

78 CHAPTER IVA

SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

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

18C. ⁷⁹(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the ⁸⁰[Assessing Officer] or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court or the Supreme Court on a reference under section 27 ⁸¹[or in appeal under section 27A before the High Court] or in appeal before the Supreme Court under section 29 (such case being hereafter in this section referred to as the other case), he may furnish to the ⁸²[Assessing Officer] or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the ⁸²[Assessing Officer] or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or ⁸³[in appeal before the High Court under section 27A or the Supreme Court under section 29].

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the ⁸²[Assessing Officer] on the correctness of the claim made by the assessee and, where the ⁸²[Assessing Officer] makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The ⁸²[Assessing Officer] or the appellate authority, as the case may be, may, by order in writing,—

- (i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case ; or
- (ii) reject the claim if he or it is not so satisfied.

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

- (a) the ⁸²[Assessing Officer] or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case ; and
- (b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or ⁸³[in appeal before the High Court under section 27A or the Supreme Court under section 29].

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the ⁸²[Assessing Officer] or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

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

Explanation.—In this section,—

- (a) "appellate authority" means the ⁸⁴[Deputy Commissioner (Appeals)], or the Commissioner (Appeals) or the Appellate Tribunal ;
- (b) "case", in relation to an assessee, means any proceeding under this Act for the assessment of the net wealth of the assessee or for the imposition of any penalty on him.]