

CHAPTER IV
ASSESSMENT

10 Return of gifts.

13. 11 [(1) Every person who during a previous year has made any taxable gifts, or is assessable in respect of the taxable gifts made by any other person under this Act, which, in either case, exceeded the maximum amount not chargeable to gift-tax, shall, on or before the 30th day of June of the corresponding assessment year, furnish a return of such gifts in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

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

Provided that this sub-section shall not apply to a return furnished in response to a notice under section 16.]

(3) 12[***]

13 [Return after due date and amendment of return.

14. If any person has not furnished a return within the time allowed under sub-section (1) of section 13 or by a notice issued under clause (i) of sub-section (4) of section 15, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier :

Provided that—

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

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

14 [Return by whom to be signed.

14A.The return made under section 13 or section 14 shall be signed and verified—

15[(a) in the case of an individual,—

(i) by the individual himself ;

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

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

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

¹⁶[(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 :

¹⁷[**Provided** that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return :

Provided further that,—

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

Section - 14B, Gift-Tax Act, 1958

¹⁸[**Self-assessment.**

14B. (1) Where any tax is payable on the basis of any return furnished under section 13 or under section 14 or in response to a notice under clause (i) of sub-section (4) of section 15 or under section 16, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

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

(2) After the regular assessment under section 15 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment.

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

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

Section - 15, Gift-Tax Act, 1958

²⁰ [Assessment.

15. (1) (a) Where a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4),—

(i) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 31 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 taxable gifts declared in the return, namely :—

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents is *prima facie* admissible but which is not claimed or made in the return, shall be allowed;

(iii) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is *prima facie* inadmissible, shall be disallowed:

²¹ [Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments:]

²² [Provided ²³ [also] that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the gifts were first assessable.]

(b) Where as a result of an order made under ²⁴[sub-section (3) or sub-section (5) of this section or] section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34 relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (a), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,—

- (i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 31 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.

²⁵ [(1A) (a) Where in the case of any person, the taxable gift, as a result of the adjustments made under the ²⁶[first] proviso to clause (a) of sub-section (1), exceeds the taxable gift declared in the return by any amount, the Assessing Officer shall,—

- (i) further increase the amount of tax payable under sub-section (1) by an additional gift-tax calculated at the rate of twenty per cent of the tax payable on such excess amount and specify the additional gift-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);
 - (ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional gift-tax calculated under sub-clause (i).
- (b) Where as a result of an order under section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which additional gift-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional gift-tax shall be increased or reduced accordingly, and,—

- (i) in a case where the additional gift-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 31;
- (ii) in a case where the additional gift-tax is reduced, the excess amount paid, if any, shall be refunded.

Explanation.—For the purposes of this sub-section, "tax payable on such excess amount" means the difference between the tax on the taxable gift and the tax that would have been chargeable had such taxable gift been reduced by the amount of adjustments.]

²⁷ [(1B) Where an assessee furnishes a revised return under section 14 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 gift-tax, additional gift-tax or interest shall be amended on the basis of the said revised return and where any amount payable by way of gift-tax, additional gift-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 31 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 31 and all the provisions of this Act, shall apply accordingly:

Provided that an assessee, who has furnished a revised return under section 14 after the service upon him of the intimation under sub-section (1) of this section, shall be liable to pay additional gift-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) ²⁸[Where a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4) of this section, the Assessing Officer shall, if he] considers it necessary or expedient to ensure that the assessee has not omitted to disclose any taxable gift or has not understated the amount or value of any such gift or has not under-paid the tax in any manner, ²⁹[***] serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return :

³⁰ [**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 date specified in the notice issued under sub-section (2) or, as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assess the value of taxable gifts made by the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 13 or section 14 or in whose case the time allowed under sub-section (1) of section 13 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

- (i) where such person has not made a return ³¹[within the time allowed under sub-section (1) of section 13], to furnish a return of the taxable gifts made by him or of the taxable gifts made by any other person in respect of which he is assessable under this Act during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or
- (ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person,—

- (a) fails to make the return required under sub-section (1) of section 13 and has not made a return or a revised return under section 14, or
- (b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the value of taxable gifts to the best of his judgment and determine the sum payable by such person on the basis of such assessment :

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.

³² (6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act, ³³[where under the provisions of section 6 read with Schedule II, the fair market value of any property transferred by way of gifts is to be taken into account in such assessment,] the Assessing Officer may refer the valuation of such property to the Valuation Officer,—

- (a) in a case, where the value of the property as returned is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so returned is less than its fair market value ;
- (b) in any other case, if the Assessing Officer is of opinion—
 - (i) that the fair market value of the property exceeds the value of the property as returned by more than such percentage of the value of the property as returned or by more than such amount as may be prescribed ³⁴ in this behalf; or
 - (ii) that having regard to the nature of the property and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this sub-section, "Valuation Officer" has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).]

³⁵ [(7) Where a regular assessment under sub-section (3) or sub-section (5) is made,—

- (a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessments;
- (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.

(8) The provisions of this section, except those of sub-section (6), 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.]

³⁶ [*Explanation.*—An intimation sent to the assessee under sub-section (1) or sub-section (1B) shall be deemed to be an order for the purposes of sub-section (1) of section 24.]

Section - 16, Gift-Tax Act, 1958

Gift escaping assessment.

16. ³⁷ [(1) If the Assessing Officer ^{37a}[has reasons to believe] that the taxable gifts in respect of which any person is assessable under this Act, (whether made by him or by any other

person) have escaped assessment for any assessment year (whether by reason of under-assessment or assessment at too low a rate or otherwise), he may, subject to the other provisions of this section and section 16A, serve on such person a notice requiring him to furnish within such period, ³⁸[***] as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner, setting forth the taxable gifts made by him or by such other person during the previous year mentioned in the notice, in respect of which he is assessable, along with such other particulars as may be required by the notice, and may proceed to assess or reassess such gifts and also any other taxable gifts in respect of which such person is assessable, which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year); and the provisions of this Act shall, so far as may be, apply as if the return were a return required under section 13 :

Provided that where an assessment under sub-section (3) of section 15 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 taxable gift 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 13 or section 14 or in response to a notice issued under sub-section (4) of section 15 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year :

³⁹ [**Provided further** that the Assessing Officer shall, before issuing any notice under this sub-section, record his reasons for doing so.]

Explanation.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

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

- (a) in a case where an assessment under sub-section (3) of section 15 or sub-section (1) of this section 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 value of taxable gifts chargeable to tax which have 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 value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to 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 value of taxable gifts chargeable to tax which have 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 value of taxable gifts chargeable to tax

which have escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

Explanation.—For the purposes of sub-section (1) and sub-section (1A), the following shall also be deemed to be cases where taxable gifts chargeable to tax have escaped assessment, namely :—

- (a) where no return of taxable gifts has been furnished by the assessee although the taxable gifts made by him or the taxable gifts made by 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 gift-tax;
- (b) where return of taxable gifts 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 amount or value of the taxable gifts or has claimed excessive exemption or deduction in the return.

(1B) (a) In a case where an assessment under sub-section (3) of section 15 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) ⁴⁰[by an Assessing Officer, who is below the rank of Assistant Commissioner^{40a}[or Deputy Commissioner], unless the ^{40b}[Joint] Commissioner is satisfied on the reasons recorded by such Assessing Officer that it is a fit case for the issue of such notice] :

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) In a case, other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of ^{40b}[Joint] Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the ^{40b}[Joint] Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.]

(2) Nothing contained in this section limiting the time within which any proceedings for assessment or reassessment may be commenced shall apply to an assessment or reassessment to be made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 22, section 23, section 24, section 26 or section 28 ⁴¹[or by a court in any proceedings under any other law].

Section - 16A, Gift-Tax Act, 1958

⁴² [Time limit for completion of assessment and reassessment.

16A. ⁴³ [(1) No order of assessment shall be made under section 15 at any time after the expiry of ⁴⁴[two years] from the end of the assessment year in which the gifts were first assessable :

⁴⁵ [Provided that,—

- (a) where the gifts were first assessable in the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, such assessment may be made on or before the 31st day of March, 1991;

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

(2) No order of assessment or reassessment shall be made under section 16 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served :

Provided that,—

(i) where the notice under clause (a) of sub-section (1) of section 16 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990 ;

(ii) where the notice under clause (b) of sub-section (1) of section 16 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

Explanation.—References to section 16 in the proviso shall be construed as references to that section as it stood before its amendment by the Direct Tax Laws (Amendment) Act, 1987.]

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order passed on or after the 1st day of April, 1975, under section 22, section 23 or section 24, setting aside or cancelling an assessment, may be made at any time before the expiry of ⁴⁶[two years] from the end of the financial year in which the order under section 22 or section 23 is received by the ⁴⁷[Chief Commissioner or Commissioner] or, as the case may be, the order under section 24 is passed by the Commissioner :

⁴⁸ [**Provided** that where the order setting aside or cancelling the assessment was passed during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990.]

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or reassessment made on the assessee in consequence of, or to give effect to, any finding or direction contained in an order under section 22, section 23, section 24, section 26 or section 28 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act and such assessment or reassessment may, subject to the provisions of sub-section (3), be completed at any time.

Explanation 1.—In computing the period of limitation for the purposes of this section—

(i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be reheard under the proviso to section 38, or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court,

shall be excluded:

⁴⁹ [**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 (3) available to the Assessing Officer for making an order of assessment or reassessment, 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 referred to in sub-section (4), any gift is excluded from the taxable gifts for an assessment year in respect of an assessee, then, an assessment of such

gift for another assessment year shall, for the purposes of sub-section (2) of section 16 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.]

Section - 16B, Gift-Tax Act, 1958

⁵⁰ [Interest for defaults in furnishing return of gifts.

16B. (1) Where a return of gifts for any assessment year under sub-section (1) of section 13 or section 14, or in response to a notice under clause (i) of sub-section (4) of section 15, is furnished after the 30th day of June of such year, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent for every month or part of a month comprised in the period commencing on the 1st day of July of the assessment year, and,—

(a) where the return is furnished after the 30th day of June ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 15,

on the amount of tax payable on the taxable gifts as determined ⁵¹[under sub-section (1) of section 15 or] on regular assessment.

⁵² [Explanation 1.—In this sub-section, "tax payable on the taxable gifts as determined under sub-section (1) of section 15" shall not include the additional gift-tax, if any, payable under section 15.]

Explanation 2.—Where in relation to an assessment year the assessment is made for the first time under section 16, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

⁵³ [Explanation 3.—In this sub-section, "tax payable on the taxable gifts as determined under sub-section (1) of section 15 or on regular assessment" shall, for the purposes of computing the interest payable under section 14B, be deemed to be tax payable on the taxable gifts as declared in the return.]

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 14B towards the interest chargeable under this section.

(3) Where the return of gifts for any assessment year, required by a notice under sub-section (1) of section 16 issued ⁵³[after the determination of taxable gifts under sub-section (1) of section 15 or] after the completion of an assessment under sub-section (3) or sub-section (5) of section 15 or section 16, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, 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, ending on the date of completion of the reassessment under section 16,

on the amount by which the tax on the taxable gifts determined on the basis of such reassessment exceeds the tax on the taxable gifts as determined ⁵⁴[under sub-section (1) of section 15 or] on the basis of the earlier assessment aforesaid.

Explanation : ⁵⁵ [***]

(4) Where, as a result of an order under section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount of tax on which interest was payable under this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and,—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly, and

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

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

Section - 17, Gift-Tax Act, 1958

⁵⁶ [Penalty for failure to furnish returns, to comply with notices and concealment of gifts, etc.

17. (1) If the ⁵⁷[Assessing Officer], ⁵⁸[Deputy Commissioner (Appeals)], ⁵⁹[Commissioner (Appeals),] ⁶⁰[Chief Commissioner or Commissioner] or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

(a) ⁶¹[***]

(b) has ⁶²[***] failed to comply with a notice under sub-section (2) or sub-section (4) of section 15; or

(c) has concealed the particulars of any gift or deliberately furnished inaccurate particulars thereof,

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

(i) ⁶³[***]

⁶⁴[(ii) in the cases referred to in clause (b), in addition to the amount of gift-tax payable by him, a sum which shall not be less than one thousand rupees, but which may extend to twenty-five thousand rupees for each such failure;]

(iii) in the cases referred to in clause (c), in addition to any gift-tax payable by him, a sum which shall not be less than twenty per cent, but which shall not exceed one and half times the amount of the tax, if any, which would have been avoided if the return made by such person had been accepted as correct:

⁶⁵ [Provided that in the cases referred to in clause (b), no penalty shall be imposed if the person proves that there was a reasonable cause for the failure referred to in that clause.]

⁶⁶ [Explanation.—Where any adjustment is made in the taxable gifts declared in the return under the proviso to clause (a) of sub-section (1) of section 15 and additional gift-tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustments so made.]

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

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

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

(ii) by the Assistant Commissioner ^{67a}[or Deputy Commissioner], where the penalty exceeds twenty thousand rupees, except with the prior approval of the ^{67b}[Joint] Commissioner.]

(4) A ⁶⁸[Deputy Commissioner (Appeals)], ⁶⁹[a Commissioner (Appeals),] a ⁷⁰[Chief Commissioner or Commissioner] or the Appellate Tribunal on making an order under this section imposing a penalty, shall forthwith send a copy of the same to the ⁷¹[Assessing Officer].]

⁷² [(5) No order imposing a penalty under this section shall be passed—

- (i) in a case where the assessment to which the proceedings for imposition of penalty relate is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or Commissioner (Appeals) under section 22 or an appeal to the Appellate Tribunal under sub-section (2) of section 23, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever is later;
- (ii) in a case where the relevant assessment is the subject-matter of revision under sub-section (2) of section 24, after the expiry of six months from the end of the month in which such order of revision is passed;
- (iii) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

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

- (i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 38; and
- (ii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

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

Section - 17A, Gift-Tax Act, 1958

⁷³ [**Penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.**

17A. (1) If a person,—

- (a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a gift-tax authority in the exercise of his powers under this Act; or

- (b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a gift-tax authority may legally require him to sign; or
- (c) to whom a summons is issued under sub-section (1) of section 36, either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure :

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 37, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues :

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

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

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a gift-tax authority not lower in rank than a [73a](#)[Joint] Director or a [73a](#)[Joint] Commissioner, by such gift-tax authority;

(b) in any other case, by the [73a](#)[Joint] Director or the [73a](#)[Joint] Commissioner.

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

Explanation.—In this section, "gift-tax authority" includes a Director General, Director, [73a](#)[Joint] Director, Assistant Director [73b](#)[or Deputy Director] or Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the matters specified in sub-section (1) of section 36.]

Section - 18, Gift-Tax Act, 1958

[74](#) [Rebate on advance payments.

[75](#) **18.** If a person making a taxable gift pays into the treasury within fifteen days of his making the gift any part of the amount of tax due on the gift calculated at rates specified in the Schedule [76](#)[or at the rate specified in sub-section (2) of section 3], he shall, at the time of assessment under section 15, be given credit—

(i) for the amount so paid; and

(ii) for a sum equal to one-ninth of the amount so paid, so however, that such sum shall in no case exceed one-tenth of the tax due on the gift.

Explanation.—If a person makes more than one taxable gift in the course of a previous year, the amount of tax due on any one of such gifts shall be the difference between the total amount of tax due on the aggregate value of all the taxable gifts so far made, including the taxable gift in respect of which tax has to be paid, calculated at the rates specified in the Schedule or, as the case may be [77](#)[at the rate specified in sub-section (2) of section 3], and the total amount of tax on the aggregate value of all the gifts made during that year, excluding

the taxable gift in respect of which tax has to be paid, calculated at the rates specified in the Schedule or, as the case may be, ⁷⁸[at the rate specified in sub-section (2) of section 3].]

Section - 18A, Gift-Tax Act, 1958

⁷⁹ [**Credit for stamp duty paid on instrument of gift.**

⁸⁰ **18A.** Where any stamp duty has been paid under any law relating to stamp duty in force in any State on an instrument of gift of property, the assessee shall be entitled to a deduction from the gift-tax payable by him of an amount equal to the stamp duty so paid or one-half of the gift-tax payable, before making the deduction under this section, whichever is less.]