

CHAPTER XXIII
MISCELLANEOUS

6[Certain transfers to be void.

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

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

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

(ii) with the previous permission of the ⁷[Assessing] Officer.

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

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

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

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 [*Repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.*]

(Contd. from p. 1.803)

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

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

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

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

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

(Contd. on p. 1.805)

⁹[**Provisional attachment to protect revenue in certain cases.**

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

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

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

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

(Contd. from p. 1.804)

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

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

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

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

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

- 9. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.
- 10. Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
- 11. Substituted for “Chief Commissioner or Commissioner” by the Finance Act, 1997, w.r.e.f. 1-10-1996. Earlier “Chief Commissioner or Commissioner” was substituted for “Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
- 12. Inserted by the Finance Act, 1988, w.e.f. 1-4-1988.
- 13. Substituted for “Chief Commissioner or Commissioner” by the Finance Act, 1997, w.r.e.f. 1-10-1996. Earlier “Chief Commissioner or Commissioner” was substituted for “Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years :

¹⁴[**Provided further** that where an application for settlement under section 245C is made, the period commencing from the date on which such application is made and ending with the date on which an order under sub-section (1) of section 245D is made shall be excluded from the period specified in the preceding proviso.]

Service of notice generally.

282. (1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (5 of 1908).

(2) Any such notice or requisition may be addressed—

- (a) in the case of a firm or a Hindu undivided family, to any member of the firm or to the manager or any adult member of the family ;
- (b) in the case of a local authority or company, to the principal officer thereof ;
- (c) in the case of any other association or body of individuals, to the principal officer or any member thereof ;
- (d) in the case of any other person (not being an individual), to the person who manages or controls his affairs.

Service of notice when family is disrupted or firm, etc., is dissolved.

283. (1) After a finding of total partition has been recorded by the ¹⁵[Assessing] Officer under section 171 in respect of any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.

(2) Where a firm or other association of persons is dissolved, notices under this Act in respect of the income of the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution.

Service of notice in the case of discontinued business.

284. Where an assessment is to be made under section 176, the ¹⁶[Assessing] Officer may serve on the person whose income is to be assessed, or, in the case of a firm or an association of persons, on any person who was a member of such firm or association at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under 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 section.

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

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

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

Information by persons responsible for paying interest.

^{16a}**285.** [Omitted by the Finance Act, 1987, w.e.f. 1-6-1987.]

Information by contractors in certain cases.

¹⁷**285A.** [Omitted by the Finance Act, 1988, w.e.f. 1-4-1988. Section 285A was inserted by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.]

¹⁸[**Submission of statements by producers of cinematograph films.**

285B. ¹⁹Any person carrying on the production of a cinematograph film during the whole or any part of any financial year shall, in respect of the period during which such production is carried on by him in such financial year, prepare and deliver or cause to be delivered to the ²⁰[Assessing] Officer, within thirty days from the end of such financial year or within thirty days from the date of the completion of the production of the film, whichever is earlier, a statement in the prescribed form containing particulars of all payments of over ²¹[*twenty-five*] thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production ²²[***].]

16a. Prior to its omission, section 285 stood as under :

‘The person responsible for paying any interest, not being “interest on securities”, shall, on or before the fifteenth day of June in each year, furnish to the Income-tax Officer having jurisdiction to assess him, a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount, not being less than four hundred rupees, as may be prescribed in this behalf, together with the amount paid to each such person.’

17. Prior to its omission, section 285A, as amended by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976, stood as under :

“(1) Where any person (hereinafter referred to as the contractor) enters into a contract with another person for carrying out any work or for the supply of goods or services in connection therewith, the value of which work or supply or both exceeds fifty thousand rupees, he shall, within one month of the making of the contract, furnish to the Income-tax Officer having jurisdiction to assess the contractor such particulars relating to the contract and in such form as may be prescribed.

(2) Without prejudice to the provisions of any other law for the time being in force, where any contractor contravenes the provisions of sub-section (1), the Commissioner may impose upon him such fine not exceeding fifty rupees as he thinks fit for every day during which the contravention continues, so, however, that the amount of fine so imposed shall not, in the aggregate, exceed twenty-five per cent of the value of the contract.

(3) The Commissioner shall, on making an order under this section imposing a fine, forthwith send a copy of the same to the Income-tax Officer.”

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

19. See rule 121A and Form No. 52A for Form of Statement to be furnished by producer of films.

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

21. Substituted for “five” by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

22. “as employee or otherwise” omitted by the Finance Act, 1989, w.e.f. 1-6-1989.

Information by companies respecting shareholders to whom dividends have been paid.

^{22a}**286.**[*Omitted by the Finance Act, 1987, w.e.f. 1-6-1987.*]

²³[**Publication of information respecting assesseees in certain cases.**

287. (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assesseees and any other particulars relating to any proceedings ²⁴[or prosecutions] under this Act in respect of such assesseees, it may cause to be published such names and particulars in such manner as it thinks fit.

²⁵[(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the ²⁶[* * *] ²⁷[Commissioner (Appeals)] has expired without an appeal having been presented or the appeal, if presented, has been disposed of.]

Explanation.—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.]

²⁸[**Appearance by registered valuer in certain matters.**

287A. Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer.

Explanation.—In this section, “registered valuer” has the same meaning as in clause (oaa) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).]

^{22a} Prior to its omission, section 286 stood as under :

“The principal officer of every company which is an Indian company or a company which has made such arrangements as may be prescribed for the declaration and payment of dividends in India, shall, on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each shareholder.”

23. Substituted by the Finance Act, 1964, w.e.f. 1-4-1964.

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

25. Substituted, *ibid.*

26. Words “Deputy Commissioner (Appeals) or, as the case may be, the” omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier, “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 and “or, as the case may be, the” was inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

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

28. Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

²⁹**Appearance by authorised representative.**³⁰

³¹**288.** (1) Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative.

³²(2) For the purposes of this section, “authorised representative” means a person authorised by the assessee in writing to appear on his behalf, being—

- (i) a person related to the assessee in any manner, or a person regularly employed by the assessee; or
- (ii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or
- (iii) any legal practitioner who is entitled to practise in any civil court in India; or
- (iv) an accountant; or
- (v) any person who has passed any accountancy examination recognised in this behalf by the Board³³; or
- (vi) any person who has acquired such educational qualifications as the Board may prescribe³⁴ for this purpose; or

³⁵[(via) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee; or]

(vii) any other person who, immediately before the commencement of this Act, was an income-tax practitioner within the meaning of clause (iv)

29. For notifications issued by the Appellate Tribunal under this section, *see* Taxmann’s Master Guide to Income-tax Act.

30. *See* rules 49 to 66 and Form Nos. 38 to 40.

31. *See* also Circular No. 19-D (XL-62), dated 3-7-1964 and Letter [F. No. 21/4/63-IT], dated 14-6-1963. For details, *see* Taxmann’s Master Guide to Income-tax Act.

32. *See* rule 12A for particulars to be furnished by authorised representative who has prepared the assessee’s return, are as follows :

- (a) particulars of accounts, statements or other documents supplied to him by the assessee for the preparation of the return of income; and
- (b) where the authorised representative has for the purpose of preparation of the return of income carried out any examination of such accounts, statements or documents, a report on the scope and results of such examination :

See rule 54 and Form No. 39 for application for registration as authorised income-tax practitioner and rule 55 and Form No. 40 for Form of certificate by Commissioner for registration of authorised representative.

33. Rule 50.

34. Rule 51.

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

of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), and was actually practising as such.

Explanation.—In this section, “accountant” means a ³⁶chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949), and includes, in relation to any State, any person who by virtue of the provisions of sub-section (2) of section 226³⁷ of the Companies Act, 1956 (1 of 1956), is entitled to be appointed to act as an auditor of companies registered in that State.

(3) ³⁸[***]

(4) No person—

- (a) who has been dismissed or removed from Government service after the 1st day of April, 1938; or
- (b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act, other than a penalty imposed on him under ³⁹[clause (ii) of sub-section (1) of] section 271; or
- (c) who has become an insolvent,

shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in sub-clause (a)*, for such time as the ⁴⁰[Chief Commissioner or Commissioner] may by order determine in the case of a person referred to in sub-clause (b)*, and for the period during which the insolvency continues in the case of a person referred to in sub-clause (c)*.

(5) If any person—

- (a) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an

36. Clause (1)(b) of section 2 of the Chartered Accountants Act, 1949 defines “chartered accountant” as under :

‘(b) “chartered accountant” means a person who is a member of the *Institute;’

*Clause (1)(e) defines the “Institute” as the Institute of Chartered Accountants of India constituted under this Act.

37. For text of section 226(2) of the Companies Act, 1956, see **Appendix One**.

38. Omitted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984. Prior to its omission, sub-section (3) stood as under :

“(3) Notwithstanding anything contained in this section, if the authorised representative is a person formerly employed as an income-tax authority, not below the rank of Income-tax Officer, and has retired or resigned from such employment after having served for not less than three years in any capacity under this Act or under the Indian Income-tax Act, 1922 (11 of 1922), from the date of his first employment as such, he shall not be entitled to represent any assessee for a period of two years from the date of his retirement or resignation, as the case may be.”

39. Inserted by the Finance Act, 1990, w.e.f. 1-4-1990. Earlier, it was amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

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

*Should be read as clause.

income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be;

- ⁴¹(b) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority⁴² may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1).

(6) Any order or direction under clause (b) of sub-section (4) or clause (b) of sub-section (5) shall be subject to the following conditions, namely :—

- (a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;
- (b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and
- (c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

(7) A person disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the Indian Income-tax Act, 1922 (11 of 1922), shall be disqualified to represent an assessee under sub-section (1).

⁴³**[Rounding off of income.**

288A.⁴⁴[The amount of total income] computed in accordance with the foregoing provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of *paise* shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the total income of the assessee for the purposes of this Act.]

⁴⁵[***]

⁴⁶**[Rounding off of tax, etc.**

⁴⁷**288B.** The amount of tax (including tax deductible at source or payable in advance), interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a

41. See rules 52 and 59 to 66.

42. The prescribed authority under rule 52 is Chief Commissioner or Commissioner having requisite jurisdiction.

43. Inserted by the Finance Act, 1966, w.e.f. 1-4-1966.

44. Substituted for "(1) Subject to the provisions of sub-section (2), the amount of total income" by the Finance Act, 1968, w.e.f. 1-4-1969.

45. Sub-section (2) and *Explanation*, omitted, *ibid*.

46. Inserted by the Finance Act, 1966, w.e.f. 1-4-1966.

47. See also Letter [F. No. 12/40/66-IT(B)], dated 25-1-1967 and Circular No. 49, dated 16-11-1970. For details, see Taxmann's Master Guide to Income-tax Act.

rupee consisting of *paise* then, if such part is fifty *paise* or more, it shall be increased to one rupee and if such part is less than fifty *paise* it shall be ignored.]

Receipt to be given.

289. A receipt shall be given for any money paid or recovered under this Act.

Indemnity.

290. Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention, or payment thereof.

Power to tender immunity from prosecution.

291. (1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income ⁴⁸[it is necessary or expedient so to do], tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860), or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.

Cognizance of offences.

292. No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

⁴⁹[Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply.]

292A. Nothing contained in section 360⁵⁰ of the Code of Criminal Procedure, 1973 (2 of 1974), or in the Probation of Offenders Act, 1958 (20 of 1958), shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.]

48. Inserted by the Finance Act, 1963, w.e.f. 28-4-1963.

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

50. For text of section 360 of the Code of Criminal Procedure, 1973, see **Appendix One**.

⁵¹[**Return of income, etc., not to be invalid on certain grounds.**

292B. No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.]

Bar of suits in civil courts.

293. No suit shall be brought in any civil court to set aside or modify any ⁵²[***] ⁵³[proceeding taken or] order made under this Act; and no prosecution, suit or other proceeding shall lie against ⁵⁴[the Government or] any officer of the Government for anything in good faith done or intended to be done under this Act.

⁵⁵[**Power to make exemption, etc., in relation to participation in the business of prospecting for, extraction, etc., of mineral oils.**

293A. (1) If the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by notification⁵⁶ in the Official Gazette, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of persons specified in sub-section (2) or in regard to the whole or any part of the income of such class of persons ⁵⁷[or in regard to the status in which such class of persons or the members thereof are to be assessed on their income from the business referred to in clause (a) of sub-section (2) :

Provided that the notification for modification in respect of the status may be given effect from an assessment year beginning on or after the 1st day of April, 1993.]

(2) The persons referred to in sub-section (1) are the following, namely:—

- (a) persons with whom the Central Government has entered into agreements for the association or participation of that Government or any person authorised by that Government in any business consisting of the prospecting for or extraction or production of mineral oils;
- (b) persons providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by way of sale or hire) in connection with any business consisting of the prospecting for or extraction or production of mineral oils carried on by that

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

52. "assessment" omitted by the Finance Act, 1987, w.r.e.f. 1-3-1987.

53. Inserted by the Finance Act, 1988, w.r.e.f. 1-3-1988.

54. Inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

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

56. For notifications issued under this section, *see* Taxmann's Master Guide to Income-tax Act.

57. Inserted by the Finance Act, 1995, w.r.e.f. 1-4-1993.

Government or any person specified by that Government in this behalf by notification in the Official Gazette; and

(c) employees of the persons referred to in clause (a) or clause (b).

(3) Every notification issued under this section shall be laid before each House of Parliament.

⁵⁸[*Explanation.*—For the purposes of this section,—

(a) “mineral oil” includes petroleum and natural gas;

(b) “status” means the category under which the assessee is assessed as “individual”, “Hindu undivided family” and so on.]]

⁵⁹[**Power of Central Government or Board to condone delays in obtaining approval.**

293B. Where, under any provision of this Act, the approval of the Central Government or the Board is required to be obtained before a specified date, it shall be open to the Central Government or, as the case may be, the Board to condone, for sufficient cause, any delay in obtaining such approval.]

Act to have effect pending legislative provision for charge of tax.

294. If on the 1st day of April in any assessment year provision has not yet been made by a Central Act for the charging of income-tax ⁶⁰[***] for that assessment year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding assessment year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force.

⁶¹[**Power to make exemption, etc., in relation to certain Union territories.**

294A. If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa*, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessee or in regard to the whole or any part of the income of any assessee or class of assesseees :

58. Substituted by the Finance Act, 1995, w.r.e.f. 1-4-1993. Prior to its substitution, the *Explanation*, as inserted by the Finance Act, 1981, w.e.f. 1-4-1981, read as under :

Explanation.—For the purposes of this section, “mineral oil” includes petroleum and natural gas.’

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

60. “or super-tax” omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

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

*Goa has now become a State.

Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made.]

Power to make rules.

295. (1) The Board may, subject to the control of the Central Government, by notification in the Gazette of India, make rules for the whole or any part of India for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

- (a) ⁶²the ascertainment and determination of any class of income;
- (b) the manner in which and the procedure by which the income shall be arrived at in the case of—
 - (i) ⁶³income derived in part from agriculture and in part from business;
 - (ii) ⁶⁴persons residing outside India;
- ⁶⁵[(iii) an individual who is liable to be assessed under the provisions of sub-section (2) of section 64;]
- (c) ⁶⁶the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;
- (d) ⁶⁷the percentage on the written down value which may be allowed as depreciation in respect of buildings, machinery, plant or furniture;
- ⁶⁸[(dd) ⁶⁹the extent to which, and the conditions subject to which, any expenditure referred to in sub-section (3) of section 37 may be allowed;]
- ⁷⁰[(dda) ⁷¹the matters specified in sub-sections (2) and (3) of section 44AA;]
- (e) the percentage or the amount to be prescribed ⁷²[under clause (i) of sub-section (4) of section 80C*];

62. See rules 9A and 9B.

63. See rules 7 and 8.

64. See rules 10 and 11.

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

66. See rule 3.

67. See rule 5.

68. Inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

69. See rules 6AC, 6B and 6D.

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

71. See rule 6F.

72. Substituted for “under clause (i) of sub-section (3) of section 87 or clause (i) of sub-section (4) of section 80A, as the case may be” by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968.

*Now replaced by section 88.

- ⁷³[(*ee*) ⁷⁴the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 80GG;
- (*eea*) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under sub-section (6) of section 139;
- (*eeb*) ⁷⁵the time within which any person may apply for the allotment of a permanent account number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A^{75a};
- (*eec*) ⁷⁶the form of the report of audit and the particulars which such report shall contain under sub-section (2A) of section 142;]
- (*f*) ⁷⁷the manner in which and the period to which any such income as is referred to in section 180 may be allocated;
- (*g*) ⁷⁸the authority to be prescribed for any of the purposes of this Act;
- (*h*) the procedure for giving effect to the terms of any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act;
- (*i*) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;
- (*j*) the manner in which any document required to be filed under this Act may be verified;
- (*k*) ⁷⁹the procedure to be followed on applications for refunds;
- ⁸⁰[(*kk*) ⁸¹the procedure to be followed in calculating interest payable by assesseees or interest payable by Government to assesseees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assesseees may be ignored;]

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

74. See rule 11B.

75. See rule 114 and Form No. 49A.

75a. See rules 114B to 114D and Form Nos. 60 & 61.

76. See rule 14A and Form No. 6B.

77. See rule 9(2).

78. See rules 2C, 2D, 2E, 5A, 6, 6AAA, 6AAC, 11DD, 11L, 16A, 16B, 16C, 18AAA, 18AAB, 18BBA, 18BBC, 18BBD, 18C, 20, 20A, 36A, 37F, 52 and 114D.

79. See rule 41.

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

81. See rule 119A.

- (l) ⁸²the regulation of any matter for which provision is made in section 230;
- (m) ⁸³the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation of any such order as is referred to in clause (c) of sub-section (2) of section 249 may be served;
- ⁸⁴[(mm) ⁸⁵the circumstances in which, the conditions subject to which and the manner in which, the ⁸⁶[* * *] ⁸⁷[Commissioner (Appeals)] may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the ⁸⁸[Assessing] Officer;]
- ⁸⁹[(mma) ⁹⁰the form in which the statement under section 285B shall be delivered to the ⁸⁸[Assessing] Officer;]
- (n) ⁹¹⁻⁹²the maintenance of a register of persons other than legal practitioners or accountants as defined in sub-section (2) of section 288 practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in sub-section (5) of that section;
- (o) the issue of certificate verifying the payment of tax by assessees;
- (p) any other matter which by this Act is to be, or may be, prescribed.
- (3) In cases coming under clause (b) of sub-section (2), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Board is unreasonable, the rules made under this section may—
- (a) prescribe methods by which an estimate of such income may be made; and
- (b) in cases coming under sub-clause (i) of clause (b) of sub-section (2) specify the proportion of the income which shall be deemed to be income liable to tax;
- and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.

82. See rules 42, 43 and 44 and Form Nos. 31 to 34.

83. See rules 45, 46 and 47 and Form Nos. 35 to 36A.

84. Inserted by the Finance Act, 1972, w.e.f. 1-4-1972.

85. See rule 46A.

86. Words “Deputy Commissioner (Appeals) or the” omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier, “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 and “or the” was inserted by the Finance (No. 2) Act, 1977, w.e.f. 10-7-1978.

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

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

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

90. See rule 121A and Form No. 52A.

91-92. See rules 52 to 66.

⁹³[(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseees.]

⁹⁴[⁹⁵**Rules and certain notifications to be placed before Parliament.**

296. The Central Government shall cause every rule made under this Act ⁹⁶[, the rules of procedure framed by the Settlement Commission under sub-section (7) of section 245F, the Authority for Advance Rulings under section 245V and the Appellate Tribunal under sub-section (5) of section 255] and every notification issued under sub-clause (iv) of clause (23C) of section 10 to be laid as soon as may be after the rule is made or the notification is issued before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, that rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.]]

Repeals and savings.

297. (1) The Indian Income-tax Act, 1922 (11 of 1922), is hereby repealed.
(2) Notwithstanding the repeal of the Indian Income-tax Act, 1922 (11 of 1922) (hereinafter referred to as the repealed Act),—

- (a) where a return of income has been filed before the commencement of this Act by any person for any assessment year, proceedings for the assessment of that person for that year may be taken and continued as if this Act had not been passed;
- (b) where a return of income is filed after the commencement of this Act otherwise than in pursuance of a notice under section 34 of the repealed Act by any person for the assessment year ending on the 31st day of March, 1962, or any earlier year, the assessment of that person for that year shall be made in accordance with the procedure specified in this Act;
- (c) any proceeding pending on the commencement of this Act before any income-tax authority, the Appellate Tribunal or any court, by way of appeal, reference, or revision, shall be continued and disposed of as if this Act had not been passed;

93. Inserted by the Direct Taxes (Amendment) Act, 1974, w.e.f. 18-8-1974.

94. 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.

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

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

- (d) where in respect of any assessment year after the year ending on the 31st day of March, 1940,—
- (i) a notice under section 34 of the repealed Act had been issued before the commencement of this Act, the proceedings in pursuance of such notice may be continued and disposed of as if this Act had not been passed;
 - (ii) any income chargeable to tax had escaped assessment within the meaning of that expression in section 147 and no proceedings under section 34 of the repealed Act in respect of any such income are pending at the commencement of this Act, a notice under section 148 may, subject to the provisions contained in section 149 or section 150, be issued with respect to that assessment year and all the provisions of this Act shall apply accordingly;
- (e) ⁹⁷[subject to the provisions of clause (g) and clause (j) of this subsection,] section 23A of the repealed Act shall continue to have effect in relation to the assessment of any company or its shareholders for the assessment year ending on the 31st day of March, 1962 or any earlier year, and the provisions of the repealed Act shall apply to all matters arising out of such assessment as fully and effectually as if this Act had not been passed;
- (f) any proceeding for the imposition of a penalty in respect of any assessment completed before the first day of April, 1962, may be initiated and any such penalty may be imposed as if this Act had not been passed;
- (g) any proceeding for the imposition of a penalty in respect of any assessment for the year ending on the 31st day of March, 1962, or any earlier year, which is completed on or after the 1st day of April, 1962, may be initiated and any such penalty may be imposed under this Act;
- (h) any election or declaration made or option exercised by an assessee under any provision of the repealed Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made or option exercised under the corresponding provision of this Act;
- (i) where, in respect of any assessment completed before the commencement of this Act, a refund falls due after such commencement or default is made after such commencement in the payment of any sum due under such completed assessment, the provisions of this Act relating to interest payable by the Central Government on refunds and interest payable by the assessee for default shall apply;
- (j) any sum payable by way of income-tax, super-tax, interest, penalty or otherwise under the repealed Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of such sum under the repealed Act;

97. Inserted by the Finance Act, 1963, with retrospective effect from 1-4-1962.

- (k) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly;
- (l) ⁹⁸any notification issued under sub-section (1) of section 60 ⁹⁹[or section 60A] of the repealed Act and in force immediately before the commencement of this Act shall, to the extent to which provision has not been made under this Act, continue in force ¹[***]:
²[**Provided** that the Central Government may rescind any such notification or amend it so as to rescind any exemption, reduction in rate or other modification made thereunder;]
- (m) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

Power to remove difficulties.

298. (1) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) In particular, and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which the repealed Act shall apply in relation to the assessments for the assessment year ending on the 31st day of March, 1962, or any earlier year.

³[(3) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.]

98. For exemptions notified under section 60(1) of the 1922 Act, which continued to be in force under this clause, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 3, p.

99. Inserted by the Finance Act, 1966, w.r.e.f. 1-4-1962.

1. "until rescinded by the Central Government" omitted by the Rulers of Indian States (Abolition of Privileges) Act, 1972, w.e.f. 9-9-1972.

2. Inserted, *ibid*.

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