section (7) stood as under :

"(7) No return under sub-section (1) need be furnished by any person for any previous year if he has already furnished a return of income for such year in accordance with the provisions of sub-section (2)."

34. Substituted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971. Original sub-section was inserted by the Finance Act, 1963, w.e.f. 28-4-1963.

35. See rule 119A.

36. Substituted for portion beginning with "Where the return" and ending with "under this sub-section" by the Finance Act, 1972, w.e.f. 1-4-1972.

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

shall be liable to pay simple interest at ³⁸[fifteen] per cent per annum, reckoned from the day immediately following the specified date to the date of the furnishing of the return or, where no return has been furnished, the date of completion of the assessment under section 144, on the amount of the tax payable on the total income as determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source :

Provided that the ³⁹[Assessing] Officer may, in such cases and under such circumstances as may be prescribed⁴⁰, reduce or waive the interest payable by any assessee under this sub-section.

Explanation 1.—For the purposes of this sub-section, “specified date”, in relation to a return for an assessment year, means,—

- (a) in the case of every assessee whose total income, or the total income of any person in respect of which he is assessable under this Act, includes any income from business or profession, the date of the expiry of four months from the end of the previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year or the 30th day of June of the assessment year, whichever is later;
- (b) in the case of every other assessee, the 30th day of June of the assessment year.]

⁴¹[*Explanation 2.*—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this sub-section.]

⁴²[(b) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 ⁴³[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount of tax on which interest was payable under this sub-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 ⁴⁴[Assessing] Officer shall

38. Substituted for “twelve” by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984. Section 84 of the Amendment Act has clarified that the increase in the rate of interest will apply in respect of any period falling after 30-9-1984, also in those cases where the interest became chargeable or payable from an earlier date.

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

40. See rule 117A.

41. Substituted for the following *Explanation*, which was numbered as *Explanation 2* by the Finance Act, 1972, w.e.f. 1-4-1972, by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985:

“*Explanation 2.*—For the purposes of this sub-section, where the assessee is a registered firm or an unregistered firm which has been assessed under clause (b) of section 138, the tax payable on the total income shall be the amount of tax which would have been payable if the firm had been assessed as an unregistered firm.”

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

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

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

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 156 and the provisions of this Act shall apply accordingly;

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

⁴⁵[(c) The provisions of this sub-section shall apply in respect of the assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references therein to the other provisions of this Act shall be construed as references to the said provisions as they were applicable to the relevant assessment year.]

⁴⁶[(9) Where the ⁴⁷[Assessing] Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the ⁴⁷[Assessing] Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return:

Provided that where the assessee rectifies the defect after the expiry of the said period of fifteen days or the further period allowed, but before the assessment is made, the ⁴⁷[Assessing] Officer may condone the delay and treat the return as a valid return.

Explanation.—For the purposes of this sub-section, a return of income shall be regarded as defective unless all the following conditions are fulfilled, namely:—

- (a) the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in;
- (b) the return is accompanied by a statement showing the computation of the tax payable on the basis of the return;

⁴⁸[(bb) the return is accompanied by the report of the audit referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, by a copy of such report together with proof of furnishing the report;]

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

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

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

48. Substituted by the Finance Act, 1995, w.e.f. 1-7-1995. Prior to its substitution, clause (bb), as inserted by the Finance Act, 1988, w.e.f. 1-4-1989, read as under :

“(bb) the return is accompanied by the report of the audit obtained under section 44AB;”

- (c) the return is accompanied by proof of—
 - (i) the tax, if any, claimed to have been deducted at source and the advance tax and tax on self-assessment, if any, claimed to have been paid;
 - (ii) the amount of compulsory deposit, if any, claimed to have been made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 (38 of 1974);
- (d) where regular books of account are maintained by the assessee, the return is accompanied by copies of—
 - (i) manufacturing account, trading account, profit and loss account or, as the case may be, income and expenditure account or any other similar account and balance sheet;
 - (ii) in the case of a proprietary business or profession, the personal account of the proprietor; in the case of a firm, association of persons or body of individuals, personal accounts of the partners or members; and in the case of a partner or member of a firm, association of persons or body of individuals, also his personal account in the firm, association of persons or body of individuals;
- (e) where the accounts of the assessee have been audited, the return is accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report ⁴⁹[and, where an audit of cost accounts of the assessee has been conducted, under section 233B⁵⁰ of the Companies Act, 1956 (1 of 1956), also the report under that section];
- (f) where regular books of account are not maintained by the assessee, the return is accompanied by a statement indicating the amounts of turnover or, as the case may be, gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed, and also disclosing the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.]

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

50. For text of section 233B of the Companies Act, 1956, see **Appendix One**.

(10) ⁵¹[*Omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.*]

⁵²[**Permanent account number**⁵³.

139A. (1) Every person,—

- (i) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year

51. Prior to omission sub-section (10), as amended by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1986, Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989 and Finance Act, 1990, w.e.f. 1-4-1990, read as under :

“(10) Notwithstanding anything contained in any other provision of this Act, a return of income which shows the total income below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished :

Provided that nothing hereinbefore contained shall apply to,—

- (a) a return furnished in response to a notice under sub-section (2) of section 148;
 (b) a return of a firm or a partner of a firm;
 (c) a return of loss which has been furnished in accordance with the provisions of sub-section (3);
 (d) a return of a person who has claimed exemption of income from property held for charitable or religious purposes;
 (e) a return furnished under sub-section (4B) in respect of a political party; and
 (f) a return furnished in support of a claim for refund under section 237.”

52. Substituted by the Finance Act, 1995, w.e.f. 1-7-1995. Prior to its substitution, section 139A, as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and later amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988/1-4-1989 and the Finance Act, 1990, w.e.f. 1-4-1990, read as under :

‘139A. *Permanent account numbers.*—(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income-tax and he has not been allotted any permanent account number, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a permanent account number.

(2) Notwithstanding anything contained in sub-section (1), every person not falling under that sub-section, but—

- (i) carrying on any business whose total sales, turnover or gross receipts are or is likely to exceed fifty thousand rupees in any previous year; or
 (ii) who is required to furnish a return of income under sub-section (4A) of section 139, and who has not been allotted any permanent account number, shall, within such time as may be prescribed apply to the Assessing Officer for the allotment of a permanent account number.

(3) The Assessing Officer may also allot to any other person by whom tax is payable, a permanent account number.

(4) All permanent account numbers allotted to assesseees before the commencement of the Taxation Laws (Amendment) Act, 1975 (41 of 1975), shall, with effect from such date as the Board may, by notification in the Official Gazette, specify, be deemed to have been allotted to them under the provisions of this section.

(Contd. on p. 1.539)

exceeded the maximum amount which is not chargeable to income-tax; or

- (ii) carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ⁵⁴[five lakh] rupees in any previous year; or
- (iii) who is required to furnish a return of income under sub-section (4A) of section 139,

and who has not been allotted a permanent account number shall, within such time, as may be prescribed, apply to the Assessing Officer for the allotment of a permanent account number.

(2) The Assessing Officer may also allot to any other person by whom tax is payable, a permanent account number.

(3) Any person, not falling under sub-section (1) or sub-section (2), may apply to the Assessing Officer for the allotment of a permanent account number and, thereupon, the Assessing Officer shall allot a permanent account number to such person forthwith.

(4) For the purpose of allotment of permanent account numbers under the new series, the Board may, by notification⁵⁵ in the Official Gazette, specify the date

(Contd. from p. 1.538)

(5) Where a permanent account number has been allotted or is deemed to have been allotted to any person under this section, he shall—

- (a) quote such number in all his returns to, or correspondence with, any income-tax authority;
- (b) quote such number in all challans for the payment of any sum due under this Act;
- (c) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him;
- (d) intimate the Assessing Officer any change in his address or in the name and nature of his business.

(6) The Board may make rules providing for—

- (a) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain ;
- (b) the categories of transactions in relation to which permanent account numbers shall be quoted by the persons to whom such numbers have been allotted, in the documents pertaining to such transactions ;
- (c) the categories of documents pertaining to business or profession of the persons to whom permanent account numbers have been allotted, in which such numbers shall be quoted by them.

Explanation.— In this section,—

- (a) ** ** *
- (b) “permanent account number” means a number which the Assessing Officer may allot to any person for the purpose of identification.’

53. See rule 114 and Form No. 49A for application for allotment of PAN.

54. Substituted for “fifty thousand” by the Finance (No. 2) Act, 1998, w.e.f. 1-8-1998.

55. For relevant notifications see Taxmann’s Master Guide to Income-tax Act.

from which the persons referred to in sub-sections (1) and (2) and other persons who have been allotted permanent account numbers and residing in a place to be specified in such notification, shall, within such time as may be specified, apply to the Assessing Officer for the allotment of a permanent account number under the new series and upon allotment of such permanent account number to a person, the permanent account number, if any, allotted to him earlier shall cease to have effect :

Provided that the persons to whom permanent account number under the new series has already been allotted shall not apply for such number again.

(5) Every person shall—

- (a) quote such number in all his returns to, or correspondence with, any income-tax authority;
- (b) quote such number in all challans for the payment of any sum due under this Act;
- (c) quote such number in all documents pertaining to such transactions as may be prescribed^{55a} by the Board in the interests of the revenue, and entered into by him :

Provided that the Board may prescribe different dates for different transactions or class of transactions or for different class of persons:

⁵⁶[**Provided further** that a person shall quote General Index Register Number till such time Permanent Account Number is allotted to such person;]

- (d) intimate the Assessing Officer any change in his address or in the name and nature of his business on the basis of which the permanent account number was allotted to him.

(6) Every person receiving any document relating to a transaction prescribed under clause (c) of sub-section (5) shall ensure that the Permanent Account Number ⁵⁶[or the General Index Register Number] has been duly quoted in the document.

(7) No person who has already been allotted a permanent account number under the new series shall apply, obtain or possess another permanent account number.

⁵⁷(8) The Board may make rules providing for—

- (a) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain;
- (b) the categories of transactions in relation to which Permanent Account Numbers ⁵⁶[or the General Index Register Number] shall be quoted by every person in the documents pertaining to such transactions;
- (c) the categories of documents pertaining to business or profession in which such numbers shall be quoted by every person;

^{55a}. See rules 114B to 114D and Form Nos. 60 & 61. See **Appendix Two** for detailed analysis of rules 114B to 114D.

⁵⁶. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-8-1998.

⁵⁷. See rules 114 & 114B to 114D and Form Nos. 49A, 60 & 61.

- ⁵⁸[(d) class or classes of persons to whom the provisions of this section shall not apply;
- (e) the form and the manner in which the person who has not been allotted a Permanent Account Number or who does not have General Index Register Number shall make his declaration;
- (f) the manner in which the Permanent Account Number or the General Index Register Number shall be quoted in respect of the categories of transactions referred to in clause (c);
- (g) the time and the manner in which the transactions referred to in clause (c) shall be intimated to the prescribed authority.]

Explanation.—For the purposes of this section,—

- (a) “Assessing Officer” includes an income-tax authority who is assigned the duty of allotting permanent account numbers;
- (b) “permanent account number” means a number which the Assessing Officer may allot to any person for the purpose of identification and includes a permanent account number allotted under the new series;
- (c) “permanent account number under the new series” means a permanent account number having ten alphanumeric characters and issued in the form of a laminated card;]
- ^{58a}[(d) “General Index Register Number” means a number given by an Assessing Officer to an assessee in the General Index Register maintained by him and containing the designation and particulars of the ward or circle or range of the Assessing Officer.]

Return by whom to be signed.

⁵⁹**140.** The return under section 139 shall be signed and verified—

- ⁶⁰[(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;]

58. Clauses (d) to (g) inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-8-1998.

58a. Inserted, *ibid.*

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

60. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, clause (a) stood as under :

“(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; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;”

(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;

⁶¹[(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 :

⁶²[**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 a 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;

(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;]

(cc) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign and verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor;

(d) in the case of a local authority, by the principal officer thereof;]

⁶³[(dd) in the case of a political party referred to in sub-section (4B) of section 139, by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);]

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

61. Substituted for clauses (c) and (d) by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

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

63. Inserted, *ibid*.

⁶⁴[Self-assessment.

⁶⁵**140A.** ⁶⁶[(1) Where any tax is payable on the basis of any return required to be furnished under ⁶⁷[section 139 or section 142 ^{67a}[*or section 148 or, as the case may be, section 158BC*]], after taking into account the amount of tax, if any, already paid under any provision of this Act, ⁶⁸[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 or any default or delay in payment of advance tax, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.]

⁶⁹[*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 a regular assessment under section 143 or section 144 ^{69a}[*or an assessment under section 158BC*] has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment ^{69a}[*or assessment, as the case may be*].

⁷⁰[(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.]

⁷¹[(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

64. Substituted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971. Original section was inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

65. See also Circular No. 20(LXXXVI)-D of 1964 (extracts), dated 7-7-1964. For details, see Taxmann's Master Guide to Income-tax Act.

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

67. Substituted for "section 139 or section 148" by the Finance (No. 2) Act, 1991, w.e.f. 27-9-1991.

67a. Substituted for "or, as the case may be, section 148" by the Finance Act, 1999, w.e.f. **1-6-1999**.

68. Substituted for "the assessee shall be liable to pay such tax before furnishing the return and the return shall be accompanied by proof of payment of such tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

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

69a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

70. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, sub-section (3), as substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under :

"(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), the Assessing Officer may direct that a sum equal to two per cent of such tax or part thereof, as the case may be, shall be recovered from him by way of penalty for every month during which the default continues :

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard."

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

those provisions as for the time being in force and applicable to the relevant assessment year.]

Provisional assessment.

141. [Omitted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.]

Provisional assessment for refund.

⁷²**141A.** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Section 141A was inserted by the Finance Act, 1968, w.e.f. 1-4-1968. Original section was inserted by the Finance Act, 1963, w.e.f. 1-4-1963 and omitted by the Finance Act, 1964, w.e.f. 1-4-1964.]

⁷² Prior to its omission, section 141A as amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, Finance Act, 1974, w.e.f. 1-4-1975, Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, Finance Act, 1976, w.e.f. 1-4-1976 and the Finance Act, 1988, w.e.f. 1-4-1988, stood as under :

“141A. *Provisional assessment for refund.*—(1) Where a return has been furnished under section 139 and the assessee claims that the tax paid or deemed to have been paid under the provisions of Chapter XVII-B, or Chapter XVII-C, exceeds the tax payable on the basis of the return and the accounts and documents accompanying it, the Assessing Officer, if he is of the opinion that the regular assessment of the assessee is not likely to be made within six months from the date of furnishing of the return, shall make in a summary manner within the said six months a provisional assessment of the sum refundable to the assessee, after making such adjustments to the income or loss declared in the return as are required to be made under sub-section (2) with reference to such return, accounts and documents, and for the purposes of the adjustments referred to in clause (iv) of sub-section (2), also with reference to the records of the assessments, if any, of past years. (2) In making any assessment under this section, the Assessing Officer shall make the following adjustments to the income or loss declared in the return, that is to say, he shall—

- (i) rectify any arithmetical errors in the return, accounts and documents referred to in sub-section (1) ;
- (ii) allow any deduction, allowance or relief which, on the basis of the information available in such return, accounts and documents, is, *prima facie*, admissible, but is not claimed in the return ;
- (iii) disallow any deduction, allowance or relief claimed in the return which, on the basis of the information available in such return, accounts and documents, is, *prima facie*, inadmissible ;
- (iv) give due effect to the allowance referred to in sub-section (2) of section 32, the deduction referred to in clause (ii) of sub-section (3) of section 32A or clause (ii) of sub-section (2) of section 33 or clause (ii) of sub-section (2) of section 33A or clause (i) of sub-section (2) of section 35 or sub-section (1) of section 35A or sub-section (1) of section 35D or sub-section (1) of section 35E or the first proviso to clause (ix) of sub-section (1) of section 36, any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) or sub-section (3) of section 74 or sub-section (3) of section 74A and the deficiency referred to in sub-section (3) of section 80J, as computed, in each case, in the regular assessment, if any, for the earlier assessment year or years.

(3) A firm may be assessed under sub-section (1) as an unregistered firm, except in the following cases, where it shall be assessed as a registered firm—

- (a) where the firm was assessed as a registered firm for the latest assessment year for which its assessment has been completed, and it has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration under sub-section (7) of section 184 for the assessment year for which the provisional assessment is to be made ;

(Contd. on p. 1.545)

Inquiry before assessment.

⁷³**142.** (1) For the purpose of making an assessment under this Act, the ⁷⁴[Assessing] Officer may serve on any person who has made a return under section 139 ⁷⁵[or in whose case the time allowed under sub-section (1) of that section for furnishing the return has expired] a notice requiring him, on a date to be therein specified,—

⁷⁶[(i) where such person has not made a return ⁷⁷[within the time allowed under sub-section (1) of section 139], to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in the prescribed form and verified in the prescribed manner⁷⁸ and setting forth such other particulars as may be prescribed, or]

⁷⁹[(ii) to produce, or cause to be produced, such accounts or documents as the ⁸⁰[Assessing] Officer may require, or

(Contd. from p. 1.544)

(b) where no regular assessment has been made on the firm for any assessment year preceding the assessment year for which the provisional assessment is to be made, and the firm has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration as aforesaid, for the assessment year for which the provisional assessment is to be made.

(4) After a regular assessment has been made, any amount refunded on provisional assessment made under sub-section (1) shall be dealt with in the manner specified hereunder, namely :—

(a) where the sum refundable on regular assessment is equal to or exceeds the amount refunded under sub-section (1), the amount so refunded shall be deemed to have been refunded towards the regular assessment ;

(b) where 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.

(5) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment.

(6) There shall be no right of appeal against a provisional assessment made under sub-section (1).”

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

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

75. Substituted for “*or to whom a notice has been issued* under sub-section (2) of section 139 (whether a return has been made or not)” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Earlier, the italicised words were substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

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

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

78. *See* rule 14 for form of verification which shall be in the following form : “I declare that to the best of my knowledge and belief, the information furnished in the statement/ statements is correct and complete and the other particulars shown therein are truly stated”.

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

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

⁸¹[(iii)] ⁸²to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the ⁸³[Assessing] Officer may require :

Provided that—

- (a) the previous approval of the ⁸⁴[Joint Commissioner] shall be obtained before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts ;
- (b) the ⁸³[Assessing] Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

(2) For the purpose of obtaining full information in respect of the income or loss of any person, the ⁸⁵[Assessing] Officer may make such inquiry as he considers necessary.

⁸⁶[(2A)] ⁸⁷If, at any stage of the proceedings before him, the ⁸⁸[Assessing] Officer, having regard to the nature and complexity of the accounts of the assessee and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the ⁸⁹[Chief Commissioner or Commissioner], direct the assessee to get the accounts audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, nominated by the ⁸⁹[Chief Commissioner or Commissioner] in this behalf and to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and such other particulars as the ⁹⁰[Assessing] Officer may require.

(2B) The provisions of sub-section (2A) shall have effect notwithstanding that the accounts of the assessee have been audited under any other law for the time being in force or otherwise.

(2C) Every report under sub-section (2A) shall be furnished by the assessee to the ⁹⁰[Assessing] Officer within such period as may be specified by the ⁹⁰[Assessing] Officer :

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

82. See rule 14.

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

84. 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.

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

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

87. See rule 14A and Form No. 6B for audit report under section 142(2A).

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

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

90. Substituted for "Income-tax", *ibid*.

Provided that the ⁹¹[Assessing] Officer may, on an application made in this behalf by the assessee and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit ; so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (2A) is received by the assessee.

(2D) The expenses of, and incidental to, any audit under sub-section (2A) (including the remuneration of the accountant) shall be determined by the ⁹²[Chief Commissioner or Commissioner] (which determination shall be final) and paid by the assessee and in default of such payment, shall be recoverable from the assessee in the manner provided in Chapter XVII-D for the recovery of arrears of tax.]

(3) The assessee shall, except where the assessment is made under section 144, be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry under sub-section (2) ⁹³[or any audit under sub-section (2A)] and proposed to be utilised for the purpose of the assessment.

⁹⁴[(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.]

⁹⁵[**Assessment** ⁹⁶⁻⁹⁸.

⁹⁹**143.** ¹⁻⁶[(1) *Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142,—*

- (i) *if any tax or interest is found due on the basis of such return, after adjustment of any tax deducted at source, any advance tax paid, any tax paid on self-assessment and any amount paid otherwise 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 156 and all the provisions of this Act shall apply accordingly; and*

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

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

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

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

95. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Section 143, as substituted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and later on amended by the Finance Act, 1974, w.e.f. 1-4-1975, Finance Act, 1976, w.e.f. 1-4-1976, Finance (No. 2) Act, 1980, w.e.f. 1-4-1980 and Finance Act, 1987, w.e.f. 1-4-1988, stood as under :

(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 acknowledgement of the return shall be deemed to be 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 income was first assessable.]*

(Contd. from p. 1.547)

'143. *Assessment.*— (1) (a) Where a return has been made under section 139, the Assessing Officer may, without requiring the presence of the assessee or the production by him of any evidence in support of the return, make an assessment of the total income or loss of the assessee after making such adjustments to the income or loss declared in the return as are required to be made under clause (b), with reference to the return and the accounts and documents, if any, accompanying it, and for the purposes of the adjustments referred to in sub-clause (iv) of clause (b), also with reference to the record of the assessments, if any, of past years, and determine the sum payable by the assessee or refundable to him on the basis of such assessment.

(b) In making an assessment of the total income or loss of the assessee under clause (a), the Assessing Officer shall make the following adjustments to the income or loss declared in the return, that is to say, he shall,—

(i) rectify any arithmetical errors in the return, accounts and documents, referred to in clause (a) ;

(ii) [* * *]

(iii) [* * *]

(iv) give due effect to the allowance referred to in sub-section (2) of section 32, the deduction referred to in clause (ii) of sub-section (3) of section 32A or clause (ii) of sub-section (2) of section 33 or clause (ii) of sub-section (2) of section 33A or clause (i) of sub-section (2) of section 35 or sub-section (1) of section 35A or sub-section (1) of section 35D or sub-section (1) of section 35E or the first proviso to clause (ix) of sub-section (1) of section 36, any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) or sub-section (3) of section 74 or sub-section (3) of section 74A and the deficiency referred to in sub-section (3) of section 80J, as computed, in each case, in the regular assessment, if any, for the earlier assessment year or years.

(2) Where a return has been made under section 139, and—

(a) an assessment having been made under sub-section (1), the assessee makes within one month from the date of service of the notice of demand issued in consequence of such assessment, an application to the Assessing Officer objecting to the assessment, or

(b) whether or not an assessment has been made under sub-section (1), the Assessing Officer considers it necessary or expedient to verify the correctness and completeness of the return by requiring the presence of the assessee or the production of evidence in this behalf,

the Assessing Officer shall serve on the assessee a notice requiring him, on a date to be therein specified, either to attend at the Assessing Officer's office or to produce, or to cause to be there produced, any evidence on which the assessee may rely in support of the return :

(Contd. on p. 1.549)

(Contd. from p. 1.548)

Provided that, in a case, where an assessment has been made under sub-section (1), the notice under this sub-section except where such notice is in pursuance of an application by the assessee under clause (a) shall not be issued by the Assessing Officer unless the previous approval of the Deputy Commissioner has been obtained to the issue of such notice :

Provided further that in a case where the assessment made under sub-section (1) is objected to by the assessee by an application under clause (a), the assessee shall not be deemed to be in default in respect of the whole or any part of the amount of the tax demanded in pursuance of the assessment under that sub-section, which is disputed by the assessee, in so far as such amount does not relate to any adjustment referred to in sub-clause (i) of clause (b) of sub-section (1), and further no interest shall be chargeable under sub-section (2) of section 220 in respect of such disputed amount.

(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,—

- (a) in a case where no assessment has been made under sub-section (1), the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment ;
- (b) in a case where an assessment has been made under sub-section (1), if either such assessment has been objected to by the assessee by an application under clause (a) of sub-section (2) or the Assessing Officer is of opinion that such assessment is incorrect, inadequate or incomplete in any material respect, the Assessing Officer shall, by an order in writing, make a fresh assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment.

Explanation.—For the purposes of this section,—

- (1) an assessment under sub-section (1) shall be deemed to be incorrect, inadequate or incomplete in a material respect, if—
 - (a) the amount of the total income as determined under sub-section (1) is greater or smaller than the amount of the total income on which the assessee is properly chargeable under this Act to tax ; or
 - (b) the amount of the tax payable as determined under sub-section (1) is greater or smaller than the amount of the tax properly payable under this Act by the assessee ; or
 - (c) the amount of any loss as determined under sub-section (1) is greater or smaller than the amount of the loss, if any, determinable under this Act on a proper computation ; or
 - (d) the amount of any depreciation allowance, development rebate or any other allowance or deduction as determined under sub-section (1) is greater or smaller than the amount of the depreciation allowance, development rebate or, as the case may be, other allowance or deduction properly allowable under this Act ; or
 - (e) the amount of the refund as determined under sub-section (1) is greater or smaller than the amount of the refund, if any, due under this Act on a proper computation ; or
 - (f) the status in which the assessee has been assessed under sub-section (1) is different from the status in which the assessee is properly assessable under this Act ;
- (2) “status”, in relation to an assessee, means the classification of the assessee as an individual, a Hindu undivided family, or any other category of persons referred to in clause (31) of section 2, and where the assessee is a firm, its classification as a registered firm or an unregistered firm.’

96-98. The provisions of section 143 as they stood before the commencement of the Direct Tax Laws (Amendment) Act, 1987, shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1988 and any earlier assessment year—*vide* Income-tax (Removal of Difficulties) Order, 1989.

99. See also Circular No. 201, dated 5-7-1976, Instruction No. 1395, dated 15-5-1981 [Source : 114th Report [1982-83] of the Public Accounts Committee, pp. 16-17], Circular No. 230, dated 27-10-1977. Relevant extracts from minutes of 12th meeting of CDTAC held on 17-8-1967, Circular No. 1 [C. No. 9(17)-IT/50], dated 24-4-1950, Circular No. 18 (XL-37), dated 28-4-1955, Circular No. 125, dated 26-11-1973, Circular No. 36(XL-52), dated 19-11-1958, Circular No. 50(XL-43), dated 28-12-1956, Letter [F.No. 91/41/67/ITJ(25)], dated 3-7-1967, Letter [F.No. 81/27/65-IT(B)], dated 18-5-1965, Circular No. 14 (XL-35), dated 11-4-1955, Circular No. 3 of 1942, dated 16-1-1942, Circular No. 601, dated 4-6-1991, Circular No. 689, dated 24-8-1994, Instruction No. 1617, dated 18-5-1985, Instruction No. 574, dated 27-7-1993 and Press Release dated 12-3-1996. For details, see Taxmann's Master Guide to Income-tax Act.

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

1-6. Substituted by the Finance Act, 1999, w.e.f. **1-6-1999**. Prior to its substitution, sub-section (1), as amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989, Finance Act, 1992, w.e.f. 1-4-1993 and Finance Act, 1997, w.e.f. 1-4-1998, read as under :

“(1)(a) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142,—

- (i) if any tax or interest is found due on the basis of such return, after adjustment of any tax deducted at source, any advance tax paid and any amount paid otherwise 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 156 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 income or loss declared in the return, namely :—

- (i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified ;
- (ii) any loss carried forward, deduction, allowance or relief, which, on the basis of the information available in such return, accounts or documents, is *prima facie* admissible but which is not claimed in the return, shall be allowed ;
- (iii) any loss carried forward, deduction, allowance or relief claimed 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 an intimation shall be sent to the assessee whether or not any adjustment has been made under the first proviso and notwithstanding that no tax or interest is due from him :

Provided also that an intimation under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the income was first assessable.

(b) Where as a result of an order made under sub-section (3) of this section or section 144 or section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, or any order of settlement made under sub-section (4) of section 245D relating to any earlier assessment year and passed

(Contd. on p. 1.551)

7-10(1A) [Omitted by the Finance Act, 1999, w.e.f. 1-6-1999.]

(Contd. from p. 1.550)

subsequent to the filing of the return referred to in clause (a), there is any variation in the carry forward loss, deduction, allowance or relief claimed 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 156 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.

(c) Where the assessee is a member of an association of persons or body of individuals and as a result of the adjustments made under the first proviso to clause (a) of sub-section (1) in the income or loss declared in the return made by the association or body, as the case may be, or as a result of an order made under sub-section (3) of this section or section 144 or section 147 or section 154 or section 155 or sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5) of section 185 or sub-section (1) or sub-section (2) of section 186 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, or any order of settlement made under sub-section (4) of section 245D, passed subsequent to the filing of the return referred to in clause (a), there is any variation in his share in the income or loss of the association or body, as the case may be, or in the manner of inclusion of his share in the returned income, then,—

(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 156 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 adjustments were made or any such order was passed.”

7-10. Prior to its omission, sub-section (1A), as inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, and later on amended by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989, Finance Act, 1992, w.r.e.f. 1-4-1989 and Finance Act, 1993, w.r.e.f. 1-4-1989, read as under :

“(1A) (a) Where as a result of the adjustments made under the first proviso to clause (a) of sub-section (1),—

(i) the income declared by any person in the return is increased ; or

(ii) the loss declared by such person in the return is reduced or is converted into income,

the Assessing Officer shall,—

(A) in a case where the increase in income under sub-clause (i) of this clause has increased the total income of such person, further increase the amount of tax payable under sub-section (1) by an additional income-tax calculated at the rate of twenty per cent on the difference between the tax on the total income so increased and the tax that would have been chargeable had such total income been reduced by the amount of adjustments and specify the additional income-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1) ;

(Contd. on p. 1.552)

¹¹(1B) [Omitted by the Finance Act, 1999, w.e.f. 1-6-1999.]

(Contd. from p. 1.551)

(B) in a case where the loss so declared is reduced under sub-clause (ii) of this clause or the aforesaid adjustments have the effect of converting that loss into income, calculate a sum (hereinafter referred to as additional income-tax) equal to twenty per cent of the tax that would have been chargeable on the amount of the adjustments as if it had been the total income of such person and specify the additional income-tax so calculated in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(C) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional income-tax calculated under sub-clause (A) or sub-clause (B), as the case may be.

(b) Where as a result of an order under sub-section (3) of this section or section 154 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which additional income-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional income-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional income-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 156;

(ii) in a case where the additional income-tax is reduced, the excess amount paid, if any, shall be refunded.”

11. Prior to its omission, sub-section (1B), as inserted by the Finance Act, 1990, w.r.e.f. 1-4-1989, read as under :

“(1B) Where an assessee furnishes a revised return under sub-section (5) of section 139 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 income-tax, additional income-tax or interest shall be amended on the basis of the said revised return and where any amount payable by way of income-tax, additional income-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 156 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 156 and all the provisions of this Act shall apply accordingly :

Provided that an assessee, who has furnished a revised return under sub-section (5) of section 139 after the service upon him of the intimation under sub-section (1) of this section, shall be liable to pay additional income-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.”

(2) ¹²[Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer shall, if he] considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, ¹³[* * *] serve on the assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return :

¹⁴[**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 an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him ¹⁵[or refund of any amount due to him] on the basis of such assessment.]

¹⁶[(4) Where a regular assessment under sub-section (3) of this section or section 144 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.

¹⁷(5) [Omitted by the Finance Act, 1999, w.e.f. 1-6-1999.]

12. 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.

13. “he shall” omitted, *ibid*.

14. 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.”

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

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

17. Prior to its omission, sub-section (5), as inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

“(5) 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.”

¹⁸[* * *]

Best judgment assessment.

¹⁹**144.** ²⁰[(1)] If any person—

- (a) fails to make the return required ²¹[under sub-section (1) of section 139] and has not made a return or a revised return under sub-section (4) or sub-section (5) of that section, or
- (b) fails to comply with all the terms of a notice issued under sub-section (1) of section 142 ²²[or fails to comply with a direction issued under sub-section (2A) of that section], or
- (c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 143,

the ²³[Assessing] Officer, after taking into account all relevant material which the ²³[Assessing] Officer has gathered, ²⁴[shall, after giving the assessee an opportunity of being heard, make the assessment] of the total income or loss to the best of his judgment and determine the sum payable by the assessee ²⁵[* * *] on the basis of such assessment :

²⁶[**Provided** that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee 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 (1) of section 142 has been issued prior to the making of an assessment under this section.]

²⁷[(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any 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.]

18. Omitted by the Finance Act, 1999, w.e.f. **1-6-1999**. Prior to its omission, *Explanation*, as inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991 and later on amended by the Finance Act, 1994, w.e.f. 1-6-1994, read as under :

“*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 sections 246 and 264.”

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

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

21. Substituted for “by any notice given under sub-section (2) of section 139” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

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

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

24. Substituted for “shall make the assessment”, *ibid.*, w.e.f. 1-4-1989.

25. “or refundable to the assessee” omitted, *ibid.*

26. Inserted, *ibid.*

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

²⁸**[Power of ²⁹[Joint Commissioner] to issue directions in certain cases.**

³⁰**144A.** ³¹[* * *] A ²⁹[Joint Commissioner] may, on his own motion or on a reference being made to him by the ³²[Assessing] Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may issue such directions as he thinks fit for the guidance of the ³²[Assessing] Officer to enable him to complete the assessment and such directions shall be binding on the ³²[Assessing] Officer :

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

Explanation.—For the purposes of this ³³[section] no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

³⁴(2) [* * *]

Reference to Deputy Commissioner in certain cases.

³⁵**144B.** [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original section 144B was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.*]

-
28. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.
29. 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.
30. For relevant case laws, *see* Taxmann’s Master Guide to Income-tax Act.
31. “(1)” omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.
32. Substituted for “Income-tax”, *ibid.*, w.e.f. 1-4-1988.
33. Substituted for “sub-section” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.
34. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its omission, sub-section (2) stood as under :
“(2) The provisions of this section shall be in addition to, and not in derogation of, the provisions contained in sub-section (3) of section 119.”
35. Prior to its omission, section 144B, as amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, stood as under :
“144B. *Reference to Deputy Commissioner in certain cases.*—(1) Notwithstanding anything contained in this Act, where, in an assessment to be made under sub-section (3) of section 143, the Assessing Officer proposes to make, before the 1st day of October, 1984, any variation in the income or loss returned which is prejudicial to the assessee and the amount of such variation exceeds the amount fixed by the Board under sub-section (6), the Assessing Officer shall, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the assessee.
(2) On receipt of the draft order, the assessee may forward his objections, if any, to such variation to the Assessing Officer within seven days of the receipt by him of the draft order or within such further period not exceeding fifteen days as the Assessing Officer may allow on an application made to him in this behalf.
(3) If no objections are received within the period or the extended period aforesaid, or the assessee intimates to the Assessing Officer the acceptance of the variation, the Assessing Officer shall complete the assessment on the basis of the draft order.

(Contd. on p. 1.556)

³⁶[**Method of accounting.**³⁷

145. (1) Income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

(Contd. from p. 1.555)

(4) If any objections are received, the Assessing Officer shall forward the draft order together with the objections to the Deputy Commissioner and the Deputy Commissioner shall, after considering the draft order and the objections and after going through (wherever necessary) the records relating to the draft order, issue, in respect of the matters covered by the objections, such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment :

Provided that no directions which are prejudicial to the assessee shall be issued under this sub-section before an opportunity is given to the assessee to be heard.

(5) Every direction issued by the Deputy Commissioner under sub-section (4) shall be binding on the Assessing Officer.

(6) For the purposes of sub-section (1), the Board may, having regard to the proper and efficient management of the work of assessment, by order, fix, from time to time, such amount as it deems fit :

Provided that different amounts may be fixed for different areas :

Provided further that the amount fixed under this sub-section shall, in no case, be less than twenty-five thousand rupees.

(7) Nothing in this section shall apply to a case where a Deputy Commissioner exercises the powers or performs the functions of an Assessing Officer in pursuance of an order made under section 125 or section 125A.”

36. Substituted by the Finance Act, 1995, w.e.f. 1-4-1997. Prior to its substitution, section 145, as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988/1-4-1989 and the Finance Act, 1990, w.r.e.f. 1-4-1989, read as under :

‘145. *Method of accounting.*—(1) Income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” shall be computed in accordance with the method of accounting regularly employed by the assessee :

Provided that in any case where the accounts are correct and complete to the satisfaction of the Assessing Officer but the method employed is such that, in the opinion of the Assessing Officer, the income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Assessing Officer may determine :

Provided further that where no method of accounting is regularly employed by the assessee, any income by way of interest on securities shall be chargeable to tax as the income of the previous year in which such interest is due to the assessee :

Provided also that nothing contained in this sub-section shall preclude an assessee from being charged to income-tax in respect of any interest on securities received by him in a previous year if such interest had not been charged to income-tax for any earlier previous year.

(2) Where the Assessing Officer is not satisfied about the correctness or the completeness of the accounts of the assessee, or where no method of accounting has been regularly employed by the assessee, the Assessing Officer may make an assessment in the manner provided in section 144.’

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

(2) The Central Government may notify in the Official Gazette³⁸ from time to time accounting standards to be followed by any class of assessee or in respect of any class of income.

(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) or accounting standards as notified under sub-section (2), have not been regularly followed by the assessee, the Assessing Officer may make an assessment in the manner provided in section 144.]

³⁹[**Method of accounting in certain cases.**

145A. *Notwithstanding anything to the contrary contained in section 145, the valuation of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head “Profits and gains of business or profession” shall be—*

- (a) *in accordance with the method of accounting regularly employed by the assessee; and*
- (b) *further adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.*

Explanation.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.]

Reopening of assessment at the instance of the assessee.

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

38. See Notification No. SO 69(E), dated 25-1-1996 for Notified Accounting Standards. For details, see Taxmann’s Master Guide to Income-tax Act.

39. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

40. Prior to its omission, section 146, as amended by the Finance Act, 1963, w.e.f. 28-4-1963, Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, stood as under:

“(1) Where an assessee assessed under section 144 before the 1st day of October, 1984 makes an application to the Assessing Officer, within one month from the date of service of a notice of demand issued in consequence of the assessment, for the cancellation of the assessment on the ground—

- (i) that he was prevented by sufficient cause from making the return required under sub-section (2) of section 139, or
- (ii) that he did not receive the notice issued under sub-section (1) of section 142 or sub-section (2) of section 143, or
- (iii) that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of any notice referred to in clause (ii),

the Assessing Officer shall, if satisfied about the existence of such ground, cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 143 or section 144.

(2) Every application made under sub-section (1) shall be disposed of within ninety days from the date of receipt thereof by the Assessing Officer:

Provided that in computing the period of ninety days aforesaid, any delay in disposing of the application which is attributable to the assessee shall be excluded.”

⁴¹[**Income escaping assessment.**

⁴²**147.** If the ⁴³[Assessing] Officer ⁴⁴[has reason to believe] that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year) :

Provided that where an assessment under sub-section (3) of section 143 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 income 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 139 or in response to a notice issued under sub-

41. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, section 147 stood as under :

“If—

- (a) the Assessing Officer has reason to believe that, by reason of the omission or failure on the part of an assessee to make a return under section 139 for any assessment year to the Assessing Officer or to disclose fully and truly all material facts necessary for his assessment for that year, income chargeable to tax has escaped assessment for that year, or
- (b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Assessing Officer has in consequence of information in his possession reason to believe that income chargeable to tax has escaped assessment for any assessment year,

he may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance, as the case may be, for the assessment year concerned (hereafter in sections 148 to 153 referred to as the relevant assessment year).

Explanation 1.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely :—

- (a) where income chargeable to tax has been under-assessed ; or
- (b) where such income has been assessed at too low a rate; or
- (c) where such income has been made the subject of excessive relief under this Act or under the Indian Income-tax Act, 1922 (11 of 1922) ; or
- (d) where excessive loss or depreciation allowance has been computed.

Explanation 2.—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 this section.”

42. See also Circular [F.No. 45A/180/52-IT], dated 6-12-1955. For details, see Taxmann’s Master Guide to Income-tax Act.

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

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

44. Substituted for “, for reasons to be recorded by him in writing, is of the opinion” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year.

Explanation 1.—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.

Explanation 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely :—

- (a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax ;
- (b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return ;
- (c) where an assessment has been made, but—
 - (i) income chargeable to tax has been under-assessed ; or
 - (ii) such income has been assessed at too low a rate ; or
 - (iii) such income has been made the subject of excessive relief under this Act ; or
 - (iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed.]

⁴⁵**[Issue of notice where income has escaped assessment.**

⁴⁶**148.** ⁴⁷[(1)] Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, ⁴⁸[* * *] as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the

45. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution section 148 stood as under :

“(1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139 ; and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.”

46. Notification No. SO 1178, dated 11-2-1982, refer Taxmann’s Direct Taxes Circulars, 1999 edn., Vol. 2, p. 1.2586.

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

48. Words “not being less than thirty days,” omitted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1989.

prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.]

⁴⁹[(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.]

Time limit for notice.

149. ⁵⁰[(1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) in a case where an assessment under sub-section (3) of section 143 or section 147 has been made for such assessment year,—

- (i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii) ;
- (ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year ;
- (iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to ⁵¹[* * *] rupees one lakh or more for that year ;

(b) in any other case,—

- (i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii) ;
- (ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees twenty-five thousand or more for that year ;
- (iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

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

50. Substituted for the following sub-section (1) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 :

“(1) No notice under section 148 shall be issued,

(a) in cases falling under clause (a) of section 147—

- (i) for the relevant assessment year, if eight years have elapsed from the end of that year, unless the case falls under sub-clause (ii) ;
- (ii) for the relevant assessment year, where eight years, but not more than sixteen years, have elapsed from the end of that year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year ;

(b) in cases falling under clause (b) of section 147, at any time after the expiry of four years from the end of the relevant assessment year.”

51. “more than” omitted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989.

Explanation.—In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of *Explanation 2* of section 147 shall apply as they apply for the purposes of that section.]

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of two years from the end of the relevant assessment year.

Provision for cases where assessment is in pursuance of an order on appeal, etc.

150. (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision ⁵²[or by a Court in any proceeding under any other law].

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation 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 other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

⁵³[**Sanction for issue of notice.**

151. (1) In a case where an assessment under sub-section (3) of section 143 or section 147 has been made for the relevant assessment year, no notice shall be issued under section 148 ⁵⁴[by an Assessing Officer, who is below the rank of Assistant Commissioner ⁵⁵[or Deputy Commissioner], unless the ⁵⁶[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

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

53. Substituted for the following section, *ibid.* :

“(1) No notice shall be issued under section 148 after the expiry of eight years from the end of the relevant assessment year, unless the Board is satisfied on the reasons recorded by the Assessing Officer that it is a fit case for the issue of such notice.

(2) No notice shall be issued under section 148 after the expiry of four years from the end of the relevant assessment year, unless the Chief Commissioner or Commissioner is satisfied on the reasons recorded by the Assessing Officer that it is a fit case for the issue of such notice.”

54. Substituted for “except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner” by the Finance Act, 1990, w.e.f. 1-4-1990.

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

56. Substituted for “Deputy”, *ibid.*

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.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of ^{56a}[Joint] Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the ^{56a}[Joint] Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.]

Other provisions.

152. (1) In an assessment, reassessment or recomputation made under section 147, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment.

(2) Where an assessment is reopened ⁵⁷[under section 147], the assessee may, if he has not impugned any part of the original assessment order for that year either under sections 246 to 248 or under section 264, claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made :

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 154, 155, 260, 262, or 263.

Time limit for completion of assessments and reassessments.

153. ⁵⁸[(1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of—

56a. Substituted for “Deputy” by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998.

57. Substituted for “in circumstances falling under clause (b) of section 147” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

58. Substituted by the Finance Act, 1989, w.e.f. 1-4-1989. Earlier sub-section (1) was substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Prior to its substitution, sub-section (1) [as it stood before its substitution by the Direct Tax Laws (Amendment) Act, 1987] was substituted by the Finance Act, 1968, w.e.f. 1-4-1968 and later on amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, and it stood as under :

“(1) No order of assessment shall be made under section 143 or section 144 at any time after—

(a) the expiry of—

(i) four years from the end of the assessment year in which the income was first assessable, where such assessment year is an assessment year commencing on or before the 1st day of April, 1967 ;

(ii) three years from the end of the assessment year in which the income was first assessable, where such assessment year is the assessment year commencing on the 1st day of April, 1968 ;

(iii) two years from the end of the assessment year in which the income was first assessable, where such assessment year is an assessment year commencing on or after the 1st day of April, 1969 ; or

(b) the expiry of eight years from the end of the assessment year in which the income was first assessable, in a case falling within clause (c) of sub-section (1) of section 271 ;

(c) the expiry of one year from the date of the filing of a return or a revised return under sub-section (4) or sub-section (5) of section 139 ;

(d) the expiry of six months from the end of the month in which an application under clause (a) of sub-section (2) of section 143 is made by the assessee,

whichever is latest.”

- (a) two years from the end of the assessment year in which the income was first assessable ; or
- (b) one year from the end of the financial year in which a return or a revised return relating to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, is filed under sub-section (4) or sub-section (5) of section 139,

whichever is later.]

⁵⁹[(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of two years from the end of the financial year in which the notice under section 148 was served :

Provided that where the notice under section 148 was served on or before the 31st day of March, 1987, such assessment, reassessment or recomputation may be made at any time up to the 31st day of March, 1990.]

⁶⁰[(2A) Notwithstanding anything contained in sub-sections (1) and (2), in relation to the assessment year commencing on the 1st day of April, 1971, and any subsequent assessment year, an order of fresh assessment under section 146 or in pursuance of an order, under section 250, section 254, section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 146 cancelling the assessment is passed by the⁶¹[Assessing] Officer or the order under section 250 or section 254 is received by the⁶²[Chief Commissioner or Commissioner] or, as the case may be, the order under section 263 or section 264 is passed by the⁶²[Chief Commissioner or Commissioner].]

(3) The provisions of sub-sections (1) and (2) shall not apply to the following classes of assessments, reassessments and recomputations which may, ⁶³[subject to the provisions of sub-section (2A),] be completed at any time—

- (i) where a fresh assessment is made under section 146 ;
- (ii) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any

59. Substituted for the following sub-section (2) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 :

“(2) No order of assessment, reassessment or recomputation shall be made under section 147—

- (a) where the assessment, reassessment or recomputation is to be made under clause (a) of that section, after the expiry of four years from the end of the assessment year in which the notice under section 148 was served ;
- (b) where the assessment, reassessment or recomputation is to be made under clause (b) of that section, after—
 - (i) the expiry of four years from the end of the assessment year in which the income was first assessable, or
 - (ii) the expiry of one year from the date of service of the notice under section 148,

whichever is later.”

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

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

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

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

finding or direction contained in an order under section 250, 254, 260, 262, 263, or 264 ⁶⁴[or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act] ;

- (iii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147.

⁶⁵[*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 re-heard under the proviso to section 129, or
 - (ii) the period during which the assessment proceeding is stayed by an order or injunction of any court, or
 - (iii) the period commencing from the date on which the ⁶⁶[Assessing] Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending with ⁶⁷[the last date on which the assessee is required to furnish] a report of such audit under that sub-section, or
 - (iv) ⁶⁸[* * *]
- ⁶⁹[(iva) the period (not exceeding sixty days) commencing from the date on which the ⁷⁰[Assessing] Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him, or]
- (v) in a case where an application made before the Income-tax Settlement Commission under section 245C 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 245D is received by the Commissioner under sub-section (2) of that section,

shall be excluded :

64. Inserted by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.

65. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-1-1976 as regards clauses (i), (ii) and (iv) and w.e.f. 1-4-1976 as regards clauses (iii) and (v).

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

67. Substituted for “the date on which the assessee furnishes” by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

68. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its omission, clause (iv) stood as under :

“(iv) the period (not exceeding one hundred and eighty days) commencing from the date on which the Assessing Officer forwards the draft order under sub-section (1) of section 144B to the assessee and ending with the date on which the Assessing Officer receives the directions from the Deputy Commissioner under sub-section (4) of that section, or, in a case where no objections to the draft order are received from the assessee, a period of thirty days, or”

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

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

⁷¹[**Provided** that where immediately after the exclusion of the aforesaid time or period, the period of limitation referred to in sub-sections (1), (2) and (2A) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.]

Explanation 2.—Where, by an order ⁷²[referred to in clause (ii) of sub-section (3)], any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order.

Explanation 3.—Where, by an order ⁷²[referred to in clause (ii) of sub-section (3)], any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, provided such other person was given an opportunity of being heard before the said order was passed.

Rectification of mistake.

⁷³**154.** ⁷⁴[(1) With a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may,—

(a) amend any order passed by it under the provisions of this Act ;

^{74a}[(b) *amend any intimation or deemed intimation under sub-section (1) of section 143.*]

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

72. Substituted for “under section 250, 254, 260, 262, 263 or 264” by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.

73. See also Circular No. 68, dated 17-11-1971, Circular No. 71, dated 20-12-1971, Circular No. 73, dated 7-1-1972, Circular No. 87, dated 19-6-1972 in supersession of Circular No. 81, dated 26-3-1972, Circular No. 581, dated 28-9-1990, Circular No. 669, dated 25-10-1993, Circular No. 668, dated 20-10-1993 and Circular No. 725, dated 16-10-1995. For details, see Taxmann’s Master Guide to Income-tax Act. For relevant case laws, see Taxmann’s Master Guide to Income-tax Act.

74. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, sub-section (1), as substituted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, stood as under :

“(1) With a view to rectifying any mistake apparent from the record, an income-tax authority referred to in section 116 may amend any order passed by it under the provisions of this Act.”

Prior to its substitution by the Amendment Act, 1984, sub-section (1) was amended first by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964, then by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and then by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

74a. Substituted by the Finance Act, 1999, w.e.f. **1-6-1999**. Prior to its substitution, clause (b), as substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, read as under :

“(b) amend any intimation sent by it under sub-section (1) of section 143, or enhance or reduce the amount of refund granted by it under that sub-section.”

⁷⁵[(1A) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.]

(2) Subject to the other provisions of this section, the authority concerned—

(a) may make an amendment under sub-section (1) of its own motion, and

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the ⁷⁶[***] ⁷⁷[Commissioner (Appeals)], by the ⁷⁸[Assessing] Officer also.

⁷⁹[* * *]

(3) 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.

(4) Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned.

(5) Subject to the provisions of section 241, where any such amendment has the effect of reducing the assessment, the ⁸⁰[Assessing] Officer shall make any refund which may be due to such assessee.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the ⁸⁰[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 156 and the provisions of this Act shall apply accordingly.

75. Inserted by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.

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

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

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

79. Proviso omitted by the Finance Act, 1994, w.e.f. 1-6-1994. Prior to its omission, proviso, as inserted by the Finance Act, 1992, w.e.f. 14-5-1992, read as under :

“**Provided** that the Assessing Officer shall make an amendment for rectifying any mistake, which has been brought to his notice by the assessee in relation to an intimation referred to in clause (b) of sub-section (1), within a period of three months from the end of the month in which it is so brought to his notice and if no such amendment is made within the said period of three months, the assessee may appeal to the Deputy Commissioner (Appeals) or, as the case may be, Commissioner (Appeals) against such intimation and the provisions of section 246 and section 249 shall have effect as if the said intimation were an order for the purposes of those sections.”

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

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years⁸¹[from the end of the financial year in which the order sought to be amended was passed.]

Other amendments.

155. (1)⁸²[Where, in respect of any completed assessment of a partner in a firm for the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year,] it is found—

(a) on the assessment or reassessment of the firm, or

(b) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,⁸³[or]

⁸⁴[(c) on any order passed under sub-section (4) of section 245D on the application made by the firm,]

that the share of the partner in the income of the firm has not been included in the assessment of the partner or, if included, is not correct, the⁸⁵[Assessing] Officer may amend the order of assessment of the partner with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned⁸⁶[from the end of the financial year in which the final order was passed] in the case of the firm.

⁸⁷[(1A) Where in respect of any completed assessment of a firm it is found—

(a) on the assessment or reassessment of the firm, or

(b) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264, or

(c) on any order passed under sub-section (4) of section 245D on the application made by the firm,

that any remuneration to any partner is not deductible under clause (b) of section 40, the Assessing Officer may amend the order of assessment of the partner with a view to adjusting the income of the partner to the extent of the amount not so

81. 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.

82. Substituted for “Where in respect of any completed assessment of a partner in a firm” by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier, the expression was amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

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

84. Inserted, *ibid*.

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

86. Substituted for “from the date of the final order passed” by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

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

deductible ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the final order was passed in the case of the firm.]

(2) Where in respect of any completed assessment of a member of an association of persons or of a body of individuals it is found—

- (a) on the assessment or reassessment of the association or body, or
- (b) on any reduction or enhancement made in the income of the association or body under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264, ⁸⁸[or]

⁸⁸[(c) on any order passed under sub-section (4) of section 245D on the application made by the association or body,]

that the share of the member in the income of the association or body, as the case may be, has not been included in the assessment of the member or, if included, is not correct, the ⁸⁹[Assessing] Officer may amend the order of assessment of the member with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned ⁹⁰[from the end of the financial year in which the final order was passed] in the case of the association or body, as the case may be.

(3) ⁹¹[* * *]

(4) Where as a result of proceedings initiated under section 147, a loss or depreciation has been recomputed and in consequence thereof it is necessary to recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (1) ⁹²[or sub-section (3)] of section 74, ⁹³[or sub-section (3) of section 74A,] the ⁹⁴[Assessing] Officer may proceed to recompute the total income in respect of such year or years and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned ⁹⁵[from the end of the financial year in which the order was passed] under section 147.

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

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

90. Substituted for "from the date of the final order passed" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

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

92. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

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

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

95. Substituted for "from the date of the order passed" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

⁹⁶[(4A) Where an allowance by way of investment allowance has been made wholly or partly to an assessee in respect of a ship or an aircraft or any machinery or plant in any assessment year under section 32A and subsequently—

- (a) at any time before the expiry of eight years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a ⁹⁷Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (6) or sub-section (7) of section 32A ; or
- (b) at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) of section 32A for the purposes of acquiring a new ship or a new aircraft or new machinery or plant (other than machinery or plant of the nature referred to in clauses (a), (b) and (d) of the ⁹⁸[second] proviso to sub-section (1) of section 32A) for the purposes of the business of the undertaking ; or
- (c) at any time before the expiry of ten years referred to in clause (b) the assessee utilises the amount credited to the reserve account under sub-section (4) of section 32A—
 - (i) for distribution by way of dividends or profits ; or
 - (ii) for remittance outside India as profits or for the creation of any asset outside India ; or
 - (iii) for any other purpose which is not a purpose of the business of the undertaking,

the investment allowance originally allowed shall be deemed to have been wrongly allowed, and the ⁹⁹[Assessing] Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned,—

- (i) in a case referred to in clause (a), from the end of the previous year in which the sale or other transfer took place ;
- (ii) in a case referred to in clause (b), from the end of the ten years referred to in that clause ;

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

97. For definition of “Government company”, see footnote 18 on p. 1.19 ante.

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

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

(iii) in a case referred to in clause (c), from the end of the previous year in which the amount was utilised.

Explanation.—For the purposes of clause (b), “new ship” or “new aircraft” or “new machinery or plant” shall have the same meanings as in the ¹[*Explanation* below sub-section (2) of section 32A].]

(5) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant installed after the 31st day of December, 1957, in any assessment year under section 33 or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), and subsequently—

- (i) at any time before the expiry of eight years from the end of the previous year in which the ship was acquired or the machinery or plant was installed, the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a ²Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (3) or sub-section (4) of section 33 ; or
- (ii) at any time before the expiry of the eight years referred to in sub-section (3) of section 34, the assessee utilises the amount credited to the reserve account under clause (a) of that sub-section—
 - (a) for distribution by way of dividends or profits ; or
 - (b) for remittance outside India as profits or for the creation of any asset outside India ; or
 - (c) for any other purpose which is not a purpose of the business of the undertaking,

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the ³[Assessing] Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised.

⁴[(5A) Where an allowance by way of development allowance has been made wholly or partly to an assessee in respect of the cost of planting in any area in any assessment year under section 33A and subsequently—

-
1. Substituted for “*Explanation* to clause (vi) of sub-section (1) of section 32” by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1988.
 2. For definition of “Government company”, see footnote 18 on p. 1.19 *ante*.
 3. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
 4. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

- (i) at any time before the expiry of eight years from the end of the previous year in which such allowance was made, the land is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or provincial Act or a Government company⁵ as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (5) or sub-section (6) of section 33A ; or
- (ii) at any time before the expiry of the eight years referred to in sub-section (3) of section 33A, the assessee utilises the amount credited to the reserve account under clause (ii) of that sub-section—
- (a) for distribution by way of dividends or profits ; or
 - (b) for remittance outside India as profits or for the creation of any asset outside India ; or
 - (c) for any other purpose which is not a purpose of the business of the undertaking ;

the development allowance originally allowed shall be deemed to have been wrongly allowed, and the ⁶[Assessing] Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised.]

⁷[*Explanation.*—For the purposes of this sub-section, where an assessee having any leasehold or other right of occupancy in any land transfers such right, he shall be deemed to have sold or otherwise transferred such land.]

⁸[(5B) Where any deduction in respect of any expenditure on scientific research has been made in any assessment year under sub-section (2B) of section 35 and the assessee fails to furnish a certificate of completion of the programme obtained from the prescribed authority within one year of the period allowed for its completion by such authority, the deduction originally made in excess of the expenditure actually incurred shall be deemed to have been wrongly made, and the ⁹[Assessing] Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of

5. For definition of "Government company", see footnote 18 on p. 1.19 *ante*.

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

7. Inserted by the Finance Act, 1975, with retrospective effect from 1-4-1965.

8. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992. Original sub-section (5) was inserted by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981.

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

the previous year in which the period allowed for the completion of the programme by the prescribed authority expired.]

¹⁰(6) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]

(7) Where as a result of any proceeding under this Act, in the assessment for any year of a company in whose case an order under section 104 has been made for that year, it is necessary to recompute the distributable income of that company, the ¹¹[Assessing] Officer may proceed to recompute the distributable income and determine the ¹²[tax] payable on the basis of such recomputation and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned ¹³[from the end of the financial year in which the final order was passed] in the case of the company in respect of that proceeding.

¹⁴(7A) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]

10. Prior to omission, sub-section (6), as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(6) Where any such debt or part of debt as is referred to in clause (vii) of sub-section (1) of section 36 is written off as irrecoverable in the accounts of the assessee for a previous year and the Assessing Officer is satisfied that such debt or part thereof became a bad debt in an earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which the debt or part is written off, the Assessing Officer may, notwithstanding anything contained in this Act, allow such debt or part as a deduction for such earlier previous year, if the assessee accepts such a finding of the Assessing Officer, and recompute the total income of the assessee for such earlier previous year and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment relating to the previous year in which the debt is written off is made.”

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

12. Substituted for “super-tax” by the Finance Act, 1965, w.e.f. 1-4-1965.

13. Substituted for “from the date of the final order passed” by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

14. Prior to omission, sub-section (7A), as inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974 and amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(7A) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, is computed under section 48 and the compensation for such acquisition or the consideration for such transfer is enhanced or further enhanced by any court, tribunal or other authority, the computation or, as the case may be, computations made earlier shall be deemed to have been wrongly made and the Assessing Officer shall, notwithstanding anything contained in this Act, recompute in accordance with section 48 the capital gain arising from such transfer by taking the compensation or the consideration as enhanced or further enhanced, as the case may be, to be the full value of the consideration received or accruing as a result of such transfer and shall make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation or consideration was received by the assessee.”

¹⁵[(7B) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset is not charged under section 45 by virtue of the provisions of clause (iv) or, as the case may be, clause (v) of section 47, but is deemed under section 47A to be income chargeable under the head “Capital gains” of the previous year in which the transfer took place by reason of—

- (i) such capital asset being converted by the transferee company into, or being treated by it, as stock-in-trade of its business ; or
- (ii) the parent company or its nominees or, as the case may be, the holding company ceasing to hold the whole of the share capital of the subsidiary company,

at any time before the expiry of the period of eight years from the date of such transfer, the ¹⁶[Assessing] Officer may, notwithstanding anything contained in this Act, recompute the total income of the transferor company for the relevant previous year and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the capital asset was so converted or treated or in which the parent company or its nominees or, as the case may be, the holding company ceased to hold the whole of the share capital of the subsidiary company.]

¹⁷(8) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]

¹⁸(8A) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]

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

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

17. Prior to omission, sub-section (8), as inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974 and amended by the Finance Act, 1982, w.e.f. 1-4-1983, Finance Act, 1984, w.e.f. 1-10-1984, Finance Act, 1986, w.e.f. 1-4-1987 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(8) Where in the assessment for any year, a capital gain arising from the transfer of any such capital asset as is referred to in section 54 is charged to tax and within a period of two years after the date of the transfer the assessee purchases, or within three years from that date constructs a residential house, the Assessing Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of sub-section (1) of section 54 ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment was made.”

18. Prior to omission, sub-section (8A), as inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974 and amended by the Finance Act, 1982, w.e.f. 1-4-1983, Finance Act, 1986, w.e.f. 1-4-1987 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(8A) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition under any law of any such capital asset as is referred to in section 54 is charged to tax and if the compensation for such acquisition is enhanced or further enhanced, as the case may be, by any court, Tribunal or other authority, and the assessee purchases, within a period of two years after the date of receipt of the additional compensation or constructs, within a period of three years after that date, a residential house, the Assessing Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (2) of section 54 ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation was received by the assessee.”

- ¹⁹(9) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]
²⁰(9A) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]
²¹(10) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]

19. Prior to omission, sub-section (9), as inserted by the Finance Act, 1973, w.e.f. 1-4-1974 and amended by the Finance Act, 1978, w.r.e.f. 1-4-1974, Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 and Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(9) Where in the assessment for any year, a capital gain arising from the transfer of any such capital asset as is referred to in section 54B is charged to tax and within a period of two years after the date of the transfer, the assessee purchases any other land for being used for agricultural purposes, the Assessing Officer shall amend the order of assessment so as to exclude the amount to the capital gain not chargeable to tax under the provisions of sub-section (1) of section 54B; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment was made.”

20. Prior to omission, sub-section (9A), as inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974 and amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(9A) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition under any law of any such capital asset as is referred to in section 54B is charged to tax and if the compensation for such acquisition is enhanced or further enhanced, as the case may be, by any court, tribunal or other authority, and within a period of two years after the receipt of the additional compensation, the assessee purchases any land for being used for agricultural purposes, the Assessing Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (2) of section 54B ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation was received by the assessee.”

21. Prior to omission, sub-section (10), as inserted by the Finance Act, 1973, w.e.f. 1-4-1974 and amended by the Finance Act, 1978, w.r.e.f. 1-4-1974, Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 and Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(10) (a) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition of any such capital asset as is referred to in section 54D is charged to tax and within a period of three years after the date of the transfer, the assessee purchases any other land or building or any right in any other land or building or constructs any other building for the purposes of shifting or re-establishing the industrial undertaking referred to in that section or setting up another industrial undertaking, the Assessing Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of sub-section (1) of section 54D ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment was made.

(b) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition of any such capital asset as is referred to in section 54D is charged to tax and if the compensation for such acquisition is enhanced or further enhanced, as the case may be, by any court, tribunal or other authority, and within a period of three years after the date of receipt of the additional compensation, the assessee purchases any land or building or any right in any land or building or constructs any

(Contd. on p. 1.575)

²²[(10A) Where in the assessment for any year, a capital gain arising from the transfer of a ²³[long-term capital asset], is charged to tax and within a period of six months after the date of such transfer, the assessee has made any investment or deposit in any specified asset within the meaning of *Explanation 1* to sub-section (1) of section 54E, the ²⁴[Assessing] Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of ²⁵[sub-section (1) of] section 54E ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being ²⁶[reckoned from the end of the financial year in which the assessment was made.]

²⁷(10B) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]

²⁸(10C) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1992.]

(Contd. from p. 1.574)

building for the purpose of shifting or re-establishing the undertaking referred to in sub-section (1) of that section or setting up any other industrial undertaking, the Assessing Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (2) of section 54D ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation was received by the assessee.”

22. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

23. Substituted for “capital asset, not being a short-term capital asset” by the Finance Act, 1987, w.e.f. 1-4-1988.

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

25. Inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974.

26. Substituted for “reckoned from the date of the assessment” by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

27. Prior to omission, sub-section (10B), as inserted by the Finance Act, 1978, w.e.f. 1-4-1978 and amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“(10B) Where in the assessment for any year, a capital gain arising from the transfer, being a transfer by way of compulsory acquisition or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, of any capital asset, not being a short-term capital asset, is charged to tax and if the compensation or, as the case may be, consideration for such transfer is enhanced or further enhanced, as the case may be, by any court, tribunal or other authority, and within a period of six months after the receipt of the additional compensation or consideration, the assessee invests or deposits the whole or any part of the additional compensation or consideration in any specified asset referred to in *Explanation 1* of sub-section (1) of section 54E, the Assessing Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (3) of section 54E; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation or consideration was received by the assessee.”

28. Prior to omission, sub-section (10C), as inserted by the Finance Act, 1982, w.e.f. 1-4-1983 and amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987, read as under :

(Contd. on p. 1.576)

²⁹[(11) Where in the assessment for any year, a capital gain arising from the transfer of any original asset as is referred to in section 54H is charged to tax and within the period extended under that section the assessee acquires the new asset referred to in that section or, as the case may be, deposits or invests the amount of such capital gain within the period so extended, the Assessing Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under any of the sections referred to in section 54H; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of section 154 being reckoned from the end of the previous year in which the compensation was received by the assessee.]

³⁰[(12) Where in the assessment for any year commencing before the 1st day of April, 1988, the deduction under section 80-O in respect of any income, being the whole or any part of income by way of royalty, commission, fees or any similar

(Contd. from p. 1.575)

“(10C) Where in the assessment for any year, a capital gain arising from the transfer of any such capital asset as is referred to in section 54F is charged to tax and within a period of one year after the date of the transfer the assessee purchases, or within three years from that date constructs, a residential house, the Assessing Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of sub-section (1) of section 54F; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment was made.”

29. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991. Earlier sub-section (11) was omitted by the Finance Act, 1985, w.e.f. 1-4-1986. Original sub-section, as inserted by the Finance Act, 1974, w.e.f. 1-4-1974, read as under :

“(11) Where in the assessment for any year, the deduction under section 80N in respect of any income, being the whole or any part of income by way of dividends as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof is received in, or brought into, India in the manner aforesaid, the Income-tax Officer shall amend the order of assessment so as to allow deduction under section 80N in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date on which such income is so received in, or brought into, India.”

30. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991. Earlier sub-section (12) was omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original sub-section, as inserted by the Finance Act, 1974, w.e.f. 1-4-1974, stood as under :

“(12) Where in the assessment for any year, the deduction under section 80-O in respect of any income, being the whole or any part of income by way of royalty, commission, fees or any similar payment as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof

(Contd. on p. 1.577)

payment as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 80-O in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which such income is so received in, or brought into, India; so, however, that the period from the 1st day of April, 1988 to the 30th day of September, 1991 shall be excluded in computing the period of four years.]

³¹[(13) *Where in the assessment for any year, the deduction under section 80HBB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 80HBB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into India.*]

³²[*Explanation.*—For the purposes of this section,—

- (a) “additional compensation” shall have the meaning assigned to it in clause (1) of the *Explanation* to sub-section (2) of section 54;

(Contd. from p. 1.576)

is received in, or brought into, India in the manner aforesaid, the Income-tax Officer shall amend the order of assessment so as to allow deduction under section 80-O in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date on which such income is so received in, or brought into, India.”

31. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**. Earlier original sub-section (13) was inserted by the Finance Act, 1975, w.e.f. 1-4-1975 and later on omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.
32. Inserted by the Finance Act, 1978, with retrospective effect from 1-4-1974.

- (b) “additional consideration”, in relation to the transfer of any capital asset the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, means the difference between the amount of consideration for such transfer as enhanced by any court, tribunal or other authority and the amount of consideration which would have been payable if such enhancement had not been made.]

Notice of demand.

156. When any tax, interest, penalty, fine or any other sum ³³[***] is payable in consequence of any order passed under this Act, the ³⁴[Assessing] Officer shall serve upon the assessee a notice of demand in the prescribed form³⁵ specifying the sum so payable.

Intimation of loss.

157. When, in the course of the assessment of the total income of any assessee, it is established that a loss has taken place which the assessee is entitled to have carried forward and set off under the provisions of sub-section (1) of section 72, sub-section (2) of section 73, ³⁶[sub-section (1) ³⁷[or sub-section (3)] of section 74 or sub-section (3) of section 74A], the ³⁴[Assessing] Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of sub-section (1) of section 72, sub-section (2) of section 73, ³⁶[sub-section (1) ³⁷[or sub-section (3)] of section 74 or sub-section (3) of section 74A].

Intimation of assessment of firm.

158. ³⁸[Whenever, in respect of the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year, a registered firm is assessed], or an unregistered firm is assessed under the provisions of clause (b) of section 183, the ³⁹[Assessing] Officer shall notify to the firm by an order in writing the amount of its total income assessed and the apportionment thereof between the several partners.

33. “(including annuity deposit referred to in Chapter XXII-A)” omitted by the Finance Act, 1966, w.e.f. 1-4-1967. Originally, the said expression was inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

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

35. See rule 15 and Form No. 7 for notice of demand. See rule 38 and Form No. 28 for notice of demand of advance tax.

36. Substituted for “or sub-section (1) of section 74” by the Finance Act, 1974, w.e.f. 1-4-1975.

37. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

38. Substituted for “Whenever a registered firm is assessed” by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier the expression was amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989 and by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

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

⁴⁰[CHAPTER XIV-A

SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

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

158A. ⁴¹(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 ⁴²[Assessing] Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court on a reference under section 256 or before the Supreme Court on a reference under section 257 or in appeal under section 261 (such case being hereafter in this section referred to as the other case), he may furnish to the ⁴²[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 ⁴²[Assessing] Officer or the appellate authority, as the case may be, agrees to apply in the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the ⁴²[Assessing] Officer on the correctness of the claim made by the assessee and, where the ⁴²[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 ⁴²[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 ⁴²[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 for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

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

41. See rule 16 and Form No. 8 for declaration under section 158A(1) (duplicate [when furnished to Commissioner (Appeals)], triplicate [when furnished to Appellate Tribunal]).

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

(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 ^{42a}[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 ⁴³[Deputy Commissioner (Appeals)], the Commissioner (Appeals) or the Appellate Tribunal;
- (b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him.]

⁴⁴[CHAPTER XIV-B

SPECIAL PROCEDURE FOR ASSESSMENT OF SEARCH CASES

Definitions.

158B. In this Chapter, unless the context otherwise requires,—

- (a) “block period” means the ⁴⁵[previous years relevant to ten assessment years] preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A, and includes, in the previous year in which such search was conducted or requisition made, the period up to the date of the commencement of such search or, as the case may be, the date of such requisition;
- (b) “undisclosed income” includes any money, bullion, jewellery or other valuable article or thing or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act.

Assessment of undisclosed income as a result of search.

158BA.(1) Notwithstanding anything contained in any other provisions of this Act, where after the 30th day of June, 1995 a search is initiated under section 132 or books of account, other documents or any assets are requisitioned

^{42a} Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

⁴³ Substituted for “Appellate Assistant Commissioner”, *ibid*.

⁴⁴ Chapter XIV-B, consisting of sections 158B to 158BH, inserted by the Finance Act, 1995, w.e.f. 1-7-1995. Earlier Chapter XIV-B, dealing with “Charge of additional income-tax in certain cases” was inserted along with section 158B by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and later on omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

⁴⁵ Substituted for “period of ten previous years” by the Finance (No. 2) Act, 1996, w.r.e.f. 1-7-1995.

under section 132A in the case of any person, then, the Assessing Officer shall proceed to assess the undisclosed income in accordance with the provisions of this Chapter.

(2) The total undisclosed income relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates and irrespective of the fact whether regular assessment for any one or more of the relevant assessment years is pending or not.

⁴⁶[*Explanation.*—For the removal of doubts, it is hereby declared that—

- (a) the assessment made under this Chapter shall be in addition to the regular assessment in respect of each previous year included in the block period;
- (b) the total undisclosed income relating to the block period shall not include the income assessed in any regular assessment as income of such block period;
- (c) the income assessed in this Chapter shall not be included in the regular assessment of any previous year included in the block period.]

(3) Where the assessee proves to the satisfaction of the Assessing Officer that any part of income referred to in sub-section (1) relates to an assessment year for which the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 for any previous year has not expired, and such income or the transactions relating to such income are recorded on or before the date of the search or requisition in the books of account or other documents maintained in the normal course relating to such previous years, the said income shall not be included in the block period.

Computation of undisclosed income of the block period.

158BB. (1) The undisclosed income of the block period shall be the aggregate of the total income of the previous years falling within the block period computed, in accordance with the provisions of Chapter IV, on the basis of evidence found as a result of search or requisition of books of account or documents and such other materials or information as are available with Assessing Officer, as reduced by the aggregate of the total income, or as the case may be, as increased by the aggregate of the losses of such previous years, determined,—

- (a) where assessments under section 143 or section 144 or section 147 have been concluded, on the basis of such assessments;
- (b) where returns of income have been filed under section 139 or section 147 but assessments have not been made till the date of search or requisition, on the basis of the income disclosed in such returns;
- (c) where the due date for filing a return of income has expired but no return of income has been filed, as *nil*;
- (d) where the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 has not expired, on the

46. Inserted by the Finance (No. 2) Act, 1998, w.r.e.f. 1-7-1995.

basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition relating to such previous years;

- (e) where any order of settlement has been made under sub-section (4) of section 245D, on the basis of such order;
- (f) where an assessment of undisclosed income had been made earlier under clause (c) of section 158BC, on the basis of such assessment.

Explanation.—For the purposes of determination of undisclosed income,—

- (a) the total income or loss of each previous year shall, for the purpose of aggregation, be taken as the total income or loss computed in accordance with the provisions of Chapter IV without giving effect to set off of brought forward losses under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32;
- ⁴⁷[(b) of a firm, returned income and total income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called ⁴⁸[to any partner not being a working partner] :

Provided that undisclosed income of the firm so determined shall not be chargeable to tax in the hands of the partners, whether on allocation or on account of enhancement;]

- (c) assessment under section 143 includes determination of income under sub-section (1) or sub-section (1B) of section 143.

(2) In computing the undisclosed income of the block period, the provisions of sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to “financial year” in those sections shall be construed as references to the relevant previous year falling in the block period including the previous year ending with the date of search or of the requisition.

(3) The burden of proving to the satisfaction of the Assessing Officer that any undisclosed income had already been disclosed in any return of income filed by the assessee before the commencement of search or of the requisition, as the case may be, shall be on the assessee.

(4) For the purpose of assessment under this Chapter, losses brought forward from the previous year under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter, but may be carried forward for being set off in the regular assessments.

47. Substituted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-7-1995.

48. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

Procedure for block assessment.

158BC. Where any search has been conducted under section 132 or books of account, other documents or assets are requisitioned under section 132A, in the case of any person, then,—

⁴⁹[(a) the Assessing Officer shall—

(i) in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995, but before the 1st day of January, 1997, serve a notice to such person requiring him to furnish within such time not being less than fifteen days;

(ii) in respect of search initiated or books of account or other documents or any assets requisitioned on or after the 1st day of January, 1997, serve a notice to such person requiring him to furnish within such time not being less than fifteen days but not more than forty-five days,

as may be specified in the notice a return in the prescribed form⁵⁰ and verified in the same manner as a return under clause (i) of sub-section (1) of section 142, setting forth his total income including the undisclosed income for the block period :

Provided that no notice under section 148 is required to be issued for the purpose of proceeding under this Chapter :

Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;]

(b) the Assessing Officer shall proceed to determine the undisclosed income of the block period in the manner laid down in section 158BB and the provisions of section 142, sub-sections (2) and (3) of section 143 and section 144 shall, so far as may be, apply;

(c) the Assessing Officer, on determination of the undisclosed income of the block period in accordance with this Chapter, shall pass an order of assessment and determine the tax payable by him on the basis of such assessment;

(d) the assets seized under section 132 or requisitioned under section 132A shall be retained to the extent necessary and the provisions of section 132B shall apply subject to such modifications as may be necessary and the references to “regular assessment” or “reassessment” in section 132B shall be construed as references to “block assessment”.

Undisclosed income of any other person.

158BD. Where the Assessing Officer is satisfied that any undisclosed income belongs to any person, other than the person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, then, the books

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

50. See rule 12(1A) and Form No. 2B.

of account, other documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against such other person and the provisions of this Chapter shall apply accordingly.

Time limit for completion of block assessment.

158BE.⁵¹[(1) The order under section 158BC shall be passed—

- (a) within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned after the 30th day of June, 1995, but before the 1st day of January, 1997;
- (b) within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be—

- (a) one year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995, but before the 1st day of January, 1997; and
- (b) two years from the end of the month in which notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.]

⁵²[⁵³*Explanation 1*].—In computing the period of limitation for the purposes of this section, the period—

- (i) during which the assessment proceeding is stayed by an order or injunction of any court, or
- (ii) commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section,

shall be excluded.]

⁵⁴[*Explanation 2*.—For the removal of doubts, it is hereby declared that the authorisation referred to in sub-section (1) shall be deemed to have been executed,—

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

52. Inserted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-7-1995.

53. Existing *Explanation* renumbered as *Explanation 1* by the Finance (No. 2) Act, 1998, w.r.e.f. 1-7-1995.

54. Inserted, *ibid*.

- (a) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;
- (b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.]

Certain interests and penalties not to be levied or imposed.

158BF. No interest under the provisions of section 234A, 234B or 234C or penalty under the provisions of clause (c) of sub-section (1) of section 271 or section 271A or section 271B shall be levied or imposed upon the assessee in respect of the undisclosed income determined in the block assessment.

⁵⁵[**Levy of interest and penalty in certain cases.**

158BFA. (1) Where the return of total income including undisclosed income for the block period, in respect of search initiated under section 132 or books of account, other document or any assets requisitioned under section 132A on or after the 1st day of January, 1997, as required by a notice under clause (a) of section 158BC, is furnished after the expiry of the period specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent of the tax on undisclosed income, determined under clause (c) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and—

- (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, on the date of completion of assessment under clause (c) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that a person shall pay by way of penalty a sum which shall not be less than the amount of tax leviable but which shall not exceed three times the amount of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (c) of section 158BC :

Provided that no order imposing penalty shall be made in respect of a person if—

- (i) such person has furnished a return under clause (a) of section 158BC;
- (ii) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;
- (iii) evidence of tax paid is furnished along with the return; and
- (iv) an appeal is not filed against the assessment of that part of income which is shown in the return :

Provided further that the provisions of the preceding proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess

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

of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of undisclosed income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made,—

- (a) unless an assessee has been given a reasonable opportunity of being heard;
- (b) by the Assistant Commissioner ⁵⁶[or Deputy Commissioner] or the Assistant Director ⁵⁶[or Deputy Director], as the case may be, where the amount of penalty exceeds twenty thousand rupees except with the previous approval of the ⁵⁷[Joint] Commissioner or the ⁵⁷[Joint] Director, as the case may be;
- (c) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or the Commissioner, whichever period expires later;
- (d) in a case where the assessment is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;
- (e) in any case other than those mentioned in clauses (c) and (d), after the expiry of the financial year in which the proceedings, in the course of which 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;
- (f) in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.

Explanation.—In computing the period of limitation for the purpose of this section,—

- (i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;
- (ii) the period during which the immunity granted under section 245H remained in force; and
- (iii) the period during which the proceedings under sub-section (2) are stayed by an order or injunction of any court,

shall be excluded.

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

57. Substituted for “Deputy”, *ibid.*

(4) An income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.]

⁵⁸[**Authority competent to make block assessment.**

158BG. The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of an Assistant Commissioner ⁵⁹[or Deputy Commissioner] or an Assistant Director ⁵⁹[or Deputy Director], as the case may be :

Provided that no such order shall be passed without the previous approval of—

- (a) the Commissioner or Director, as the case may be, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997;
- (b) the ⁶⁰[Joint] Commissioner or the ⁶⁰[Joint] Director, as the case may be, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997.]

Application of other provisions of this Act.

158BH. Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter.]

CHAPTER XV

LIABILITY IN SPECIAL CASES

A.—Legal representatives

Legal representatives.⁶¹

159. (1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purpose of making an assessment (including an assessment, reassessment or recomputation under section 147) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative in accordance with the provisions of sub-section (1),—

- (a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;
- (b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and
- (c) all the provisions of this Act shall apply accordingly.

58. Substituted by the Income-tax (Amendment) Act, 1997, w.e.f. 1-1-1997. Earlier section 158BG was amended by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

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

60. Substituted for “Deputy”, *ibid.*

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