

## CHAPTER VIII

### MISCELLANEOUS

#### <sup>64</sup>[Transfers to defraud revenue to be void.

**34B.** (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 to the Income-tax Act as made applicable to this Act by section 32, any assessee creates a charge on, or parts with (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) the possession of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise :

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

- (i) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or
- (ii) with the previous permission of the <sup>65</sup>[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.]

#### <sup>66</sup>[Provisional attachment to protect revenue in certain cases.

**34C.** (1) Where, during the pendency of any proceeding for the assessment of net wealth or for the assessment or reassessment of net wealth which has escaped assessment, the <sup>67</sup>[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 <sup>68</sup>[Chief Commissioner or Commissioner], by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule to the Income-tax Act as made applicable to this Act by section 32.

<sup>69</sup>[*Explanation.*—For the purposes of this sub-section, the proceedings under sub-section (5) of section 37A shall be deemed to be proceedings for the assessment of any net wealth or for the assessment or reassessment of any net wealth which has escaped assessment.]

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

**Provided** that the <sup>68</sup>[Chief Commissioner or Commissioner] may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so however, that the total period of extension shall not in any case exceed two years]:

<sup>70</sup>[**Provided further** that where an application for settlement under section 22C is made, the period commencing from the date on which such application is made and ending with the date

on which an order under sub-section (1) of section 22D is made shall be excluded from the period specified in the preceding proviso.]

Section - 35, Wealth-Tax Act, 1957

<sup>71</sup>[**Rectification of mistakes.**

35. (1) With a view to rectifying any mistake apparent from the record—

- (a) the <sup>72</sup>[Assessing Officer] may amend any order of assessment or of refund or any other order passed by him;
- <sup>73</sup>[(aa) a wealth-tax authority may amend any intimation or deemed intimation under sub-section (1) of section 16;]
- <sup>74</sup>[(<sup>75</sup>[(aaa) the Valuation Officer may amend any order passed by him under section 16A;]  
<sup>76</sup>[(b) the <sup>77</sup>[Joint] Director or <sup>77</sup>[Joint] Commissioner or Director or Commissioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 18A;]
- <sup>78</sup>[(c) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 23 <sup>79</sup>[or section 23A];
- (d) the Commissioner may amend any order passed by him under section 25;
- (e) the Appellate Tribunal may amend any order passed by it under section 24.]

(2) Where the amount of tax, penalty or interest determined as a result of the first appeal or revision against the order referred to in sub-clause (iii) of clause (m) of section 2 <sup>80</sup>[, as it existed immediately before its amendment by the Finance Act, 1992,] is paid within six months of the date of the order passed in such appeal or revision, the <sup>81</sup>[Assessing Officer] may, notwithstanding anything to the contrary in this Act, rectify the assessment by allowing a deduction to the extent the tax, penalty or interest so paid stood disallowed therein as if such rectification were a rectification of a mistake apparent from the record.

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

- (a) may make an amendment under sub-section (1) or sub-section (2) of its own motion;
- (b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the <sup>82</sup>[Valuation Officer or the ] <sup>83</sup>[Deputy Commissioner (Appeals)] <sup>84</sup>[or the Commissioner (Appeals)] or the Appellate Tribunal, by the <sup>85</sup>[Assessing Officer] also.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the wealth-tax authority concerned or the Tribunal, as the case may be.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the <sup>86</sup>[Assessing Officer] shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 30 and the provisions of this Act shall apply accordingly.

<sup>87</sup>[(6A) Where any amendment made by the Valuation Officer under clause (aa)\* of sub-section (1) has the effect of enhancing the valuation of any asset, he shall send a copy of his order to the <sup>86</sup>[Assessing Officer] who shall thereafter proceed to amend the order of

assessment in conformity with the order of the Valuation Officer and the provisions of sub-section (6) shall apply accordingly.]

(7) No amendment under this section shall be made after the expiry of four years—

- (a) in the case of an amendment under sub-section (2), <sup>88</sup>[from the end of the financial year in which the order was passed in the first appeal or revision] referred to in that sub-section; and
- (b) in any other case, <sup>89</sup>[from the end of the financial year in which the order sought to be amended was passed].

<sup>90</sup>[(7A) Notwithstanding anything contained in sub-section (7), where the valuation of any asset has been enhanced by the Valuation Officer under this section, the consequential amendment to the order of assessment may be made by the <sup>91</sup>[Assessing Officer] at any time before the expiry of one year from the date of the order of the Valuation Officer under this section.]

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

Section - 35A, Wealth-Tax Act, 1957

<sup>92</sup>[**Wilful attempt to evade tax, etc.**

**35A.** (1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

- (i) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

(2) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provisions of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine.

*Explanation.*—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

- (a) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement, or
- (b) makes, or causes to be made, any false entry or statement in such books of account or other documents, or
- (c) wilfully omits, or causes to be omitted, any relevant entry or statement in such books of account or other documents, or

- (d) causes any other circumstances to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

Section - 35B, Wealth-Tax Act, 1957

**Failure to furnish returns of net wealth.**

**35B.** If a person wilfully fails to furnish in due time the return of his net wealth which he is required to furnish under sub-section (1) of section 14 or by notice given under sub-section (2) of section 14 or under sub-section (1) of section 17, he shall be punishable,—

- (i) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine:

**Provided** that a person shall not be proceeded against under this section for failure to furnish in due time the return of net wealth under sub-section (1) of section 14—

- (i) for any assessment year commencing prior to the 1st day of April, 1975; or
- (ii) for any assessment year commencing on or after the 1st day of April, 1975, if—
  - (a) the return is furnished by him before the expiry of the assessment year; or
  - (b) the tax payable by him on his net wealth determined on regular assessment does not exceed three thousand rupees.

Section - 35C, Wealth-Tax Act, 1957

**Failure to produce accounts, records, etc.**

**35C.** If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice under sub-section (4) of section 16, such accounts, records and documents as are referred to in the notice, he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both.

Section - 35D, Wealth-Tax Act, 1957

**False statement in verification, etc., made under certain provisions of the Act.**

**35D.** If a person makes a statement in any verification under this Act (other than under section 34AB) or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

- (i) in a case where the amount of tax which would have been evaded if the statement or account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

Section - 35E, Wealth-Tax Act, 1957

**False statement in verification mentioned in section 34AB.**

**35E.** If a person makes a statement in a verification mentioned in section 34AB which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Section - 35EE, Wealth-Tax Act, 1957

<sup>93</sup>[**Failure to furnish particulars under section 34ACC.**

**35EE.** If a person referred to in section 34ACC fails <sup>94</sup>[\*\*\*] to intimate to the Board the particulars of conviction or finding referred to in the said section, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine]:

<sup>95</sup>[**Provided** that no person shall be punishable under this section if he proves that there was reasonable cause or excuse for the said failure.]

Section - 35EEE, Wealth-Tax Act, 1957

<sup>96</sup>[**Contravention of order made under second proviso to sub-section (1) or sub-section (3A) of section 37A.**

**35EEE.** If a person contravenes any order referred to in the second proviso to sub-section (1) or sub-section (3A) of section 37A, he shall be punishable with rigorous imprisonment for a term which may extend to two years and with fine.]

Section - 35F, Wealth-Tax Act, 1957

**Abetment of false return, etc.**

**35F.** If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any net wealth chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 35A, he shall be punishable,—

- (i) in a case where the amount of tax, penalty or interest, which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

Section - 35G, Wealth-Tax Act, 1957

### **Punishment for second and subsequent offences.**

**35G.** If any person convicted of an offence under sub-section (1) of section 35A or section 35B or section 35D or section 35F is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

Section - 35GA, Wealth-Tax Act, 1957

### <sup>97</sup>[**Power of Commissioner to grant immunity from prosecution.**

**35GA.** (1) A person may make an application to the Commissioner for granting immunity from prosecution, if he has made an application for settlement under section 22C and the proceedings for settlement have abated under section 22HA.

(2) The application to the Commissioner under sub-section (1) shall not be made after institution of the prosecution proceedings after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the wealth-tax authority in the proceedings before him and has made a full and true disclosure of his net wealth and the manner in which such net wealth has been derived :

**Provided** that where the application for settlement under section 22C had been made before the 1st day of June, 2007, the Commissioner may grant 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.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars, material to the assessment, from the wealth-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings.]

**Offences by Hindu undivided families.**

**35H.** (1) Where an offence under this Act has been committed by a Hindu undivided family, the karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

**Provided** that nothing contained in this sub-section shall render the karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member thereof, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

<sup>98</sup>[**Offences by companies.**

**35HA.** (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

**Provided** that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

<sup>99</sup>[(3) Where an offence under this Act has been committed by a person, being a company and such offence is punishable with imprisonment and fine, then, without prejudice to the provisions contained in sub-section (1) or sub-section (2), such company shall be punished with fine and every person, referred to in sub-section (1) or the director, manager, secretary or other officer of the company referred to in sub-section (2), shall be liable to be proceeded against and punished in accordance with the provisions of this Act.]

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

(a) "company" means a body corporate, and includes—

(i) a firm; and

(ii) an association of persons or a body of individuals whether incorporated or not; and

(b) "director", in relation to,—

- (i) a firm, means a partner in a firm;
- (ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

Section - 35I, Wealth-Tax Act, 1957

<sup>1</sup>[**Prosecutions to be with the previous sanction of certain wealth-tax authorities and their power to compound offences.**

**35I** <sup>2</sup>[(1) A person shall not be proceeded against for an offence under this Act except with the previous sanction of the Commissioner or Commissioner (Appeals) :

**Provided** that the Chief Commissioner or, as the case may be, Director General may issue such instructions or directions to the aforesaid wealth-tax authorities as he may deem fit for institution of proceedings under this sub-section.]

(2) Any such offence may, either before or after the institution of proceedings, be compounded by the Chief Commissioner or a Director General.]]

<sup>3</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that the power of the Board to issue orders, instructions or directions under this Act shall include and shall be deemed always to have included the power to issue instructions or directions (including instructions or directions to obtain the previous approval of the Board) to other wealth-tax authorities for the proper composition of offences under this section.]

Section - 35J, Wealth-Tax Act, 1957

**Certain offences to be non-cognizable.**

**35J.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under section 35A or section 35B or section 35D or section 35F shall be deemed to be non-cognizable within the meaning of that Code.

Section - 35K, Wealth-Tax Act, 1957

**Bar on prosecution and on inadmissibility of evidence in certain circumstances.**

**35K.** (1) A person shall not be proceeded against for an offence under section 35A or section 35D in relation to the assessment for <sup>4</sup>[an assessment year] in respect of which the penalty imposed or imposable on him under clause (iii) of sub-section (1) of section 18 has been reduced or waived by an order under section 18B.

(2) Where any proceeding for prosecution has been taken against any person under this Act, any statement made or account or other document produced by such person before <sup>5</sup>[any wealth-tax authority (not being an Inspector of Income-tax)] shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty imposable would be reduced or waived under section 18B or that the offence in respect of which such proceeding was taken would be compounded.



**Jurisdiction of courts.**

**35L.** No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

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

**35M.** Nothing contained in section 360<sup>6</sup> 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.

**Presumption as to books of account, etc., in certain cases.**

**35N.** (1) Where during the course of any search made under section 37A, any books of account or other documents, articles or things including money have been found in the possession or control of any person and such books of account or other documents are tendered, or such articles or things including money are relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (5) of section 37A shall, so far as may be, apply in relation to such books of account or other documents, articles or things including money.

(2) Where—

- (i) any books of account or other documents, taken into custody, from the possession or control of any person by any officer or authority under clause (a) or clause (b) of sub-section (1) of section 37B, are delivered to the requisitioning officer under sub-section (2) of that section; or
- (ii) any note or inventory of any articles or things including money taken into custody, from the possession of any person, by any officer or authority under clause (c) of sub-section (1) of section 37B, is furnished to the requisitioning officer under sub-section (2) of that section,

and such books of account or other documents are tendered, or such note or inventory is relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (5) of section 37A shall, so far as may be, apply in relation to such books of account or other documents or, as the case may be, the articles or things including money, covered by such note or inventory.

<sup>7</sup>[**Presumption as to culpable mental state.**

**35O.** (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

*Explanation.*—In this sub-section, "culpable mental state" includes intention, motive or knowledge of a fact, or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.]

<sup>8</sup>[**Proof of entries in records or documents.**

**36.** Entries in the records or other documents in the custody of a wealth-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Act, and all such entries may be proved either by the production of the records or other documents in the custody of the wealth-tax authority containing such entries or by the production of a copy of the entries certified by the wealth-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody.]

<sup>9</sup>[**Power to tender immunity from prosecution.**

**36A.** (1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of particulars of net wealth or to the evasion of payment of tax on net wealth, it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under 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 particulars of net wealth or evasion of payment of tax on net wealth.

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

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

connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.]

Section - 37, Wealth-Tax Act, 1957

<sup>10</sup>[**Power to take evidence on oath, etc.**

37. (1) The <sup>11</sup>[Assessing Officer], <sup>12</sup>[Valuation Officer], <sup>13</sup>[Deputy Commissioner (Appeals)], <sup>14</sup>[Commissioner (Appeals)], <sup>15</sup>[Chief Commissioner or Commissioner] and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

<sup>16</sup>[(1A) If the Director General or Director or <sup>17</sup>[Joint] Director or Assistant Director <sup>18</sup>[or Deputy Director], or the authorised officer referred to in sub-section (1) of section 37A before he takes action under clauses (i) to (vi) of that sub-section, has reason to suspect that any net wealth has been concealed, or is likely to be concealed, by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the wealth-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other wealth-tax authority.]

<sup>19</sup>(2) [*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.*]

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) <sup>20</sup>[or sub-section (1A)] may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act:

**Provided** that <sup>21</sup>[an Assessing Officer] <sup>22</sup>[or a Valuation Officer] <sup>23</sup>[or an Assistant Director <sup>24</sup>[or a Deputy Director]] shall not—

- (a) impound any books of account or other documents without recording his reasons for so doing, or
- (b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the <sup>25</sup><sup>26</sup>[Chief Commissioner or Director General or Commissioner or Director therefor, as the case may be]].

(4) Any proceeding under this Act before a wealth-tax authority or the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 <sup>27</sup>of the Indian Penal Code (45 of 1860).]

<sup>28</sup>[<sup>29</sup>**Power of search and seizure.**

**37A.** <sup>30</sup>(1) Where the <sup>31</sup>[Director General or Director] or the <sup>32</sup>[Chief Commissioner or Commissioner] or any such <sup>33</sup>[Joint Director] or <sup>34</sup>[Joint Commissioner] as may be empowered in this behalf by the Board, in consequence of information in his possession, has reason to believe that—

- (a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons, or
- (b) any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce, or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under this Act, or
- (c) any person is in possession of <sup>35</sup>[any money, bullion, jewellery or other valuable article or thing] disproportionate to his known assets, particulars of which will be useful for, or relevant to, any proceeding under this Act,

then,—

- (A) the <sup>36</sup>[Director-General or Director] or the <sup>37</sup>[Chief Commissioner or Commissioner], as the case may be, may authorise any <sup>38</sup>[Joint Director], <sup>39</sup>[Joint Commissioner], <sup>40</sup>[Assistant Director <sup>41</sup>[or Deputy Director]], <sup>41</sup>[Assistant Commissioner <sup>41</sup>[or Deputy Commissioner] or Income-tax Officer], or
- (B) such <sup>38a</sup>[Joint Director] or <sup>39</sup>[Joint Commissioner] may authorise any <sup>40</sup>[Assistant Director] <sup>41</sup>[or Deputy Director] or <sup>42</sup>[Assistant Commissioner <sup>41</sup>[or Deputy Commissioner] or Income-tax Officer],

(the officer so authorised in all cases being hereafter in this section referred to as the authorised officer) to—

- (i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account or other documents, <sup>43</sup>[money, bullion, jewellery or other valuable article or thing] are kept;
- (ii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents, <sup>43</sup>[money, bullion, jewellery or other valuable article or thing];
- (iii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;
- <sup>44</sup>[(iv) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;]

- (v) place marks of identification on any such books of account or other documents or make, or cause to be made, extracts or copies therefrom;
- (vi) make a note or an inventory of <sup>45</sup>[any money, bullion, jewellery or other valuable article or thing] found which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:

<sup>46</sup> **Provided** that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any <sup>47</sup>[Chief Commissioner or Commissioner] but such <sup>47</sup>[Chief Commissioner or Commissioner] has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of this sub-section, then, notwithstanding anything contained in <sup>48</sup>[section 8], it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the <sup>49</sup>[Chief Commissioner or Commissioner] having jurisdiction over such person may be prejudicial to the interests of the revenue :

<sup>50</sup>**Provided further** that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iv) of this sub-section.]

<sup>51</sup>(2) Where any <sup>49</sup>[Chief Commissioner or Commissioner], in consequence of information in his possession, has reason to suspect that any books of account or other documents, <sup>52</sup>[money, bullion, jewellery or other valuable article or thing] in respect of which an officer has been authorised by the <sup>53</sup>[Director General or Director] or any other <sup>54</sup>[Chief Commissioner or Commissioner] or any such <sup>55</sup>[Joint Director] or <sup>56</sup>[Joint Commissioner] as may be empowered in this behalf by the Board to take action under clauses (i) to (vi) of sub-section (1) are kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such <sup>57</sup>[Chief Commissioner or Commissioner] may, notwithstanding anything contained in <sup>58</sup>[section 8], authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

(3) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) or sub-section (2) and it shall be the duty of every such officer to comply with such requisition.

<sup>59</sup>[(3A) The authorised officer may, where it is not practicable to seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

*Explanation.*—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iv) of sub-section (1).]

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account or other documents, articles or things including money and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act.

<sup>59</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of matters relevant for the purposes of any investigation connected with any proceedings under this Act.]

(5) Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search, it may be presumed that—

- (i) such books of account or other documents, articles or things including money belong to such person;
- (ii) the contents of such books of account or other documents are true; and
- (iii) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

<sup>60</sup>[(5A) Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 37B and 37C referred to as the assets) is seized under sub-section (1) or sub-section (2), the Assessing Officer, after affording a reasonable opportunity to the person concerned of being heard and making such inquiry as may be prescribed, shall, within one hundred and twenty days of the seizure, make an order, with the previous approval of the <sup>61</sup>[Joint] Commissioner,—

- (i) estimating the undisclosed net wealth in a summary manner to the best of his judgment on the basis of such materials as are available with him;
- (ii) calculating the amount of tax on the net wealth so estimated in accordance with the provisions of this Act;
- (iii) determining the amount of interest payable and the amount of any penalty imposable in accordance with the provisions of this Act, as if the order had been the order of regular assessment;
- (iv) specifying the amount that will be required to satisfy any existing liability under this Act in respect of which such person is in default or is deemed to be in default, and retain in his custody such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in clauses (ii), (iii) and (iv) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized:

**Provided** that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (ii), (iii) and (iv) or any part thereof, the Assessing Officer, may with the previous approval of the Chief Commissioner or Commissioner release the assets or such part thereof as he may deem fit in the circumstances of the case.

(5B) The assets retained under sub-section (5A) may be dealt with in accordance with the provisions of section 37C.

(5C) If the Assessing Officer is satisfied that the seized assets or any part thereof were held by such person for or on behalf of any other person, the Assessing Officer may proceed under sub-section (5A) against such other person and all the provisions of this section shall apply accordingly.]

(6) The books of account or other documents, seized under sub-section (1) or sub-section (2), shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the <sup>62</sup>[Chief Commissioner or Commissioner] for such retention is obtained:

**Provided** that the <sup>62</sup>[Chief Commissioner or Commissioner] shall not authorise the retention of the books of account or other documents for a period exceeding thirty days after all the proceedings under this Act in respect of the years for which the books of account or other documents are relevant are completed.

<sup>63</sup>[(6A) An order under sub-section (3A) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded in writing by him, extends the period of operation of the order beyond sixty days, after obtaining the approval of the <sup>64</sup>[Director or, as the case may be, Commissioner] for such extension:

**Provided** that the <sup>64</sup>[Director or, as the case may be, Commissioner] shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.]

(7) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (2) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

(8) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents seized under that sub-section shall be handed over by the authorised officer to the <sup>65</sup>[Assessing Officer] having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (6) or sub-section (7) shall be exercisable by such <sup>65</sup>[Assessing Officer].

(9) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (2) objects for any reason to the approval given by the <sup>66</sup>[Chief Commissioner or Commissioner] under sub-section (6), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents.

<sup>67</sup>[(9A) If any person objects for any reason to an order made under sub-section (5A), he may, within thirty days from the date of such order, make an application to the Chief Commissioner or Commissioner stating therein the reasons for such objection and requesting for appropriate relief in the matter.]

<sup>68</sup>[(10) On receipt of the application under sub-section (9), the Board, or on receipt of the application under sub-section (9A), the Chief Commissioner or Commissioner, may, after giving the applicant an opportunity of being heard, pass such orders as it or he thinks fit.]

(11) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches shall apply, so far as may be, to searches under this section.

(12) The Board may make rules in relation to searches or seizure under this section; and in particular and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

- (i) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;
- (ii) for ensuring the safe custody of any books of account or other documents seized.

<sup>69</sup>[*Explanation 1.*—In computing the period referred to in sub-section (5A) for the purposes of that sub-section, any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

*Explanation 2.*—In this section, the word "proceeding" means any proceeding in respect of any year under this Act which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also proceedings under this Act which may be commenced after such date in respect of any year.]

Section - 37B, Wealth-Tax Act, 1957

**Power to requisition books of account, etc.**

**37B.** <sup>70</sup>(1) Where the <sup>71</sup>[Director General or Director] or the <sup>72</sup>[Chief Commissioner or Commissioner], in consequence of information in his possession, has reason to believe that—

- (a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or
- (b) any books of account or other documents will be useful for, or relevant to, any proceeding under this Act and any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce or cause to be produced such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or
- (c) <sup>73</sup>[any assets] disproportionate to the known assets of any person, particulars of which will be useful for, or relevant to, any proceeding under this Act, have been taken into custody by any officer or authority under any other law for the time being in force, from the possession of such person,

then, the <sup>74</sup>[Director-General or Director] or the <sup>75</sup>[Chief Commissioner or Commissioner] may authorise any <sup>76</sup>[Joint Director], <sup>77</sup>[Joint Commissioner], <sup>78</sup>[Assistant Director <sup>79</sup>[or Deputy Director]] or <sup>80</sup>[Assistant Commissioner <sup>79</sup>[or Deputy Commissioner ] or Income-tax Officer] (hereafter in this section referred to as the requisitioning officer) to require such



officer or authority <sup>81</sup>[to deliver such books of account, other documents, or assets to the requisitioning officer].

(2) On a requisition being made under sub-section (1), <sup>82</sup>[the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents, or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.]

<sup>83</sup>[(3) Where any books of account, other documents, or assets have been delivered to the requisitioning officer, the provisions of sub-sections (5) to (12) (both inclusive) of section 37A and section 37C shall, so far as may be, apply as if such books of account, other documents, or assets had been seized under sub-section (1) of section 37A by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1) of this section and as if for the words "the authorised officer" occurring in sub-sections (5) to (12) aforesaid, the words "the requisitioning officer" were substituted.]

Section - 37C, Wealth-Tax Act, 1957

<sup>84</sup>[**Application of retained assets.**

**37C.** (1) The assets retained under sub-section (5A) of section 37A may be dealt with in the following manner, namely :—

- (i) the amount of the existing liability referred to in clause (iv) of the said sub-section and the amount of the liability determined on completion of the regular assessment or reassessment for all the assessment years for which the net wealth referred to in clause (i) of that sub-section is assessable to tax (including any penalty levied or interest payable, in connection with such assessment or reassessment) and in respect of which the assessee is in default or is deemed to be in default may be recovered out of such assets;
- (ii) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liabilities to the extent of the money so applied;
- (iii) the assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer under authorisation from the Chief Commissioner or Commissioner under sub-section (5) of section 226 of the Income-tax Act as made applicable to this Act by section 32, and the Assessing Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule to the Income-tax Act as made applicable to this Act by section 32.

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

(3) Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(4) (a) The Central Government shall pay simple interest at the rate of fifteen per cent per annum on the amount by which the aggregate of the money retained under section 37A and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (iv) of sub-section (5A) of that section exceeds the aggregate of the amounts required to meet the liabilities referred to in clause (i) of sub-section (1) of this section.

(b) Such interest shall run from the date immediately following the expiry of the period of six months from the date of the order under sub-section (5A) of section 37A to the date of the regular assessment or reassessment referred to in clause (i) of sub-section (1) or, as the case may be, to the date of the last of such assessments or reassessments.]

#### Section - 38, Wealth-Tax Act, 1957

##### **Information, returns and statements.**

**38.** <sup>85</sup>[Where, for the purposes of this Act], it appears necessary for <sup>86</sup>[any wealth-tax authority] to obtain any statement or information from any individual, company <sup>87</sup>[(including a banking company)], firm, Hindu undivided family or other person, <sup>88</sup>[such wealth-tax authority] may serve a notice requiring such individual, company, firm, Hindu undivided family or other person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and the individual or the principal officer concerned or the manager of the Hindu undivided family, as the case may be, shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to <sup>88</sup>[such wealth-tax authority]:

**Provided** that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126<sup>89</sup> of the Indian Evidence Act, 1872 (1 of 1872).

#### Section - 38A, Wealth-Tax Act, 1957

##### <sup>90</sup>**[Powers of Valuation Officer, etc.**

**38A.** <sup>91</sup>(1) For the purposes of this Act, a Valuation Officer or any overseer, surveyor or assessor authorised by him in this behalf may, subject to any rules made in this behalf and at such reasonable times as may be prescribed,—

- (a) enter any land within the limits of the area assigned to the Valuation Officer, or
- (b) enter any land, building or other place belonging to or occupied by any person in connection with whose assessment a reference has been made under section 16A to the Valuation Officer, or
- (c) inspect any asset in respect of which a reference under section 16A has been made to the Valuation Officer,

and require any person in charge of, or in occupation or possession of, such land, building or other place or asset to afford him the necessary facility to survey or inspect such land, building or other place or asset or estimate its value or inspect any books of account, document or record which may be relevant for the valuation of such land, building or other place or asset and gather other particulars relating to such land, building or other place or asset:

**Provided** that no Valuation Officer, overseer, surveyor or assessor shall enter any building or place referred to in clause (b), or inspect any asset referred to in clause (c) (unless with the consent of the person in charge of, or in occupation or possession of, such building, place or asset) without previously giving to such person at least two days' notice in writing of his intention to do so.

(2) If a person who, under sub-section (1), is required to afford any facility to the Valuation Officer or the overseer, surveyor or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers under sub-sections (1) and (2) of section 37 for enforcing compliance of the requirements made.]

Section - 39, Wealth-Tax Act, 1957

### **Effect of transfer of authorities on pending proceedings.**

**39.** Whenever in respect of any proceeding under this Act any wealth-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor :

<sup>92</sup>[**Provided** that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.]

Section - 40, Wealth-Tax Act, 1957

### **Computation of periods of limitation.**

**40.** In computing the period of limitation prescribed for an appeal under this Act or for an application under section 27, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Section - 41, Wealth-Tax Act, 1957

### **Service of notice.**

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

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of <sup>93</sup>[a company, or] any other association of persons be addressed to the principal officer thereof.

<sup>94</sup>[(3) After a finding of total partition has been recorded by the <sup>95</sup>[Assessing Officer] under section 20 in respect of any Hindu family, notices under this Act in respect of the net wealth of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all surviving adults who were members of the Hindu family immediately before the partition.]

<sup>96</sup>[(4) Where an association of persons referred to in section 21AA is dissolved, notices under this Act in respect of any matter relating to the association may be served on any person who was a member of the association immediately before its dissolution.]

Section - 42, Wealth-Tax Act, 1957

<sup>97</sup>[**Notice deemed to be valid in certain circumstances.**

**42.** Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- (a) not served upon him; or
- (b) not served upon him in time; or
- (c) served upon him in an improper manner:

**Provided** that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment.]

Section - 42A, Wealth-Tax Act, 1957

<sup>98</sup>[**Publication of information respecting assesseees.**

**42A.** (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 <sup>99</sup>[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.]

<sup>1</sup>[(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 <sup>2</sup>[Deputy Commissioner (Appeals)] <sup>3</sup>[or, as the case may be, the Commissioner (Appeals)] has expired without an appeal having been presented or the appeal, if presented, has been disposed of.]

<sup>4</sup>[*Explanation.*—In the case of a company, the names of the directors, secretaries and treasurers, or managers of the company, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.]

Section - 42B, Wealth-Tax Act, 1957

<sup>5</sup>[**Disclosure of information respecting assesseees.**

**42B.** <sup>6</sup>Where a person makes an application to the <sup>7</sup>[Chief Commissioner or Commissioner] in the prescribed form for any information relating to any assessee in respect of any assessment made under this Act, the <sup>8</sup>[Chief Commissioner or Commissioner] may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for in respect of that assessment only and his decision in this behalf shall be final and shall not be called in question in any court of law.]

<sup>9</sup>[**Return of wealth, etc., not to be invalid on certain grounds.**

**42C.** No return of wealth, assessment, notice, summons or other proceeding furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of wealth, assessment, notice, summons or other proceeding if such return of wealth, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.]

<sup>10</sup>[**Presumption as to assets, books of account, etc.**

**42D.** <sup>11</sup>[(1)] Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search under section 37A, it may, in any proceeding under this Act, be presumed that—

- (i) such books of account or other documents, articles or things including money belong to such person;
- (ii) the contents of such books of account or other documents are true; and
- (iii) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.]

<sup>12</sup>[(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 37B, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 37B, had been found in the possession or control of that person in the course of a search under section 37A.]

**Bar of jurisdiction.**

**43.** No suit shall lie in any civil court to set aside or modify any <sup>13</sup>[proceeding taken or] <sup>14</sup>[order] made under this Act, and no prosecution, suit or other legal proceeding shall lie against <sup>15</sup>[the Government or] any officer of the Government for anything in good faith done or intended to be done under this Act.

<sup>16</sup>[<sup>17</sup>**Appearance before wealth-tax authorities by authorised representatives.**

44. (1) Any assessee who is entitled to or required to attend before any wealth- tax authority or the Appellate Tribunal in connection with any proceeding under this Act, except where he is required under this Act to attend in person, may attend by a person who would be entitled to represent him before any income-tax authority or the Appellate Tribunal under section 288 of the Income-tax Act.

(2) Notwithstanding anything in sub-section (1)—

(i) no person who has been convicted of an offence connected with any wealth-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under clause (i) or clause (ii) of sub-section (1) of section 18 shall be qualified to represent an assessee under sub-section (1) for such time as the <sup>18</sup>[Chief Commissioner or Commissioner] may by order determine;

<sup>19</sup>(ii) if any person who is not a legal practitioner or a chartered accountant, is found guilty of misconduct in connection with any wealth-tax proceeding by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1);

(iii) no person not qualified to represent an assessee under the Indian Income-tax Act, 1922 (11 of 1922), the Estate Duty Act, 1953 (34 of 1953), the Expenditure-tax Act, 1957 (29 of 1957), or the Gift-tax Act, 1958 (18 of 1958), shall be entitled to appear on behalf of any assessee under this Act:

**Provided** that any order or direction under clause (i) or clause (ii) shall be subject to the following conditions, namely :—

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

<sup>20</sup>[**Agreement for avoidance or relief of double taxation with respect to wealth-tax.**

44A. <sup>21</sup>[The Central Government may enter into an agreement with the Government of any reciprocating country—

- (a) for the avoidance or relief of double taxation with respect to wealth-tax payable under this Act and under the corresponding law in force in the reciprocating country, or

- (b) for exchange of information for the prevention of evasion or avoidance of wealth-tax chargeable under this Act or under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or
- (c) for recovery of tax under this Act and under the corresponding law in force in that country,

and may, by notification<sup>22</sup> in the Official Gazette, make such provision as may be necessary for implementing the agreement.]

*Explanation.*—The expression "reciprocating country" for the purposes of this Act means any country <sup>22a</sup>[outside India or any territory outside India] which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.]

Section - 44B, Wealth-Tax Act, 1957

<sup>23</sup>[**Countries with which no agreement exists.**

**44B.** Where the net wealth of any assessee includes any foreign wealth and he proves that, in respect of such foreign wealth, he has paid in any country, with which there is no reciprocal arrangement under section 44A for the relief or avoidance of double taxation, a tax in respect of wealth, under the law in force in that country, he shall be entitled to the deduction from the Indian wealth-tax payable by him of a sum calculated on such doubly taxed foreign wealth at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

*Explanation.*—In this section—

- (1) the expression "Indian wealth-tax" means wealth-tax charged in accordance with the provisions of this Act;
- (2) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian wealth-tax after deduction of any relief due under the provisions of this Act but before the deduction of any relief due under this section by the net wealth;
- (3) the expression "rate of tax of the said country" means any tax in respect of wealth, actually paid in the said country, in accordance with the corresponding laws in force in the said country after deduction of all relief due but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the wealth assessed in the said country ;
- (4) the expression "foreign wealth", in relation to any assessee, means the value of all his assets located in any country outside India as reduced by the value of his debts in that country.]

Section - 44C, Wealth-Tax Act, 1957

<sup>24</sup>[**Rounding off of net wealth.**

**44C.** The amount of net wealth computed in accordance with the foregoing provisions of this Act shall be rounded off to the nearest multiple of one hundred rupees and, for this purpose, any part of a rupee consisting of paise shall be ignored and thereafter, if such amount contains a part of one hundred rupees, then, if such part is fifty rupees or more, the amount shall be

increased to the next higher amount which is a multiple of one hundred and, if such part is less than fifty rupees, the amount shall be reduced to the next lower amount which is a multiple of one hundred; and the amount so rounded off shall be deemed to be the net wealth of the assessee for the purposes of this Act.]

Section - 44D, Wealth-Tax Act, 1957

<sup>25</sup>[**Rounding off of tax, etc.**

**44D.** The amount of wealth-tax, interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored.]

Section - 45, Wealth-Tax Act, 1957

Act not to apply in certain cases 45

**Act not to apply in certain cases.**

<sup>26</sup> **45.** <sup>27</sup>[No tax shall be levied under this Act in respect of the net wealth of—]

(a) to <sup>28</sup>[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(e)

(f) any company registered under section 25<sup>29</sup> of the Companies Act, 1956 (1 of 1956);

<sup>30</sup>[(g) any co-operative society;]

<sup>31</sup>[(h) any social club;]

<sup>32</sup>[(i) any political party.

*Explanation.*—For the purposes of clause (i), "political party" shall have the meaning assigned to it in the *Explanation* to section 13A of the Income-tax Act;]

<sup>33</sup>[(j) a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act;]

<sup>33a</sup>[(k) the Reserve Bank of India incorporated under the Reserve Bank of India Act, 1934 (2 of 1934).]

Section - 46, Wealth-Tax Act, 1957

**Power to make rules.**

**46.** (1) The Board may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.



(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

- (a) the manner in which the market value of any asset may be determined;
- (b) <sup>34</sup>the form in which returns under this Act shall be made and the manner in which they shall be verified;
- <sup>34a</sup> [(ba) *the documents, statements, receipts, certificates, audit reports, reports of registered valuer or any other documents which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 14A;*
- (bb) *the class or classes of persons who shall be required to furnish the return in electronic form; the form and the manner in which the return in electronic form may be furnished; the documents, statements, receipts, certificates, audit reports, reports of registered valuer or any other documents which may not be furnished along with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 14B; ]*
- (c) <sup>35</sup>the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified;
- <sup>36</sup>[(cc) <sup>37</sup>the circumstances in which, the conditions subject to which, and the manner in which, the <sup>38</sup>[Deputy Commissioner (Appeals)] <sup>39</sup>[or the Commissioner (Appeals)] may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the <sup>40</sup>[Assessing Officer];]
- (d) <sup>41</sup>the form of any notice of demand under this Act;
- <sup>42</sup>[(dd) <sup>43</sup>the procedure to be followed in calculating interest payable by assesseees or interest payable by the Government to assesseees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assesseees may be ignored;]
- <sup>44</sup>[(e) the areas<sup>45</sup> within which Valuation Officers may exercise jurisdiction;
- (ee) <sup>46</sup>the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their powers under sub-section (1) of section 38A;]
- (f) any other matter which has to be, or may be, prescribed for the purposes of this Act.

<sup>47</sup>[(3) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseees.]

<sup>48</sup>[(4) The Central Government shall cause every rule made under this Act <sup>49</sup>[and the rules of procedure framed by the Settlement Commission under sub-section (7) of section 22F] to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two <sup>50</sup>[or more]

successive sessions, and if before the expiry of the session <sup>51</sup>[immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

Section - 46A, Wealth-Tax Act, 1957

<sup>52</sup>[**Power to make exemption, etc., in relation to certain Union territories.**

**46A.** If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of wealth-tax in favour of any class of assets or in regard to the whole or any part of the net wealth of any assessee or class of assessees:

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

Section - 47, Wealth-Tax Act, 1957

<sup>53</sup>[**Power to remove difficulties.**

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

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

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.]