

IndiaCode

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

(ACT NO. 22 OF 2015)

[*As on the* 1*st July*, 2026]

LIST OF AMENDING ACTS

1. The Finance Act, 2018 (13 of 2018).
2. The Finance (No.2) Act, 2019 (23 of 2019).
3. The Finance (No.2) Act, 2024 (15 of 2024).
4. The Finance Act, 2026 (4 of 2026).

———

LIST OF ABBREVIATIONS USED

Cl.,cls.	. . . . .	*for*	Clause, clauses.
Ins.	. . . . .	,,	Inserted.
Notifn.	. . . . .	,,	Notification.
S., ss.	. . . . .	,,	Section, sections.
Sch.	. . . . .	,,	Schedule.
Subs.	. . . . .	,,	Substituted.
w.e.f.	. . . . .	,,	with effect from.

IndiaCode

THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

BASIS OF CHARGE

3. Charge of tax.
4. Scope of total undisclosed foreign income and asset.
5. Computation of total undisclosed foreign income and asset.

CHAPTER III

TAX MANAGEMENT

6. Tax authorities.
7. Change of incumbent.
8. Powers regarding discovery and production of evidence.
9. Proceedings before tax authorities to be judicial proceedings.
10. Assessment.
11. Time limit for completion of assessment and reassessment.
12. Rectification of mistake.
13. Notice of demand.
14. Direct assessment or recovery not barred.
15. Appeals to the Commissioner (Appeals).
16. Procedure to be followed in appeal.
17. Powers of Commissioner (Appeals).
18. Appeals to Appellate Tribunal.
19. Appeal to High Court.
20. Case before High Court to be heard by not less than two Judges.
21. Appeal to Supreme Court.
22. Hearing before Supreme Court.
23. Revision of orders prejudicial to revenue.
24. Revision of other orders.
25. Tax to be paid pending appeal.
26. Execution of order for costs awarded by Supreme Court.
27. Amendment of assessment on appeal.
28. Exclusion of time taken for obtaining copy.
29. Filing of appeal by tax authority.
30. Recovery of tax dues by Assessing Officer

IndiaCode

SECTIONS

31. Recovery of tax dues by Tax Recovery Officer.
32. Modes of recovery of tax dues.
33. Tax Recovery Officer by whom recovery of tax dues is to be effected.
34. Recovery of tax dues in case of a company in liquidation.
35. Liability of manager of a company.
36. Joint and several liability of participants.
37. Recovery through State Government.
38. Recovery of tax dues in pursuance of agreements with foreign countries or specified territory.
39. Recovery by suit or under other law not affected.
40. Interest for default in furnishing return and payment or deferment of advance tax.

CHAPTER IV

PENALTIES

41. Penalty in relation to undisclosed foreign income and asset.
42. Penalty for failure to furnish return in relation to foreign income and asset.
43. Penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India.
44. Penalty for default in payment of tax arrear.
45. Penalty for other defaults.
46. Procedure.
47. Bar of limitation for imposing penalty.

IndiaCode

CHAPTER V

OFFENCES AND PROSECUTIONS

48. Chapter not in derogation of any other law or any other provision of this Act.
49. Punishment for failure to furnish return in relation to foreign income and asset.
50. Punishment for failure to furnish in return of income, any information about an asset (including financial interest in any entity) located outside India.
51. Punishment for wilful attempt to evade tax.
52. Punishment for false statement in verification.
53. Punishment for abetment.
54. Presumption as to culpable mental state.
55. Prosecution to be at instance of Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General or Principal Commissioner or Commissioner.
56. Offences by companies.
57. Proof of entries in records of documents.
58. Punishment for second and subsequent offences.

CHAPTER VI

TAX COMPLIANCE FOR UNDISCLOSED FOREIGN INCOME AND ASSETS

59. Declaration of undisclosed foreign asset.
60. Charge of tax.
61. Penalty.
62. Manner of declaration.

SECTIONS

63. Time for payment of tax.
64. Undisclosed foreign asset declared not to be included in total income.
65. Undisclosed foreign asset declared not to affect finality of completed assessments.
66. Tax in respect of voluntarily disclosed asset not refundable.
67. Declaration not admissible in evidence against declarant.
68. Declaration by misrepresentation of facts to be void.
69. Exemption from wealth-tax in respect of assets specified in declaration.
70. Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.
71. Chapter not to apply to certain persons.
72. Removal of doubts.

CHAPTER VII

GENERAL PROVISIONS

73. Agreement with foreign countries or specified territories.
74. Service of notice generally.
75. Authentication of notices and other documents.
76. Notice deemed to be valid in certain circumstances.
77. Appearance by approved valuer in certain matters.
78. Appearance by authorised representative.
79. Rounding off of income, value of asset and tax.
80. Congnizance of offences.
81. Assessment not to be invalid on certain grounds.
82. Bar of suits in civil courts.
83. Income-tax papers to be available for purposes of this Act.
84. Application of provisions of Income-tax Act.
85. Power to make rules.
86. Power to remove difficulties.
87. Amendment of section 2 of Act 54 of 1963.
88. Amendment of Act of 15 of 2003.

IndiaCode

THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

ACT NO. 22 OF 2015

[26*th May*, 2015.]

An Act to make provisions to deal with the problem of the Black money that is undisclosed foreign income and assets, the procedure for dealing with such income and assets and to provide for imposition of tax on any undisclosed foreign income and asset held outside India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

(*2*) It extends to the whole of India.

(*3*) Save as otherwise provided in this Act, it shall come into force on [1][the 1st day of July, 2015].

2. Definitions.—In this Act, unless the context otherwise requires,—

(*1*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act;

[2][(*2*) "assessee" means a person,—

(*a*) being a resident in India within the meaning of section 6 of the Income-tax Act, 1961 (43 of 1961) in the previous year; or

(*b*) being a non-resident or not ordinarily resident in India within the meaning of clause (*6*) of section 6 of the Income-tax Act, 1961 (43 of 1961) in the previous year, who was resident in India either in the previous year to which the income referred to in section 4 relates; or in the previous year in which the undisclosed asset located outside India was acquired:

Provided that the previous year, in case of acquisition of undisclosed asset outside India, shall be determined without giving effect to the provisions of clause (*c*) of section 72;]

(*3*) "assessment" includes reassessment;

(*4*) "assessment year" means the period of twelve months commencing on the 1st day of April every year;

(*5*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(*6*) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);

(*7*) "participant" means—

(*a*) a partner in relation to a firm; or

(*b*) a member in relation to an association of persons or body of individuals;

(*8*) "prescribed" means prescribed by rules made under this Act;

(*9*) "previous year" means—

(*a*) the period beginning with the date of setting up of a business and ending with the date of the closure of the business or the 31st day of March following the date of setting up of such business, whichever is earlier;

1. Subs. by Order No. S.O. 1790 (E) for "the 1st day of April, 2016" (w.e.f. 01.07.2015).
2. Subs. by Act 23 of 2019, s. 205, for clause (*2*) (w.e.f. 01-07-2015).

(*b*) the period beginning with the date on which a new source of income comes into existence and ending with the date of closure of the business or the 31st day of March following the date on which such new source comes into existence, whichever is earlier;

(*c*) the period beginning with the 1st day of the financial year and ending with the date of discontinuance of the business other than business referred to in clause (*b*) or dissolution of an unincorporated body or liquidation of a company, as the case may be; or

(*d*) the period of twelve months commencing on the 1st day of April of the relevant year in any other case,

and which immediately precedes the assessment year.

(*10*) "resident" means a person who is resident in India within the meaning of section 6 of the Income-tax Act;

(*11*) "undisclosed asset located outside India" means an asset (including financial interest in any entity) located outside India, held by the assessee in his name or in respect of which he is a beneficial owner, and he has no explanation about the source of investment in such asset or the explanation given by him is in the opinion of the Assessing Officer unsatisfactory;

(*12*) "undisclosed foreign income and asset" means the total amount of undisclosed income of an assessee from a source located outside India and the value of an undisclosed asset located outside India, referred to in section 4, and computed in the manner laid down in section 5;

(*13*) "unincorporated body" means—

(*a*) a firm;

(*b*) an association of persons; or

(*c*) a body of individuals;

(*14*) "value of an undisclosed asset" shall have the meaning assigned to it in sub-section (*2*) of section 3;

(*15*) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

BASIS OF CHARGE

3. Charge of tax.—(*1*) There shall be charged on every assessee for every assessment year commencing on or after the 1st day of April, 2016, subject to the provisions of this Act, a tax in respect of his total undisclosed foreign income and asset of the previous year at the rate of thirty per cent. of such undisclosed income and asset:

Provided that an undisclosed asset located outside India shall be charged to tax on its value in the previous year in which such asset comes to the notice of the Assessing Officer.

(*2*) For the purposes of this section, "value of an undisclosed asset" means the fair market value of an asset (including financial interest in any entity) determined in such manner as may be prescribed.

4. Scope of total undisclosed foreign income and asset.—(*1*) Subject to the provisions of this Act, the total undisclosed foreign income and asset of any previous year of an assessee shall be,—

IndiaCode

(*a*) the income from a source located outside India, which has not been disclosed in the return of income furnished within the time specified in *Explanation* 2 to sub-section (*1*) or under sub-section (*4*) or sub-section (*5*) of section 139 of the Income-tax Act;

(*b*) the income, from a source located outside India, in respect of which a return is required to be furnished under section 139 of the Income-tax Act but no return of income has been furnished within the time specified in *Explanation* 2 to sub-section (*1*) or under sub-section (*4*) or sub-section (*5*) of section 139 of the said Act; and

(*c*) the value of an undisclosed asset located outside India.

(*2*) Notwithstanding anything contained in sub-section (*1*), any variation made in the income from a source outside India in the assessment or reassessment of the total income of any previous year, of the assessee under the Income-tax Act in accordance with the provisions of section 29 to section 43C or section 57 to section 59 or section 92C of the said Act, shall not be included in the total undisclosed foreign income.

(*3*) The income included in the total undisclosed foreign income and asset under this Act shall not form part of the total income under the Income-tax Act.

5. Computation of total undisclosed foreign income and asset.—(*1*) In computing the total undisclosed foreign income and asset of any previous year of an assessee,—

(*i*) no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee, whether or not it is allowable in accordance with the provisions of the Income-tax Act;

(*ii*) any income,—

(*a*) which has been assessed to tax for any assessment year under the Income-tax Act prior to the assessment year to which this Act applies; or

(*b*) which is assessable or has been assessed to tax for any assessment year under this Act,

shall be reduced from the value of the undisclosed asset located outside India, if, the assessee furnishes evidence to the satisfaction of the Assessing Officer that the asset has been acquired from the income which has been assessed or is assessable, as the case may be, to tax.

(*2*) The amount of deduction referred to in clause (*ii*) of sub-section (*1*) in case of an immovable property shall be the amount which bears to the value of the asset as on the first day of the financial year in which it comes to the notice of the Assessing Officer, the same proportion as the assessable or assessed foreign income bears to the total cost of the asset.

Illustration

A house property located outside India was acquired by an assessee in the previous year 2009-10 for fifty lakh rupees. Out of the investment of fifty lakh rupees, twenty lakh rupees was assessed to tax in the total income of the previous year 2009-10 and earlier years. Such undisclosed asset comes to the notice of the Assessing Officer in the year 2017-18. If the value of the asset in the year 2017-18 is one crore rupees, the amount chargeable to tax shall be A-B=C

where,

A=Rs.1 crore, B=Rs. (100 x 20/50) lakh= Rs.40 lakh, C=Rs. (100-40) lakh=Rs.60 lakh.

IndiaCode

CHAPTER III

TAX MANAGEMENT

6. Tax authorities.—(*1*) The income-tax authorities specified in section 116 of the Income-tax Act shall be the tax authorities for the purposes of this Act.

(*2*) Every such authority shall exercise the powers and perform the functions of a tax authority under this Act in respect of any person within his jurisdiction.

(*3*) Subject to the provisions of sub-section (*4*), the jurisdiction of a tax authority under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning the concurrent jurisdiction) or under any other provision of that Act.

(*4*) The tax authority having jurisdiction in relation to an assessee who has no income assessable to income-tax under the Income-tax Act shall be the tax authority having jurisdiction in respect of the area in which the assessee resides or carries on its business or has its principal place of business.

(*5*) Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any tax authority.

7. Change of incumbent.—(*1*) The tax authority who succeeds another authority as a result of change in jurisdiction or for any other reason, shall continue the proceedings from the stage at which it was left by his predecessor.

(*2*) The assessee in such a case may be given an opportunity of being heard, if he so requests in writing, before passing any order in his case.

8. Powers regarding discovery and production of evidence.—(*1*) The prescribed tax authorities 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), while 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.

(*2*) For the purposes of making any inquiry or investigation, the prescribed tax authority shall be vested with the powers referred to in sub-section (*1*), whether or not any proceedings are pending before it.

(*3*) Any tax authority prescribed for the purposes of sub-section (*1*) or sub-section (*2*) may, subject to the rules made in this behalf, impound any books of account or other documents produced before it and retain them in its custody for such period as it thinks fit.

(*4*) Any tax authority below the rank of Commissioner shall not—

(*a*) impound any books of account or other documents without recording his reasons for doing so; or

(*b*) retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner.

9. Proceedings before tax authorities to be judicial proceedings.— (*1*) Any proceeding under this Act before a tax authority shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860).

(*2*) Every tax authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

10. Assessment.—(*1*) For the purposes of making an assessment or reassessment under this Act, the Assessing Officer may, on receipt of an information from an income-tax authority under the Income-tax Act or any other authority under any law for the time being in force or on coming of any information to his notice, serve on any person, a notice requiring him on a date to be specified to produce or cause to be produced such accounts or documents or evidence as the Assessing Officer may require for the purposes of this Act and may, from time to time, serve further notices requiring the production of such other accounts or documents or evidence as he may require.

(*2*) The Assessing Officer may make such inquiry, as he considers necessary, for the purpose of obtaining full information in respect of undisclosed foreign income and asset of any person for the relevant financial year or years.

(*3*) The Assessing Officer, after considering such accounts, documents or evidence, as he has obtained under sub-section (*1*), and after taking into account any relevant material which he has gathered under sub-section (*2*) and any other evidence produced by the assessee, shall by an order in writing, assess [1][or reassess] the undisclosed foreign income and asset and determine the sum payable by the assessee.

(*4*) If any person fails to comply with all the terms of the notice under sub-section (*1*), the Assessing Officer shall, after taking into account all the relevant material which he has gathered and after giving the assessee an opportunity of being heard, make the assessment [1][or reassessment] of undisclosed foreign income and asset to the best of his judgment and determine the sum payable by the assessee.

11. Time limit for completion of assessment and reassessment.—(*1*) No order of assessment or reassessment shall be made under section 10 after the expiry of two years from the end of the financial year in which the notice under sub-section (*1*) of section 10 was issued by the Assessing Officer.

(*2*) Notwithstanding anything contained in sub-section (*1*), an order of fresh assessment in pursuance of an order passed under section 18 setting aside or cancelling an assessment, may be made at any time before the expiry of the period of two years from the end of the financial year in which the order under section 18 is received by the Principal Commissioner or the Commissioner.

(*3*) The provisions of sub-section (*1*) shall not apply to the assessment or reassessment made in consequence of, or to give effect to, any finding or direction contained in an order under section 15 or section 18 or section 19 or section 22 of this Act or in an order of any court in a proceeding otherwise than by way of appeal under this Act and such assessment or reassessment may, subject to the provisions of sub-section (*2*), be completed at any time, before the expiry of the period of two years from the end of the financial year in which such order is received by the Principal Commissioner or the Commissioner.

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

(*i*) the time taken in reopening the whole or any part of the proceeding; or

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

1. Ins. by Act 23 of 2019, s. 206 (w.e.f. 1-7-2015).

(*iii*) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A of the Income-tax Act or under section 73 of this Act and ending with the date on which the Principal Commissioner or the Commissioner last receives, the information so requested or a period of one year, whichever is less,

shall be excluded:

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 (*3*), any undisclosed foreign income and asset is excluded from the total undisclosed foreign income and asset for an assessment year in respect of an assessee, then, an assessment of such undisclosed foreign income and asset for another assessment year shall, for the purposes of section 10 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.

12. Rectification of mistake.—(*1*) A tax authority may amend any order passed by it under this Act so as to rectify any mistake apparent from the record.

(*2*) No amendment under this section shall be made after a period of four years from the end of the financial year in which the order sought to be amended was passed.

(*3*) The tax authority shall not make any amendment, which has the effect of enhancing the undisclosed foreign income and asset or reducing a refund or otherwise increasing the liability of the assessee, unless the authority concerned has given to the assessee an opportunity of being heard.

(*4*) The tax authority concerned may make an amendment under this section—

(*a*) on its own motion; or

(*b*) on an application made to it by the assessee or, as the case may be, by the Assessing Officer.

(*5*) Any application received by the tax authority for amendment of an order shall be decided within a period of six months from the end of the month in which such application is received by it.

(*6*) In a case where the order has been made in an appeal or revision, the power of the tax authority to amend the order shall be restricted to matters other than those decided in appeal or revision.

13. Notice of demand.—Any sum payable in consequence of any order made under this Act shall be demanded by a tax authority by serving upon the assessee a notice of demand in such form and manner as may be prescribed.

14. Direct assessment or recovery not barred.—Nothing in this Chapter shall prevent either the direct assessment of the person on whose behalf or for whose benefit the undisclosed income from a source located outside India is receivable or undisclosed asset located outside India is held, or the recovery from such person of the tax or any other sum of money payable in respect of such income and asset.

15. Appeals to the Commissioner (Appeals).—(*1*) Any person,–(*a*) objecting to the amount of tax on undisclosed foreign income and asset for which he is assessed by the Assessing Officer; or (*b*) denying his liability to be assessed under this Act; or (*c*) objecting to any penalty imposed by the Assessing Officer; or (*d*) objecting to an order of rectification having the effect of enhancing the assessment or reducing the refund; or (*e*) objecting to an order refusing to allow the claim made by the assessee for a rectification under section 12, may appeal to the Commissioner (Appeals).

(*2*) Every appeal shall be filed in such form and verified in such manner and be accompanied by a fee as may be prescribed.

(*3*) An appeal shall be presented within a period of thirty days from—

(*a*) the date of service of the notice of demand relating to the assessment or penalty, or

(*b*) the date on which the intimation of the order sought to be appealed against is served in any other case.

(*4*) The Commissioner (Appeals) may admit an appeal after the expiration of the period referred to in sub-section (*3*)—

(*a*) if he is satisfied that the appellant had sufficient cause for not presenting it within that period; and

(*b*) the delay in preferring the appeal does not exceed a period of one year.

(*5*) The Commissioner (Appeals) shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing the assessment or penalty shall not be made unless the assessee has been given a reasonable opportunity of being heard.

16. Procedure to be followed in appeal.—(*1*) The Commissioner (Appeals) shall fix a date and place for the hearing of the appeal, and shall give notice of the same to the appellant and the Assessing Officer against whose order the appeal is preferred.

(*2*) The following shall have the right to be heard at the hearing of the appeal, namely:—

(*a*) the appellant, either in person or by an authorised representative;

(*b*) the Assessing Officer, either in person or by a representative.

(*3*) The Commissioner (Appeals) may adjourn the hearing of the appeal whenever he considers it necessary or expedient to do so.

(*4*) The Commissioner (Appeals) may, before disposing of any appeal, make such further inquiry as he thinks fit.

(*5*) The Commissioner (Appeals) may, during the proceedings before him, direct the Assessing Officer to make an inquiry and report to him on the points arising out of any question of law or fact.

(*6*) The Commissioner (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Commissioner (Appeals) is satisfied that the omission was not wilful or unreasonable.

(*7*) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons therefor.

(*8*) Every appeal preferred under section 15 shall be heard and disposed of by the Commissioner (Appeals) as expeditiously as possible and endeavour shall be made to dispose of such appeal within a period of one year from the end of the financial year in which the appeal is preferred.

(*9*) On the disposal of the appeal, the Commissioner (Appeals) shall communicate the order passed by him to the assessee and to the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner.

IndiaCode

17. Powers of Commissioner (Appeals).—(*1*) In disposing of an appeal, the Commissioner (Appeals) shall have the following powers, namely:—

(*a*) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;

(*b*) in an appeal against an order imposing a penalty, he may confirm or cancel [1][or vary such order either to enhance or reduce the penalty];

(*c*) in any other case, he may determine the issues arising in the appeal and pass such orders thereon, as he thinks fit.

(*2*) The Commissioner (Appeals) may consider and decide any matter which was not considered by the Assessing Officer.

(*3*) The Commissioner (Appeals) shall not enhance an assessment or a penalty unless the appellant has been given an opportunity of being heard.

(*4*) In disposing of an appeal, the Commissioner (Appeals) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before him by the appellant.

18. Appeals to Appellate Tribunal.—(*1*) Any assessee aggrieved by an order passed by the Commissioner (Appeals) under section 15, or an order passed by the Principal Commissioner or the Commissioner under any provision of this Act, may appeal to the Appellate Tribunal against such order.

(*2*) The Principal Commissioner or the Commissioner may, if he objects to any order passed by the Commissioner (Appeals) under any provision of this Act, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(*3*) Every appeal under sub-section (*1*) or sub-section (*2*) shall be filed within a period of sixty days from the date on which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or the Commissioner, as the case may be.

(*4*) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Commissioner (Appeals) has been preferred under sub-section (*1*) or sub-section (*2*) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (*3*).

(*5*) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (*3*) or sub-section (*4*), if —

(*a*) it is satisfied that there was sufficient cause for not presenting it within that period; and

(*b*) the delay in filing the appeal does not exceed a period of one year.

(*6*) An appeal to the Appellate Tribunal shall be filed in such form, and verified in such manner, and shall, except in the case of an appeal referred to in sub-section (*2*) or a memorandum of cross-objections referred to in sub-section (*4*), be accompanied by a fee as may be prescribed.

1. Subs. by Act 23 of 2019, s. 207, for "such order" (w.e.f. 1-9-2019).

(*7*) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

19. Appeal to High Court.—(*1*) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(*2*) The Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or an assessee, may file an appeal to the High Court on being aggrieved by any order passed by the Appellate Tribunal and such appeal shall be —

(*a*) filed within a period of one hundred and twenty days from the date on which the order appealed against is received by the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the assessee;

(*b*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(*3*) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in sub-section (*2*), if it is satisfied that there was sufficient cause for not filing the appeal within that period.

(*4*) If the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(*5*) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question.

(*6*) Notwithstanding anything in sub-sections (*4*) and (*5*), the High Court may exercise its power to hear the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question of law.

(*7*) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(*8*) The High Court may determine any issue which—

(*a*) has not been determined by the Appellate Tribunal; or

(*b*) has been wrongly determined by the Appellate Tribunal, by reason of a decision on the question of law referred to in sub-section (*1*).

(*9*) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, so far as may be, apply in the case of appeals under this section.

(*10*) When the High Court delivers a judgment in an appeal filed before it under sub-section (*7*), effect shall be given to the order passed on the appeal by the Assessing Officer on the basis of a certified copy of the judgment.

20. Case before High Court to be heard by not less than two Judges.—(*1*) An appeal filed before the High Court shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or if the Bench is of more than two Judges, by the majority of such Judges.

IndiaCode

(*2*) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

21. Appeal to Supreme Court.—An appeal shall lie to the Supreme Court from any judgment of the High Court delivered under section 19 which the High Court certifies to be a fit case for appeal to the Supreme Court.

22. Hearing before Supreme Court.—(*1*) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 21 as they apply in the case of appeals from decrees of a High Court.

(*2*) The costs of the appeal shall be in the discretion of the Supreme Court.

(*3*) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (*10*) of section 19.

23. Revision of orders prejudicial to revenue.—(*1*) The Principal Commissioner or the Commissioner may, for the purposes of revising any order passed in any proceeding under this Act before any tax authority subordinate to him, call for and examine all available records relating thereto.

(*2*) The Principal Commissioner or the Commissioner may, after giving the assessee an opportunity of being heard, pass an order (hereinafter referred to as the revision order) as the circumstances of the case justify, if he is satisfied that the order sought to be revised is erroneous in so far as it is prejudicial to the interests of the revenue.

(*3*) The Principal Commissioner or the Commissioner may make, or cause to be made, such inquiry as he considers necessary for the purposes of passing an order under sub-section (*2*).

(*4*) The revision order passed by the Principal Commissioner or the Commissioner under sub-section (*2*) may have the effect of enhancing or modifying the assessment but shall not be an order cancelling the assessment and directing a fresh assessment.

(*5*) The power of the Principal Commissioner or the Commissioner under sub-section (*2*) for revising an order shall extend to such matters as have not been considered and decided in any appeal.

(*6*) No order under sub-section (*2*) shall be made after the expiry of a period of two years from the end of the financial year in which the order sought to be revised was passed.

(*7*) Notwithstanding anything in sub-section (*6*), an order in revision under this section may be passed at any time in respect of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

(*8*) In computing the period of limitation under sub-section (*6*), the following shall not be included, namely:—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 7; or

(*b*) any period during which any proceeding under this section is stayed by an order or injunction of any court.

(*9*) Without prejudice to the generality of the foregoing provisions, an order passed by a tax authority shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if in the opinion of the Principal Commissioner or the Commissioner—

(*a*) the order is passed without making inquiries or verification which, should have been made; or

(*b*) the order has not been made in accordance with any order, direction or instruction issued by the Board; or

(*c*) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or the Supreme Court in the case of the assessee or any other person under this Act or the Income-tax Act.

(*10*) In this section, "record" shall include all records relating to any proceeding under this Act available at the time of examination by the Principal Commissioner or the Commissioner.

24. Revision of other orders.—(*1*) The Principal Commissioner or the Commissioner may, either *suo motu* or on an application made by the assessee, for the purposes of revising any order passed by an authority subordinate to him, other than an order to which section 23 applies, call for and examine all available records relating thereto.

(*2*) The Principal Commissioner or the Commissioner may pass an order, as he considers necessary, which is not prejudicial to the assessee.

(*3*) The power of the Principal Commissioner or the Commissioner under sub-section (*2*) to revise an order shall not extend to such order—

(*a*) against which an appeal has not been filed but the time for filing an appeal before the Commissioner (Appeals) has not expired;

(*b*) against which an appeal is pending before the Commissioner (Appeals); or

(*c*) which has been considered and decided in any appeal.

(*4*) The assessee shall make the application for revision of any order referred to in sub-section (*1*), within a period of one year from the date on which the order sought to be revised was communicated to him, or the date on which he otherwise came to know of it, whichever is earlier.

(*5*) The Principal Commissioner or the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within the period of one year, admit an application made after the expiry of one year but before expiry of two years from the date referred to in sub-section (*4*).

(*6*) Every application by an assessee for revision under this section shall be accompanied by such fees as may be prescribed.

(*7*) No order under sub-section (*2*) shall be made after the expiry of—

(*a*) a period of one year from the end of the financial year in which an application is made by the assessee under sub-section (*4*); or

(*b*) a period of one year from the date of the order sought to be revised, if the order is revised *suo motu* by the Commissioner.

(*8*) In computing the period of limitation under sub-section (*7*), the following shall not be included, namely:—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 7; or

(*b*) any period during which any proceeding under this section is stayed by an order or injunction of any court.

(*9*) An order by the Principal Commissioner or the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

IndiaCode

25. Tax to be paid pending appeal.—Notwithstanding any appeal preferred to the High Court or the Supreme Court, the tax shall be paid in accordance with the assessment made under this Act.

26. Execution of order for costs awarded by Supreme Court.—The High Court may, on petition made for the execution of the order in respect of the costs awarded by the Supreme Court, transmit such order for execution to any court subordinate to it.

27. Amendment of assessment on appeal.—Where as a result of an appeal under section 15 or section 18, any change is made in the assessment of a body of individuals or an association of persons or an order for new assessment of a body of individuals or an association of persons is made, the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made or make a fresh assessment on any member of the body or association.

28. Exclusion of time taken for obtaining copy.—In computing the period of limitation prescribed for an appeal under this Act, the day on which the notice of the order was served upon the assessee without serving a copy of the order, the time taken for obtaining a copy of such order, shall be excluded.

29. Filing of appeal by tax authority.—(*1*) The Board may, from time to time, issue orders, instructions or directions to other tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating the filing of appeal by any tax authority under this Chapter.

(*2*) Where, in pursuance of the orders, instructions or directions issued under sub-section (*1*), a tax authority has not filed any appeal on any issue in the case of an assessee for any financial year, it shall not preclude such authority from filing an appeal on the same issue in the case of—

(*a*) the same assessee for any other financial year; or

(*b*) any other assessee for the same or any other financial year.

(*3*) Notwithstanding that no appeal has been filed by a tax authority pursuant to the orders or instructions or directions issued under sub-section (*1*), it shall not be lawful for an assessee, being a party in any appeal, to contend that the tax authority has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

(*4*) The Appellate Tribunal, hearing such appeal, shall have regard to the orders, instructions or directions issued under sub-section (*1*) and the circumstances under which such appeal was filed or not filed in respect of any case.

(*5*) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal shall be deemed to have been issued under sub-section (*1*) and the provisions of sub-sections (*2*), (*3*) and (*4*) shall apply accordingly.

30. Recovery of tax dues by Assessing Officer.—(*1*) Any amount specified as payable in a notice of demand under section 13 shall be paid within a period of thirty days of the service of the notice, to the credit of the Central Government in such manner as may be prescribed.

(*2*) Where the Assessing Officer has any reason to believe that it will be detrimental to the interests of revenue, if the period of thirty days referred to in sub-section (*1*) is allowed, he may, with the previous approval of the Joint Commissioner, reduce such period as he deems fit.

(*3*) The Assessing Officer may, on an application made by the assessee, before the expiry of a period of thirty days or the period reduced under sub-section (*2*) or during the pendency of appeal with the Commissioner (Appeals), extend the time for payment, or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

indiacode

(*4*) An assessee shall be deemed to be an assessee in default, if the tax arrear is not paid within the time allowed under sub-section (*1*) or the period reduced under sub-section (*2*) or extended under sub-section (*3*), as the case may be.

(*5*) Where an assessee defaults in paying any one of the instalments within the time fixed under sub-section (*3*), he shall be deemed to be an assessee in default in respect of the whole of the then outstanding amount.

(*6*) The Assessing Officer may, in a case where no certificate has been drawn up under section 31 by the Tax Recovery Officer, recover the amount in respect of which the assessee is in default, or is deemed to be in default, by any one or more of the modes provided in section 32.

(*7*) The Tax Recovery Officer shall be vested with the powers to recover the tax arrear on drawing up of a statement of tax arrear under section 31.

31. Recovery of tax dues by Tax Recovery Officer.—(*1*) The Tax Recovery Officer may draw up under his signature a statement of tax arrears of an assessee referred to in sub-section (*4*) or sub-section (*5*) of section 30, in such form, as may be prescribed (such statement hereafter in this Chapter referred to as "certificate").

(*2*) The certificate under sub-section (*1*) shall stand amended from time to time consequent to any proceeding under this Act and the Tax Recovery Officer shall recover the amount so modified.

(*3*) The Tax Recovery Officer may rectify any mistake apparent from the record.

(*4*) The Tax Recovery Officer shall have the power to extend the time for payment, or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(*5*) The Tax Recovery Officer shall proceed to recover from the assessee the amount specified in the certificate by one or more of the modes referred to in section 32 or in the Second Schedule to the Income-tax Act.

(*6*) It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do.

32. Modes of recovery of tax dues.—(*1*) The Assessing Officer or the Tax Recovery Officer may require the employer of the assessee to deduct from any payment to the assessee such amount as is sufficient to meet the tax arrear from the assessee.

(*2*) Upon requisition under sub-section (*1*), the employer shall comply with the requisition and shall pay the sum so deducted to the credit of the Central Government in such manner as may be prescribed.

(*3*) Any part of the salary, exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any requisition made under sub-section (*1*).

(*4*) The Assessing Officer or the Tax Recovery Officer may, by notice in writing, require any debtor of the assessee to pay such amount, not exceeding the amount of debt, as is sufficient to meet the tax arrear of the assessee.

(*5*) Upon receipt of the notice under sub-section (*4*), the debtor shall comply with the requisition and shall pay the sum to the credit of the Central Government in such manner as may be prescribed within the time (not being before the debt becomes due to the assessee) specified in the notice.

IndiaCode

(*6*) A copy of the notice issued under sub-section (*4*) shall be forwarded to the assessee at his last address known to the Assessing Officer or the Tax Recovery Officer and in the case of a joint account, to all the joint holders at their last addresses known to the Assessing Officer or the Tax Recovery Officer.

(*7*) It shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary if the notice under sub-section (*4*) is issued to a post office, banking company, insurer or any other person.

(*8*) Any claim in respect of any property, in relation to which a notice under sub-section (*4*) has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(*9*) A person to whom a notice under sub-section (*4*) has been issued, shall not be required to pay the amount of tax arrear specified therein, or part thereof, if he objects to it by a statement on oath that the sum demanded, or any part thereof, is not due to the assesse or that he does not hold any money for, or on account of, the assessee.

(*10*) The person referred to in sub-section (*9*) shall be personally liable to the Assessing Officer or the Tax Recovery Officer, as the case may be, to the extent of his own liability to the assessee on the date of the notice, or to the extent of the liability of the assessee for any sum due under this Act, whichever is less, if it is discovered that the statement made by him was false in any respect.

(*11*) The Assessing Officer or the Tax Recovery Officer may amend or revoke any notice issued under sub-section (*4*) or extend the time for making any payment in pursuance of such notice.

(*12*) The Assessing Officer or the Tax Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under sub-section (*4*), and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid.

(*13*) Any person discharging any liability to the assessee after receipt of a notice under sub-section (*4*) shall be personally liable to the Assessing Officer or the Tax Recovery Officer to the extent of his own liability to the assessee so discharged or to the extent of the liability of the assessee for any sum due under this Act, whichever is less.

(*14*) The debtor to whom a notice under sub-section (*4*) is sent shall be deemed to be an assessee in default, if he fails to make such payment and further proceedings may be initiated against him for the realisation of the amount in the manner provided in this section and the Second Schedule to the Income-tax Act.

(*15*) The Assessing Officer or the Tax Recovery Officer may apply to the court, in whose custody there is money belonging to the assessee, for payment to him of the entire amount of such money or if it is more than the tax arrear, an amount sufficient to meet the tax arrear.

(*16*) The Assessing Officer or the Tax Recovery Officer shall effect the recovery of any tax arrear in the same manner as attachment, distraint and sale of any movable property under the Second Schedule to the Income-tax Act, if he is so authorised by the Principal Chief Commissioner or the Chief Commissioner, or the Principal Commissioner or the Commissioner, by general or special order.

(*17*) In this section,—

(*a*) ‘‘debtor’’, in relation to an assessee, means,—

(*i*) any person from whom any money is due, or may become due, to the assessee; or

(*ii*) any person who holds, or may subsequently hold, any money for, or on account of, the assessee; or

(*iii*) any person who holds, or may subsequently hold, any money for, or on account of, the assessee jointly with any other person;

(*b*) shares of the joint holders in the account shall be presumed, until the contrary is proved, to be equal.

33. Tax Recovery Officer by whom recovery of tax dues is to be effected.—(*1*) The Tax Recovery Officer competent to take action under section 31 shall be the Tax Recovery Officer —

(*a*) within whose jurisdiction —

(*i*) the assessee carries on his business;

(*ii*) the principal place of business of the assessee is situate;

(*iii*) the assessee resides; or

(*iv*) any movable or immovable property of the assessee is situate; or

(*b*) who has been assigned jurisdiction under section 6.

(*2*) The Tax Recovery Officer, referred to in sub-section (*1*), may send a certificate, in such manner as may be prescribed, specifying the tax arrear to be recovered, to another Tax Recovery Officer within whose jurisdiction the assessee resides or has property, if the first-mentioned Tax Recovery Officer —

(*a*) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction; or

(*b*) is of the opinion that, for the purpose of expediting, or securing, the recovery of the whole, or any part, of the amount under this Chapter, it is necessary to send such certificate.

(*3*) The second-mentioned Tax Recovery Officer shall, on receipt of the certificate, assume jurisdiction for recovery of the amount of tax arrear specified therein and proceed to recover the amount in accordance with the provisions of this Chapter.

34. Recovery of tax dues in case of a company in liquidation.—(*1*) The liquidator shall inform the Assessing Officer, who has jurisdiction to assess the undisclosed foreign income and asset of the company, of his appointment within a period of thirty days of his becoming the liquidator.

(*2*) The Assessing Officer shall, within a period of three months from the date on which he receives the information, intimate to the liquidator the amount which, in his opinion, would be sufficient to provide for any tax arrears or any amount which is likely to become payable thereafter, by the company under this Act.

(*3*) The liquidator—

(*a*) shall not part with any of the assets of the company, or the properties, in his custody until he has been intimated by the Assessing Officer under sub-section (*2*); and

(*b*) on being so intimated, shall set aside an amount equal to the amount intimated.

(*4*) Upon receipt of the intimation from the Assessing Officer under sub-section (*2*), the amount so intimated shall, notwithstanding anything in any other law for the time being in force, be the first charge on the assets of the company remaining after payment of the following dues, namely:—

(*a*) workmen's dues; and

(*b*) debts due to secured creditors to the extent such debts under clause (*iii*) of the proviso to sub-section (*1*) of section 325 of the Companies Act, 2013 (18 of 2013) are *pari passu* with such dues.

(*5*) The liquidator shall be personally liable for the payment of the amount payable by the company, if he—

(*a*) fails to inform in accordance with sub-section (*1*); or

(*b*) fails to set aside the amount as required by sub-section (*3*).

(*6*) The obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally in a case where there is more than one liquidator.

(*7*) The provisions of this section shall prevail over anything to the contrary contained in any other law for the time being in force.

(*8*) In this section,—

(*a*) "liquidator" in relation to a company which is being wound up, whether under the orders of a court or otherwise, shall include a receiver of the assets of the company;

(*b*) "workmen's dues" shall have the meaning assigned to it in section 325 of the Companies Act, 2013 (18 of 2013).

35. Liability of manager of a company.—(*1*) Every person being a manager at any time during the financial year shall be jointly and severally liable for the payment of any amount due under this Act in respect of the company for the financial year, if the amount cannot be recovered from the company.

(*2*) The provisions of sub-section (*1*) shall not apply, if the manager proves that non-recovery cannot be attributed to any neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(*3*) The provisions of this section shall prevail over anything to the contrary contained in the Companies Act, 2013 (18 of 2013).

(*4*) In this section, "manager" shall include a managing director and both shall have the meaning respectively assigned to them in clause (*53*) and clause (*54*) of section 2 of the Companies Act, 2013 (18 of 2013).

36. Joint and several liability of participants.—(*1*) Every person, being a participant in an unincorporated body at any time during the financial year, or the representative assessee of the deceased participant, shall be jointly and severally liable, along with the unincorporated body, for payment of any amount payable by the unincorporated body under this Act and all the provisions of this Act shall apply accordingly.

(*2*) In case of a limited liability partnership, the provisions of sub-section (*1*) shall not apply, if the partner proves that non-recovery cannot be attributed to any neglect, misfeasance or breach of duty on his part in relation to the affairs of the partnership.

(*3*) The provisions of this section shall prevail over anything to the contrary contained in the Limited Liability Partnership Act, 2008 (6 of 2009).

37. Recovery through State Government.—If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof, that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the manner as the municipal tax or local rate is recovered.

Inactive

38. Recovery of tax dues in pursuance of agreements with foreign countries or specified territory.—(*1*) The Tax Recovery Officer may, in a case where an assessee has property in a country or a specified territory outside India, forward a certificate to the Board for recovery of the tax arrears from the assessee, where the Central Government or any specified association in India has entered into an agreement with that country or territory under section 90 or section 90A of the Income-tax Act or under sub-sections (*1*), (*2*) or sub-section (*4*) of section 73 of this Act, as the case may be, for the purposes of recovery of tax.

(*2*) On receipt of the certificate under sub-section (*3*) from the Tax Recovery Officer, the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country or a specified territory.

39. Recovery by suit or under other law not affected.—(*1*) The several modes of recovery specified in this Chapter shall not affect in any way—

(*a*) any other law for the time being in force relating to the recovery of debts due to the Government; or

(*b*) the right of the Government to institute a suit for the recovery of the tax arrears from the assessee.

(*2*) It shall be lawful for the Assessing Officer, or the Government, to have recourse to any such law or suit, notwithstanding that the tax arrears are being recovered from the assessee by any mode specified in this Chapter.

IndiaCode

40. Interest for default in furnishing return and payment or deferment of advance tax.—(*1*) Where the assessee has any income from a source outside India which has not been disclosed in the return of income furnished under sub-section (*1*) of section 139 of the Income-tax Act or the return of income has not been furnished under the said sub-section, interest shall be chargeable in accordance with the provisions of section 234A of the Income-tax Act.

(*2*) Where the assessee has any undisclosed income from a source outside India and the advance tax on such income has not been paid in accordance with Part C of Chapter XVII of the Income-tax Act, interest shall be chargeable in accordance with the provisions of sections 234B and 234C of the Income-tax Act.

CHAPTER IV

PENALTIES

41. Penalty in relation to undisclosed foreign income and asset.—The Assessing Officer may direct that in a case where tax has been computed under section 10 in respect of undisclosed foreign income and asset, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum equal to three times the tax computed under that section.

42. Penalty for failure to furnish return in relation to foreign income and asset.—If a person, being a resident other than not ordinarily resident in India within the meaning of clause (*6*) of section 6 of the Income-tax Act, who is required to furnish a return of his income for any previous year, as required under sub-section (*1*) of section 139 of the Income-tax Act or by the provisos to that sub-section, and who at any time during such previous year,—

(*i*) held any asset (including financial interest in any entity) located outside India as a beneficial owner or otherwise; or

(*ii*) was a beneficiary of any asset (including financial interest in any entity) located outside India; or

(*iii*) had any income from a source located outside India,

and fails to furnish such return before the end of the relevant assessment year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten lakh rupees:

[1][Provided that this section shall not apply in respect of an asset or assets (other than immovable property) where the aggregate value of such asset or assets does not exceed twenty lakh rupees.]

Explanation.—For determining the value equivalent in rupees of the balance in an account maintained in foreign currency, the rate of exchange for calculation of the value in rupees shall be the telegraphic transfer buying rate of such currency as on the date for which the value is to be determined as adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955).

43. Penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India.—If any person, being a resident other than not ordinarily resident in India within the meaning of clause (*6*) of section 6 of the Income-tax Act, who has furnished the return of income for any previous year under sub-section (*1*) or sub-section (*4*) or sub-section (*5*) of section 139 of the said Act, fails to furnish any information or furnishes inaccurate particulars in such return relating to any asset (including financial interest in any entity) located outside India, held by him as a beneficial owner or otherwise, or in respect of which he was a beneficiary, or relating to any income from a source located outside India, at any time during such previous year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten lakh rupees:

[2][Provided that this section shall not apply in respect of an asset or assets (other than immovable property), where the aggregate value of such asset or assets does not exceed twenty lakh rupees.]

Explanation.—The value equivalent in rupees shall be determined in the manner provided in the *Explanation* to section 42.

44. Penalty for default in payment of tax arrear.—(*1*) Every person who is an assessee in default, or an assessee deemed to be in default, as the case may be, in making payment of tax, and in case of continuing default by such assessee, he shall be liable to a penalty of an amount, equal to the amount of tax arrear.

(*2*) An assessee shall not cease to be liable to any penalty under sub-section (*1*) merely by reason of the fact that before the levy of such penalty he has paid the tax.

45. Penalty for other defaults.—(*1*) A person shall be liable to a penalty if he has, without reasonable cause, failed to—

(*a*) answer any question put to him by a tax authority in the exercise of its powers under this Act;

(*b*) sign any statement made by him in the course of any proceedings under this Act which a tax authority may legally require him to sign;

(*c*) attend or produce books of account or documents at the place or time, if he is required to attend or to give evidence or produce books of account or other documents, at certain place and time in response to summons issued under section 8.

1. Subs. by Act 15 of 2024, s. 164, for the proviso (w.e.f. 1-10-2024).
2. Subs. by s. 164, *ibid*., for the proviso (w.e.f. 1-10-2024).

(*2*) The penalty referred to in sub-section (*1*) shall be a sum which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.

46. Procedure.—(*1*) The tax authority shall, for the purposes of imposing any penalty under this Chapter, issue a notice to an assessee requiring him to show cause why the penalty should not be imposed on him.

(*2*) The notice referred to in sub-section (*1*) shall be issued—

(*a*) during the pendency of any proceedings under this Act for the relevant previous year, in respect of penalty referred to in section 41;

(*b*) within a period of three years from the end of the financial year in which the default is committed, in respect of penalties referred to in section 45.

(*3*) No order imposing a penalty under this Chapter shall be made unless the assessee has been given an opportunity of being heard.

(*4*) An order imposing a penalty under this Chapter shall be made with the approval of the Joint Commissioner,[1][or the Joint Director] if—

(*a*) the penalty exceeds one lakh rupees and the tax authority levying the penalty is in the rank of Income-tax Officer; or

(*b*) the penalty exceeds five lakh rupees and the tax authority levying the penalty is in the rank of Assistant Commissioner or Deputy Commissioner [1][or Assistant Director or Deputy Director].

(*5*) Every order of penalty issued under this Chapter shall be accompanied by a notice of demand in respect of the amount of penalty imposed and such notice of demand shall be deemed to be a notice under section 13.

47. Bar of limitation for imposing penalty.—(*1*) No order imposing a penalty under this Chapter shall be passed after the expiry of a period of one year from the end of the financial year in which the notice for imposition of penalty is issued under section 46.

(*2*) An order imposing, or dropping the proceedings for imposition of, penalty under this Chapter may be revised, or revived, as the case may be, on the basis of assessment of the undisclosed foreign income and asset as revised after giving effect to the order of the Commissioner (Appeals), the Appellate Tribunal, the High Court or the Supreme Court or order of revision under section 23 or section 24.

(*3*) An order revising or reviving the penalty under sub-section (*2*) shall not be passed after the expiry of a period of six months from the end of the month in which order of the Commissioner (Appeals), the Appellate Tribunal, the High Court or the Supreme Court is received by the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the order of revision under section 23 or section 24 is passed.

(*4*) In computing the period of limitation for the purposes of this section, the following time or period shall not be included—

(*a*) the time taken in giving an opportunity to the assessee to be reheard under section 7; and

(*b*) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order, or injunction, of any court.

1. Ins. by Act 13 of 2018, s. 219 (w.e.f. 01-04-2018).

CHAPTER V

OFFENCES AND PROSECUTIONS

48. Chapter not in derogation of any other law or any other provision of this Act.—(*1*) The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of any other law providing for prosecution for offences thereunder.

(*2*) The provisions of this Chapter shall be independent of any order under this Act that may be made, or has not been made, on any person and it shall be no defence that the order has not been made on account of time limitation or for any other reason.

49. Punishment for failure to furnish return in relation to foreign income and asset.—If a person, being a resident other than not ordinarily resident in India within the meaning of clause (*6*) of section 6 of the Income-tax Act, who at any time during the previous year, held any asset (including financial interest in any entity) located outside India as a beneficial owner or otherwise, or was a beneficiary of such asset or had income from a source outside India and wilfully fails to furnish in due time the return of income which he is required to furnish under sub-section (*1*) of section 139 of that Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven 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 income under sub-section (*1*) of section 139 of the Income-tax Act if the return is furnished by him before the expiry of the assessment year.

[1][Provided further that this section shall not apply in respect of an asset or assets (other than immovable property), where the aggregate value of such asset or assets does not exceed twenty lakh rupees.]

50. Punishment for failure to furnish in return of income, any information about an asset (including financial interest in any entity) located outside India.—If any person, being a resident other than not ordinarily resident in India within the meaning of clause (*6*) of section 6 of the Income-tax Act, who has furnished the return of income for any previous year under sub-section (*1*) or sub-section (*4*) or sub-section (*5*) of section 139 of that Act, wilfully fails to furnish in such return any information relating to an asset (including financial interest in any entity) located outside India, held by him, as a beneficial owner or otherwise or in which he was a beneficiary, at any time during such previous year, or disclose any income from a source outside India, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

[1][Provided that this section shall not apply in respect of an asset or assets (other than immovable property), where the aggregate value of such asset or assets does not exceed twenty lakh rupees.]

51. Punishment for wilful attempt to evade tax.—(*1*) If a person, being a resident other than not ordinarily resident in India within the meaning of clause (*6*) of section 6 of the Income-tax Act, wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to ten 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 provision of this Act, be punishable with rigorous imprisonment for a term which shall not be

1. Ins. by Act 4 of 2026, s.160 (w.e.f. 01-10-2024).

less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine.

(*3*) 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—

(*i*) 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

(*ii*) makes or causes to be made any false entry or statement in such books of account or other documents; or

(*iii*) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(*iv*) causes any other circumstance 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.

52. Punishment for false statement in verification.—If a person, makes a statement in any verification under this Act 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 with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

53. Punishment for abetment.—If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to tax payable under this Act 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 51, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

54. Presumption as to culpable mental state.—(*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.

55. [1][Prosecution to be at instance of Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General or Principal Commissioner or Commissioner].—(*1*) A person shall not be proceeded against for an offence under section 49 to section 53 (both inclusive) except with the sanction of the Principal Commissioner or Commissioner or the Commissioner (Appeals), as the case may be.

(*2*) The Principal Chief Commissioner or the Chief Commissioner [2][or the Principal Director General or the Director General] may issue such instructions, or directions, to the tax authorities referred to in sub-section (*1*) as he may think fit for the institution of proceedings under this section.

1. Subs. by Act 13 of 2018, s. 219, for the marginal heading (w.e.f. 01-04-2018).
2. Ins. by s. 219, *ibid*. (w.e.f. 01-04-2018).

(*3*) The power of the Board to issue orders, instructions or directions under this Act shall include the power to issue orders, instructions or directions (including instructions or directions to obtain its previous approval) to other tax authorities for the proper initiation of proceedings of offences (including an authorisation to file and pursue complaints by one or more Inspectors of tax) under this section.

56. Offences by companies.—(*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.

(*2*) Nothing in sub-section (*1*) 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.

(*3*) Notwithstanding anything 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(*4*) Where an offence under this Act has been committed by a person, being a company, and the punishment for such offence is imprisonment and fine, then, without prejudice to sub-section (*1*) or sub-section (*3*), 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 (*3*), shall be liable to be proceeded against and punished in accordance with the provisions of this Act.

(*5*) In this section—

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

(*i*) an unincorporated body;

(*ii*) a Hindu undivided family;

(*b*) "director", in relation to—

(*i*) an unincorporated body, means a participant in the body;

(*ii*) a Hindu undivided family, means an adult member of the family; and

(*iii*) a company, means a whole-time director, or where there is no such director, any other director or manager or officer, who is in charge of the affairs of the company.

57. Proof of entries in records or documents.—(*1*) The entries in the records, or other documents, in the custody of a tax authority shall be admitted in evidence in any proceeding for the prosecution of any person for an offence under this Chapter.

(*2*) The entries referred to in sub-section (*1*) may be proved by the production of—

(*a*) the records or other documents (containing such entries) in the custody of the tax authority; or

(*b*) a copy of the entries certified by that authority under its signature, as true copy of the original entries contained in the records or other documents in its custody.

58. Punishment for second and subsequent offences.—If any person convicted of an offence under section 49 to section 53 (both inclusive) is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and every subsequent offence with rigorous

imprisonment for a term which shall not be less than three years, but which may extend to ten years and with fine which shall not be less than five lakh rupees, but which may extend to one crore rupees.

CHAPTER VI

TAX COMPLIANCE FOR UNDISCLOSED FOREIGN INCOME AND ASSETS

59. Declaration of undisclosed foreign asset.—Subject to the provisions of this Chapter, any person may make, on or after the date of commencement of this Act but on or before a date to be notified by the Central Government in the Official Gazette, a declaration in respect of any undisclosed asset located outside India and acquired from income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year beginning on 1st day of April, 2016—

(*a*) for which he has failed to furnish a return under section 139 of the Income-tax Act;

(*b*) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Act;

(*c*) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

IndiaCode

60. Charge of tax.—Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the undisclosed asset located outside India and declared under section 59 within the time specified therein shall be chargeable to tax at the rate of thirty per cent. of value of such undisclosed asset on the date of commencement of this Act.

61. Penalty.—Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the person making a declaration of undisclosed asset located outside India shall, in addition to tax charged under section 60, be liable to penalty at the rate of one hundred per cent. of such tax.

62. Manner of declaration.—(*1*) A declaration under section 59 shall be made to the Principal Commissioner or the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed.

(*2*) The declaration shall be signed,—

(*i*) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(*ii*) where the declarant is 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;

(*iii*) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(*iv*) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(*v*) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(*vi*) where the declarant is any other person, by that person or by some other person competent to act on his behalf.

(*3*) Any person, who has made a declaration under sub-section (*1*) in respect of his asset or as a representative assessee in respect of the asset of any other person, shall not be entitled to make any other declaration, under that sub-section in respect of his asset or the asset of such other person, and any such other declaration, if made, shall be deemed to be void.

63. Time for payment of tax.—(*1*) The tax payable under section 60 and penalty payable under section 61 in respect of the undisclosed asset located outside India, shall be paid on or before a date to be notified by the Central Government in the Official Gazette.

(*2*) The declarant shall file the proof of payment of tax and penalty on or before the date notified under sub-section (*1*), with the Principal Commissioner or the Commissioner before whom the declaration under section 59 was made.

(*3*) If the declarant fails to pay the tax in respect of the declaration made under section 59 on or before the date notified under sub-section (*1*), the declaration filed by him shall be deemed never to have been made under this Chapter.

64. Undisclosed foreign asset declared not to be included in total income.—The amount of undisclosed investment in an asset located outside India declared in accordance with section 59 shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the declarant makes the payment of tax referred to in section 60 and the penalty referred to in section 61 by the date notified under sub-section (*1*) of section 63.

65. Undisclosed foreign asset declared not to affect finality of completed assessments.—The declarant shall not be entitled, in respect of undisclosed asset located outside India declared or any amount of tax paid thereon, to reopen any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957 (27 of 1957) or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

66. Tax in respect of voluntarily disclosed asset not refundable.—Any amount of tax paid under section 60 or penalty paid under section 61 in pursuance of a declaration made under section 59 shall not be refundable.

67. Declaration not admissible in evidence against declarant.—Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under section 59 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty, other than the penalty leviable under section 61, or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act, 1957 (27 of 1957) or the Foreign Exchange Management Act, 1999 (42 of 1999) or the Companies Act, 2013 (18 of 2013) or the Customs Act, 1962 (52 of 1962).

68. Declaration by misrepresentation of facts to be void.—Notwithstanding anything contained in this Chapter, where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed never to have been made under this Chapter.

69. Exemption from wealth-tax in respect of assets specified in declaration.—(*1*) Where the undisclosed asset located outside India is represented by cash (including bank deposits), bullion or any other assets specified in the declaration made under section 59—

IndiaCode

(*a*) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act, 1957 (27 of 1957) for the assessment year commencing on or before the 1st day of April, 2015; or

(*b*) which have not been shown in the return of net wealth furnished by him for the said assessment year or years; or

(*c*) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then, notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957) or any rules made thereunder,—

(*I*) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (*a*) or clause (*b*) and such assets shall not be included in his net wealth for the said assessment year or years;

(*II*) the amount by which the value of the assets referred to in clause (*c*) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.

Explanation.—Where a declaration under section 59 is made by a firm, the assets referred to in clause (*I*) or, as the case may be, the amount referred to in clause (*II*) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

(*2*) The provisions of sub-section (*1*) shall not apply unless the conditions specified in sub-sections (*1*) and (*2*) of section 63 are fulfilled by the declarant.

70. Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.—The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 189 of that Act or of Chapter V of the Wealth-tax Act, 1957 (27 of 1957) relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Chapter as they apply in relation to proceedings under the Income-tax Act or, as the case may be, the Wealth-tax Act.

71. Chapter not to apply to certain persons.—The provisions of this Chapter shall not apply—

(*a*) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that—

(*i*) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(*ii*) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (*3*) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (*2*) of section 9, of the said Act; or

(*iii*) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (*3*) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (*6*) of section 12A, of the said Act; or

IndiaCode

(*iv*) such order of detention has not been set aside by a court of competent jurisdiction;

(*b*) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code (45 of 1860), the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Prevention of Corruption Act, 1988 (49 of 1988);

(*c*) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (27 of 1992).

(*d*) in relation to any undisclosed asset located outside India which has been acquired from income chargeable to tax under the Income-tax Act for any previous year relevant to an assessment year prior to the assessment year beginning on the 1st day of April, 2016—

(*i*) where a notice under section 142 or sub-section (*2*) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act has been issued in respect of such assessment year and the proceeding is pending before the Assessing Officer; or

(*ii*) where a search has been conducted under section 132 or requisition has been made under section 132A or a survey has been carried out under section 133A of the Income-tax Act in a previous year and a notice under sub-section (*2*) of section 143 for the assessment year relevant to such previous year or a notice under section 153A or under section 153C of the said Act for an assessment year relevant to any previous year prior to such previous year has not been issued and the time for issuance of such notice has not expired; or

(*iii*) where any information has been received by the competent authority under an agreement entered into by the Central Government under section 90 or section 90A of the Income-tax Act in respect of such undisclosed asset.

Explanation.—For the purpose of this sub-clause asset shall include a bank account whether having any balance or not.

72. Removal of doubts.—For the removal of doubts, it is hereby declared that—

(*a*) save as otherwise expressly provided in the *Explanation* to sub-section (*1*) of section 69, nothing contained in this Chapter shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Chapter;

(*b*) where any declaration has been made under section 59 but no tax and penalty has been paid within the time specified under section 60 and section 61, the value of such asset shall be chargeable to tax under this Act in the previous year in which such declaration is made;

(*c*) where any asset has been acquired or made prior to commencement of this Act, and no declaration in respect of such asset is made under this Chapter, such asset shall be deemed to have been acquired or made in the year in which a notice under section 10 is issued by the Assessing Officer and the provisions of this Act shall apply accordingly.

CHAPTER VII

GENERAL PROVISIONS

73. Agreement with foreign countries or specified territories.—(*1*) The Central Government may enter into an agreement with the Government of any other country—

(*a*) for exchange of information for the prevention of evasion or avoidance of tax on undisclosed foreign income chargeable under this Act or under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance;

(*b*) for recovery of tax under this Act and under the corresponding law in force in that country.

(*2*) The Central Government may enter into an agreement with the Government of any specified territory outside India for the purposes specified in sub-section (*1*).

(*3*) The Central Government may, by notification, make such provisions as may be necessary for implementing the agreements referred to in sub-sections (*1*) and (*2*).

(*4*) Any specified association in India may enter into an agreement with any specified association in the specified territory outside India for the purposes of sub-section (*1*) and the Central Government may by notification make such provisions as may be necessary for adopting and implementing such agreement.

(*5*) Any term used but not defined in this Act or in the agreement referred to in sub-sections (*1*), (*2*) or sub-section (*4*) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the meaning assigned to it in the notification issued by the Central Government and such meaning shall be deemed to have effect from the date on which the said agreement came into force.

74. Service of notice generally.—(*1*) The service of any notice, summons, requisition, order or any other communication under this Act (herein referred to in this section as "communication") may be made by delivering or transmitting a copy thereof, to the person named therein,—

(*a*) by post or by such courier service as may be approved by the Board;

(*b*) in such manner as provided under the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons;

(*c*) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000); or

(*d*) by any other means of transmission of documents, including fax message or electronic mail message, as may be prescribed.

(*2*) The Board may make rules providing for the addresses including the address for electronic mail or electronic mail message to which the communication referred to in sub-section (*1*) may be delivered or transmitted to the person named therein.

(*3*) In this section, the expressions "electronic mail" and "electronic mail message" shall have the same meanings as assigned to them in the *Explanation* to section 66A of the Information Technology Act, 2000 (21 of 2000).

75. Authentication of notices and other documents.—(*1*) A notice or any other document required to be issued, served or given for the purposes of this Act by any tax authority shall be authenticated by that authority.

(*2*) Every notice or other document to be issued, served or given for the purposes of this Act by any tax authority shall be deemed to be authenticated, if the name and office of a designated tax authority is printed, stamped or otherwise written thereon.

IndiaCode

(*3*) In this section, a designated tax authority shall mean any tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (*2*).

76. Notice deemed to be valid in certain circumstances.—(*1*) A notice which is required to be served upon a person for the purposes of assessment under this Act shall be deemed to have been duly served upon him in accordance with the provisions of this Act, if the person has appeared in any proceeding or co-operated in any inquiry relating to an assessment.

(*2*) The person, referred to in sub-section (*1*), shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(*a*) not served upon him;

(*b*) not served upon him in time; or

(*c*) served upon him in an improper manner.

(*3*) The provisions of this section shall not apply, if the person has raised the objection before the completion of the assessment.

77. Appearance by approved valuer in certain matters.—(*1*) Any assessee who is entitled or required to attend before any tax authority or the Appellate Tribunal, in connection with any matter relating to the valuation of any asset, may attend through a valuer approved by the Principal Commissioner or the Commissioner in accordance with such rules as may be prescribed.

(*2*) The provisions of sub-section (*1*) shall not apply in a case where the assessee is required to attend personally for examination on oath or affirmation under section 8.

78. Appearance by authorised representative.—(*1*) Any assessee who is entitled or required to attend before any tax authority or the Appellate Tribunal, in connection with any proceeding under this Act, may attend through an authorised representative.

(*2*) The provisions of sub-section (*1*) shall not apply in a case where the assessee is required to attend personally for examination on oath or affirmation under section 8.

(*3*) In this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being—

(*a*) a person related to the assessee in any manner, or a person regularly employed by the assessee;

(*b*) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings;

(*c*) any legal practitioner who is entitled to practice in any civil court in India;

(*d*) an accountant;

(*e*) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(*f*) any person who has acquired such educational qualifications as may be prescribed.

(*4*) The following persons shall not be qualified to represent an assessee under sub-section (*1*), namely:—

(*a*) a person who has been dismissed or removed from Government service;

IndiaCode

(*b*) a legal practitioner, or an accountant, who is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him;

(*c*) a person, not being a legal practitioner or an accountant, who is found guilty of misconduct in any tax proceedings by such authority as may be prescribed.

(*5*) The Principal Chief Commissioner or the Chief Commissioner may, by an order in writing, specify the period up to which the disqualification under sub-section (*4*) shall continue, having regard to the nature of misconduct and such disqualification shall not exceed—

(*i*) in case of clauses (*a*) and (*c*) of sub-section (*4*), a period of ten years;

(*ii*) in case of clause (*b*) of sub-section (*4*), the period for which the legal practitioner or an accountant is not entitled to practice.

(*6*) A person shall not be allowed to appear as an authorised representative, if he has committed any fraud or misrepresented the facts which resulted in loss to the revenue and that person has been declared as such by an order of the Principal Chief Commissioner or the Chief Commissioner.

Explanation.—In this section, "accountant" means a chartered accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (*1*) of section 6 of that Act.

79. Rounding off of income, value of asset and tax.—(*1*) The amount of undisclosed foreign income and asset computed in accordance with this Act shall be rounded off to the nearest multiple of one hundred rupees.

(*2*) Any amount payable or receivable by the assessee under this Act shall be rounded off to the nearest multiple of ten rupees.

(*3*) The method of rounding off under sub-section (*1*) or sub-section (*2*), shall be such as may be prescribed.

80. Congnizance of offences.—No court inferior to that of a metropolitan magistrate or a magistrate of the First Class shall try any offence under this Act.

81. Assessment not to be invalid on certain grounds.—No assessment, notice, summons or other proceedings, made or issued or taken or purported to have been 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 assessment, notice, summons or other proceeding if such assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.

82. Bar of suits in civil courts.—(*1*) No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act.

(*2*) No prosecution, suit or other proceeding shall lie against the Government or any officer of the Government, for anything in good faith done or intended to be done, under this Act.

83. Income-tax papers to be available for purposes of this Act.—Notwithstanding anything contained in the Income-tax Act, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of the said Act may be used for the purposes of this Act.

84. Application of provisions of Income-tax Act.—The provisions of clauses (*c*) and (*d*) of sub-section (*1*) of section 90, clauses (*c*) and (*d*) of sub-section (*1*) of section 90A, sections 119, 133, 134,

135, [1][138, 144A] Chapter XV and sections 237, 240, 245, 280, 280A, 280B, 280D, 281, 281B and 284 of the Income-tax Act shall apply with necessary modifications as if the said provisions refer to undisclosed foreign income and asset instead of to income-tax.

85. Power to make rules.—(*1*) The Board may, subject to the approval of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

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

(*a*) the manner of determination of the value of an undisclosed foreign asset referred to in sub-section (*2*) of section 3;

(*b*) the tax authority to be prescribed for any of the purposes of this Act;

(*c*) the form and manner of service of a notice of demand under section 13;

(*d*) the form in which any appeal, revision or cross-objection may be filed under this Act, the manner in which they may be verified and the fee payable in respect thereof;

(*e*) the form in which the Tax Recovery Officer may draw up the statement of tax arrears under sub-section (*1*) of section 31;

(*f*) the manner in which the sum is to be paid to the credit of Central Government under sub-section (*2*) or sub-section (*5*) of section 32;

(*g*) the manner in which the Tax Recovery Officer shall send a certificate referred to in sub-section (*2*) of section 33;

(*h*) the form in which a declaration referred to in sub-section (*1*) of section 62 is to be made and the manner in which it is to be verified;

(*i*) the means of transmission of documents under clause (*d*) of sub-section (*1*) of section 74;

(*j*) the procedure for approval of a valuer by the Principal Commissioner or the Commissioner under section 77;

(*k*) the educational qualifications required, to be an authorised representative under clause (*f*) of sub-section (*3*) of section 78;

(*l*) the tax authority under clause (*c*) of sub-section (*4*) of section 78;

(*m*) the method of rounding off of the amount referred to in sub-section (*1*) or sub-section (*2*) of section 79;

(*n*) any other matter which by this Act is to be, or may be, prescribed.

(*3*) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act and no retrospective effect shall be given to any rule so as to prejudicially affect the interest of assessees.

(*4*) The Central Government shall cause every rule made under this Act 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 or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or 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

1. Subs. by Act 23 of 2019, s. 208, for the figures "138" (w.e.f. 1-9-2019).

any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

86. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Act come into force.

(*2*) Every order made under this section shall be laid before each House of Parliament.

87. Amendment of section 2 of Act 54 of 1963.—In section 2 of the Central Boards of Revenue Act, 1963, in sub-clause (*1*) of clause (*c*),—

(*a*) in item (*vii*), the word "and" occurring at the end shall be omitted; and

(*b*) after item (*ix*) as so amended, the following item shall be inserted, namely:—

"(*x*) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015; and"

88. Amendment of Act of 15 of 2003.—In the Prevention of Money-laundering Act, 2002, in the Schedule, in Part C, after entry (3), relating to the offences against property under Chapter XVII of the Indian Penal Code (45 of 1860), the following entry shall be inserted, namely:—

"(*4*) The offence of wilful attempt to evade any tax, penalty or interest referred to in section 51 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.".

IndiaCode

STATEMENT OF OBJECTS AND REASONS

Stashing away of black money abroad by some people with intent to evade taxes has been a matter of deep concern to the nation. 'Black Money' is a common expression used in reference to tax-evaded income. Evasion of tax robs the nation of critical resources necessary to undertake programs for social inclusion and economic development. It also puts a disproportionate burden on the honest taxpayers as they have to bear the brunt of higher taxes to make up for the revenue leakage caused by evasion. The money stashed away abroad by evading tax could also be used in ways which could threaten the national security.

2. The Central Government is strongly committed to the task of tracking down and bringing back undisclosed foreign assets and income which legitimately belong to the nation. Recognising the limitations of the existing legislation, it is proposed to introduce a new legislation to deal with undisclosed assets and income stashed away abroad.

3. The Supreme Court of India has also expressed concern over this issue. The Special Investigation Team constituted by the Central Government to implement the decision of the Supreme Court, has also expressed the views that measures may be taken to curb the menace of black money. Internationally, a new regime for automatic exchange of financial information is fast taking shape and India is a leading force in this effort.

4. The new legislation will apply to all persons resident in India and holding undisclosed foreign income and assets. A limited window is proposed to persons who have any undisclosed foreign assets. Such persons may file a declaration before the specified tax authority within a specified period, followed by payment of tax at the rate of 30 per cent and an equal amount by way of penalty. Exemptions, deductions, set off and carried forward losses etc. shall also be not allowed under the new legislation. Upon fulfilling these conditions, a person shall not be prosecuted under the Bill and the declaration made by him will not be used as evidence against him under the Wealth-tax Act, the Foreign Exchange Management Act (FEMA), the Companies Act or the Customs Act. Wealth-tax shall not be payable on any asset so disclosed. It is merely an opportunity for persons to become tax compliant before the stringent provisions of the new legislation come into force.

5. The Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 *inter alia* provides for the following, namely:—

(*i*) Concealment of income in relation to a foreign asset will attract penalty equal to three times the amount of tax (i.e., 90 per cent of the undisclosed income or the value of the undisclosed asset). Failure to furnish return of income by person holding foreign asset, failure to disclose the foreign asset in the return or furnishing of inaccurate particulars of such asset shall attract a penalty of Rs.10 lakh.

(*ii*) The Bill provides for criminal liability with enhanced punishment. Wilful attempt to evade tax in relation to a foreign income will be punished with rigorous imprisonment from three years to ten years and with fine. Failure to furnish a return of income though holding a foreign asset, failure to disclose the foreign asset or furnishing of inaccurate particulars of the foreign asset will be punishable with rigorous imprisonment for a term of six months to seven years. The provisions will also apply to banks and financial institutions aiding in concealment of foreign income or assets of resident Indians or falsification of documents.

MahaCode

(*iii*) Second and subsequent offence will be punishable with rigorous imprisonment for a term of three years to ten years and with fine of Rs.1 crore to Rs.25 lakh. In prosecution proceedings, the wilful nature of the default shall be presumed and it shall be for the accused to prove the absence of the guilty state of mind.

(*iv*) To facilitate enquiry and investigation, authorities under the Act have been vested with the powers of discovery and inspection, issue of commissions, issue of summonses, enforcement of attendance, production of evidence, impounding of books of account and documents.

(*v*) The Central Government has been empowered to enter into agreements with other countries, specified territories and associations outside India inter alia for exchange of information, recovery of tax and avoidance of double taxation.

(*vi*) Safeguards to prevent misuse have been embedded in the Bill. It will be mandatory to issue notices and grant of opportunity of being heard, record reasons for various actions and pass written orders. Appeal to the Income-tax Appellate Tribunal, and to the jurisdictional High Court and the Supreme Court on substantial questions of law have been provided for.

(*vii*) Persons holding foreign accounts with minor balances which may not have been reported out of oversight or ignorance have been protected from criminal consequences.

(*viii*) The Bill also proposes to amend Prevention of Money Laundering Act (PMLA), 2002 to include offence of tax evasion under the proposed legislation as a scheduled offence under PMLA.

6. The enactment of the proposed new Bill will enable the Central Government to tax undisclosed foreign income and assets acquired from such undisclosed foreign income, and punish the persons indulging in illegitimate means of generating money causing loss to the revenue. It will also prevent such illegitimate income and assets kept outside the country from being utilised in ways which are detrimental to India's social, economic and strategic interests and its national security.

7. The Notes on clauses explain, in detail, the provisions of the Undisclosed Income and Assets (Imposition of Tax) Act, 2015.

8. The Bill seeks to achieve the above objectives.

ARUN JAITELY.

NEW DELHI;
The 19*th March*, 2015.