

सत्यमेव जयते

IndiaCode

The Expenditure-tax Act, 1987

(ACT NO. 35 OF 1987)

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

LIST OF AMENDING ACTS

1. The Finance Act, 1988 (26 of 1988).
2. The Finance Act, 1989 (13 of 1989).
3. The Finance (No. 2) Act, 1991 (49 of 1991).
4. The Finance Act, 1992 (18 of 1992).
5. The Finance Act, 1994 (32 of 1994).
6. The Finance Act, 1997 (26 of 1997).
7. The Finance (No. 2) Act, 1998 (21 of 1998).
8. The Finance Act, 1999 (27 of 1999).
9. The Finance Act, 2001 (14 of 2001).
10. The Finance Act, 2002 (20 of 2002).
11. The Finance Act, 2003 (32 of 2003).
12. The Taxation Laws (Amendment) Act, 2003 (54 of 2003).
13. The National Tax Tribunal Act, 2005 (49 of 2005).

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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.

THE EXPENDITURE-TAX ACT, 1987

ARRANGEMENT OF SECTIONS

SECTIONS

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28. Abetment of false return, etc.
29. Certain offences to be non-cognizable.
30. Institution of proceedings and composition of offences.
31. Power to make rules.
32. Power to remove difficulties.
33. [*Repealed.*]

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THE EXPENDITURE-TAX ACT, 1987

ACT NO. 35 OF 1987

[14*th September*, 1987.]

An Act to provide for the levy of a tax on expenditure incurred in certain hotels [1][or restaurants and for matters connected therewith or incidental thereto].

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

1. Short title, extent and commencement.—(*1*) This Act may be called the Expenditure-tax Act, 1987.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir*.

(*3*) It shall come into force on such date[2] as the Central Government may, by notification in the Official Gazette, appoint.

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

(*1*) "assessee" means a person responsible for collecting the expenditure-tax payable under the provisions of this Act;

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

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

(*4*) "chargeable expenditure" means the expenditure referred to in section 5;

(*5*) "expenditure-tax" or "tax" means the tax chargeable under the provisions of this Act;

(*6*) "hotel" includes a building or part of a building where residential accommodation is, by way of business, provided for a monetary consideration;

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

(*8*) "person responsible for collecting" means a person who is required to collect tax under this Act or is required to pay any other sum of money under this Act and includes—

(*a*) every person in respect of whom any proceedings under this Act have been taken, and

(*b*) every person who is deemed to be an assessee-in-default under any provision of this Act;

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

[3][(*9A*) "restaurant" means any premises, not being a restaurant situated in a hotel referred to in clause (*1*) of section 3, in which the business of sale of food or drink to the public is carried on and such premises, at the beginning of any month, are equipped with, or have access to, facilities for air-conditioning;]

(*10*) "room charges" means the charges for a unit of residential accommodation in a hotel and includes the charges for—

(*a*) furniture, air-conditioner, refrigerator, radio, music, telephone, television, and

(*b*) such other services as are normally included by a hotel in room rent,

but does not include charges for food, drinks and any services other than those referred to in sub-clauses (*a*) and (*b*);

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1. Ins. by Act 49 of 1991, s. 113 (w.e.f. 1-10-1991).
2. 1st November, 1987, *vide* Notifn. No. S.O. 919(E), dated 14th October, 1987, s*ee* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).
3. Ins. by Act 49 of 1991, s. 114 (w.e.f. 1-10-1991).

*. *Vide* Notifn. No. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

(*11*) 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.

[1][**3. Application of the Act**.—This Act shall apply in relation to any chargeable expenditure—

(*1*) [2][incurredbefore the 1st day of June, 2003 in a hotel] wherein the room charges for any unit of residential accommodation at the time of incurring of such expenditure are[3][threethousand rupees or more per day] and where,—

(*a*) a composite charge is payable in respect of such unit and food, the room charges included therein shall be determined in the prescribed manner;

(*b*) (*i*) a composite charge is payable in respect of such unit, food, drinks and other services, or any of them, and the case is not covered by the provisions of sub-clause (*a*), or

(*ii*) it appears to the Assessing Officer that the charges for such unit, food, drinks or other services are so arranged that the room charges are understated and the other charges are overstated,

the Assessing Officer shall, for the purposes of this clause determine the room charges on such reasonable basis as he may deem fit; and

(*2*) incurred in a restaurant [4][before the 1st day of June, 1992.]

4. Charge of expenditure-tax.—Subject to the provisions of this Act, there shall be charged on and from—

(*a*) the commencement of this Act[5][but not after the 31st day of May, 2003], a tax at the rate of [6][ten per cent.] of the chargeable expenditure incurred in a hotel referred to in clause (*1*) of section 3:

Provided that nothing in this clause shall apply in the case of a hotel referred to in [7][clause (*a*) of sub-section (*7*) of section 80-IB] of the Income-tax Act during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 2001:

[8][Provided further that nothing in this clause shall apply in the case of a hotel referred to in [9][clause (*a*) of sub-section (*7*) of section 80-IB] of the Income-tax Act, 1961 (43 of 1961) during the period beginning on the 1st day of April, 1998 and ending on the 31st day of March, 2008].

(*b*) the 1st day of October, 1991, [10][but not after the 31st day of May, 1992] a tax at the rate of fifteen per cent. of the chargeable expenditure incurred in a restaurant referred to in clause (*2*) of section 3.

5. Meaning of Chargeable expenditure.—For the purposes of this Act, chargeable expenditure,—

(*1*) in relation to a hotel referred to in clause (*1*) of section 3, means any expenditure incurred in, or payments made to, the hotel in connection with the provision of—

(*a*) any accommodation, residential or otherwise; or

[11]* * * * *

(*c*) any accommodation in such hotel on hire or lease; or

[12]* * * * *

but does not include—

(*i*) any expenditure which is incurred, or payment for which is made, in foreign exchange [13][before the 1st day of October, 1992;]

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1. Subs. by Act 49 of 1991, s. 115, for sections 3 to 5 (w.e.f. 1-10-1991).
2. Subs. by Act 32 of 2003, s. 102, for "incurred in a hotel" (w.e.f. 1-6-2003).
3. Subs. by Act 20 of 2002, s. 115, for "two thousand rupees or more per day per individual" (w.e.f. 1-6-2002).
4. Ins. by Act 18 of 1992, s. 105 (w.e.f 1-6-1992).
5. Ins. by Act 32 of 2003, s. 103 (w.e.f. 1-6-2003).
6. Subs. by Act 32 of 1994, s. 57, for "twenty per cent." (w.e.f. 1-6-1994).
7. Subs. by Act 27 of 1999, s. 98, for "clause (*ii*) of sub-section (5) of section 80-IA" (w.e.f. 1-4-2000).
8. Ins. by Act 26 of 1997, s. 61 (w.e.f. 1-4-1998).
9. Subs. by 27 of 1999, s. 98, for "clause (*iia*) or sub-section (5) of section 80-1A" (w.e.f. 1-4-2000).
10. Subs.by Act 18 of 1992, s. 106, for "the commencement of this Act" (w.e.f. 1-6-1992).
11. Sub-clause (*b*) omitted by Act 20 of 2002, s. 116 (w.e.f. 1-6-2002).
12. Sub-clause (*d*) omitted by s. 116, *ibid*. (w.e.f. 1-6-2002).
13. Ins. by Act 18 of 1992, s. 107 (w.e.f. 1-6-1992).

(*ii*) any expenditure incurred by persons within the purview of the Vienna Convention on Diplomatic Relations, 1961 or the Vienna Convention on Consular Relations, 1963;

(*iii*) any expenditure incurred in any shop or in any office which is not owned or managed by the person who carries on the business of a hotel;

(*iv*) any expenditure by way of any tax, including tax under this Act.

Explanation.—For the purposes of this clause,—

(*a*) expenditure incurred or any payments made in Indian currency obtained by conversion of foreign exchange into Indian currency shall in such cases and in such circumstances as may be prescribed be deemed to have been incurred or, as the case may be, made in foreign exchange; and

(*b*) "foreign exchange" and "Indian currency" shall have the meanings respectively assigned to them in clauses (*h*) and (*k*) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(*2*) in relation to a restaurant referred to in clause (*2*) of section 3, means any expenditure incurred in, or payments made to, a restaurant in connection with the provision of food or drink by the restaurant, whether at the restaurant or outside, or by any other person in the restaurant, but does not include any expenditure referred to in sub-clauses (*ii*) and (*iv*) of clause (*1*).]

6.Tax authorities.—[1][(*1*) Every Director General of Income-tax, Chief Commissioner of Income-tax, Director of Income-tax, Commissioner of Income-tax, Commissioner of Income-tax (Appeals) [2][Additional Director of Income-tax,[3][Joint Director of Income-tax, Joint Commissioner of Income-tax] Deputy Director] of Income tax, Deputy Commissioner of Income-tax, Assistant Director Income-tax, Assistant Commissioner of Income-tax, Income-tax Officer, Tax Recovery Officer and Inspector of Income-tax shall have the like powers and perform the like functions under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act.]

(*2*) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) so as to interfere with the discretion of the [4][Chief Commissioner or Commissioner] (Appeals) in the exercise of his appellate functions.

(*3*) Every [5][Assessing Officer] employed in the execution of this Act shall observe and follow the orders, instructions and directions issued for his guidance by the [6][Director General or Director or by the Chief Commissioner or Commissioner] or by the [7][Additional Commissioner of Income-tax or] [8][Joint Commissioner] within whose jurisdiction he performs his functions.

[9][**7. Collection and recovery of expenditure-tax.**—(*1*) Where any chargeable expenditure is incurred in a hotel referred to in clause (*1*) of section 3,—

(*a*) if such expenditure relates to any of the services, specified in sub-clauses (*a*) to (*d*) of clause (*1*) of section 5, provided by the hotel, the person who carries on the business of such hotel; and

(*b*) if such expenditure relates to any of the services, specified in sub-clause (*b*) or sub-clause (*d*) of clause (*1*) of section 5, provided by the other person referred to therein, such other person,

1. Subs. by Act 26 of 1988, s. 73, for sub-section (*1*) (w.e.f. 1-4-1988).
2. Subs. by Act 32 of 1994, s. 58, for "Deputy Director" (w.e.f. 1-6-1994).
3. Subs. by Act 21 of 1998, s. 82, for "Additional Commissioner of Income-Tax" (w.e.f. 1-10-1998).
4. Subs. by Act 26 of 1988, s. 72, for "Commissioner" (w.e.f. 1-4-1988).
5. Subs. by, s. 72, *ibid*., for "Income-tax Officer" (w.e.f. 1-4-1988).
6. Subs. by Act 26 of 1988, s. 73, for "Director of Inspection or by the Commissioner" (w.e.f 1-4-1988).
7. Subs. by Act 32 of 1994, s. 58, for "Deputy Commissioner" (w.e.f. 1-6-1994).
8. Subs. by Act 21 of 1998, s. 82, for "Deputy Commissioner" (w.e.f 1-10-1998).
9. Subs. by Act 49 of 1991, s. 116, for section 7 (w.e.f. 1-10-1991).

shall collect the expenditure-tax at the rate specified in clause (*a*) of section 4.

(*2*) Where any chargeable expenditure is incurred in a restaurant referred to in clause (*2*) of section 3 [1][before the 1st day of June, 1992] in relation to any services specified in clause (*2*) of section 5 and where such services are—

(*a*) provided by the restaurant, the person who carries on the business of such restaurant; and

(*b*) provided by the other person, such other person,

shall collect the expenditure-tax at the rate specified in clause (*b*) of section 4.

(*3*) The tax collected during any calendar month in accordance with the provisions of sub-sections (*1*) and(*2*) shall be paid to the credit of the Central Government by the 10th of the month immediately following the said calendar month.

(*4*) Any person responsible for collecting the tax, who fails to collect the tax in accordance with the provisions of sub-section (*1*) or sub-section (*2*) shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (*3*).]

8. Person responsible for collecting tax to furnish prescribed return.—(*1*) Every person responsible for collecting the tax shall before the expiry of four months from the 31st day of March in each year, furnish or cause to be furnished to the [2][Assessing Officer] in the prescribed form and verified in the prescribed manner, a return in respect of the immediately preceding financial year showing—

(*a*) the aggregate of the payments received in respect of chargeable expenditure;

(*b*) the amount of the tax collected;

(*c*) the amount of the tax paid to the credit of the Central Government; and

(*d*) such other particulars as may be prescribed.

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(*2*) In the case of any person who, in the opinion of the [2][Assessing Officer], is responsible for collecting tax under this Act and who has not furnished a return under sub-section (*1*), the [2][Assessing Officer] may, before the expiry of the financial year in which the return is to be furnished, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice the return in the prescribed form and verified in the prescribed manner setting forth such other particulars as may be prescribed.

(*3*) Any person responsible for collecting the tax who has not furnished the return within the time allowed under sub-section (*1*) or sub-section (*2*), or having furnished a return under sub-section (*1*) or sub-section (*2*) discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

9. Assessment.—(*1*) For the purpose of making an assessment under this Act, the [2][Assessing Officer] may serve on any person who has furnished a return under section 8 or upon whom a notice has been served under sub-section (*2*) of section 8 (whether a return has been furnished or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or other evidence as the [2][Assessing Officer] may require for the purposes of this Act and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(*2*) The [2][Assessing Officer], after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (*1*) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the chargeable expenditure and the amount of tax payable on the basis of such assessment.

1. Ins. by Act 18 of 1992, s. 108 (w.e.f. 1-6-1992).
2. Subs. by Act 26 of 1988, s. 72, for "Income-tax Officer" (w.e.f. 1-4-1988).

10. Best judgment assessment.—If—

(*a*) any person fails to make the return required by any notice given under sub-section (*2*) of section 8 and has not made a return or a revised return under sub-section (*3*) of that section, or

(*b*) any person having made a return fails to comply with all the terms of a notice issued under sub-section (*1*) of section 9, or

(*c*) the[1][Assessing Officer] is not satisfied with the correctness or the completeness of the accounts of the assessee,

the [1][Assessing Officer], after taking into account all the relevant material which he has gathered, shall, by an order in writing, make the assessment of the chargeable expenditure to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

11. Chargeable expenditure escaping assessment.—If—

(*a*) the [1][Assessing Officer] has reason to believe that by reason of omission or failure on the part of the assessee to make a return under section 8 for any assessment year or to disclose wholly and truly all material facts necessary for his assessment for any assessment year, chargeable expenditure for that year has escaped assessment or has been under-assessed, or

(*b*) notwithstanding that there has been no omission or failure as mentioned in clause (*a*) on the part of the assessee, the [1][Assessing Officer] has,in consequence of information in his possession, reason to believe that chargeable expenditure assessable in any assessment year has escaped assessment or has been under-assessed,

he may, in cases falling under clause (*a*), at any time, and in cases falling under clause (*b*), at any time within four years from the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 8 and may proceed to assess or reassess the chargeable expenditure, and the provisions of this Act shall, so far as may be, apply, as if the notice was a notice issued under that section.

12. Rectification of mistake.—(*1*) With a view to rectifying any mistake apparent from the record, the tax authority referred to in section 6 which passed any order under the provisions of this Act may, within four years of the date on which such order was passed, amend the order.

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

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

(*a*) may make an amendment under sub-section (*1*) of its own motion, and

(*b*) shall make such amendment if any mistake is brought to its notice,—

(*i*) by the assessee; or

(*ii*) where the authority concerned is the [2][Chief Commissioner or Commissioner] (Appeals), by the [1][Assessing Officer].

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

(*5*) Where an amendment is made under this section, an order shall be passed in writing by the tax authority concerned.

(*6*) Subject to the other provisions of this Act, where any such amendment has the effect of reducing the assessment, the [1][Assessing Officer] shall make any refund which may be due to such assessee.

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1. Subs. by Act 26 of 1988, s. 72, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Subs. by s. 72, *ibid*., for "Commissioner" (w.e.f. 1-4-1988).

(*7*) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the [1][Assessing Officer] shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 20 and the provisions of this Act shall apply accordingly.

13. Time limit for completion of assessment and reassessment.—(*1*) No order of assessment shall be made under section 9 or section 10 at any time after the expiration of a period of four years from the end of the assessment year in which the chargeable expenditure was first assessable, or one year from the date of the filing of the return or revised return under section 8, whichever is later.

(*2*) No order of assessment or reassessment shall be made under section 11,—

(*a*) where the assessment or reassessment is to be made in a case falling within clause (*a*) of section 11 for which a notice has been served upon the assessee, at any time after the expiration of a period of four years from the end of the assessment year in which the said notice was served;

(*b*) where the assessment or reassessment is to be made in a case falling within clause (*b*) of section 11, for which a notice has been served, after the expiration of a period of—

(*i*) four years from the end of the assessment year in which the chargeable expenditure was first assessable, or

(*ii*) one year from the date of service of such notice,

whichever is later.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), an order of fresh assessment in pursuance of an order passed under section 21, section 22 or section 23, setting aside or cancelling an assessment, may be made at any time before the expiry of four years from the end of the financial year in which the order under section 21 is passed by [2][the Commissioner, or the order is received by the Chief Commissioner or Commissioner, as the case may be, under section 22 or section 23] shall be substituted.

(*4*) The provisions of sub-sections (*1*) and (*2*) 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 21, section 22, section 23 [3][or any order of the National Tax Tribunal or of a High Court] or Supreme Court in a proceeding by way of reference or appeal under this Act or any order of any court in a proceeding otherwise than by way of an appeal or reference under this Act and such assessment or reassessment may, subject to the provisions of sub-section (*3*), be completed at any time.

Explanation.—In computing the period of limitation for the purposes of this section, the period during which the assessment proceeding is stayed by an order or injunction of any court shall be excluded.

14. Interest on delayed payment of expenditure-tax.—Every person responsible for collecting expenditure-tax and paying it to the credit of the Central Government in accordance with the provisions of section 7, who fails to credit the tax to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of [4][one per cent.] for every month or part of a month by which such crediting of tax is delayed.

[5][**15. Penalty for failure to collect or pay expenditure-tax**.—Any person responsible for collecting expenditure-tax in accordance with the provisions of sub-section (*1*) or sub-section (*2*) of section 7, who—

(*a*) fails to collect such tax; or

(*b*) having collected the tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (*3*) of that section,

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1. Subs. by Act 26 of 1988, s. 72, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Subs. by s. 74, *ibid*., for "the Commissioner, or, as the case may be, the order under section 22 or section 23 is received by the Commissioner" (w.e.f. 1-4-1998).
3. Subs. by Act 49 of 2005, s. 30 and the Schedule, for "or any order of a High Court" (w.e.f. 28-12-2005).
4. Subs. by Act 54 of 2003, s. 22, for "one and one-fourth per cent." (w.e.f. 8-9-2003).
5. Subs. by Act 49 of 1991, s. 117, for section 15 (w.e.f. 1-10-1991).

shall pay,—

(*i*) in the case referred to in clause (*a*), in addition to paying tax in accordance with the provisions of sub-section (*4*) of that section, by way of penalty, a sum equal to the amount of tax that he failed to collect; and

(*ii*) in the case referred to in clause (*b*), in addition to paying interest in accordance with the provisions of section 14, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of tax that he failed to pay.]

16. Penalty for failure to furnish prescribed return.—If a person fails to furnish in due time the return which he is required to furnish under sub-section (*1*) of section 8 or by notice given under sub-section (*2*) of that section, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees for every day during which the failure continues.

17. Penalty for concealment of chargeable expenditure.—If the [1][Assesing Officer] or the [2][Chief Commissioner or Commissioner] (Appeals) in the course of any proceedings under this Act is satisfied that any person has concealed particulars of chargeable expenditure or has furnished inaccurate particulars of such chargeable expenditure, he may direct that such person shall pay by way of penalty, in addition to any expenditure-tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of tax sought to be evaded by reason of concealment of particulars of chargeable expenditure or the furnishing of inaccurate particulars of such chargeable expenditure:

Provided that if the amount of chargeable expenditure (as determined by the [1][Assessing Officer] on assessment) in respect of which particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees, the [1][Assessing Officer] shall not issue any direction for payment by way of penalty without the previous approval of the [3][Additional Commissioneror, as the case may be, of the Deputy Commissioner].

18. Penalty for failure to comply with notice.—If the [1][Assessing Officer] in the course of any proceedings under this Act is satisfied that any person has failed to comply with a notice under sub-section (*1*) of section 9, he may direct that such person shall pay, by way of penalty, in addition to any tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the chargeable expenditure returned by such person had been accepted as the correct chargeable expenditure.

19. Penalty not to be imposed in certain cases.—Notwithstanding anything contained in the provisions of section 15, section 16, section 17 or section 18, no penalty shall be imposable on the assessee for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.

20. Notice of demand.—When any tax, interest, penalty or any other sum is payable under this Act, the [1][Assessing Officer] shall serve upon the assessee a notice of demand in the prescribed form, specifying the sum so payable and the amount of chargeable expenditure in relation to which such sum is payable.

21. Revision of orders by the Commissioner.—(*1*) The Commissioner may, either of his own motion or on application by the assessee for revision, call for the record of a proceeding under this Act which has been taken by the [1][Assessing Officer] subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon as he thinks fit.

(*2*) No order which is prejudicial to the assessee shall be passed under this section unless the assessee has been given an opportunity of being heard.

1. Subs. by Act 26 of 1988, s. 72, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Subs. by s. 72, *ibid*., for "Commissioner" (w.e.f. 1-4-1988).
3. Subs. by Act 32 of 1994, s. 59, for "Deputy Commissioner" (w.e.f. 1-6-1994).

(*3*) No order under this section shall be passed by the Commissioner, if an appeal against the notice of demand issued by the [1][Assessing Officer] under section 20 is pending before the Commissioner (Appeals).

(*4*) No order under this section shall be passed after the expiry of two years from the end of the financial year in which the order sought to be reviewed has been passed.

[2][(*6*) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 24 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(*7*) Notwithstanding anything contained in sub-section (*6*), an order in revision under that sub-section may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal,[3][the National Tax Tribunal,] the High Court or the Supreme Court.]

22. Appeals to the Commissioner (Appeals).—(*1*) Any person objecting to the amount of expenditure-tax for which he is assessed by the [1][Assessing Officer], or denying his liability to be assessed under this Act, or objecting to an order levying penalty under this Act, may appeal to the Commissioner (Appeals).

[4][(*2*) Every appeal shall be in the prescribed form and shall be verified in the prescribed mannerand in respect of appeals filed on or after the 1st day of October, 1998, shall be accompanied by a fee of two hundred and fifty rupees.]

(*3*) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to tax, interest or penalty under this Act:

Provided that the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(*4*) 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.

[5][(*4A*) In every appeal, the Commissioner (Appeals), where it is possible, may hear and determine such appeal within a period of one year from the end of the financial year in which such appeal is filed under sub-section (*1*)].

Provided that an order enhancing the assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(*5*) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax.

23. Appeals to Appellate Tribunal.—(*1*) Any assessee aggrieved by an order passed by a Commissioner under section 21, or an order passed by a Commissioner (Appeals) under any provision of this Act, may appeal to the Appellate Tribunal against such order.

1. Subs. by Act 26 of 1988, s. 72, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Ins. by Act 21 of 1998, s. 83 (w.e.f. 1-10-1998).
3. Ins. by Act 49 of 2005, s. 30 and the Schedule (w.e.f. 20-12-2005).
4. Subs. by Act 21 of 1998, s. 84, for sub-section (*2*) (w.e..f. 1-10-1998).
5. Subs. by Act 27 of 1999, s. 99, for sub-section (*4*) (w.e.f. 1-6-1999).

(*2*) The Commissioner may, if he objects to any order passed by the Commissioner (Appeals) under any provision of this Act, direct the [1][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 sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

(*4*) The [1][Assessing Officer] or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner (Appeals) has been preferred under sub-section (*1*) orsub-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 relevant period referred to in sub-section (*3*) or sub-section (*4*), if it is satisfied that there was sufficient cause for not presenting it within that period.

(*6*) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed 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 [2][a fee of one thousand rupees in the case of appeals filed on or after the 1st day of October, 1998.]

(*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 same procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

24. Application of provisions of Income-tax Act.—The provisions of the following sections and Schedules of the Income-tax Act and theIncome-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to expenditure-tax instead of to income-tax:—

[3][2(*44*), 118, 120, 129, 131 to 136 (both inclusive)] 138, [4][139A, 140, 144A, 145], 159 to 163 (both inclusive), 166, 167, 170, 171, 173 to 179 (both inclusive), 187, 188, [5][188A] 189, 220 to 227 (both inclusive), 229, [6]*** 232, 237 to 245 (both inclusive), 254 to 262 (both inclusive), 265, 266, 268, 269, 278B, 278C, 278D, 278E, [5][279B], 281, 281B, 282, 283, 284, 287, 288, 288A, 288B, 289 to 293 (both inclusive), the Second Schedule and the Third Schedule:

Provided that references in the said provisions and rules to the "assessee" shall be construed as references to an assessee as defined in this Act.

25. Wilful attempt to evade tax, etc.—If a person wilfuly attempts in any manner whatsoever to evade collection or payment of any tax, penalty or interest chargeable or impossible under this Act, or to understate the aggregate of the chargeable expenditure, 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 less than three months but which may extend to seven years and with fine.

1. Subs. by Act 26 of 1988, s. 72, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Subs. by Act 21 of 1998, s. 85, for "a fee of two hundred rupees" (w.e.f. 1-10-1998).
3 Subs. by Act 26 of 1988, s. 75, for "2(43B) and (44), 118,125,125A, 128 to 136 (both inclusive)" (w.e.f. 1-4-1988).
4. Subs. by Act 49 of 1991, s. 118, for "140, 144A" (w.e.f. 1-10-1991).
5. Ins. by s. 118, *ibid*. (w.e.f. 1-10-1991).
6. The figures "231," omitted by Act 26 of 1988, s. 75 (w.e.f 1-4-1988).

Explanation.—For the purposes of this section, a wilful attempt to evade collection or payment of any tax, penalty or interest chargeable or imposable under this Act 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 circumstances to exist which will have the effect of enabling such person to evade collection or payment of any tax, penalty or interest chargeable or imposable under this Act.

26. Failure to furnish prescribed returns.—If a person fails to furnish in due time the return which he is required to furnish under sub-section (*1*) of section 8 or by a notice given under sub-section (*2*) of that section, 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 less than three months but which may extend to seven years and with fine.

27. False statement in verification, etc.—If a person makes a statement in any verification under this Act or 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 three months but which may extend to seven years and with fine.

28. Abetment of false return, etc.—If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any chargeable expenditure which is false and which he either knows to be false or does not believe to be true or to commit an offence under section 25, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

29. Certain offences to be non-cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under section 25 or section 26 or section 27 or section 28 shall be deemed to be non-cognizable within the meaning of that Code.

30. Institution of proceedings and composition of offences.—(*1*) A person shall not be proceeded against for any offence under section 25 or section 26 or section 27 or section 28, except with the previous sanction of the [1][Chief Commissioner or Commissioner:]

Provided that no such sanction shall be required where the complainant before the court is a Commissioner (Appeals).

(*2*) The [1][Chief Commissioner or Commissioner] may, either before or after the institution of proceedings, compound any offence punishable under section 25 or section 26 or section 27 or section 28.

31. Power to make rules.—(*1*) The Board may, subject to the control 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 in which the room charges may be determined under [2][sub-clause (*a*) of clause (*1*) of section 3] in cases where composite charges are payable in respect of residential accommodation and food;

1. Subs. by Act 26 of 1988, s. 72, for "Commissioner" (w.e.f. 1-4-1988).
2. Subs. by Act 49 of 1991, s. 119, for "sub-section (*2*) of section 3" (w.e.f. 1-10-1991).

(*b*) the cases and the circumstances in which payments made in Indian, currency by conversion of foreign exchange into Indian currency shall be deemed to have been made in foreign exchange for the purposes of clause (*a*) of the *Explanation* to [1][clause (*1*) of section 5.]

(*c*) the form in which returns under section 8 may be furnished, the manner in which they may be verified and the other particulars which a form may contain;

(*d*) the form in which a notice of demand may be served on the assessee under sub-section (*7*) of section 12;

(*e*) the form in which appeals under section 22 or under sub-section (*6*) of section 23 may be filed and the manner in which they may be verified;

(*f*) the manner in which a memorandum of cross-objections under sub-section (*4*) of section 23 may be verified;

(*g*) 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 on the first occasion of the exercise thereof 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.

(*4*) The Central Government shall cause every rule made under this section 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 any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. Power to remove difficulties.—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 commencement of this Act.

33.[*Consequential amendments*.]—*Rep. by Repealing and Amending Act*, 2001 (30 *of* 2001), *s*. 2 *and the First Schedule* (*w.e.f*. 3-9-2001).

1. Subs. by Act 49 of 1991. s. 119, for "section 5" (w.e.f. 1-10-1991).

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