

I N C O M E - T A X

(IN RELATION TO ACCOUNTS)

BY

FRAMROZ R. MERCHANT, F. S. A. A.,

Of the Government of India Income-Tax Department, Bombay; Fellow of the Society of Incorporated Accountants and Auditors of London; Formerly, Professional Accountant and Auditor, Lecturer in Accounting and Auditing at the Sydenham College of Commerce and Economics, Officiating Secretary and Chief Accountant to the City of Bombay Improvement Trust, Examiner in Accounting and Auditing to the University of Bombay, Author of "Income-Tax Simplified" and "Book-Keeping Self-taught," etc.

Fourth Revised & Enlarged Edition

Edited by

MANECK PHEROZE MISTRY, F. S. A. A., R. A.

of the Firm of Messrs. Kalyaniwalla & Mistry, Incorporated Accountants, Fellow of the Society of Incorporated Accountants and Auditors of London; Author of Hand-Book of information on Institutions in India giving practical instruction in Arts, Crafts and Technical industries; Editor, "Income-tax Simplified," Lecturer in Accounting and Auditing at The Sydenham College of Commerce & Economics; Examiner in Accounting to The University of Bombay and in Methods & Machinery of Business for Government Commercial Diploma and Certificate Examinations.

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PREFACE TO THE FIRST EDITION.

When, in March 1918, the various amendments of the Law relating to Income-Tax were consolidated into the one Act of 1918, I thought it desirable to bring out a work on the subject, from accountancy as well as legal points of view, inasmuch as no book existed at that time to help the taxpayer in arriving at a correct estimate of his Income or Profits liable to Income and Super-Taxes.

It is, therefore, hoped that this little book may prove useful to Businessmen, Manufacturers, Lawyers, Tradesmen, Professional men, Landlords, Employees and others, as affording in a concise and clear manner a general idea of the important points requiring their attention before paying Income-tax, Super-tax and Excess Profits Duty. A study of the book will enable them to record the particulars of such taxes more clearly in their books, to fill up the legal Annual Returns (Statements required by the Law relating to Income, Super and Excess Profits Tax) more accurately, to see that they get full benefit of the rights and reliefs to which they are legally entitled, to make claims for the refund of tax in the right direction, and, in short, to satisfy themselves that they are not over-assessed. The book may also prove of great use to Accountant Students, intending to practise as Professional Accountants and Auditors.

The manuscript of the first portion of the book relating to Income and Super-Tax was ready by September last, but I was waiting to see if any change was brought about in the Super-Tax Act, which seemed probable at that time, and also to get more detailed particulars of the Excess Profits Duty. Special pains have been taken to make this little book as clear, concise and practical as possible, but, as its subject matter is a technical one, I shall feel obliged if I am informed of any errors that may have crept into the book, so that they may receive my attention when preparing a second edition.

*373, Hornby Road, Fort,
Bombay, 13th February 1919.*

F. R. M.

EDITOR'S PREFACE TO THE FOURTH EDITION.

The number of Editions which Mr. Merchant's work on the law of Income-Tax has already reached is a clear index of its popularity and usefulness. The success of the book is due to the helpful way in which it elucidates numerous intricate aspects of the law. It solves the problems confronting the Income-Tax practitioner and the tax-payer alike. The illustrations given by Mr. Merchant have proved no less valuable than his explanations in making clear the meaning and application of the various provisions of the Act. The responsible position which the Author holds in the Income-Tax Department has in itself afforded a guarantee of the trustworthy character of the work.

This new Edition of the book, which I have been privileged to issue, has been brought up to date. Opportunity has been taken to recast the text thoroughly having regard to current practice. I have given a number of fresh illustrations with particular reference to Hindu Undivided Family, Non-Residents, Temporary Residents, Deceased Persons, Refund of Tax and other typical cases. I have made no attempt to quote decided cases, as, without a full explanation of the exact facts, a bare statement of the judgment is frequently useless and misleading. I have sought to enhance the value of the treatise by appending a brief Digest of important cases bearing on the law of Income-Tax. A publication of this size naturally precludes my giving an elaborate Digest.

Offices of
Messrs. Kalyaniwalla & Mistry, }
20, Apollo Street, Bombay, }

MANECK PHEROZE MISTRY.

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CHAPTER I.

PRINCIPLES OF INCOME-TAX.



1. Income-Tax Authorities.

In order to understand the Income-Tax principles and procedure, it is necessary to know the functions of different officials appointed to put into execution the Law of Income-Tax.

There are the following classes of Income-Tax authorities for the purposes of this Act, namely :—

- (a) The Central Board of Revenue ;
- (b) Commissioners of Income-Tax ;
- (c) Assistant Commissioners of Income-Tax, and
- (d) Income-Tax Officers.

(2) The Governor-General in Council may appoint a Commissioner of Income-Tax for any area specified in the order of appointment.

At present, a Commissioner's jurisdiction extends over one or more entire Provinces. The Governor-General in Council may now appoint a Commissioner of Income-Tax for an area, which may cover a part or the whole of one or more Provinces, or parts of two or more Provinces.

The Commissioner of Income-Tax may appoint special Income-Tax Officers to deal with special cases or a special class of cases, and may post two or more Assistant Commissioners or Income-Tax Officers to a single Circle or District and distribute the work as he may think fit.

(3) Assistant Commissioners of Income-Tax and Income-Tax Officers are subject to the control of the Governor-General in Council and are appointed by the Commissioner of Income-Tax by order in writing. The appointments of Commissioners and Assistant Commissioners also require the approval of the Public Service Commission. They perform their functions in respect of such persons or classes of persons and of such incomes and classes of income and in respect of such areas as the Commissioner of Income-Tax may direct and, when two or more Assistant Commissioners of Income-Tax or

Income-Tax Officers have been appointed for the same area, in accordance with any orders which the Commissioner of Income-Tax may make for the distribution and allocation of the work to be performed. The Commissioner may by general or special order in writing, direct that the powers conferred on the Income-Tax Officer and the Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Assistant Commissioner and the Commissioner respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-Tax Officer and the Assistant Commissioner shall be deemed to be references to the Assistant Commissioner and the Commissioner respectively.

(4) The Central Board of Revenue may, by notification in the *Gazette of India*, appoint Commissioners of Income-Tax, Assistant Commissioners of Income-Tax and Income-Tax Officers to perform such functions in respect of such classes of persons or such classes of income, and for such area, as may be specified in the notification, and thereupon the functions so specified shall cease, within the specified area, to be performed, in respect of the specified classes of persons or classes of income, by the authorities appointed under sub-paras (2) and (3) above.

(5) Assistant Commissioners of Income-Tax and Income-Tax Officers appointed under sub-para (3) are, for the purposes of this Act, subordinate to the Commissioner of Income-Tax appointed under sub-para (2) for the Province in which they perform their functions.

In addition to the above high officials, there are also some subordinate officers, *viz* , Inspectors and Examiners of Accounts.

The duty of Examiners of Accounts is to ascertain the taxable Income or Profits, after satisfying themselves with the Accounts, Statements, Returns, etc., received from various assesseees and to report thereon to the Income-Tax Officers. The Inspectors, however, are engaged more or less on outdoor work. They find out persons chargeable with Income-Tax and report thereon to the Income-Tax Officers. Where no accounts are available, these Inspectors also estimate their Taxable Income or Profits.

2. Origin of Income-Tax.

Though the Law relating to Income-Tax in India came into force on 1st April 1860, the tax was already in existence in Great Britain, ever since 1798, when it was introduced, for the first time, as a temporary War Tax, by the well-known statesman, Mr. Pitt. . . This Tax was, however, withdrawn in the year 1816, but was reimposed in 1842, and was extended to Ireland in 1853.

The Indian Income-Tax Act of 1886, was modified from time to time and merged into the Indian Income-Tax Act of 1918. Thereafter several amendments were made in 1919 and 1920. All these enactments were consolidated into the present Act of 1922, which received the assent of the Governor-General on 5th March 1922. Since then some more changes were made by the various I. T. (Amendments) Acts, from 1923 to 1933.

3. Definition and extent of Income-Tax.

Income-Tax is a levy made by Government on the Income or Profits of Individuals, Firms, Companies, Hindu undivided families and other associations of individuals, in consideration of the protection by Government of the Assets (which earn such Profits) of such persons, and of Trade and Commerce in general.

It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with His Majesty, to British subjects in those dominions, who are in the service of Government, or of a Local Authority established in the exercise of the powers of the Governor-General in Council in that behalf and to all other servants of His Majesty in those dominions.

4. Liability to Income-Tax and the Basis of Assessment thereof.

The tax is payable for the year beginning with 1st April by every individual, company, firm, Hindu undivided family and other associations of individuals, resident in British India and the dominions mentioned above, as well as by persons not resident therein, so far as they derive income from Properties, Securities, Trade, Profession or Employment accruing, arising or received or deemed to accrue, arise or to be received in British India and the said dominions, and is based on the total income, profits and gains of the assessee for the previous completed year, as per the Graduated Scale of Rates specified in the Finance Act passed annually by the Legislative Assembly. (The scale is given at the end of Chapter VII.)

In the case of Joint Stock Companies and Registered Firms (Partnership), the tax shall be levied at the maximum rate, even if the profits be less than Rs 2,000. "Registered Firm" means a firm constituted under a partnership agreement, particulars whereof as to Capital, Drawings, Interest, Shares of Partners, etc., are registered with the Income-Tax Officer, as required by Rule 3 of the Act.

5. Application of the Income-Tax Act and Exemptions.

The Act shall apply to all Income from whatever source derived, accruing or arising received or deemed under this Act to accrue or arise or to be received, in British India, except :—

- (a) Income derived from Landed Property and Securities held in trust for Religious, Educational or Charitable purposes. Any claim for the exemption of such income must be supported by the Trust Deed or some such similar document.
- (b) Income of Religious or Charitable Institutions applied solely towards religious or charitable cause. (For details, see Chapter VII.)
- (c) Income of Local Authorities, *e. g.*, Municipality, Port Trust, etc.
- (d) Interest on Securities owned or held by any Provident Fund, to which the Provident Fund Act, 1897, applies.
- (e) Any capital sum received in commutation of the whole or a portion of a pension, or as compensation for death or injuries, or as insurance policy money, or as the accumulated balance at the credit of a subscriber to a provident fund to which the Provident Funds Act, 1897, applies.
- (f) Special allowance to meet expenses wholly and necessarily incurred in the performance of some duty, *e. g.*, travelling or conveyance allowance.
- (g) Legacies and Devises.
- (h) Capital profits or Income not arising in the ordinary course of regular business or profession, *e. g.*, Profits on sale of Fixed Assets.
- (i) Agricultural Income.

The income exempted under the above heads is not to be taken into account at all in computing the "Total Income" and is not liable to Income-Tax or Super-Tax.

*Exemptions :—*Income-Tax shall not be payable by an assessee in respect of—

- (a) Any sum which he receives as a member of a Hindu undivided family; or
- (b) Any sum which he receives by way of dividend as a shareholder in a company, profits whereof have been assessed; or

- (c) Any sum which he has earned as his share in the profits or gains of any firm, the profits whereof have been assessed; or
- (d) Any sum paid by him by way of insurance premium on his own life or on that of his wife (in the case of a Hindu undivided family on the life of a *male* member or his wife) or by way of Provident Fund subscription to which the Provident Funds Act, 1897, applies, not exceeding in the aggregate one-sixth of his total income. This does not apply to Super-Tax assessment.

Note:—Items (b), (c) and (d) above should be included in the "Total Income" of an assessee.

6. Income arising outside British India.

Profits and gains of a business accruing or arising without British India to a person resident in British India shall, if they are received in or brought into British India, be deemed to have accrued or arisen in British India, and to be profits and gains of the year in which they are received or brought into British India.

Profits or gains accruing or arising without British India shall not be deemed to be received or brought into British India by reason only of the fact that they are taken into account in the Balance Sheet prepared in British India.

Exception:—Professional Fees paid in any part of India, to a person ordinarily resident in British India, shall be deemed to be income chargeable under the head—"Professional Earnings."

The effect of the amendment of Sub-Section (2) of Section 4 is that any income, profits or gains accruing or arising outside British India to a person resident in British India, on and after 1st April 1933, are liable to tax whenever they are received in or brought into British India, as if the same were income of the year in which they are so received or brought.

Thus, the three years limit for foreign business income and the theory of first receipt outside British India and subsequent receipt in British India of income from source other than business have been done away with.

The second proviso to Sub-Section (2) of Section 4 excludes from the operation of that *Sub-Section* income from agriculture arising in Indian States.

Section 4 (1) continues to operate in the like manner and to the same extent as before. All profits or gains of *the previous year* including Indian States agricultural income, if received in British India, are liable to be taxed under Section 4 (1) as hitherto.

7. Heads of income chargeable to Income-Tax.

Income from various sources may be taxed under any one or more of the following heads:—

- (a) Salaries, including Wages, Annuity, Pension, Bonus, Allowance, Gratuity and other Receipts in lieu of or in addition to Salaries, *e. g.*, Commission, Fees, etc.
- (b) Interest on Securities.
- (c) Income derived from Property (i. e. Buildings and lands appurtenant thereto).
- (d) Income derived from Business, Trade, Commerce, Manufacture, Adventure, etc., and from sales or dealings in property, shares or securities.
- (e) Income derived from Profession, Vocation, etc.
- (f) Income derived from sources other than above:—
 - (1) Interest on Mortgages, Loans, Fixed Deposits, Current Accounts, etc.
 - (2) Income from outside British India, which has accrued, arisen or been received directly or indirectly in British India.
 - (3) Director's Fees, etc.
 - (4) Ground Rent.
 - (5) Dividend on shares.
 - (6) Profit accrued from transactions, whether in partnership with others or not, which have not been accounted for elsewhere in the above items.

8. Rights and Duties of Tax-payers.

By keeping proper Accounts, the tax-payer makes sure that he receives full benefit of all the rights and reliefs to which he is legally entitled, and that he is not over-assessed. Some of the said rights and reliefs may be:—

- (1) To be exempted from the Tax altogether, when his Income from all sources is less than the minimum taxable income for the time being.**
- (2) To set off a loss or losses arising in one or more businesses against a profit or profits arising in another business or businesses.**
- (3) To claim an Allowance in respect of Life Insurance Premium paid, not exceeding one-sixth of the Total Income.**
- (4) To claim a refund of a part or whole, as the case may be, of the tax paid on, or deducted from, the Income at the source thereof, when the Income is less than the maximum taxable limit for the time being.**

CHAPTER II.

SALARIES, WAGES, ETC.



1. Income taxed at the Source.

(a) *Government Officials.*—Salary, Wages, Annuity, Pension, Gratuity, etc., due to Government Officials will be paid to them, after such salary, etc., is reduced by the amount of the tax to which they are liable; provided that the tax shall not be payable in respect of any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a Deferred Annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

Any income, which would be chargeable under this head, if paid in British India, shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India, by Government or by a Local Authority established by the Governor-General in Council.

(b) *Servants and Pensioners of Local Authorities.*—The tax to which servants and pensioners of Local Authorities, like Municipality, Port Trust, etc., are liable shall be deducted from their salary, annuity, pension, gratuity, etc., at the time of payment thereof, by the officer whose duty it is to make the payment. The officer will thereafter pay such tax to Government. If the tax is not deducted from any payment of salary, etc., it may be deducted from a subsequent payment. Such power to deduct tax shall be without prejudice to any other mode of recovery.

If the said officer does not deduct the tax as mentioned above, he will be held personally liable for it.

(c) *Servants and Pensioners in the employment of Companies, Firms or Individuals.*—As regards servants and pensioners of companies, firms and private employers, the tax shall be deducted by the employer, at the time when any portion of the Wages, Gratuity, Fee, Commission, etc., is paid, otherwise he will be liable to fine.

Explanation:—The right of a person to occupy free of rent, as a place of residence, any premises provided by his employer, is perquisite and chargeable under the head "Salaries." Employer may not deduct Income-tax in such cases

Passage-money paid in India by an employer to enable an employee to go on leave is liable to tax.

2. Taxable Income.

Such Income is assessable only when the total Income, including salaries, etc., amounts to Rs. 2,000 per annum (*i. e.* the minimum taxable limit) and upwards. Deduction is, however, allowed for Life Insurance Premium and Provident Fund Subscription, to the extent in aggregate of 1/6th of the total income, after ascertaining the latter.

3. Annual Returns.

The prescribed person in the case of every Government office, and the principal officer of every Local Authority, Company, Public Body, Association, Firm, etc., is required to prepare and deliver to the Income-tax officer within 30 days from 31st March in each year, a written statement called the Annual Return, as prescribed by Rule 17 to the Act, giving the following particulars:—

- (1) The name of every person who was receiving on the said 31st day of March, or has received during the year ending on that date, any Salary, Wages, Annuity, Pension, Gratuity, Fee, Commission, etc., of Rs. 2,000 or more per annum.
- (2) The address and nature of employment of every such person.
- (3) The amount of such salary, etc., so received by each such person, and the time or times at which the same was paid.
- (4) The amount deducted in respect of Income-Tax from the income of each such person.

4. Adjustment while deducting Income-Tax at the Source.

Any person responsible for paying any income chargeable under the head "Salaries" may, at the time of making any deduction by way of Income-Tax, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct

Notwithstanding anything hereinbefore contained, for the purpose of making the deduction under subsection (2), there shall be included in the amount payable any income chargeable under the head "SALARIES" which is payable to the assessee out of India by or on behalf of Government, and the value in rupees of such income shall be calculated at the prescribed rate of exchange (*vide* Rule 11A.)

5. Memorandum of instructions for the recovery of Income-Tax on salaries, pensions, annuities, etc.

1. Income-Tax is to be recovered at the rate specified in para. 5 below on salaries, pensions, etc., at the time of payment of such salaries, etc., that is to say, it is to be recovered monthly if salary is paid monthly and remitted to the Income-Tax Officer within one week from the date of the recovery, with a statement in the form shown hereafter.

2. House-rent allowances and value of rent-free quarters form additions to the remuneration of an employee, even when residence in a particular town or building is necessary for the proper performance of the employee's duties. Such allowances or perquisites cover expenses of a personal character which the employee would otherwise have to incur and are, therefore, taxable under section 7 and the tax thereon should be deducted.

3. Information regarding payment of any salary, allowance, benefit or perquisite which is taken as exempt should be given in the remarks column of the statement.

4. In calculating the amount of tax payable, the amount due on a fraction of a rupee should be neglected and, on determining the amount of tax payable, fractions of an anna less than six pies should be disregarded and fractions of an anna equal to or exceeding six pies should be regarded as one anna.

5. The minimum salary, &c., assessable to the tax is Rs. 167 per mensem. The tax is leviable at the following rates :—

<i>Total Salary, etc.</i>	<i>Rate.</i>
When the estimated income from salary, commission, bonus, etc., is less than Rs. 2,000 per annum.	Nil.
When the estimated income from salary, commission, bonus, etc., is Rs. 2,000 or more but is less than Rs. 5,000 per annum.	Six pies in the rupee + $\frac{1}{2}$ surcharge.
When the estimated income from salary, commission, bonus, etc., is Rs. 5,000 or more but is less than Rs. 10,000 per annum.	Nine pies in the rupee + $\frac{1}{2}$ surcharge.
When the estimated income from salary, commission, bonus, etc., is Rs. 10,000 or more but is less than Rs. 15,000 per annum.	Twelve pies in the rupee + $\frac{1}{2}$ surcharge.
When the estimated income from salary, commission, bonus, etc., is Rs. 15,000 or more but is less than Rs. 20,000 per annum.	Sixteen pies in the rupee + $\frac{1}{2}$ surcharge.

When the estimated income from salary, commission, bonus, etc., is Rs. 20,000 or more but is less than Rs. 30,000 per annum.	Nineteen pies in the rupee + $\frac{1}{2}$ surcharge.
When the estimated income from salary, commission, bonus, etc., is Rs. 30,000 or more but is less than Rs. 40,000 per annum.	Twenty-three pies in the rupee + $\frac{1}{2}$ surcharge.
When the estimated income from salary, commission, bonus, etc., is Rs. 40,000 or more but is less than 1,00,000 per annum.	Twenty-five pies in the rupee + $\frac{1}{2}$ surcharge.

6. If any member of an establishment makes payments to an insurance company on account of life insurance, he may be allowed a rebate of the tax on his submitting the receipts of the insurance company for the payments made, which should be sent on to the Income-Tax Office for scrutiny. Rebate to the extent of only one-sixth of the total income from salary, commission, etc., is allowable in a year.

7. Any excess or deficiency arising out of any previous deduction of tax can be adjusted at the time of any subsequent deduction of tax.

Illustration 1:—

A is an employee receiving a salary of Rs. 300 per month and pays Life Insurance Premium of Rs. 800. What is the income on which A will be assessed and at which rate ?

The total Annual Income of A for the year ending 31-3 1937 from salary works at	...	...	Rs.	3,600
Less Life Insurance Premium (one sixth of his total income)	...	...	„	600
Net assessable income	...	...	„	<u>3,000</u>

at 6 pies in the Rupee plus $\frac{1}{2}$ surcharge.

Note.—The abatement of Life Premium allowed to A is Rs. 600 (which is one-sixth of his annual salary and not Rs. 800)

Illustration 2:—

A has received the following amounts from sources mentioned below for the year ended 31st March 1936.

Salary	...	...	Rs.	1,774
Property	...	...	„	166
Interest	...	...	„	453
Provident Fund Accumulations (made up as under)	...	...	„	11,719
Assessee's own contribution to the unrecognised Provident Fund	Rs.	3,555		
Employer's contribution	„	3,555		
Interest on the whole	„	4,609		
	Rs.	<u>11,719</u>		

Assessment will be computed as under :—

Salary	...	...	Rs. 1,774	taxed at source
Property	...	...	„ 166	
Interest	...	...	„ 453	
Provident Fund Accumulation	...	...	„ 8,164	
Total Income	...	...	„ 10,557	

assessed at 12 Pies in the Rupee plus $\frac{1}{2}$ surcharge on Rs. 5,228 (166 + 453 + 4,609) assessed at 12 pies in the Rupee plus $\frac{1}{6}$ surcharge on Rs 5,329 (1,774 + 3,555).

Notes.—(1) The sum of Rs. 3,555 of the Provident Fund Accumulations, being part of the monthly salary received by the assessee, was taxed in his hands from year to year. The other amount of Rs. 3,555 is also a part of such remuneration for services rendered to the employer from year to year. The said amount was not paid in cash at the time, but was set apart to be accumulated. It is paid in lump in 1935-1936. This lump payment does not change the nature of the amount, which remains throughout as remuneration and is of the nature of salary. The interest on the accumulations of Rs. 4,609 is similarly income received by the Assessee in the previous year, and is therefore his income for that year.

(2) The tax deducted on Rs. 1,774 will be given credit for from total tax payable by the assessee.

No. _____ of 193 -193 .

INCOME-TAX OFFICE,

Dated _____ 193 .

Forwarded to _____
previous correspondence.

with reference to _____

Income-Tax Officer.

List of persons in receipt of salaries, annuities, gratuities, commissions, bonus, etc.,
with the amount of tax recovered from them.

1	2	3	4	5	6	7	8		9	10	11	
Name	Period for which the salary etc., has been paid	Date on which the salary, etc., was actually paid	Salary	House-rent allowance or value of rent-free quarters	Amount of bonus, gratuity, fees, commissions, perquisites, or allowance other than those shown in column (5), or profits in lieu of or in addition to salary or wages (each to be shown separately)	Total of columns 4 to 6	Contributions to Provident and other Funds	Life Insurance Premia	Amount claimed as deduction on account of	Net amount on which tax is recovered	Amount of tax recovered	Remarks
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	a.	
Total amount of Rs.												

I, _____, do hereby declare that the above return is correctly prepared in accordance with section 18 of the Income-Tax Act of 1922.

Date _____

193 .

(Signature of the Officer making the return.)

6. Specimen of Notice Calling for the Annual Return.

INCOME-TAX OFFICE:

Dated

193

To

GENTLEMEN,

SIR,

I have the honour to invite your attention to section 21 of the Indian Income-tax Act, 1922, and to request that you will be so good as to furnish the return of employees in the accompanying form within the period stated therein. Failure to do so will render you liable to a fine extending to Rs. 10 for every day during which the default continues under section 51 (c) of the Act.

2. House rent allowances and the value of rent-free quarters of an employee provided by the employer form additions to the remuneration of an employee, even when residence in a particular town or building is necessary for the proper performance of the employee's duties. Such allowances or perquisites cover expenses of a personal character which the employee would otherwise have to incur and are, therefore, taxable and should be specified and included as income in column 6 of the return.

3. Salary or any portion thereof paid outside British India for services in British India is liable to income-tax and it should also be shown in the return.

4. Information regarding payment of any salary, allowance, provident fund benefit or perquisite which is taken as exempt and not included in column 5, 6 or 6A of the return may be given in the remarks column. Under section 21 of the Indian Income-tax Act, 1922, every employer is bound to give information as regards all payments to his employees liable to tax under the head "Salaries" and as it is the Income-tax Officer who is to decide which payments fall under this head, to avoid any liability under the penal section 51 (c) of the Act, employers are requested, in case of doubt, to give in this way details of all payments made to their employees leaving it to the Income-tax Officer to decide the question of liability.

I have the honour to be,

Gentlemen,

Sir,

Your most obedient Servant,

Income-tax Officer,

Return under Section 21 of the Indian Income-tax Act, 1922, to be made within thirty days from the 31st day of March in each year by the prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association and every private employer.

Designation of Government office
Local authority
Company
Public body
Association
Private employer

Serial No.	Name of person	Postal address of residence	Appointment or nature of employment	Total amount of salary, wages, annuity or pension paid during the year ending on 31st March 1933	House allowance or value of rent-free quarters	6A Amount of bonus, gratuity, fees, commissions, perquisites or allowances (other than those shown in column 6), or profits in lieu of or in addition to salary or wages (each to be shown separately)	7 Total of columns 5, 6 and 6(A)	DEDUCTIONS ON ACCOUNT OF		9 Net amount chargeable	10 Amount of tax payable		11 Reduction under section 17		12 Amount of tax deducted		12A Whether person contributes to a recognised provident fund (Chapter IX-A)	13 REMARKS
1	2	3	4	5	6	6A	7	8 Provident and other funds—proviso to section 7(1)	8A Life Insurance Premium (section 15)	9	Rs.	a.	Rs.	a.	Rs.	a.	Rs.	
				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	a.	Rs.	a.	Rs.	a.	Rs.	

I certify that the above statement contains complete list of the total amount paid by _____ to all persons who were receiving income on the 31st day of March 19____ at the rate of Rs. 2,000 per annum, or have received during the year ended on that day not less than Rs. 2,000, in respect of salary, wages, annuity, pension, gratuity, fees, commissions, perquisites or profits in lieu of or in addition to salary or wages and that all the particulars stated are correct.

Dated _____

(Signature of person by whom the return is delivered.)

CHAPTER III.

INCOME FROM SECURITIES, INVESTMENTS, ETC.



1. Income taxed at Source.

The person who is empowered to pay interest on any Security of Government or on Debentures or on other Securities, for money issued by or on behalf of a Local Authority or a Limited Company shall deduct income-tax, at the maximum rate, to which such interest is liable, before the tax to Government. The exception is :—

No tax shall be payable on the interest receivable on any Security of the *Government of India* issued or declared "Free of Income tax", provided further, that the income-tax payable on the interest receivable on any security of a Local Government issued income-tax free shall be payable by that Local Government, *e. g.*, Bombay Development Loan. For the purpose of ascertaining Total Income, *gross* income from such securities should be taken into account.

If such person does not deduct and pay the tax required by the above clause, he shall be personally liable for it.

Any sum deducted by a banker for realizing interest on securities on behalf of an assessee shall be treated as if it were tax-free income, but it will form part of the total income of the assessee and will be liable to super-tax.

The addition of the proviso to Sub-Section (3) of Section 18 gives statutory authority for an existing arrangement, whereby on the certificate given by the Income-tax Officer, the person responsible for making payment of interest on securities paid the amount of such interest without deduction of tax or deducting the tax at less than the maximum rate.

The Sub-Section (3-A) as now inserted extends the principle of taxation at source to income from interest, not being "Interest on Securities," where—

- (a) the recipient of such interest is a person residing out of British India, and
- (b) the total income of such person, in the opinion of the Income-tax Officer, would exceed the maximum amount which is not chargeable to Super-tax (Rs. 30,000/- at present), and

- (c) the person responsible for paying such interest is served with an order in writing by the Income-tax Officer, specifying the rates at which Income-tax and Super-tax shall be deducted, or
- (d) Where no such order is received, the person responsible for paying such interest shall deduct from the interest Income-tax and Super-tax at the appropriate rates, if he has not reason to believe that the recipient is resident in British India.

In the same way and under similar circumstances as above, Super-tax shall be deducted at source by the principal officer of a Company, on being served with an order by the Income-tax Officer, or of his own accord where the amount of any dividend (gross) or the aggregate amount of any dividend (gross) exceeds the maximum amount which is not chargeable to Super-tax. (Sub-Section (2) and (3) of Section 57 of the Act are now incorporated in Section 18 and omitted in Section 57).

The liability of the person responsible for paying interest, or the principal officer of the Company for the failure to deduct and pay the tax, now attaches to the person holding the office, who will be deemed to be an assessee in default in respect of the tax. He will be liable to penalty under Section 43 (1), if he *wilfully* fails to deduct and pay tax. A successor in office is liable for the default of his predecessor.

2. Certificate of deduction of tax from Interest on Securities.

Every person deducting income-tax from the Interest on Securities, in accordance with the Provisions of the first para above, shall, at the time of payment of interest, furnish to the person to whom the interest is payable a certificate to the effect that income tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars, in the form prescribed under Rule 13 of the Act.

3. Supply of Information regarding Dividends.

The principal officer of every company shall on or before the 15th day of June in each year, furnish to the prescribed officer a return, in the form prescribed by Rule 43 and verified in the prescribed manner, of the names and addresses, as entered in the register of shareholders, maintained by the company, of the shareholders to whom a dividend or aggregate dividends, exceeding such amount as may be prescribed (vide Rule 42) in this behalf, has or have been distributed during the preceeding year and of the amount so distributed to each shareholder.

Section 20-A now introduced is on the same line as Section 19-A and requires the person responsible for paying any interest, not being "Interest on

Securities", to make, on or before the 15th June in each year, an annual statement of payments of interest or aggregate interest above Rs. 1,000/- made during the previous financial year. A form has been prescribed for the same.

4. Certificate by a Company to Shareholders receiving dividends.

The principal officer of every Company shall at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars, in the form prescribed under Rule 14 of the Act.

5. Preparation of Accounts.

Illustration.—T. Chinoy instructs his Accountant to prepare a statement, showing his Taxable Income, and to ascertain the amount of tax payable or recoverable by him from the particulars given below:—

He had borrowed with the object of buying shares Rs. 10,000 from H. Patel, on which he pays interest at 4 per cent per annum. He has been insured with the Gresham Life Office, for an Annual Premium of Rs. 900. He holds the following Securities and Investments:—

	Rs.
10 6% Preference Shares of A.B.C. Company, Limited	... 2,000
20 Shares of the X. Y. Bank, Ltd.	... 10,000
10 Shares of the Infants Dairy Company, Ltd.	... 1,000
5 Shares of the Edward Mills Company, Ltd.	... 2,500
100 Shares of the Eastern Maritime, Ltd.	... 2,500
10 Shares of the Eastern Investment of Commerce, Ltd.	... 1,000
3½% Government Promissory Notes	... 2,000
5½% War Bonds (Free of Income-tax)	... 5,000
4% Port Trust Bonds	... 1,000
Loan on Mortgage, at 6% to D. Laskary	... 14,000
Do. do. 5% to K. Morley (<i>Income-tax to be paid by the Mortgagor</i>)	... 5,000
5% Deposit in the Firm of Dalal and Nanavati	... 15,000
Interest on Bank of India Current Account	... 375

The X. Y. Bank declared an interim dividend at the rate of 10% per annum and a final dividend at the rate of 18% per annum (*both free of income-tax*). The Dairy Company, the Eastern Maritime and the Eastern Investment of Commerce were in their infancy. The Edward Mill declared a dividend of 7½% (*free of tax*), while the dividends on the rest of investments were received "*less tax.*"

Statement for Income-Tax Assessment for 1936-37.

Accounting period :—Year ending 31-3-1936.

(a) *Income already taxed or not to be taxed :—*

Source of Income.	Rates.	Net Income received.			Taxes deducted at source @ 30 $\frac{1}{3}$ pies.			Gross income.		
		Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
1. X. Y. Bank Shares ...	14%	1,400	0	0	262	11	0	1,662	11	0
2. Edward Mill Shares ...	7 $\frac{1}{2}$ %	187	8	0	35	3	0	222	11	0
3. War Bonds ...	5 $\frac{1}{2}$ %	275	0	0	0	0	0	275	0	0
4. A. B. C. Co. Shares ...	6%	101	1	0	18	15	0	120	0	0
5. Government Promissory Notes ...	3 $\frac{1}{2}$ %	58	15	0	11	1	0	70	0	0
6. Port Trust Bonds ...	4%	33	11	0	6	5	0	40	0	0
Total Rs.		2,056	3	0	334	3	0	2,390	6	0

(b) *Income to be taxed or taxable Income:—*

1. 6% Mortgage Loan ...	Rs.	840		
2. 5% Do.		250		
3. 5% Deposit with Dalal & Nanavati ...	„	750		
4. Bank of India Current Account ...	„	375		
	Rs.	2,215		
Less Interest paid	„	400		
				1,815 0 0
Total Income ...				Rs. 4,205 6 0
				or „ 4,205 0 0

Rate applicable is 6 $\frac{1}{2}$ pies.(c) *Net taxable Income:—*

Income to be taxed	Rs.	1,815	0	0
Less Life Insurance Premium (1/6th of Rs. 4,205)	„	700	0	0
	Rs.	1,115	0	0

The amount of income-tax payable by the Assessee would be at the rate of $6\frac{1}{2}$ pies in the rupee on Rs. 1,115, while that recoverable by him would be at the rate of $23\frac{1}{2}$ pies in the rupee on Rs. 2,115-0-0 (*viz.* total of items 1, 2, 4, 5 and 6 in (a) above.) The tax would be set off against the refund due and the net refund allowed.

(1) *Life Insurance Premium.*—As the amount of premium paid, *viz.* Rs. 900 exceeds one sixth of the total income from all sources, namely Rs. 4,205 only a sum of Rs. 700 (one-sixth of Rs. 4205 has been deducted by way of an allowance therefor. Such deduction is usually not allowed, if the premium receipt is not enclosed with the Annual Return. No such deduction can be allowed for Super-tax.

(2) *Rate of tax.*—The Assessee will not be exempted from income-tax simply because his untaxed income of Rs. 1,115 above is less than Rs. 2,000, but his income from other sources is also to be taken into account. As his total income of Rs. 4,025 is more than Rs. 2,000, and less than Rs 5,000, the rate of income-tax fixed in his case will be $6\frac{1}{2}$ pies in the rupee, for ascertaining total income. Interest and Dividends should be taken gross i. e., adding to the net amount received tax deducted at source.

(3) *Income-Tax to be paid by Mortgagor:*—

Though there is a private arrangement between the mortgagor and the mortgagee, that the former should pay Income-tax on the Interest, the Income-tax authorities are not concerned therewith, and the mortgagee (*i. e.* the recipient of interest) has always got to pay the tax.

The Assessment Form, in the case of the above illustration, would be written up thus:—

ASSESSMENT FORM.

ASSESSMENT FOR 1936-1937.

District or Area—Bombay.

Name of Assessee; T, Chinoy. } Number in General Index 89.
Address: 6, New Queen's Road. } Number of Miscellaneous Record 82.

Serial No.	Detailed source of income.	Amount of income.	Tax deducted at source.	Remarks.
		Rs.	Rs. a.	
1	Salary ... ..	...	...
2	Interest on Securities ...	110	17 6	
	Do. (F. of T.) ...	275	...	
3	Property ... ..	...	...
4	Business ... ..	...	...
5	Profession ... ..	...	...
6	Other Sources (840+250+750+ 375 - 400)	1,815	...	
7	Dividends	2,005	316 13	

	Rs.	a.	Rs.	a.
(i) Total income			4,205	0
(ii) Deduction on account of provident fund, insurance premia, etc.	700	0		
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax	2,005	0		
(iv) Deduct amount of interest from tax-free securities of the Government of India or of a Local Government	275	0	2,980	0
			<hr/>	<hr/>
			1,225	0
(v) Income now to be taxed			1,225	0
(vi) Rate applicable $6\frac{1}{2}$ and 7 pies per rupee on Rs. 1,115 and Rs. 110 respectively				
(vii) Amount of tax			41	12
(viii) Deduction under section 17				
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5)	17	6		
(x) Abatement on account of dividends (at $23\frac{1}{3}$ pies per rupee) on Rs. 2,205	243	11		
			<hr/>	<hr/>
(xi) Abatement on account of income from a registered firm (at—pies per rupee)			261	1
			<hr/>	<hr/>
(xii) Net amount of refund			219	5
(xiii) Penalty under section 28 or section 25 (2)				
(xiv) Total sum to be refunded—(in figures as well as in words)			<hr/>	<hr/>
			219	5
			<hr/>	<hr/>

Rupees Two Hundred and nineteen Annas five.

Dated 21st June 1936.

B. C. D.,
Income-tax Officer.

Statement of particulars to be furnished by the person responsible for paying interest on securities
where deduction of income-tax is not made by or on behalf of Government.

Description of securities	Numbers of securities	Dates of securities	Amounts of securities	Period for which interest is drawn	Amount of interest	Amount of tax	
			Rs.		Rs.	Rs.	a.

Place _____

Signature _____

Date _____ 193 .

Designation _____

CHAPTER IV.

INCOME FROM PROPERTY.



1. Basis of Assessment.

Income-tax shall be paid by the owner of any building or land appurtenant thereto, in addition to Municipal and other rates and taxes, on the *bona fide* Annual Letting value, equivalent to approximate Annual Rent, of his property. This annual value is usually equal to the Gross Rateable value fixed by the Municipality for Property Tax, in which case the value should be taken from the Municipal Property Tax Bills for the *same* (not the previous) year as the year of assessment, because the Municipality assess on the basis of the previous year's rent.

If the actual gross rent recoverable for the year as per Rent Bill Book is more than such Municipal Value, the former may be considered as the Annual Letting value. If, however, the actual receipts from Rent in a particular year exceed the Municipal value, the former should not merely be taken as Annual Letting value, because the same may also include some arrears of rent.

The allowances which may be claimed against, and deducted from, this annual value are given as follows:—

- (1) Where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value (*i. e.* $16\frac{2}{3}$ per cent.);
- (2) Where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value;
- (3) The amount of any annual premium paid to insure the property against risk of damage or destruction, *e. g.*, for Fire Insurance;
- (4) When a property is subject to a mortgage or other capital charge, it is *the amount of the interest* on such mortgage or charge that is to be allowed as a deduction and not the amount of such mortgage or charge. No allowance is admissible for interest on a charge which is not a capital charge.

When capital is borrowed to acquire the property, the interest payable on such borrowed capital is an admissible deduction, even though it may not be a charge upon the property.

- (5) Any sums paid on account of land-revenue in respect of the property;
- (6) In respect of collection charges, any sum paid, not exceeding the prescribed maximum, i. e. 6%;
- (7) In respect of vacancies, such as the Income-Tax Officer may determine, having regard to the circumstances of the case.

Provided that the aggregate of the above allowances shall in no case exceed the annual value.

For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to be let from year to year.

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent. of the total income of the owner.

2. Preparation of Accounts, Statements, etc.

Illustration:—K. Sorabjee, proprietor of some house properties, has been insured with the Oriental Life Office, at an annual premium of Rs. 1,700. He has no other sources of income. He requests you to prepare a statement, showing his taxable income, from the particulars given below:—

He owned a house in "A" Ward (No. 1257) at 321, Hornby Road, and another in "D" Ward (No. 329) at 651, Girgaum Road. He had also a bungalow, at 105, Cumballa Hill, and a cottage at Dadar. The bungalow was, however, sold in July, (last rent was received for June), while the cottage was sold in October, (last rent was received for September). The net or rateable values (as per Municipal Bills) and the amounts paid for Fire Insurance premiums, were as follows:—

Property.	Rateable Value.	Insurance.
Hornby Road house	... Rs. 6,570	Rs. 190
Girgaum do.	... ,, 4,140	,, 120
Bungalow	... ,, 2,430	,, 80
Cottage	... ,, 1,530	,, 46

Other expenses were paid as shown below:—

Interest paid to mortgagee of Hornby Road house ...	Rs.	480
Ground rent paid	„	109
Paid to the Collector of Bombay for Land Revenue ...	„	17
Rent Collection charges	„	873
Vacancy allowance for Girgaum house, as agreed to by the Income-Tax Officer	„	200

Details of Property (as per Schedule A.)

Ward and No.	Name and number of street in which property stands.	In whose name property stands in Municipal Register.	Annual Letting Value.	Deduction claimed.	
				Rs.	Rs.
A. No. 1257	321, Hornby Road, Fort.	K. Sorabji	... 7,300		
D. No. 329	651, Girgaum Road.	Do.	... 4,600	1,752	(see below)
C. No. 71	105, Cumballa Hill.	Do.	... 675		
A. No. 54	57, Dadar Road ...	Do.	... 850		
			Rs. 13,425		

Admissible Allowances—(Vouchers to be submitted):—

1. Insurance Premium	Rs.	353
2. Interest on Mortgage	„	480
3. Ground Rent	„	109
4. Land Revenue	„	17
5. Collection Charge (6% of Rs. 13,225)	„	793
	Rs.	1,752

Statement showing Taxable Income for 1936-37 assessment.

Gross Annual Value	...	...	...	Rs.	13,425	0	0
Less Vacancy Allowance	...	...	...	"	200	0	0
				Rs.	13,225	0	0
Less Allowances claimed							
(as above)	...	Rs.	1,752				
1/6th of Total Annual Value of Rs. 13,225 for Repairs	...	"	2,204				
				"	3,956	0	0
Total Income	...	...	...	"	9,269	0	0
Less Life Insurance Premium (1/6th of Rs. 9,269) allowed				"	1,545	0	0
Taxable Income	...	...	...	Rs.	7,724	0	0

The Assessee will pay a tax at 9 pies + $\frac{1}{2}$ surcharge in the rupee on Rs. 7,724, as his total income is more than Rs. 5,000 but less than Rs. 10,000.

NOTES.—

(1) *Annual Letting Value.*—Annual Letting Value means a sum at which the property might reasonably be expected to be let from year to year. This represents the Gross Rateable Value, which could usually be ascertained from the Net or Rateable Value, which is 90 per cent. of the Gross, stated in Municipal Property Tax Bills. As for instance Rs. 7,300 of Hornby Road property has been arrived at thus:—

Net value		Net Value		Gross Value	
90	:	6,570	:	100	:
?	=	$\frac{6,570 \times 100}{90}$	=	Rs. 7,300	

As the bungalow was sold in July, its rent has been taken for 3 months only. Similarly 6 months' rent has been taken for the cottage sold in October.

(2) *Property in the occupation of the owner for his own residence.*

The Gross annual value of such property shall not exceed 10 per cent. of the total income of an assessee. The total income in this case is equal to $\frac{1}{11}$ ths. of (the income from all sources, except the rental value of

the residence in question) *minus* (the allowances under clauses (iii), (iv) and (v) of § 9 (I). The annual value is one-tenth of the result, and allowances under § 9 (1) (i), (iii), (iv) and (v) should be deducted from it.

Illustration :—

Gross annual letting value of A's property is Rs. 77,850, including the value of his residence of Rs. 8,100. Other expenses are as follows :—

	Rs.
Insurance including Rs. 500 for self occupation	3,150
Ground Rent „ „ 100 do. ...	2,476
Land Revenue „ 4 do. ...	20
Collection Charges ...	4,200
Gross Annual Letting Value ...	77,850
Less do. for self-occupied property	8,100
	69,750

Less Statutory Allowance :—

One-sixth of Rs. 69,750, for repairs	11,625
Insurance Premium (3,150 - 500)	2,650
Ground Rent (2,476 - 100)	2,376
Land Revenue (20 - 4)	16
Collection charges (up to 6% of Rs. 69,750, or Rs. 4,200, whichever is the lower)	4,185
	20,852
	Rs. 48,898

Income for self-occupied property will be

Rs. 8,100 or $\frac{1}{10}$ of $\frac{12}{11}$ of Rs. 48,294 $\left\{ 48,898 - (500 + 100 + 4) \right\}$ whichever be the lower, minus admissible deductions for expenses of self-occupied property, that is to say :—

$\frac{1}{10} \times \frac{12}{11} \times 48,294$	5,268
Less one-sixth of Rs. 5,268	878
Insurance premium	500
Ground Rent	100
Land Revenue	4
	1,482
	Rs. 3,786

A's assessable income is therefore

Rs. 48,898 + 3,786 = Rs. 52,684

(3) *Fire Insurance Premium*:—Here also 12 months' premium has been taken into account in case of houses, while those for the cottage and the bungalow have been taken for 3 months and 6 months, respectively. It would not be out of place to mention here, that the actual amount of premium paid will be allowed by the Income-Tax Officer, and not the amount stated in the premium receipt, wherefrom a rebate or discount is usually allowed by many Fire Insurance Companies.

Collection Charges:—Though these charges have been actually paid to the extent of Rs. 873, Rs. 793 only have been taken as an allowance, being the maximum 6 per cent of the gross rental of Rs. 13,225. (i. e. Gross Rental Valuation minus the amount of vacancies).

(5) *Life Insurance Premium*:—The Assessee has actually paid Rs. 1,700 for his insurance, but he can not claim the allowance for more than one sixth of his Total Income of Rs. 9,269. The said one-sixth amounts to Rs. 1,545 which has been taken as an allowance.

(6) *Property owned and occupied solely for business*:—Where the property is so owned and occupied, no income-tax is payable. Similarly, no charge will be allowed to be made against the business profits by way of rent.

(7) *Vouchers for Admissible Allowance*:—While claiming the admissible allowances as above, vouchers (or certified copies thereof) must be submitted for the satisfaction of the Income-Tax Officer. These vouchers may take the shape of acknowledgments, receipts, agreements, correspondence, etc.

CHAPTER V.

INCOME DERIVED FROM BUSINESS, TRADE, ETC.



1. Items allowed to be charged against Profits.

The tax under this head (business, trade, etc.) shall be payable by an Assessee on the profits, gain or income of any business, commerce, trade, manufacture, adventure, etc., carried on by him, subject to the following items allowed to be charged against such profits, by way of expenses and losses arising out of the business:—

(a) Expenses.—

(1) Cost of repairs to premises used for business, when this is not allowed to the tenant (Assessee) to be deducted from rent by the land lord. If partly used for dwelling house, proportionate amount only will be allowed.

(2) Interest on loans borrowed for the purposes of the business, at a rate per cent. not varying with the profits.

(3) Fire Insurance premium for buildings, plant, machinery, furniture, stock, stores, etc., used for the purposes of the business.

(4) Current repairs to buildings, furniture, machinery or plant.

(5) Land revenue, local rates, or municipal taxes in respect of the premises used for the business, if agreed to with the landlord and not deducted from his rent. Any sum paid on account of any cess, rate or tax, varying with or based upon profits or gains will, however, be treated as an appropriation of profits and not allowed as expenses.

(6) Revenue expenditure incurred in the ordinary course of regular business, and solely for the purpose of earning such profits.

(b) Losses.—

(1) Bad debts actually written off. Estimated reserves for them would not be allowed to be charged against profits.

Note.—Advances to a subsidiary company by the parent company are investments, and losses of such advances could not, therefore, be allowed. *Re; English Crown Spelter Co. vs. Baker,*

In a money-lending business, irrecoverable loans written off can be allowed as "Bad Debts," such a loss being that of stock-in-trade.

(2) Depreciation of building, plant, machinery or furniture, not exceeding 5% on plant, machinery and furniture and 2½% on buildings (on the original cost thereof to the Assessee.) If in any one year, the full allowance admissible cannot be allowed, it can be carried forward and added to the amount claimed in the subsequent period.

Illustration:—A lathe was purchased by a Company on 1st January 1922 for Rs. 8,000. Suppose, profits prior to charging depreciation thereon were Rs. 500 for 1922, Rs. 300 for 1923, Rs. 200 for 1924, Rs. 900 for 1925, Rs. 100 for 1926 and Rs. 800 for 1927, the Income-Tax Officer allowed depreciation to be charged to Profit and Loss Account at 5% per annum, what would be the amount of depreciation to be charged against the profit of 1927?

Date.	Profit.	Depreciation taken advantage of.	Amount to be added to subsequent depreciation.	Assessable profit.	
		Rs.	Rs.	Rs.	
31-12-22	...	500	400	Nil	100
31-12-23	...	300	300	100	Nil
31-12-24	...	200	200	300	Nil
31-12-25	...	900	700	Nil	200
31-12-26	...	100	100	300	Nil
31-12-27	...	800	700	Nil	100

The amount of depreciation to be charged against the profit of 1927 will be Rs. 700.

Provided that the total of all such allowances for depreciation claimed, in respect of any one asset, must not exceed, the original cost thereof to the Assessee.

Illustration (1):—A gas engine, purchased on 1st January 1905, for Rs. 25,000, was estimated to last for 25 years. The rate for depreciation to be charged against profits and allowed by the Income-Tax Officer was 5% per annum. On 31st December 1905, and thereafter at the end of each year, Rs. 1,250 were charged by way of depreciation to the Profit and Loss Account prepared for income tax purposes. The twentieth instalment so charged on 31st December 1924 brought the total past allowances to a figure of Rs. 25,000. Though the engine is still being used in 1925 and will perhaps last for a couple of years thereafter, on 31st December 1925 and thereafter, no further amount would be allowed to be charged by way of depreciation on this engine, against assessable profits.

Illustration (2):—A, a Sole Trader, purchased Machinery on 1st April 1925 for Rs. 1,00,000. Depreciation was allowed to A each year at 5 per cent per annum. On 1st April 1936 the business of A is sold to B. Company, Ltd., as a going concern, including the said machinery of Rs. 1,00,000 sold to B. Co. Ltd. for Rs. 75,000. At what rate and on what amount is the B. Co., Ltd., entitled to Depreciation on machinery acquired from A for Rs. 75,000 ?

B. Co., Ltd., will be entitled to 5 per cent. Depreciation annually on Rs 75,000 for 20 years.

Note :—Though the original cost of machinery to A was Rs. 1,00,000, and though A had got the benefit of Depreciation for 10 years @ 5 per cent. yet B. Co., Ltd., is entitled to a fresh period of Depreciation, i. e. 20 years. at 5% per annum on the actual cost of the machinery paid by B Co., Ltd., irrespective of the cost and actual depreciation allowed to A.

For the purpose of obtaining an allowance for depreciation, full particulars should be furnished, as prescribed by Rule 9 to the Act.

(3) Loss in respect of obsolescence of machinery, namely, the excess of the original cost over the sum of (a) total allowance claimed in respect of depreciation and (b) the net amount realised from the sale of the asset.

Illustration—A soda-water machine, bought for Rs. 10,000 in 1917, became obsolete at the end of 1924, inasmuch as, owing to some new invention therein, similar machines, which would turn out double the quantity of work in the same time as the old ones, could then be purchased for Rs. 12,000.

Upon the purchase of the new machine, early in 1925, the old one was sold for Rs. 2,000, Rs. 25 being the commission paid thereon. The total amount of depreciation (allowed by the Income-tax Officer) charged against profits from 1917 to 1924 was Rs. 4,000. Ascertain the loss sustained through obsolescence upon the sale of the old machine.

Dr.	<i>Old Machine Account.</i>		Cr.
1917 To Cash (purchase)	Rs. 10,000	1924 By Depreciation (total of the past) ...	Rs. 4,000
1925 To Commission	Rs. 25	1925 By Cash (sale proceed) ...	Rs. 2,000
		1925 By Profit and Loss account ...	Rs. 4,025
	<hr/> Rs. 10,025 <hr/>		<hr/> Rs. 10,025 <hr/>

The loss through obsolescence chargeable against profits will be Rs. 4,025. Such a loss will be allowed only if it is proved that the machinery had become obsolete and for no other reason.

(4) Loss sustained by an Assessee in respect of Animals, which have been acquired for the purpose of carrying on the business and not for sale, and have died or become permanently useless for such purpose. This loss can be ascertained by deducting the proceeds of such animals, or their carcasses, from the original cost value thereof to the Assessee.

(5) Loss sustained by an Assessee in any one or more businesses in any one year may be set off against his profit earned in another or other businesses in that year.

Where the Assessee is a firm, and the loss sustained cannot wholly be set off under sub-section (5) above, any member of such firm shall be entitled to have set off against his personal income, profits or gains of the year in which the loss was sustained in respect of which the tax is payable by him such amount of the loss not already set off as is proportionate to his share in the firm.

Illustration:—Firm of A, B and C sharing $\frac{1}{2}$, $\frac{1}{3}$ and $\frac{1}{6}$, respectively, own two subsidiary concerns.

Firm's profits for 1935 in Oriental Hardware Co. Rs. 15,893.

Firm's loss for 1935 in Western Cycle Stores Rs. 16,493.

C also owns a house, assessable income whereof is Rs. 5,095, and has no other source of income.

Firm is not liable to any tax. On the contrary, the amount of loss in one business which could not be set off against the loss in the other one is Rs. 600 C's share wherein being Rs. 100.

C is liable to tax on Rs. 4,995 only, after deducting his proportionate loss of Rs. 100 from his property income of Rs. 5,095, and that too at $6\frac{1}{2}$ pies in the rupee.

Note.—Such expenses and losses would be allowed only so far as they relate to the accounting period. No prepaid items would be so allowed. Personal or private loss cannot be set off against a share in the income of an unregistered firm.

Capital Profits.

The taxable or assessable profits will not include any profit of a capital nature, e. g., profit on the sale of a fixed asset or a part thereof, profit on the re-issue of shares, premium on issue of shares, debentures, etc.

3 Losses and Expenses not allowed to be charged against Profits.

The following items should not be charged against profits, inasmuch as they are either expenses and losses not incurred in the course of regular business, or that they are mere appropriations of profits, namely—

(a) *Expenses and losses not incurred in the course of regular business:*

1. Capital loss on the sale of a fixed asset.
2. Loss on speculation or gambling transaction.
3. Capital expenditure in the shape of renewals or replacements, which go to increase the value of an asset. Replacement of dental and surgical instruments is allowed in Profession, in lieu of depreciation.
4. Gifts, charities, presents, etc.
5. Commissions of irregular nature, e. g. bribes, tips, etc.
6. Any other expenditure not incurred in the ordinary course of regular business.

Note.—Casual or Speculation Losses.—It is contended that if casual profits are regarded as assessable, it is fair that casual losses of a similar nature should be allowed to be charged against such profits. This is usually allowed in the case of dealers on the Stock Exchange, who have entered into speculative transactions, where they would be allowed to set off such losses sustained against profits so made.

A layman, who occasionally enters into Stock Exchange transactions, is not usually expected to include speculation profit in this return, nor is he allowed to charge speculation loss against his profit or income. If, however, he is continuously dealing in such transactions, he is regarded as a professional speculator, and his speculation profits would become assessable, while his speculation losses may be allowed by the Income-Tax Officer to be charged against profits from other sources.

(b) *Appropriations of Profits :—*

1. Interest on proprietor's or partner's capital accounts.
2. Partner's management salaries.

3. Household expenses and drawings for personal or private use.
4. Income-tax and super-tax
5. Bonuses paid not subject to a contract of employment.
6. Bad debts and discounts not actually written off, *e. g.*, reserves for bad debts and discounts provided in anticipation.
7. Amount transferred to reserves and other funds.

Note.—*Income-tax, an appropriation of Profits*—Income-tax is not a necessary expense incurred for earning profits, but one incident in the distribution of profit after the latter has been earned.

Legally, income-tax is an appropriation of profits and not a charge thereon, although in the majority of cases it is treated as such in the accounts of Trading Concerns, inasmuch as it is charged to the Profit and Loss Account and not to the Profit and Loss Appropriation Account.

Besides, it will appear from the following case, that income-tax has been treated as an appropriation for the purpose of computing profits, on which commission may be allowed to the agents of a company, (hence directors, managers and others also) by way of a percentage thereon. The case under question was Suit No. 930 of 1916, of the Bombay High Court, namely, Purshottamdas Harkisondas *vs.* The Central India Spinning, Weaving and Manufacturing Company, Limited, wherein the Honourable Mr. (now Sir) Justice Marten held that "Under the Indian Income-Tax Acts, as well as the English Acts, income-tax is in effect paid by a company, on behalf of its shareholders and if that is so, the English decision upon the question of the deduction of income-tax, before the calculation of agents' commission, will be applicable in India as in England." Upon the basis of the above decision, the commission of company-agents, directors, managers and others is calculated on profits before income-tax is charged there against. Income-tax should therefore be debited to profit and Loss Appropriation Account.

4. Return of Income.

(a) *Limited Companies.*—The principal officer of every company shall prepare, and, on or before the 15th of June in each year, furnish to the Income-tax officer, a return in the form prescribed by Rule 18 to the Act and verified in the words at the foot thereof of the total income of the company during the previous completed year.

Notice calling on a company for a return of total income with the profit and loss account under section 22 of the Indian Income-tax Act, 1922, and for a return of names and addresses of shareholders under section 19A of the same Act.

INCOME-TAX OFFICE, _____

Dated _____ 193 .

To

1. You are hereby reminded of the provisions of section 22 (1) of the Indian Income-tax Act, 1922, under which you are hereby required to prepare a true and correct return of total income in the attached form, so far as it is applicable to your case, and to deliver it to me at my office, duly signed by you as the principal officer of the company, on or before the 15th of June 193 .

2. The return should be accompanied by a copy of the profit and loss account referred to therein.

3. For the purposes of obtaining an allowance for depreciation under Section 10 (2, (vi) of the Indian Income-tax Act, 1922, you are required to furnish particulars to the income-tax office in the attached form.

4. You are also reminded of the provisions of section 19A of the Indian Income-tax Act, 1922, which require you to submit on or before the 15th June 19 a return in the prescribed form and duly verified of the names and addresses of the shareholders to whom payment has been made of a dividend or aggregate dividends exceeding Rs. 10,000 during the period 1st April, 19 to the 31st March 19 .

5. You are also required under Section 20A of the Indian Income-tax Act, 1922, to furnish on or before the 15th of June 1936 a similar return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom you have paid interest or aggregate interest (not being "Interest on Securities") exceeding Rs. 1,000/- during the financial year ended 31-3-1936 together with the amount paid to each such person.

Income-tax Officer.

**Form of Return of Total Income of a Company under Section 22(1) of
The Indian Income-Tax Act, 1922.**

Income-tax year 193 —193 .

Name of Company _____

Its principal place of business _____

Income, profits or gains from business, trade, commerce.

	Rs.	a.
Income, profits or gains as per profit and loss account for the year ended _____ 19 .		
<i>Add any amount debited in the accounts in respect of—</i>		
1. Reserve for bad debts		
2. Sums carried to reserve for provident or other funds.		
3. Expenditure of the nature of charity or presents.		
4. Expenditure of the nature of capital ...		
5. Income-tax or super-tax		
6. Rental value of property owned and occupied.		
7. Cost of additions to, or alterations, extensions, improvements of, any of the assets of the business		
8. Interest on reserve or other funds ...		
9. Losses sustained in former years ...		
10. Losses recoverable under an insurance or contract of an indemnity.		
11. Depreciation of any of the assets of the business.		
12. Expenses not incurred solely for the purpose of earning the profits ...		
TOTAL ...		
<i>Deduct—Any profits included in the accounts already charged to Indian income-tax and the interest on securities of the Government of India or local Governments declared to be income-tax free.</i>		
BALANCE ...		

If the Company owns any property not occupied for the purposes of the business a statement in the form prescribed in the schedule overleaf should be attached with particulars of the credit and debit on account of such property entered in the accounts.

Declaration.

I, the _____ (Secretary, etc , see section 2(12)
of the Act) of the _____ (Name of Company),
declare that the information against each head in this return is correctly
given as shown in the books of the Company as also in the accounts which
have been duly audited by the auditors of the Company and which have been
adopted by the shareholders of the Company.

Signature

Designation

Date _____ 19 _____

(2) The company shall also attach to the return a statement showing the sums charged in the accounts under the provisions of section 58 K (2).

N.B — This return must be accompanied by a copy of the profit and loss account referred to above.

Schedule referred to overleaf.

1	Serial number
2	Name of village or town where the property is situated
3	Name of mohalla or street and number of property, if any
4	In the case of municipalities the name of person in whose name the property stands in the municipal registers
5	Whether the property is occupied by owner or is let
6	Annual letting value of the property
6A	Period during which the property remained vacant
7	Amount of rent actually received for the property, if let
8	One-sixth of the annual letting value shown in column 6
9	Premium paid to insure the property against damage or destruction
10	Interest paid on a mortgage or charge on the property
11	Ground-rent paid for the property
12	Land revenue paid for the property
13	Collection charges paid
13A	Amount claimed on account of property remaining vacant
14	Total of columns 8 to 13A
15	Net amount

DEDUCTIONS

Form for the purpose of obtaining an allowance for depreciation under proviso (a) to section 10 (2) (vi)
of the Indian Income-tax Act, 1922.

Description of buildings, machinery, plant or furniture.	Original cost.	Capital expenditure during the year for additions, alterations, improvements and extensions.	Date from which used for the purposes of the business.	Particulars (including original cost, depreciation allowed, and value realised by sale or scrap value) of obsolete machinery, plant or furniture sold or discarded during the year, with dates on which first brought into use and sold or discarded.	REMARKS.
1	1A	2	3	4	5
		Rs.			

I, _____ declare that to the best of my information the buildings, machinery, plant and furniture described in column 1 of the above statement were the property of _____ during the year ended _____ and that the particulars entered in the statement are correct and complete.

Place _____

Date _____ 193 .

Signature _____

Designation _____

(b) *Firms, Hindu undivided family, any other association of individuals not being a firm, or individuals*—Where the total income is in the Income-tax Officer's opinion liable to Income-Tax, the Income-Tax Officer shall serve a notice upon the Assessee requiring him to furnish, within such period, not being less than 30 days, as may be specified in the notice, a return in the form prescribed by Rule 19 to the Act and verified in the words at the foot thereof, setting forth in detail the particulars (as provided for in the notice) of his total income from various sources during the previous year.

If any person has not furnished a return within the time allowed by or under the above para, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be at any time before the assessment is made, and any return so made shall be deemed to be a return made in due time.

The Income-Tax Officer may serve on the principal officer of any company or on any person upon whom a notice calling for a return of income has been served a notice requiring him on a date to be therein specified to produce or cause to be produced, such accounts or documents as the Income-Tax Officer may require.

Provided that the Income-Tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

If the returns stated in paras. (a) and (b) above are not sent in, the Income-Tax Officer shall make the assessment to the best of his judgment, whereafter an appeal will not be entertained.

Notice under sections 22 (2) and 38 of the Indian Income-tax Act, 1922.

(For assesseees other than Companies.)

No. _____

INCOME-TAX OFFICE, _____

Dated _____ 193

To _____

1. In pursuance of the provisions of section 22 (2) of the Indian Income-tax Act, 1922, you are hereby required to prepare a true and correct statement of your firm's total income during the previous year in the attached form and to deliver it to me at my office duly signed by _____ you
 you on behalf of your firm
 on or before _____ 193 , or within 30 days of the receipt of this notice (should the former date be less than 30 days after the receipt of this notice).

2. The income to be returned is the total income from all sources during the "previous year", *i.e.*, either (i) the twelve months ending on the 31st March 1936, or (ii) if the accounts have been made up within the said twelve months in respect of a year ending on any other day than the said 31st March 1936, then, at your option, the year ending on the day up to which the accounts have been so made up, or (iii) a period determined by the proper authority under clause (b), sub-section (ii) of section 2 of the Act. This option, if it has been exercised by you on a previous occasion, cannot, however, be again exercised now so as to vary the meaning of the expression "previous year" as then applicable to you except with my consent.

3. (To firms only). If you wish your firm registered or re-registered under section 2 (14) of the Act and rules 2 to 6, an application signed by one or more of the partners, in the form and with the accompaniments prescribed in the rules, may be submitted at any time before the assessment is made. It is desirable, however, that it should accompany your return of income.

4. The form contains the instructions required for the preparation of the return. If you desire any further information, you should apply to this office.

5. If you wish to make any claim for depreciation under section 10 (2) (vi) of the Indian Income-tax Act, 1922, you should furnish the necessary particulars in the prescribed form, a copy of which may be obtained from my office.

6. If you represent a Firm or a Hindu undivided family, you are hereby required under section 38 to submit with this return a statement giving the names and addresses of the members of such firm or of the Manager and adult male members of such Hindu undivided family as the case may be.

If you are a partner in any firm or firms you are required to furnish with this return a statement giving the name or names and address or addresses of such firm or firms.

7. The amount paid by you as *thathameda* during the preceding financial year should be shewn in your return and your receipt attached. A deduction in respect of the *thathameda* paid will be allowed in case you are found liable to pay income-tax.

Income-Tax Officer.

Form of Return of Total Income for Individuals, Firms, Hindu Undivided Families and other Associations of Individuals Under Section 22 (2) of the Indian Income-tax Act, 1922.

Income-tax year: 193 —193

Name of assessee _____

Designation _____

Address _____

Statement of total Income during the previous year.

1 Sources of income.	2 Amount of profits or gains or income during the previous year.	3 Tax already charged on the income.
	Rs.	Rs. a.
1. Salaries (including wages, annuity, pension, gratuity, fees, commission, allowances, perquisites, including rent-free quarters) or profits received in lieu of, or in addition to, salary or wages ... [See note (1)]		
1A. The contributions made by an employer to the accounts in a recognised provident fund of the person making the return ...		
1B. The interest accruing to the account mentioned in 1A which is not exempt from income-tax [Section 58 F(2)]		
2. Interest on securities (including debentures) already taxed [See note (2)]		
3. Interest on securities of the Government of India or of local Governments declared to be income-tax free (3)		
4. Property as shown in detail in Schedule A (4)		
5. Business, trade, commerce, manufacture, or dealing in property, shares or securities (details as in note 5) (5)		
6. Profession (6)		
7. Dividends from companies (net) (7)		
8. Interest on mortgages, loans, fixed deposits, current accounts, etc.		
9. Ground rent		
10. Any source other than those mentioned above including any income earned in partnership with others ... [See note (8)]		
Total ...		

1	2	3	
Sources of income.	Amounts of profits or gains or income during the previous year.	Tax already charged on the income.	
	Rs.	Rs.	a.
Deductions claimed—			
(a) on account of insurance premia 			
(b) on account of contributions to a provident fund to which the Provident Funds Act applies ...			
(c) on account of contributions to a recognised provident fund [section 58A (a)] ...			
(d) others 			

I declare that to the best of my knowledge and belief the information given in the above statement is correct and complete, that the amounts of income shown are truly stated and relate to the year ended _____ and that no other income accrued or arose or was received by me the firm the family the association during the said year and that I the firm the family the association had during the said year no other sources of income.

Date _____ Signature _____

N. B. (a) Income accruing to you outside British India received in British India is liable to taxation, and must be entered by you in the form.

(b) All income from whatever source derived must be entered in the form, including income received by you as a partner of a firm.

Note 1.—In column 2 should be shown the gross amount of salary and not the net amount after deductions on account of income-tax, provident funds, etc.

Note 2.—“Interest on securities” means the interest on promissory notes or bonds issued by the Government of India or a local Government, or the interest on debentures or other securities for money issued by or on behalf of a local authority or company. Where income-tax has been deducted from the interest, or where the interest has been paid income-tax free, the amount of tax so deducted or paid should be added to the amount of interest actually received, and the gross amount so arrived at should be entered in column 2 of the statement. The term “interest on securities” does not include interest on fixed deposits or mortgages or other loans, which have to be shown under heading 8.

The interest on securities of the Government of India or of local Governments declared to be income-tax free should be shown under head 3. Those which are not declared to be income-tax free should be included under this head.

Entries under this head must be supported by the certificate issued by the person or company paying the interest under section 18 (9) of the Act.

Note 3—(a) The income-tax payable on the interest receivable on a security of a local Government issued income-tax free is payable by the local Government and not by the holder of the security.

(b) Only the interest on securities of the Government of India or of a local Government declared to be income-tax free should be entered against this head. Such interest will not be charged to income-tax, but it must be included in the statement of total income in order to ascertain the rate of income-tax chargeable on other income. *It is chargeable to super-tax.*

(c) Particulars of any interest on securities issued by other authorities stated to be free of income-tax should be entered against head 2, as income-tax on such interest is actually paid by these authorities on behalf of the recipients.

Note 4.—The tax is payable under this head in respect of the *bona fide* annual value of any buildings or lands appurtenant thereto, of which you are the owner, other than such portions of such buildings and lands as you may occupy for the purpose of your business.

Note 5.—(a) Where you keep your accounts on the mercantile accountancy or book profits system, you must file a return in the following form:—

Income, profits or gains from business, trade, commerce.

	Rs.	a.
Income, profits or gains as per Profit and Loss Account for the year ended.....193	
<i>Add</i> any amount debited in the accounts in respect of—		
1. Reserve for bad debts	
2. Sums carried to reserve for provident or other funds	
3. Expenditure of the nature of charity or presents	
4. Expenditure of the nature of capital	
5. Income-tax or super-tax	
6. Drawings or salary of proprietor or partners	
7. Rental value of property owned and occupied	
8. Cost of additions to or alterations, extensions, improvements of, any of the assets of the business	
9. Interest on the proprietor's or partner's capital, including interest on reserve or other funds	
10. Losses sustained in former years	
11. Losses recoverable under an insurance or contract of indemnity	
12. Depreciation of any of the assets of the business	
13. Private or personal expenses and expenses not incurred solely for the purpose of earning the profits	
Total	
<i>Deduct</i> —Any profits included in the account already charged to Indian income-tax and the interest on securities of the Government of India or of local Governments declared to be income-tax free	
Balance	

(Signature of the person making the return.)

(Date) _____ 193 .

(b) Where you do not keep your accounts in such a form, you must file a statement showing how you arrive at the taxable profits, *i.e.*, showing details of the gross receipts and of the expenditure you propose to set against those receipts. No deductions are permissible on account of—

- (i) Property owned and occupied by the owner of a business for the purposes of a business;
- (ii) Additions to, or alterations, extensions, or improvements of, any of the assets of the business;
- (iii) Interest on the capital of the proprietors or partners of the business;
- (iv) Bad debts not actually written off in the accounts;
- (v) Losses sustained in previous years;
- (vi) Reserves of any kind;
- (vii) Sums paid on account of the income-tax or super-tax or any tax levied by a local authority other than local rates or municipal taxes in respect of the portion of the premises used for the purpose of the business;
- (viii) Any expenditure of the nature of charity or a present;
- (ix) Any expenditure of the nature of capital;
- (x) Any loss recoverable under an insurance or a contract of indemnity;
- (xi) Depreciation of any kind other than that specified in the Act;
- (xii) Drawings of salaries of the proprietors or the partners;
- (xiii) Private or personal expenses of the assessee;
- (xiv) Any expenditure of any kind which is not incurred solely for the purpose of earning the profits.

If you have included any such sums in your expenditure in your books, you must exclude them from the expenditure permissible for the purpose of arriving at your taxable profits.

(c) You are also required to attach a statement showing the sums charged in your accounts under the provisions of section 58K (2).

Note 6.—The income, profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred *solely* for the purpose of such profession or vocation, provided that no allowance is made on account of any of your personal expenses. Professional fees received by you in any part of India (whether within British India or not) must be included by you in your receipts.

Note 7.—Income-tax chargeable on the profits of companies is paid by the companies, so that the dividends received by the shareholders represent the net amount remaining after any income-tax due by the company has been paid. This amount should be entered in column 2 of the statement. The proportionate tax will be added in the Income-tax Office.

If the rate of tax applicable to your total income is less than the rate of tax applicable to the profits or gains of the company at the time of the declaration of such dividends, you may, by attaching the company's certificate received with the dividends have the excess collected on your dividends from the company set against the tax payable by you on your other income instead of having to apply separately for a refund.

Note 8.—Agricultural income from land not paying land revenue or local rates to an authority in British India should be included under this head.

Note 9.—Deductions from total income can only be made for insurance premia in respect of insurance on your own life or on the life of your wife, or in respect of a contract for a deferred annuity on your own life or on the life of your wife. No deduction is permissible in the case of any other form of insurance except in the case of Hindu undivided families where deductions are permissible on account of premia paid in respect of insurance on the life of any male member of the family or of his wife. The original receipt or the certificate of the insurance company to which the premium was paid must be attached to the return.

Schedule A

1	Serial number		
2	Name of village or town where the property is situated		
3	Name of Street and number of property		
4	In the case of municipalities the name of the person in whose name the property stands in the municipal registers		
5	Whether the property is occupied by owner or is let		
6	Annual letting value of the property		
6A	Period during which the property remained vacant		
7	Amount of rent actually received for the property, if let		
8	One sixth of the annual letting value shown in column 6	DEDUCTIONS	
9	Premium paid to insure the property against damage or destruction		
10	Interest on a mortgage or charge on the property		
11	Ground rent paid for the property		
12	Land revenue paid for the property		
13	Collection charges paid		
13A	Amount claimed on account of property remaining vacant		
14	Total of columns 8 to 13A		
15	Net amount to be carried over to the front of the form		

(c) *Illustration*:—From the following particulars of the income of Dr. M. N. Navsariwalla, of 103, Cumballa Hill, prepare the Annual Return for Income-Tax Assessment for 1936-37.

He is the Secretary of the X. Y. Drug Manufacturing Company, Limited, where he receives, (for part-time appointment), a monthly salary of Rs. 350 (less tax, at 7 pies i. e. 6 pies + $\frac{1}{8}$ surcharge in the rupee). He holds 15 shares of the Imperial Bank of India of Rs. 500 each yielding a dividend of 15 per cent (free of tax); and 10 shares in the Merchant Manufacturing Company, Limited, of Rs. 1,000 each, carrying a preference dividend of 6 per cent. (less tax) He has contributed to the 5 per cent. War Loan (free of tax) to the extent of Rs. 20,000 and the $3\frac{1}{2}$ per cent. Government Loan up to Rs. 10,000.

During his spare hours, he practises as a medical man (Hakim), at 35, Grant Road, the net annual income of the practice being Rs. 817. He has advanced Rs. 5,000 to his uncle B. Sorabji, on mortgage of property at $7\frac{1}{2}$ per cent. and, Rs. 4,000 on 6 per cent. debentures in the Islam Mills, Limited. He owns a property at Gowalia Tank Road the rateable value whereof as per Municipal bill is Rs. 4,500 and the admissible allowances therefrom are Rs. 1,782. He also holds 5 shares of 200 Francs each in the Paris Diamond Mining Company, Limited, wherefrom he receives an annual dividend of 90 Francs (collected and credited to his account by his Bankers at Rs. 56). He has two-thirds share in the Registered Firm of Merwanjee & Bilimora, of 381, Hornby Road; the taxable income of the firm amounts to Rs. 7,200 (the Firm being separately taxed at 26 pies + $\frac{1}{12}$ Surcharge). He has also entered into a joint venture with B. contractor in a consignment of some mining ore, which results in a net profit of Rs. 900. He is a Director in the Mehta Chemical Company, Limited where he gets Rs 20 for every meeting attended by him. As he is a very busy man, he attended only nine of such meetings during the year.

He also owns a plot of land at Sewree, the ground rent whereof is received at Rs. 41 per annum. He has been insured with the Reliable Insurance Society, for which he pays annually Rs. 795 by way of premium. He also subscribes annually Rs. 350 towards the provident fund which has been registered under the Provident Funds Act, 1897,) of his Drug Company where he, is employed as a Secretary, but this amount was not deducted through oversight while calculating the tax paid on such salary.

Annual Return of Dr. M. N Navsariwalla (1936-37 Assessment year).

Sources of Income	Amount of profits or gains or income during the previous year	Tax already charged on the income
	Rs.	Rs. a. p.
1. SALARIES, WAGES, ETC.—Salary as Secretary of the Drug Manufacturing Company ...	4,200	153 2 0 (@ 7 pies.)
2. INTEREST ON SECURITIES (including debentures) already taxed— 6% Debentures of the Islam Mills, Limited.	240	37 15 0 (@ 26 pies + $\frac{1}{6}$ Surcharge.)
3 $\frac{1}{2}$ % Government Paper (less tax) ...	350	55 5 0 (@ 26 pies + $\frac{1}{6}$ Surcharge.)
3. INTEREST ON SECURITIES of the Government of India or Local Governments declared to be Income-tax free, viz. on 5% War Loan...	1,000	Nil
4. PROPERTY as shown in detail in Schedule A— Annual Letting value (gross) ... Rs. 5,000 Less admissible allowances .. „ 1,782	3,218	Nil
5. BUSINESS, TRADE, ETC.—Income from the Firm of Merwanji & Bilimoria ...	4,800	704 3 0 (@ 26 pies + $\frac{1}{12}$ Surcharge.)
6. PROFESSION.—Net income from Medical practice ...	817	Nil
7. DIVIDENDS FROM JOINT STOCK COS., ETC.— (a) FREE OF INCOME-TAX.—Imperial Bank Shares ...	1,336	211 1 0
(b) INCOME-TAX DEDUCTED.—Merchant Manufacturing Company shares ...	600	94 13 0 (@ 26 pies + $\frac{1}{6}$ Surcharge.)
8. INTEREST ON MORTGAGE, ETC.—On Mortgage at 7 $\frac{1}{2}$ per cent. ...	375	Nil
9. GROUND RENT.—From a plot of ground at Sewree ...	41	Nil
10. ALL OTHER INCOME, ETC.— (a) Directors' fees ...	180	Nil
(b) Profit from joint venture ..	900	Nil
(c) INCOME OUTSIDE BRITISH INDIA, ETC., Paris Diamond Mining shares ...	56	Nil
Grand Total ...	18,113	1,256 7 0

Sources	Gross amount	Amount of tax deducted at source
	Rs. a. p.	Rs. a. p.
Deductions claimed on account of:—		
(a) Life Insurance Premium	795 0 0	
(b) Subscriptions to Provident Fund ..	350 0 0	
	1,145 0 0	

I declare that to the best of my knowledge and belief, the information given in the above statement is correct and complete, that the amounts of income shown are truly stated and relate to the year ended 31st March 1936 and that no other income accrued or arose or was received by me during the said year and that I have no other sources of income.

(Signature) M. N. Navsariwalla.

Date 5th June 1936.

5. Assessment.

If the Income-Tax Officer is satisfied that a return mentioned in the foregoing para, is correct and complete, he will assess the total income of the Assessee, and determine the sum payable by him on the basis of such return.

6. Set off of a Loss in computing Aggregate Income.

Where any Assessee sustains a loss of profits or gains in any year under any of the heads of income assessable, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year.

Where the Assessee is a firm, and the sustained loss cannot wholly be set off under the above para, any member of such firm shall be entitled to have set off against his personal income, profits or gains of the year in which the loss was sustained, in respect of which the tax is payable by him, such amount of the loss not already set off as is proportionate to his share in the firm.

The amendments made in Section 24 extend to minors, who have been admitted to the benefits of partnership in a registered firm, the benefits hitherto enjoyed by the members of such firms.

The minor or minors, who have been admitted to the benefits of partnership in a registered firm *assessed before the passing of this Act*, shall not be entitled to the rights or privileges given by this amendment of the Act.

7. Inspection of Books, Accounts, etc.

If the Income-Tax Officer has reason to believe that a return made under para. 4 above is incorrect or incomplete, he will serve, on the person who made the return, a notice requiring him, on a date to be therein specified, either to attend at the Income-Tax Officer's office or to produce, or to cause to be there produced, books, accounts and documents or any other evidence on which such person may rely in support of the return.

Any Assessee who is entitled or required to attend before any Income-Tax Officer in connection with any proceedings under this Act, may attend either in person or by any person authorized by him in writing in this behalf.

On the day specified in the notice, or as soon afterwards as may be, the Income-Tax Officer, after hearing such evidence as such person may produce, and such other evidence as the Income-Tax Officer may require on specified points will, by an order in writing, assess the total income of the Assessee and determine the sum payable by him, on the basis of such assessment.

If the Assessee fails to attend or to produce the necessary evidence, etc., as required above, or to return the form as required in para. (4) above the Income-Tax Officer will make the assessment to the best of his judgment.

No appeal shall lie against such assessment.

Form B.

Notice under section 23, sub-section 2 (and section 22, sub-section 4) of the Indian Income-tax Act, XI of 1922.

(For use where a return has been made.)

No. _____ Dated the _____ 193 .

To _____
To enable me to test the correctness of the return of your income furnished by you under section 22, $\frac{\text{Sub-section 1}}{\text{Sub-section 2}} / \frac{\text{Sub-section 2}}{\text{Sub-section 3}}$ of the Act for the year ending

I hereby require you to attend at my office at _____ at _____ on _____ in person or by representative ($\frac{\text{and}}{\text{or}}$ to produce or cause to be produced at the said place and time the accounts and documents specified overleaf and any other evidence on which you may rely in support of the return.)

Wilful failure to comply with this notice will entail the forfeiture of your right of appeal under section 30 (1) of the Act and will render you liable to prosecution under section 51, sub-section (d), of the Act.

Income-Tax Officer,

Particulars of accounts and documents:—

Form A.

Notice under section 22 (a), of the Indian Income-tax Act, XI of 1922.

(For use where a return has not been made).

No.

Dated the _____ 193

To

With reference to the return of income due from you under section 22, sub-section 1,

In continuation of my notice served on you on _____ calling on you to make a return of your income under section 22, sub-section 2, of the Act for the year ending _____ I hereby require you to produce or cause to be produced for examination at my office at _____ on _____ the accounts and documents specified below.

Wilful failure to comply with this notice will entail the forfeiture of your right of appeal against the assessment under section 30, sub-section 1, of the Act and will render you liable to prosecution under section 51, sub-section (d), of the Act.

Income-Tax Officer.

Particulars of accounts and documents :—

**Summons to witness under Section 37 of the Indian
Income-Tax Act, 1922.**

Dated _____ 193 .

To

WHEREAS YOUR evidence is necessary in the matter of the assessment of the income of _____ you are hereby required to attend with the documents noted below at my office at _____ on the _____ day of _____ 193 , at _____ there to give evidence, and not to depart until you receive my permission to do so. Failure to so appear and give evidence is punishable under the provisions of the Civil Procedure Code, 1908 (Rule 12 of Order XVI.)

[A sum has been deposited for your travelling expenses.]

Documents to be produced—

Seal.

Income-Tax Officer.
Assist. Commissioner.
Commissioner,

8. Assessment in case of Discontinued Business.

(1) Where any business, profession or vocation on which Income-Tax was not at any time charged under the provisions of the Indian Income-Tax Act, 1918, is discontinued in any year, an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance, in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

Illustration:—

Mr. Mirza started a business in October 1934.

His income from October 1934 to March 1935 was ... Rs. 32,000

His income from April 1935 to March 1936 was ... „ 29,000

His income from April 1936 to June 1936 was ... „ 14,000

He closed the business in June 1936.

He will be assessed for the first time, for 1935-36 on Rs. 32,000 and will be exempted for 1934-35 having no income in the 'previous' (1933-34) year.

Similarly, for 1936-37, he will be assessed on Rs. 29,000, being his income for 1935-36 (previous year.)

In addition to the above assessment on Rs. 29,000 he will also be assessed on Rs. 14,000 for 1936-37. There will, however, be two separate assessments, viz., on Rs. 29,000 at 19 pies + $\frac{1}{2}$ Surcharge and on Rs. 14,000 at 12 pies + $\frac{1}{2}$ Surcharge in the rupee.

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-Tax Officer notice of such discontinuance within 15 days thereof and, where any person fails to give the notice required by this sub-section, the Income-Tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

(3) Where any business, profession or vocation, on which tax was at any time charged under the provisions of the Indian Income-Tax Act, 1918, is discontinued, no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the Assessee may further claim that the profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, assessment will be

made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund will be given of the difference.

Illustration :—

Mr. Spilling commenced business in 1916.

His income from April 1933 to March 1934 was ... Rs. 1,00,000

His income from April 1934 to March 1935 was ... „ 2,00,000

His income from April 1935 to June 1935 was ... „ 50,020

Evidently, he closed his business in June 1935.

He was assessed for 1934-35 on ... „ 1,00,000

Do. 1935-36 on ... „ 2,00,000

There will be no assessment for 1936-37, because the business was not in existence in that year. On the contrary Mr. Spilling might claim an adjustment, to be taxed on Rs. 50,000, instead of on Rs. 2,00,000 for 1935-36. If he has already paid the tax on Rs. 2,00,000, he will claim a refund; otherwise, he will be assessed on Rs. 50,000 only.

If, on the other hand, his profit of 1934-35 was only Rs. 10,000, he would be satisfied with the assessment on that sum for 1935-36. Under no circumstances, will there be an assessment on him for 1936-37.

(4) Where an assessment is to be made under sub-para. (1) or sub-para. (3), the Income-Tax Officer may serve on the person whose income, profits and gains are to be assessed, or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

9. Assessment after partition of a Hindu Undivided Family.

(1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto undivided that a partition has taken place among the members of such family, the Income-Tax Officer shall make such inquiry thereinto as he may think fit and if he is satisfied that a separation of the members of the family has taken place and that the joint family property has been partitioned among the various members or groups of members in definite portions before the end of the previous year, he shall record an order to that effect:

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, the Income-Tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no separation or partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it;

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23 :

Provided that all the separated members and groups of members shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the JOINT family as such.

Illustration (1):— A, B, C and D are members of a Hindu Undivided Family and the income of the family for the year ended 31st March 1936 is as follows:—

Income from properties	...	...	Rs. 12,000
Income from business	...	...	„ 20,000

Before the assessment is made for the year 1936-37 a request is made to the Income-tax Officer intimating that a partition of the Joint Family Property has taken place. The partition is admitted. Show how the assessment of the family shall be completed for the years 1936-37.

Where an order under Section 25A of the Act to the effect that a separation of the members of the Family has taken place and that the joint family property has been partitioned among the various members A B C & D in definite portions, has been passed, the Income-tax Officer shall make an assessment of the total income of Rs. 32,000 received by or on behalf of the joint family of Messrs. A B C & D as such, as if no separation or partition has taken place and each member A, B, C, D shall in addition to any income-tax for which he may be separately liable, be liable for a share of the tax on the income of Rs. 32,000 according to the portion of the joint family property allotted to him. The family will be assessed for 1936-37 at 23 pies + 1/12 surcharge in the rupee on Rs. 32,000 and if each of the members A, B, C & D has been allotted equal share of the joint family property, he will be liable to pay equal share of tax levied on the family on the total income for 1936-37.

Illustration (2):—A, B, C & D are members of a Hindu Undivided Family and the Family's income for the year ended 31st March 1936 is as follows:—

Income from Property	...	...	Rs. 12,000
„ „ Business	...	...	„ 20,000

A representation is made to the Income-tax Officer, that the family property has been partitioned, and the said representation is admitted. Before the Assessment Order is passed for the year 1936-37, Mr. X is admitted as a partner in the business of the family which has been registered. The partners share profits equally. Show the assessment of the family and of A, B, C, D and X for the year 1936-37.

Since Mr. X is admitted as a partner in the business of the family, the provisions of Section 26 (2) of the Act will apply, as there is a succession within the meaning of that Section as far as the business income is concerned. Hence Messrs. A, B, C, D and X will be assessed on their share of income from business separately. The firm will be assessed at the maximum rate, i. e., at 26 pies + $\frac{1}{12}$ surcharge on the whole income of Rs. 20,000; and the partners A, B, C, D and X will be entitled to refund of tax paid by the Registered Firm as their share of income therefrom, if the rate applicable to their total income from all sources is lower than the maximum rate.

As regards property income, the family will be assessed on Rs. 12,000 and the total tax will be recovered from the members in the proportion in which the family assets are divided among them.

Illustration (3):—A, B, C, and D are members of Joint Family and the income of the family for the year ended 31st March 1936 is as under :—

Property	...	...	...	Rs. 12,000
Business	...	...	...	„ 20,000

A representation is made to the Income-tax Officer that the family property has been partitioned, and the representation is admitted. Before the Order of Assessment for one year 1936-37 is passed, a change in the constitution is effected in the business hitherto carried on by the family by which A and B retire and C and D enter into a fresh agreement of partnership which is submitted for registration for the year 1936-37 assessment. Show the assessable income of the family and of A, B, C, and D for the year 1936-37.

At the time of partition, the business is disposed of to two members of the family, and what is realised therefrom is treated as part of the joint family property for the purpose of partition; and as such the provisions of Section 26 (2) of the Act will apply, as there is a succession within the

meaning of that Section as far as the income from business is concerned. The firm of Messrs. C and D will be assessed at the maximum rate i. e. 26 pias + 1/12 surcharge on Rs. 20,000, and both Messrs. C and D are entitled to claim refund of tax paid by the registered firm on their share of income, if the rate of tax applicable to their total income is lower than the maximum rate. The family will be assessed on the total income from property amounting to Rs. 12,000, and the total tax will be recovered from the members if the properties in which the family assets are divided.

Messrs. A and B will not be separately taxed if they have no other sources of income.

10. Change in the Constitution of a Partnership.

Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessments on the firm and on the members thereof shall, subject to the provisions of this Act, be made as if the firm had been constituted throughout the previous year as it is constituted at the time of making the assessment, and as if each member had received a share of the profits of that year proportionate to his interest in the firm at the time of making the assessment.

Illustration :—

A, B and C are three partners sharing profits and losses equally. The profits earned by the firm of A, B and C for the year ended 31st March 1936 is Rs. 30,000. Notice under Section 22 (2) of the Act is served on the firm of A, B, & C for assessment of income for the year 1936-37. The Return of Income is submitted to the Income-tax Officer on 15th of May 1936. Thereafter a change in the constitution of the partnership takes place. A retires from business and in his place comes one Mr. D. Incomes of A, B, C and D from sources other than the said firm of A B & C are as under :—

A—Income from Property	...	...	Rs. 2,000
B— " " Tax Free Securities	...	...	" 2,000
" " Dividends	...	...	" 3,000
C—Income from Ground rent	...	...	" 4,000
D—Income from Property	...	...	" 4,000

Under the New Agreement of Partnership between B, C & D which was registered at the Income-tax Office for the year 1936-37, the partners are to share profits and losses as under :—

B—half share, C— $\frac{1}{4}$ and D— $\frac{1}{4}$.

Show the assessable income of A B C and D for the year 1936-37

Since A has retired from business prior to the assessment being levied, it is only those partners (Messrs. B, C & D) who now constitute the firm that are liable to be assessed. Registration of the firm has been accorded, and as such the registered firm will be assessed at the maximum rate, thus entitling the individual partners to claim refund of tax if paid in excess on their share of income.

A has no other sources of income except income from property. He will, therefore, be assessed on Rs. 2,000 being income from property.

Incomes of B, C and D are shown as under :—

	B.	C.	D.
	Rs.	Rs.	Rs.
Share of income from the Registered Firm (taxed at source) ...	15,000	7,500	7,500
Interest on Tax Free Securities ...	2,000	Nil	Nil
Dividend (Taxed) ...	3,000	Nil	Nil
Income from ground rent ...	Nil	4,000	Nil
" " property rent ...	Nil	Nil	4,000
	<hr/>	<hr/>	<hr/>
Total Income ...	20,000	11,500	11,500
	<hr/>	<hr/>	<hr/>
<i>Less</i> —Interest on Tax Free—			
Securities ... Rs.	2,000		
Dividend	3,000		
	<hr/>		
" 5,000	5,000	Nil	Nil
	<hr/>	<hr/>	<hr/>
	15,000	11,500	11,500
	<hr/>	<hr/>	<hr/>
Taxable income at 19 pies +	1/12 sur-charge	@ 12/ pies + 1/12 sur-charge	@ 12 pies plus 1/12 surcharge.

Total tax paid on the share of income of the Registered Firm and on dividend will be given set-off.

11. Change in the Ownership of a Business.

Where, at the time of making an assessment under section 23, it is found that the person carrying on any business, profession or vocation has been succeeded in such capacity by another person, the assessment shall be made on such person succeeding, as if he had been carrying on the business, profession or vocation throughout the previous year, and as if he had received the whole of the profits for that year.

Illustration:—

A and B are carrying on business in partnership, and the profits earned by them in the partnership business for the year ended 31st March 1936 is

Rs. 20,000/-. The firm of A and B received notice under Section 22 (2) for 1936-37. Return of income is duly filled in and submitted to Income-tax Office on the 15th of May 1936. On 26th of May 1936, the firm of A and B is converted into a private Limited Company called X Co., Ltd., The income of A and B from other sources is as under:—

A—Property income	...	...	Rs. 4,000
Dividends	...	...	„ 2,000
B—Interest on tax free Securities	...	...	„ 4,000

Show the assessable income of the firm of A & B for the year 1936-37, as also the assessable income of X Co. Ltd., if any and also of A and B individually.

After the conversion of the firm of Messrs. A and B into a Limited Company (X Co., Ltd.) the firm does not exist, and as such there is no income to be assessed in the hands of the firm of Messrs. A & B.

X Co., Ltd, will be treated as successors of the firm of Messrs. A & B and assessed at 26 pies + 1/12 surcharge on income of Rs. 20,000 for 1936-37.

Messrs. A & B, though they were proprietors of the firm of Messrs. A & B prior to conversion into a limited concern have now no income from business. At the most, dividends of the X Co., Ltd., may be declared and both A and B should generally declare the dividend amount they receive along with other sources in the return of income. As it seems that the X Co., Ltd., has not declared any dividend, the position of A and B works out as under:—

			A, Rs.	B, Rs.
Income from property	...	...	4,000	Nil
„ „ Dividend	...	...	2,000	„
„ „ Interest on Tax Free Securities.			Nil	4,000
			<hr/>	<hr/>
	Total Income	...	6,000	4,000
Less—				
Income-Tax Free	...	...	Nil	4,000
Dividend taxed	...	...	2,000	Nil
			<hr/>	<hr/>
			4,000	Nil
			<hr/>	<hr/>

To be taxed at 9 pies + 1/12 surcharge.

Abatement on account of dividend of Rs. 2,000/- at 17 pies + 1/6 surcharge.

12. Cancellation of Assessment when cause is shown.

Where an Assessee, or in the case of a company the principal officer thereof, within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-Tax Officer that he was prevented

by sufficient cause, from making the return required by para (4) above or that he did not receive the notice issued under paras. 4 (b) or (7) above, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying with the terms of the last mentioned notices, the Income-Tax Officer will cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of para (5) above.

13. Penalty for concealment of Income.

If the Income-Tax Officer, the Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that an Assessee has concealed the particulars of his income, or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, he may direct that the Assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of income-tax which would have been avoided, if the income so returned by the Assessee had been accepted as the correct income:

Provided that no such order shall be made, unless the Assessee has been heard or has been given a reasonable opportunity of being heard.

Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

An Assistant Commissioner or a Commissioner who has made an order under the foregoing para will forthwith send a copy of the same to the Income-Tax Officer.

14. Notice of Demand or Assessment.

When the Income-Tax Officer has determined the tax to be payable by an Assessee, or when an order for the payment of penalty has been passed, as stated in the foregoing paragraphs, the Income-Tax Officer will serve on the Assessee, a notice of demand in the form prescribed by Rule 20 to the Act, specifying the sum so payable and the time and place when and where the tax is to be paid.

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

Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm, or to the manager or any adult male member of the family and, in the case of any other association of individuals, be addressed to the principal officer thereof,

**NOTICE OF DEMAND UNDER SECTION 29 OF THE
INCOME-TAX ACT, 1922.**

To

1. You have been assessed for the year _____ to income-tax amounting to Rs. _____ [in addition to which a penalty of Rs. _____ has been imposed], as shown in the copy of the assessment form sent herewith.

2. You have also been assessed to super-tax amounting to Rs. _____

3. You are required to pay the amount of Rs. _____ on or before the _____ to _____ at _____ when you will be granted a receipt.

4. If you do not pay the tax on or before the date specified above, you will be liable to a penalty which may be as great as the tax due from you.

5. If you are dissatisfied with your assessment you may present an appeal under sub-section (1) of section 30 of the Indian Income-tax Act, 1922, to the Assistant Commissioner of Income-tax at _____ within 30 days from the receipt of this notice, on a petition duly stamped in the form prescribed under sub-section (3) of section 30 and verified as laid down in that form.

Or

The assessment has been made under sub-section (4) of section 23 of the Indian Income-tax Act, 1922, because you failed to make a return of your income under section 22 to comply with a notice under sub-section (4) of section 22 to comply with a notice under sub-section (2) of section 23, and no appeal lies. But if you were prevented by sufficient cause from making the return or did not receive the notice (s) aforesaid, or had not a reasonable opportunity to comply, or were prevented by sufficient cause from complying, with the terms of the notice (s), you may apply to me within one month from the receipt of this notice under section 27, to cancel the assessment and proceed to make a fresh assessment.

6. The appropriate chalan should be sent along with the amount paid. Should you lose the chalans attached to this notice of demand, it will be necessary for you to apply to the Income-tax Officer for copies of fresh chalans.

Dated

193

Income-tax Officer.

Place.

NOTE.—The superfluous words in paragraph 5 should be deleted.

ASSESSMENT FORM.

ASSESSMENT FOR 193 -193 UNDER SECTION , ACT XI OF 1922.

District or Area.

Name of Assessee

Number in General Index

Address

Number of miscellaneous record

Serial No.	Detailed sources of income	Amount of income	Tax deducted at source		Remarks
		Rs.	Rs.	a.	
1	Salary (including employee's provident fund contributions).				
1A	Annual accretion (less employee's provident fund contribution) under section 58A (f).				
2	Interest on securities				
3	Property				
4	Business				
5	Profession				
6	Other sources				
			Rs.	a.	
(i)	Total income				
(ii)	Deduction under section 7 (i) or on account of provident fund, to which the Provident Fund Act, 1897, applies.				
(iii)	Deduction on account of recognised provident fund—				
	(a) Contributions				
	(b) Exempted interest				
(iv)	Deduction on account of insurance premia				
(v)	Deduct sums received as dividends or from a firm the profits of which have been charged to income-tax.				
(vi)	Deduct amount of interest from tax-free securities of the Government of India or of a Local Government.				

		Rs.	a.
(vii)	Income now to be subjected to income-tax ...		
(viii)	Rate applicable..... pies per rupee ...		
(ix)	Amount of income-tax ...		
		Rs.	a.
(x)	Deduction under section 17 ...		
(xi)	Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5).		
(xii)	Abatement on account of dividends (at..... pies per rupee).		
(xiii)	Abatement on account of income from a registered firm (at.....pies per rupee).		
(xiv)	Net amount of income-tax (or refund) ...		
(xv)	Amount of super-tax ...		
(xvi)	Penalty under section 28 or section 25 (2) ...		
(xvii)	Total sum payable (or to be refunded—in figures as well as in words).		
	Rupees.....		
	annas.....		

Dated

193 .

Income-tax Officer.

15. Appeal against Assessment.

Any Assessee objecting to the amount or the rate at which he is assessed, or denying his liability to be assessed under this Act, or objecting to a refusal of an Income-Tax Officer to register a firm under section 26A or to make a fresh assessment under para. (12) above, or to any order against him under para. (8) (2) or (13) above made by an Income-Tax Officer, may appeal in the form prescribed by Rule 21 to the Act, and verified in the words given at the foot thereof, to the Assistant Commissioner against the assessment or against such refusal or order. Provided that no appeal shall lie in respect of an assessment made under Section 23 (4), as already explained in one of the paragraphs headed "Inspection of Books, Accounts," etc.

The amendment of Section 30 gives to an assessee a right to appeal to the Assistant Commissioner, against the refusal by the Income-tax Officer to register a firm under Section 26-A.

The new Section 50-A gives a right of appeal against a refusal to make a refund or against an order allowing a refund of less than the amount claimed. A special form has been prescribed for the appeal.

The appeal shall ordinarily be presented within 30 days of receipt of the notice of demand relating to the assessment or penalty objected to or the date of the refusal to make fresh assessment under para (12) above, as the case may be, but the Assistant Commissioner may admit an appeal after the expiration of that period, if he is satisfied that the appellant has sufficient cause for not presenting it within that period.

Form of Appeal against an order under Section 25 (2).

To

THE ASSISTANT COMMISSIONER OF INCOME-TAX.

The day of 193 .

The petition of of sheweth
as follows:—

1. Under Section 25 (2) of the Indian Income-tax Act, 1922, a penalty of Rs. has been imposed on your petitioner. The notice of demand attached hereto was served upon him on

2. Your petitioner was prevented by sufficient cause, as more particularly explained below, from giving notice within the time prescribed by Section 25 (2) to the Income-tax Officer of the discontinuance of his business, profession or vocation.

3. Your petitioner therefore requests that the order of the Income-tax Officer imposing a penalty of Rs. upon your petitioner may be set aside.

(Signed.)

STATEMENT OF FACTS.

Form of verification.

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above statment of facts is true to the best of my information and belief.

**Form of Appeal against an order refusing to reopen an assessment
under Section 27.**

To

THE ASSISTANT COMMISSIONER OF

The day of 193 .

The petition of of sheweth
as follows:—

1. Under the Indian Income-tax Act, 1922, your petitioner has been assessed on the sum of Rs. for the year commencing the 1st day of April 193 .

2. Your petitioner was prevented by sufficient cause from making the return required by section 22 or did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of the notice under sub-section (4) of section 22 or sub-section (2) of section 23, as more particularly specified in the statement attached.

3. Your petitioner therefore presented a petition to the Income-tax Officer under section 27, requesting him to cancel the assessment. This petition the Income-tax Officer by his order dated of which a copy is attached, has rejected.

4. Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and that he may be directed to make a fresh assessment in accordance with the law.

(Signed.)

STATEMENT OF FACTS.

Form of verification.

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above statement of facts is true to the best of my information and belief.

(Signed.)

Form of Appeal against an order under Section 28.

To

THE COMMISSIONER OF INCOME-TAX.
THE ASSISTANT COMMISSIONER OF INCOME-TAX.

The day of 193

The petition of of sheweth
as follows:—

1. Under Section 28 of the Indian Income-tax Act, 1922, a penalty of Rs. has been imposed on your petitioner by the Income-tax Officer. Assistant Commissioner. The notice of demand attached hereto was served upon him on

2. Your petitioner did not conceal the particulars of his income or deliberately furnish inaccurate particulars thereof but as will be seen from the statement of facts attached returned it at its real amount to the best of his knowledge and belief.

3. Your petitioner therefore requests that the order of the Income-tax Officer Assistant Commissioner imposing a penalty of Rs. upon your petitioner may be set aside

Signed.

STATEMENT OF FACTS.

Form of verification.

I, , the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed.)

**Form of Appeal under Section 30 (3) of the Indian
Income-tax Act, 1922.**

To

THE ASSISTANT COMMISSIONER OF

The *day of* 193

The petition of of sheweth
as follows :—

1. Under the Indian Income-tax Act, 1922, your petitioner has been assessed on the sum of Rs. for the year commencing the 1st day of April, 193 . The notice of demand attached hereto was served upon him 193 .

2. Your petitioner's income accruing or arising or received or deemed under the provisions of the Act to accrue or arise or to be received in British India, for the year ending the day of 19 amounted to Rs.

3. Such income and profits actually accrued or arose or were received during the period of months and days.

4. During the said year your petitioner had no other income or profits.

5. Your petitioner has made a return of his income to the Income-tax Officer, under section 22, sub-section (2), of the Act and has complied with all the terms of the notice served on him by the Income-tax Officer under section 23 (2) [^{and}_{or} section 22 (4).]

Your petitioner therefore prays that he may be assessed accordingly (or that he may be declared not to be chargeable under the Act.

(Signed.)

Grounds of appeal.

Form of Verification.

I, , the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed.)

16. Hearing of Appeal.

The Assistant Commissioner will fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

The Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer.

In disposing of an appeal, the Assistant Commissioner may, in the case of an order of assessment,—

- (a) confirm, reduce, enhance or annul the assessment, or
- (b) set aside the assessment and direct the Income-Tax Officer to make a fresh assessment after making such further inquiry as the Income-Tax Officer thinks fit or the Assistant Commissioner may direct, and the Income-Tax Officer will thereupon proceed to make such fresh assessment, or, in the cases of an order under sub-section 2 of section 25 or section 28,
- (c) confirm, cancel or vary such order :

Provided that the Assistant Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

17. Appeals against orders of Assistant Commissioners.

Any Assessee objecting to an order passed by an Assistant Commissioner under section 28 or to an order enhancing his assessment under sub-section 3 of section 31, may appeal to the Commissioner within thirty days of the date on which he was served with notice of such order.

The appeal shall be in the prescribed form, and shall be verified in the prescribed manner.

In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

The amendment to Section 32 extends the time, within which an appeal may be made against orders of the Assistant Commissioner.

**Form of Appeal under Section 32 (2) of the Indian
Income-tax Act, 1922.**

To

THE COMMISSIONER OF INCOME-TAX,

The _____ day of _____ 193 _____

The petition of _____ sheweth as follows :—

1. Under section 31 (3) of the Indian Income-tax Act, 1922, the Assistant Commissioner of _____ has increased the tax payable by your petitioner from Rs. _____ to Rs. _____.

2. Your petitioner prays that the enhancement may be set aside or reduced to Rs. _____ for the reasons stated below :—

(Signed.)

Grounds of appeal.

Form of Verification.

I, _____, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed.)

**Notice of date fixed for the hearing of an Appeal
under section $\frac{31}{32}$, Act XI of 1922.**

IN THE OFFICE OF THE _____ Commissioner
Assistant Commissioner OF INCOME-TAX,

Appeal No. _____ of 193 -193 relating to assessment
year 193 -193

To,

APPELLANT.

Whereas an appeal against the _____ assessment of income-tax _____ order of the Assistant Commissioner _____ preferred by you in the office of _____ of the _____ was _____

received and registered by this office and whereas 193 , at o'clock, has been fixed for the hearing and final disposal of the said appeal at , you are hereby informed that you should appear in this office in person or by an authorized agent or by a pleader duly instructed and able to answer all material questions relating to the said appeal or accompanied by some person able to answer all such questions. Take notice that in default of your appearance on the day before-mentioned the appeal will be heard and determined in your absence.

Issued under the seal of the office this day of 193 .

By order, etc.,

Commissioner
Assistant Commissioner of Income-tax.

18. Power of Review.

The Commissioner may, of his own motion, call for the record of any proceedings under this Act which has been taken by any authority subordinate to him or by himself when exercising the powers of an Assistant Commissioner under para 1 (4) of Chapter I.

On receipt of the record, the Commissioner may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit.

Provided that he shall not pass any order prejudicial to an Assessee without hearing him or giving him a reasonable opportunity of being heard.

19. Temporary Residents.

The new Section 24A enables assessments to be made, during or shortly after the expiry of the current financial year, on the income of persons, who may leave British India and who are not likely to return to British India, for the period extending to the probable date of their departure.

Mr. A, a lawyer, started practice in British India in 1930. He closes his accounts at the end of September every year. In February 1934, the Income-tax Officer comes to know that Mr. A had earned taxable income and that he was to leave British India by the 15th of the next month. Mr. A will be assessed prior to his departure for his income of the previous years ended 30th September 1931, 30th September 1932, 30 September 1933 and for the period from 1st October 1933 to 15th March 1934. For the income of the year ended 30th September 1931, he will be assessed at the rate prevailing in 1932-33 and for the income of the other three periods, at the rate in force for the financial year 1933-34.

Mr. A may be served with a notice by the Income-tax Officer, requiring him to furnish within a specified time (not less than seven days) a return of his total income, in the same form as a return under Sub-Section (2) of Section 22, for each of the completed (three) previous years and his estimated total income for the period from 1st October 1933 to 15th March 1934.

20. Deceased Persons.

The new Section 24B provides for the assessment of the income of deceased persons. So far, if a person died before an assessment process was started or before an assessment was made, no tax was payable by his Executor, Administrator or other legal representative on the income of the deceased till the date of his death. So also no refund in respect of such income of the deceased person was allowed to his representative.

The tax assessed, as payable by such person or the tax that would have been payable by him if he were alive, is now a charge on the estate of the deceased and must be paid out of it, to the extent to which the estate is capable of meeting the charge.

A person may die after submitting a return of his income for the previous year. The tax payable may or may not have been assessed before his death. In either case his legal representative shall be liable to pay the tax, in respect of the income of the previous year, that may have been assessed.

A notice under Sec. 22 (2) or Sec. 34, as the case may be, can now be served upon the Executor, Administrator or other Legal Representative of a deceased person in all such cases, where the Income-tax Officer could have served such notice on the deceased person if he were alive. Where a person, who was served with a notice under Sub-Section (2) of Sec. 22, died before the assessment was made for 1932-33 and all further proceedings were dropped after his death and before the passing of the Indian Income-tax Second Amendment Act, 1933 whether a notice under Section 34 can be rightly served on the Executor or other Legal Representative of the deceased? If it appears that income, profits or gains chargeable to income-tax has escaped assessment, action under Section 34 would be justified even though it is the amendment of the Act that enables the Income-tax Officer to take action under Section 34. Income or gains of a deceased person, that did not attract tax under the law in force at the time of his assessment when he was alive,—e.g. agricultural income—cannot be said to have escaped assessment, if any subsequent change in the law renders such income liable to tax. No action under Section 34 can be legitimately taken against the Executor or other Legal Representative of the deceased in respect of such income. But where income that normally attracts tax is not assessed, because no person was found on whom the liability for the tax on that income

could be fixed, action under Section 34 can be taken, if any subsequent change in the Act enables the Income-tax Officer to fix liability on some person in respect of such income.

Where a person who has been served with a notice under Sub-Section (2) of Section 22 dies without complying with the terms of the notice, the Income-tax Officer may make an assessment of the total income of the deceased and for that purpose may require from the Executor or other Legal Representative of the deceased any accounts or other evidence by issue of notice under Section 22 (4). If the return of income was furnished by the person before his death, the Income-tax Officer may accept it and make an assessment on the basis of that return, or he may call for accounts or other evidence under Section 22 and Section 23 from the Executor etc., of the deceased before making the assessment. The Executor etc. will have the same right to object to the amount or the rate of assessment or deny his liability to be assessed, in the same way as if he were the assessee.

Illustration:— A, a sole trader, had the following amounts of income for the year ended 31st March 1936:—

He pays Life Insurance Premium	...	...	Rs. 1,000
Income from Property	...	...	„ 5,000
Income from Dividend	...	...	„ 2,000
Income from Tax Free Securities	...	...	„ 1,000

Notice under Section 22(2) of the Act for the year 1936-37 is served on A on 10th May 1936. On the 15th May 1936 A dies. Is the Estate of A liable to assessment for 1936-37 and if so on what account?

Service of notice under Section 22 (2) was effected on A, who expired before submitting the return of income for 1936-37 declaring therein his income from all sources. Under Section 24B (3) the Income-tax Office may make an assessment of the total income of A, and A' s executor, administrator or other legal representative shall be liable to pay out of the estate of deceased A to the extent to which the estate is capable of meeting the charge of the tax assessed as payable by A. The amount to be assessed is shown below:—

1936-37 Assessment

Income from property	...	...	Rs. 5,000
„ „ Dividend	...	...	„ 2,000
„ „ Interest on Tax Free Securities	...	...	„ 1,000
			„ 8,000

Less—

Life Assurance premia	...	...	Rs. 1,000	
Interest on Tax Free Securities	...	...	„ 1,000	
Dividend Taxed at source	...	...	„ 2,000	„ 4,000
				<u> </u>
Net taxable income	...	...	...	Rs, 4,000

Taxable at 9 pies + 1/12 surcharge in the rupee. Abatement will be given in the case of taxed dividend income @ 17 pies + 1/6 surcharge.

21. Income escaping Assessment.

If for any reason, income, profits or gains chargeable to income-tax has escaped assessment in any year or has been assessed at too low a rate, the Income-Tax Officer may, at any time, within one year of the end of that year, serve on the person liable to pay tax on such income, profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under para. 4 (b) above, and may proceed to assess or reassess such income, profits or gains, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that para.

Provided that the tax shall be charged at the rate at which it would have been charged, had the income, profits or gains not escaped assessment or full assessment, as the case may be.

Notice under Section 34 of the Indian Income-tax Act XI 22.

Income-tax Office,

Dated 193

Whereas I have reason to believe that your income from
 which ^{(a) should have been} assessed in the financial year
_{(b) has been}
 ending the 31st March 193 .—

(a) has ^{wholly} escaped assessment,
_{partially}

(b) has been assessed at too low a rate,

and I therefore propose—

(a) to assess the said income that has escaped assessment,

(b) to re-assess your said income at the correct rate.

I hereby require you to deliver to me, not later than
 or within 30 days of the receipt of this notice, a return in the attached form
 of your income from all sources which was assessable in the said year ending
 the 31st March 193

Income-tax Officer.

Here enter source.

(a) (b)—Unnecessary portions to be struck out.

22. Rectification of Mistake.

The Commissioner or Assistant Commissioner may, at any time within one year from the date of any order passed by him in appeal or, in the case of the Commissioner, in review under section 33, and the Income-tax Officer may, at any time within one year from the date of any demand made upon an Assessee, on his own motion, rectify any mistake apparent from the record of the appeal, revision or assessment, as the case may be, and within the like period rectify any such mistake which has been brought to his notice by the Assessee.

Provided that no such rectification shall be made, having the effect of enhancing an assessment, unless the Commissioner, the Assistant Commissioner, or the Income-tax Officer, as the case may be, has given notice to the Assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

Where any such rectification has the effect of reducing the assessment, the Income-tax Officer will make any refund which may be due to such assessee.

Where any such rectification has the effect of enhancing the assessment, the Income-Tax Officer will 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 para. (14) above, and the provisions of this Act shall apply accordingly.

23. Power to call for Information.

The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,

- (1) require any firm, or Hindu undivided family, to furnish him with a return of the members of the firm or of the manager or adult male members of the family, as the case may be, and of their addresses;
- (2) require any person, whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for, or of, whom he is a trustee, guardian or agent and of their addresses;
- (3) require any person whom he has reason to believe to be engaged in business, to furnish him with a return containing particulars of the location and style of his principal place of business, and of his branch businesses, if any, the names and

addresses of his partners in any business, and the extent of his own share and the shares of all such partners in the profits of such business or businesses.

24. Power to inspect Company's Register of Members.

The Income-tax Officer or Assistant Commissioner or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

25. Accounting period and Accounts.

The Income-tax Year (financial year of Government) begins from 1st April and ends on 31st March. The tax-payer would, therefore, do well to close the accounts on 31st March in each year, in which case he would be assessed on the profits for the 12 months preceding the Income-tax year; that is, for 1936-37, he would be assessed on the profits of the 12 months ending 31st March 1936.

If the tax-payer does not close his accounts on 31st March, he will have to pay the tax on the previous completed year's profits. As for example, if he closes his accounts on 30th June, or 30th September, or 31st December, he will be assessed for the Income-tax year 1936-37 on the profits of the year ending 30th June, or 30th September, or 31st December 1935, respectively. Similarly, if accounts be closed at "Divali" time, the Assessee will have to pay the tax on the profits, for the Samvat year ending Aso Vad Amas 1991, or Shuk year ending 30th Falgan 1857, or Marvari year; or any other period of 12 months ending within the year ending 31st March 1936.

(a) Firms or sole traders.—

Profit and Loss Account for ascertaining the assessable profits, or taxable income, may be prepared from the business annual Profit and Loss Account in two ways, namely, (1) by starting with Gross Profits, or (2) by starting with Net Profits.

1. By starting with Gross Profits.—

(a) Credit Side:—

1. Gross Profits, as per trading account, that is, profit on sales without taking into consideration any expenses incurred in effecting the same,

2. Any other income which arises in the ordinary course of regular business, e. g., Discounts and Allowances from Creditors, Interest on Bank (Current) Account, Rent from sub-letting part of the premises, etc.

NOTE.— No Capital Profits or Income which has been received less tax should be taken here.

(b) *Debit Side*:—

1. Expenses absolutely necessary for carrying on the business, e. g., Rent, Salaries, Trade expenses, Interest, Printing, Stationery, Postages, Telegrams, Repairs, Fire Insurance Premium, Rates and Taxes, etc.
2. Losses arising in the ordinary course of regular business actually written off. e. g., Bad Debts, Discounts and Allowances, Depreciation, Obsolescence loss, etc.

NOTE.—The following items should not be taken here, *viz.*—Appropriations of Profits (e. g., Interest on Proprietor's or Partner's Capital, Proprietor's or Partner's Salaries or Drawings, Income-tax and Super-tax Amounts transferred to Reserve, Bonus or other Funds, etc.); Capital, Casual or Speculation Losses; Capital Expenditure; Gifts, Charities and presents; and all other Losses and Expenses not incurred in the ordinary course of regular business.

Illustration.—From the Profit and Loss Account of the firm of Bapuji & Perojshaw given below, prepare an adjusted account for income-tax assessment. It is assumed that the full amount of depreciation has been allowed by the Income-tax Officer and that the repairs are to be borne by the firm.

Dr.	<i>Profit and Loss Account.</i>		Cr.
	Rs.		Rs.
To Trade Expenses	... 228	By Gross Profits, as per	
„ Partners' Salaries	... 1,000	Trading Account	... 6,207
„ Rent	... 1,200	„ Interest on Bank (Cur-	
„ Gifts	... 20	rent) Account	... 32
„ Salaries and Wages	... 900	„ Discounts and Allowances.	171
„ Charities	... 100	„ Profit on Sale of Invest-	
„ Printing and Stationery.	81	ments	... 389

Dr.	Rs.	Cr.	Rs.
„ Postages and Telegrams.	139	„ Rent from sub-letting ...	205
„ Interest on Capital ...	721	„ Dividends ...	457
„ Repairs to Buildings ...	570		
„ Loss by Fire (irrecoverable) ...	500		
„ Replacing Machinery parts ...	600		
„ Income-tax ...	100		
„ Fire Insurance Premium.	75		
„ Bad Debts (written off).	219		
„ Discounts and Allowances.	207		
„ Loss on Sale of Investments ...	84		
„ Concert Tickets ...	15		
„ Depreciation ...	381		
„ Net Profits, transferred to Capital Accounts ...	321		
	Rs. 7,461		Rs. 7,461

Dr.	<i>Profit and Loss Account adjusted for Income-tax.</i>		Cr.
	Rs.		Rs.
Trade Expenses ...	228	Gross Profits, as per Trading Account ...	6,207
Rent ...	1,200	Interest on Bank Account ...	32
Salaries and Wages ...	900	Discounts and Allowances ...	171
Printing and Stationery ...	81	Rent from sub-letting ...	205
Postages and Telegrams ...	139		
Repairs to Buildings ...	570		
Fire Insurance Premium ...	75		
Bad Debts ...	219		
Discounts and Allowances ...	207		
Depreciation ...	381		
Balance, being Taxable or Assessable Profits ...	2,615		
	Rs. 6,615		Rs. 6,615

The firm will be assessed on Rs. 2,615 income from business.

II. *By starting with Net Profits.*—

(a) *Credit Side* :—

1. Net Profits transferred to Capital Accounts, as per the business Profit and Loss Account.
2. Expenses and Losses charged to the business Profit and Loss Account, before arriving at the above Net Profits, which expenses therefore reduced the said Net Profits, but which ought not to have been so charged for income-tax purposes, inasmuch as such expenses or losses were either Appropriations of Profits or were not incurred in the ordinary course of regular business, or were of a capital or casual nature (see Note preceding the above illustration.)

(b) *Debit Side* :—

Income or Profit credited to business Profit and Loss Account, before arriving at the above Net Profits, and therefore included in the latter, but which income ought not to have been so credited for income-tax purposes, inasmuch as such income or profit was either received less tax or was not earned in the ordinary course of regular business, or was of a capital nature (see the first Note to para. (23) above.)

Illustration.—Taking for example the same Profit and Loss Account, as given above, the assessable profits by this method would be arrived at as follows :—

Dr.	<i>Profit and Loss Account adjusted for Income-tax.</i>	Cr.	
	Rs.	Rs.	
Dividend	457	Net Profits, as per business Profit and Loss Account ...	321
Profit on the sale of Investments	389	Partners' salaries	1,000
Balance, being taxable or assessable Profits	2,615	Gifts	20
		Charities	100
		Interest on Capital	721
		Loss by fire (irrecoverable) ...	500
		Replacement of machinery parts	600
		Income-tax	100
		Loss on Sale of Investments ..	84
		Concert Tickets	15
	Rs. 3,461		Rs. 3,461

(b) Limited Companies.—

The two methods of preparing accounts for income-tax purposes in Joint Stock Companies are similar to those in the case of firms as stated in (a) above.

Illustration.—The published Profit and Loss Account of the Patel Manufacturing Company, Limited, is given below. The Income-tax Officer allowed only 5 per cent. by way of depreciation of machinery. The company had deducted income-tax before paying the interest to the debenture-holders. Adjust the Profit and Loss Account for the income-tax assessment.

Dr.	<i>Profit and Loss Account.</i>		Cr.
	Rs.		Rs.
To Salaries & Wages ...	2,350	By Gross Profits as per Trading Account ...	35,218
„ Pension (lump sum) to the late Secretary ...	500	„ Profit on re-issue of forfeited shares ...	285
„ Trade Expenses ...	7,237	„ Discounts earned ...	578
„ Preliminary Expenses (balance written off) ...	3,231	„ Dividends ...	1,025
„ Discount and allowances ...	1,009	„ Premium on issue of Shares ...	2,000
„ Interest on Debentures ...	3,500	„ Transfer Fees ...	190
„ Auditors and Directors Fees ...	825	„ Sundry receipts ...	25
„ Fire Insurance Premium ...	329		
„ Loss on Sale of Machinery ...	725		
„ Bad Debts (written off) ...	891		
„ Depreciation of Machinery 7½% ...	1,950		
„ Income-tax ...	821		
„ Subscriptions to Concerts ...	1,000		
„ Reserves for Bad Debts, etc. ...	322		
„ Net Profits ...	14,631		
	Rs. 39,321		Rs. 39,321

(a) By Starting with Gross Profits.—

Dr.	<i>Profit and Loss Account adjusted for Income-tax.</i>		Cr.
	Rs.		Rs.
Salaries and Wages ...	2,350	Gross Profits ...	35,218
Trade Expenses ...	7,237	Discounts earned ...	578
Discounts and allowances ...	1,009	Transfer Fees ...	190
Interest on Debentures ...	3,500	Sundry Receipts ...	25
Directors' and Auditors' Fees	825		
Fire Insurance Premium ...	329		
Bad Debts (written off) ...	891		
Depreciation of Machinery (5%) ...	1,300		
Balance, being Assessable or Taxable Profits ...	18,570		
	Rs. 36,011		Rs. 36,011

(b) By Starting with Net Profits.—

Dr.	<i>Profit and Loss Account adjusted for Income-tax.</i>		Cr.
	Rs.		Rs.
Profits on re-issue of forfeited shares ...	285	Net Profits, as per Profit and Loss Account ...	14,631
Dividends ...	1,025	Pension to late Secretary ...	500
Premium on issue of Shares	2,000	Preliminary Expenses ...	3,231
Balance being Taxable Profits (see above) ...	18,570	Loss on Sale of Machinery ...	725
		Excess Depreciation of Ma- chinery (2½%) ...	650
		Income-tax ...	821
		Subscriptions to Concerts ...	1,000
		Reserves for Bad Debts & Discount ...	322
	Rs 21,880		Rs. 21,880

26. Treatment of Income-tax Account in Joint Stock Companies.

When a company declares dividends on its shares free of income-tax, the whole of the income-tax assessment on the company's profits is borne by the company. If the tax is, however, deducted by the company before the payment of such dividend to the share-holders, the difference between the full amount of tax shown by company's assessment and the amount of tax so deducted from the shareholders, will only have to be suffered by the company and, therefore, charged to its Profit & Loss Appropriation Account.

Illustration:—The Krishnarao Spinning and Weaving Mills Company, Limited, had a paid-up capital of Rs. 11,00,000, divided into an equal number of Ordinary and Preference Shares of Rs. 100 each. The company, whose assessable profits for the year 1935 were Rs. 86,900, had also borrowed Rs. 1,00,000 on 5 per cent. Debenture Bonds of Rs. 100 each, and had declared an annual dividend of 6 per cent. on Preference Shares and 5 per cent. on Ordinary Shares. The above profits had been arrived at after charging interest on debentures. Ascertain the amount of income-tax to be borne by the company and debited to the company's Profit & Loss Appropriation Account.

(a) *Where Dividends are paid "free of Income-tax."*

As the shareholders are given the dividends free of tax, they will not pay any tax on such income so received by them; and the company will, therefore, have to pay the tax on the whole amount of profits of Rs. 86,900 at 26 pies + 1/12 Surcharge in the rupee. The whole amount of the tax of Rs. 12,748-5-9 will therefore be debited to the company's Profit & Loss Appropriation Account.

(b) *Where Dividends are paid "less income-tax."*

Assuming that dividends are declared in the financial year 1936-37 and as the company is going to deduct the tax before paying the dividends, the amount suffered by the company would be the tax on the profits not distributed amongst the shareholders, namely, Rs. 3872-15-0 *i. e.* 26 pies + 1/12 Surcharge in the rupee on Rs. 26,400, as shown below:—

Dr.	<i>Income-tax Account.</i>			Cr.		
	Rs.	a.	p.	Rs.	a.	p.
To Income-tax Office, being the income-tax assessment at 26 pies + 1/12 Surcharge in the rupee on Rs. 86,900	...	12,748	5 0			
				By Preference Share Dividend Account being 26 pies + 1/12 Surcharge in the rupee on Rs. 33,000	...	4,841 2 0
				„ Ordinary Share Dividend Account, etc., on Rs. 27,500	4,034	4 0
				„ Profit and Loss Appropriation Account, etc., on Rs. 26,400	...	3,872 15 0
	Rs.	12,748	5 0		Rs.	12,748 5 0

Note:—*Premium on issue of shares:* This being capital profit is not assessable.

27. Allocation of Partnership Tax in Accounts.

A firm is assessed jointly in the firm-name, and not separately in the name of individual partners constituting such firm. If the firm be a "Registered" one and even if its profits be less than Rs. 2,000, income-tax shall be levied at the maximum rate, namely, 26 pies + 1/12 sur charge in the rupee. If all the partners declare their personal income from all sources, they may be separately assessed and no demand may be made against the firm. The liability of the firm ceases as soon as the partners have paid their individual tax. An "Unregistered" firm is, however, assessed at the graduated rates like an individual person, though jointly as stated above.

The correct apportionment of taxable income of a Registered firm amongst its partners has got two advantages:—(a) It prevents an improper allocation of the burden of the tax amongst the partners, even if no claim for refund be made, and (b) it enables the individual partners to ascertain what refund each partner is entitled to. These advantages may be illustrated thus:—

1 *Where no claim for refund can be made:—*

It must be remembered that the firm's taxable income should not be distributed amongst the partners in the proportions of their sharing of profits and losses, even though the individual partners make no claim for refund or exemption from income-tax. Items like interest on capital, partners' salaries, etc., which are mere appropriations of profits and which are included in the firm's taxable income, should not be shared by the partners in the said proportions, inasmuch as they have no direct relation to the taxable income, but, that they depend more or less on the capitals of individual partners and on the time devoted to the management of the business by individual partners. It is, therefore, necessary for the Firm to make careful adjustment to see that each partner is charged with the proper proportion of the tax applicable to him alone.

For this purpose, interest on capitals, partners' salaries, etc., would be deducted (temporarily) from the taxable income, in order to arrive at the "Divisible" income which would be apportioned amongst the partners, in the proportions in which they share profits and losses. To each partner's share so arrived at would be added his corresponding share of interest on capital, partner's salary, etc. Now, the sum of the shares of partners so arrived at would be exactly equal to the total taxable income of the firm, which has been correctly allocated amongst individual partners.

*Illustration:—*L Sethna, K. Mody, and B. Sanjana, whose business Profit and Loss Account for the year ending 31-3-1936, has been given below, are

trading in partnership, under the style of L. K. B. & Co., Book-sellers and Commission Agents, sharing profits and losses equally. They have put in capital, at Rs. 1,20,000, Rs. 70,000, and Rs. 20,000, respectively, upon which interest is to be credited at 5% per annum. They have also agreed to receive management salaries at Rs. 9,000, Rs. 6,000 and Rs. 3,000, respectively. Ascertain the amounts of tax borne by each of the partners.

Dr.	<i>Profit and Loss Account for the year ending 31-3-1936.</i>		Cr.
	Rs		Rs.
To Trade Expenses ...	28,207	By Gross Profits as per	
„ Interest on Capital:—		Trading Account ...	1,95,217
	Rs.	„ Dividends ...	521
Sethna ...	6,000		
Mody ...	3,500		
Sanjana ...	1,000		
	<hr/> 10,500		
„ Partners' Salaries:—			
Sethna ...	9,000		
Mody ...	6,000		
Sanjana ...	3,000		
	<hr/> 18,000		
„ Charities ...	367		
„ Net Profits ...	1,38,664		
	<hr/> Rs. 1,95,738		<hr/> Rs. 1,95,738

Dr.	<i>Profit and Loss Account adjusted for Income-tax.</i>		Cr.
	Rs.		Rs.
Dividends ...	521	Net Profits (as above) ...	1,38,664
Balance, being Firm's Tax-		Interest on Capital ..	10,500
able Income ...	1,67,010	Partners' Salaries ...	18,000
		Charities ...	367
	<hr/> Rs. 1,67,531		<hr/> Rs. 1,67,531

The firm's taxable income of Rs. 1,67,010 is not divisible amongst the partners equally, because it contains interest on capital and partners' salaries, which are not shared equally but in some different proportion (e. g., in proportion to their capital, etc.) It is, therefore, necessary for the time being to take away from taxable income the partners' salaries and interest on capital,

in order to arrive at the "Divisible" income, which may be apportioned amongst the partners in the proportions in which they share profits and losses.

Firm's taxable income	...	...	Rs. 1,67,010
Less Interest on Capital	...	...	Rs. 10,500
,, Partners' Salaries	...	...	,, 18,000
			28,500
Firm's Divisible Income	...	...	Rs. 1,38,510

Statement allocating Taxable Income amongst the Partners.

Particulars	Total	Sethna	Mody	Sanjana
		Rs.	Rs.	Rs.	Rs.
Divisible Income (as above)	... 1,38,510	46,170	46,170	46,170
Add Partners' Salaries	... 18,000	9,000	6,000	3,000
,, Interest on Capital	... 10,500	6,000	3,500	1,000
Taxable Income (as above)	... 1,67,010	61,170	55,670	50,170

The above statement shows the correct allocation of the taxable income of the firm. When the firm's tax is paid, it should be divided in proportion to each partner's taxable income from the firm as above (*viz.*, 61, 56, 50), and charged to their respective current accounts and not to the Profit and Loss Account.

If the taxable income had been divided equally amongst the partners, the burden of the tax would have been very unjustly allocated and illustrated thus :

Partner	Correct allocation	Divided	Over-	Under-
		equally	taxed	taxed
	Rs.	Rs.	Rs.	Rs.
Sethna	... 61,170	55,670	...	5,500
Mody	... 55,670	55,670	...	...
Sanjana	... 50,170	55,670	5,500	...
	1,67,010	1,67,010	5,500	5,500

The firm would pay the tax of Rs. 24,500-10-0 namely, 26 pies + 1/12 surcharge in the rupee, on Rs. 1,67,010, but the tax should not be debited to the firm's Profit and Loss Account, because each of the partners in that case would suffer Rs. 8,166-14-0. This amount of Rs. 15,657-3-0 should, therefore,

be apportioned over, and debited to the respective capital accounts of the three partners in the proportions of Rs. 61,170, Rs. 55,670 and Rs. 50,170, respectively.

Note.—If the partners are receiving management salaries and interest on capitals in the same proportions in which they share profits and losses (which is not usual) and not out of proportion, as in the above illustration, the taxable income of Rs. 1,67,010 would also be the *Divisible* income, and each of them would then bear the tax on Rs. 55,670, namely, Rs. 8,166-14-0, and there would be no need of preparing the above statement of allocation.

II. Where a claim for refund is made :—

Illustration.—Hirji Dalal, Bapalal Nanavati and Fatehmahomed Merchant are in partnership having interest in the firm as follows :—

Partner	Share	Capital	Interest on capital		Salary
			Rs.	Rs.	
Dalal	$\frac{1}{2}$	10,000	500	300	
Nanavati	$\frac{1}{3}$	10,000	500	100	
Merchant	$\frac{1}{6}$	Nil	Nil	150	
			20,000	1,000	550

The partners have no other sources of income except this business, the Profit and Loss Account whereof is given below. Ascertain the taxable income of the firm and the amount of tax borne by each partner.

Dr.		Profit and Loss Account for the year ending 31-3-1936.		Cr.	
	Rs.		Rs.		Rs.
To Office Expenses	965	By Gross Profits, as per Trading Accounts	7,852		
„ Salaries and Wages	785	„ Bad Debts Dividends	62		
„ Rent	900	„ Discounts	72		
„ Interest on Capital	1,000	„ Profit on Sale of Investments	50		
„ Partners' Salaries	550	„ Bank Interest	17		
„ Fire Insurance Premium.	29				
„ Income-tax	79				
„ Net Profits, transferred to Capital Accounts	3,745				
	<u>Rs. 8,053</u>				<u>Rs. 8,053</u>

Dr.	<i>Profit and Loss Account adjusted for Income-tax.</i>			Cr.
	Rs.			Rs.
Profit on Sale of Investments.	50	Net Profits (as above)	...	3,745
Firm's taxable income	... 5,324	Interest on Capital	...	1,000
		Partners' Salaries	...	550
		Income-tax	...	79
	<hr/> Rs. 5,374 <hr/>			<hr/> Rs. 5,374 <hr/>
Taxable Income	...		...	Rs. 5,324
Less Interest on Capital	...		Rs. 1,000	
„ Partners' Salaries	...		„ 550	
			<hr/> 1,550 <hr/>	
		Divisible Income	...	Rs. 3,774 <hr/>

Statement allocating Taxable Income amongst the Partners.

Particulars	Dalal	Nanavati	Merchant	Total
	Rs.	Rs.	Rs.	Rs.
Divisible income (as above)	... 1,887	1,258	629	3,774
Add Interest on Capital	... 500	500	Nil	1,000
„ Partners' Salaries	... 300	100	150	550
Taxable Income (as above)	... 2,687	1,858	779	5,324 <hr/>

(a) *Registered Firm.*—

The tax paid by the firm would amount to Rs. 781-0-0 (namely 26 pies + 1/12 Surcharge in the rupee, on Rs. 5,324.) This amount of tax would be debited to the current accounts of the partners in the proportions of Rs. 2,687, Rs. 1,858, and Rs. 779, respectively.

(1) As Dalal's income from all sources, namely, Rs. 2,687, exceeds Rs. 2,000 but is less than Rs. 5,000, he ought to have been assessed at 6 pies + 1/12 Surcharge in the rupee on Rs. 2,687. In the firm, however, he has been assessed on this amount at 26 + 1/12 Surcharge pies in the rupees, therefore he can claim a refund at the rate of 20 pies + 1/12 Surcharge in the rupee on Rs. 2,687.

(2) Nanavati's income from all sources is less than Rs. 2,000. He is, therefore, totally exempted from the tax. As he has already paid, through the firm, a tax of Rs. 272-10-0 he will claim the whole sum back.

(3) Merchant's income from all sources is also less than Rs. 2,000, therefore, he is totally exempted from income-tax. As he has already paid, through the firm, a tax of Rs. 114-5-0, namely, 26 pies + 1/12 surcharge in the rupee on Rs. 779, he will claim a refund of the whole of it.

Statement showing net tax payable.

Partner	Firm's tax paid			Refund claimed			Net Tax payable				
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.		
Dalal	394	1	0	303	1	0	91	0	0
Nanavati	272	10	0	272	10	0	Nil		
Merchant	114	5	0	114	5	0	Nil		
			781	0	0	690	0	0	91	0	0

If the three partners put in their individual returns along with the firm's return, they would be taxed in the first instance on their respective income, at the rates applicable to the total income of each of them. No refund will, then be necessary. The firm's liability to pay the tax will, however, remain until all the partners pay off their tax.

(b) Unregistered Firm:—

The firm will be jointly assessed on Rs. 5,324 at 9 pies + 1/12 surcharge in the rupee, and no individual partner thereof could claim any refund, which relief is only allowed to the partners of a Registered firm.

The firm's tax of Rs. 270-6-0 will be borne by the three partners, and debited to their current accounts, in the proportions of Rs. 2,687, Rs. 1,858, and Rs. 779.

*Illustration:—*The firm of Messrs. Cox & Co. consists of 3 partners A. B & C. The partners share Profits and Losses in equal proportions. The firm of Cox & Co. is registered for the year 1936-37.

The assessable income from the firm of Cox & Co. is fixed for Rs. 30,000. The partners have also got Profits and incurred Losses for the year ended 31st March 1936 as under:—

- (a) A has suffered loss in Cotton Business of Rs. 5,000. He is also a sharer of half profit in another registered firm of M. & Co. whose income is settled for the year 1936-37 at Rs. 9,000. He has got property income of Rs. 2,000/—.
- (b) B has got Dividend Income for the year ended 31st March 1936 taxed at source Rs. 2,000. Income from Tax Free Securities Rs. 1,000. B occupies property at Warden Road which belongs to him and the Municipal ratable value of which is Rs. 8,000.

- (c) C has sustained his half share of loss in an unregistered firm of F & Co. of Rs. 6,000. He gets ground rent of Rs. 1,200 per annum, pays Life Insurance Premium Rs. 400 annually. Find out the assessable income of A, B & C for the year 1936-37.

The firm of Messrs. Cox & Co., has earned a profit of Rs. 30,000. As registration has been accorded to the firm, income will have to be assessed at the maximum rate *i. e.* at 26 pies + $\frac{1}{12}$ surcharge, allowing the partners a right to claim refund if the rate of tax applicable to their total income is lower than 26 pies + $\frac{1}{12}$ th surcharge. Each of the partners A, B & C share the profits equally and as such the share of income of each comes to Rs. 10,000 which is taxed at the maximum rate. The total income of each of the partners is ascertained as under:—

Statement of A.

(a) $\frac{1}{3}$ rd Share of profit from the registered firm of Messrs. Cox & Co.	Rs. 10,000	taxed at 26 pies + $\frac{1}{12}$ surcharge.
$\frac{1}{2}$ share of Profits from the registered firm of Messrs. M. & Co. ...	4,500	taxed at 26 pies + $\frac{1}{12}$ surcharge.
	14,500	
Less Loss in Cotton Business ...	5,000	
Income from Business ...	9,500	
Income from property ...	2,000	
	11,500	
Total income ...	11,500	

Taxable at 12 pies + $\frac{1}{12}$ surcharge in the rupee. Tax paid at source on the share of income Rs. 14,500 from the registered firm of Messrs. Cox & Co., and Messrs. M. & Co., will be set off against tax due, and the excess of tax paid will be refunded.

Statement of B.

(b) $\frac{1}{3}$ rd share of income from the registered firm of Messrs. Cox & Co.	Rs. 10,000	taxed at 26 pies + $\frac{1}{12}$ surcharge.
Income from dividend (gross) ...	2,000	taxed @ 26 pies + $\frac{1}{6}$ surcharge.
Interest on Tax Free Securities ...	1,000	
	13,000	
Add income from property self occupied ($\frac{1}{10}$ of $\frac{12}{11}$ of Rs. 13,000— $\frac{1}{6}$ for repairs ...)	1,182	
	14,182	
Total Income ...	14,182	
Less interest on tax free Securities ...	Rs. 1,000	
	13,182	
Taxable income ...	13,182	

Taxable at 12 pies + 1/12 surcharge in the rupee on Rs. 11,182 and at 12 pies + 1/6 surcharge on Rs 2,000. Tax paid at source at the maximum rate on the share of income from the registered firm and dividend will be set off and excess of tax paid will be refunded.

Statement of C.

(c) 1/3 Share of income from the registered firm of Messrs. Cox & Co.		Rs. 10,000	taxed @ 26 pies + 1/12 surcharge
Less 1/2 share of loss in an un-registered firm of Messrs. F. & Co.		Rs. 6,000	
Income from business		,, 4,000	
Other sources:—Ground rent		,, 1,200	
Total income		,, 5,200	
Less 1/6 for Life Assurance premia actual Rs. 4,000		,, 866	
Taxable income		,, 4,334	

Taxable at 9 pies + 1/12 surcharge on Rs. 4,334. Tax paid on Rs. 10,000 (share of income from the registered firm of Messrs Cox & Co.) at the maximum rate will be given a set off and the excess refunded.

Notes:—(1) In actual practice no demand of tax at the maximum rate is levied against the registered firm on the total income but the share of income of each of the partners is assessed to tax in their hands.

(2) Rate of tax applicable to income from dividend, interest on securities and salary is the rate ruling on the day when such dividends are declared and such interest on securities and salary received.



CHAPTER VI.

PROFESSIONAL EARNINGS.



1. Assessable Profits.

The tax under this head shall be payable by an Assessee on the excess of current income over current expenditure, in any profession or vocation followed by him.

The expenditure stated above must be of a revenue nature and incurred solely for the purposes of the profession. The income stated above shall also include Professional Fees paid in any part of India to a person ordinarily resident in British India.

Replacement of dental and surgical instruments is allowed as an expense, in lieu of depreciation thereon.

The remarks concerning the returns by Assessee, Assessment, Inspection of Books, Notice of Demand, Rectification of Errors, Appeal against Assessment, etc., as mentioned in Chapter V, also apply here.

2. Preparation of Accounts.

Illustration.—A. B. Govind, Practising Accountant, has prepared his Income and Expenditure Account, for the year ending 31st March 1936, as shown below. Prepare an adjusted account to show his assessable income for income-tax assessment, and find out the amount of his income-tax. He is a part-time lecturer at a Government College and an examiner to the University, and also owns private Accountancy Classes.

Section 11.—Depreciation shall be allowed in accordance with the rates prescribed in the statement attached to Rule 8, to persons deriving income from profession in respect of buildings *owned* by an assessee and *used solely* for his profession; and in respect of machinery, apparatus, appliances, plant furniture or other capital assets, being the property of the assessee and used for the purposes of profession in like manner and to the same extent as in the case of business. Depreciation shall be allowed at the rate of 5% per annum on the prime cost of capital assets not covered by the statement attached to Rule 8.

For obtaining an allowance for depreciation, the assessee shall furnish particulars to the Income-tax Officer in the form included in Rule 9.

Income and Expenditure Account for the year ending 31st March 1936.

Dr.	Rs.	Cr.	Rs.
To Office Expenses ...	2,735	By Audit Fees ...	5,700
„ Class „ ...	837	„ Income from Legal	
„ Personal „ ...	6,205	Accountancy Jobs ...	3,806
„ Income-tax ...	283	„ Dividends ...	348
„ Subscriptions to War		„ Private Class Fees ...	2,700
Fund and Concerts ...	500	„ College Salary (less tax at	
„ Life Insurance Premium.	750	6 pies + $\frac{1}{6}$ surcharge).	4,650
„ Compulsory Subscription		„ Honorarium as Examiner.	1,750
to various Accountants'		„ Bank Interest ...	124
Societies ...	85	„ Profit on Sale of Invest-	
„ Subscriptions and Dona-		ments ...	150
tions to Accountants'		„ Rent from sub-tenant ...	600
Benevolent Fund ...	100	„ Present from students...	1,000
„ Net Income ...	9,333		
	Rs. 20,828		Rs. 20,828

Dr.	<i>(a) Income and Expenditure Account adjusted for Income-tax.</i>		Cr.
	Rs.		Rs.
Dividends ...	348	Net Income (as above) ...	9,333
College Salary (less tax) ...	4,650	Personal Expenses ...	6,205
Profit on Sale of Investments	150	Income-tax ...	283
Present from students ...	1,000	Subscriptions to War Fund	
Taxable income ...	11,023	and concerts ...	500
		Subscriptions and Donations	
		to Accountants' Benevo-	
		lent Fund ...	100
		Life Insurance Premium ...	750
	Rs. 17,171		Rs. 17,171

Dr.	<i>(b) Income and Expenditure Account adjusted for Income-tax.</i>		Cr.
	Rs.		Rs.
Office expenses ...	2,735	Audit Fees ...	5,700
Class „ ...	837	Income from Legal Accoun-	
Compulsory subscriptions to		tancy Jobs ...	3,806
various Accountants'		Private Class Fees ...	2,700
Societies ...	85	Honorarium as Examiner ...	1,750
Taxable income ...	11,023	Bank Interest ...	124
		Rent from subtenant ...	600
	Rs. 14,680		Rs. 14,680

Though Govind will pay the income-tax on Rs. 10,273, in order to fix the rate of tax thereon, his income from other sources already taxed must also be aggregated, as follows :—

(a) Income already taxed :—(Gross).

1. Dividend from Investments (taxed at 26 pies + 1/6 Surcharge)	...	413	
2. College Salary (taxed at 6 pies + 1/6 Surcharge)	...	4,826	
			5,239

(b) Income not taxed (as above) 11,023

Total income Rs. 16,262

Rate applicable is 16 pies + 1/12 Surcharge on income from profession and 16 pies + 1/6 Surcharge on income from Salary and Dividend.

(c) Net Taxable Income :—

Income as per (b)	...	11,023	
Less Insurance Premium paid	...	750	
			Rs. 10,273

As Govind's total income is less than Rs. 20,000 and more than Rs. 15,000 his income from profession should be taxed at 16 pies + 1/12 surcharge in the rupee. His dividends have, however, been taxed at 26 pies + 1/6 surcharge in the rupee; he can, therefore, claim a refund of 10 pies + 1/6 surcharge in the rupee on Rs. 413. But his salary has been taxed at 6 pies + 1/6 surcharge in the rupee, and he will, therefore, have to pay a further tax of 10 pies + 1/6 surcharge in the rupee on Rs 4,826. The total net amount of tax payable by him is Rs. 1,195-9-0 as shown below :—

	Rs.	Rs.	a.	p.
Tax of 16 pies + 1/12 surcharge in the rupee on	10,273	927	6	0
„ 10 „ + 1/6 surcharge „ „	4,826	293	4	0
		1,220	10	0
Less Refund of 10 pies + 1/6 surcharge in the rupee on	413	25	1	0
Net tax payable ...		1,195	9	0

ASSESSMENT FORM.

Assessment for 1936-1937.

DISTRICT OR AREA—BOMBAY.

Name of Assessee—A. B. Govind.

Number in General Index—109

Address: Lamington Villa, Lamington Road, Bombay. } Number of miscellaneous record—124

Serial No.	Detailed sources of income	Amount of Income	Tax deducted at source		Remarks
			Rs.	a.	
1	Salary	4,826	176	0	
2	Interest on Securities ... ..	...	...	...
3	Property ... ..	...	...	...
4	Business ... ..	...	...	...
5	Profession	11,023	...	...
6	Other sources ... ..	...	...	...
7	Dividends (348 net)	413	65	0	

(i) Total income	Rs.	a.	Rs.	a.
(ii) Deduction on account of provident fund, insurance premia, etc.	750	0	16,262	0
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax	413	0		
(iv) Deduct amount of interest from tax-free securities of the Government of India or of a local Government ... ..	...	...	1,163	0
(v) Income now to be taxed ... ..	...	...	15,099	0
(vi) Rate applicable 16 pies per rupee ... ..	...	...		..
(vii) Amount of tax ... ..	...	...	1,258	4
Surcharge at $\frac{1}{6}$ on Rs. 4,826 ... ..	...	...	67	1
" " $\frac{1}{12}$ " 10,273 ... ..	...	...	71	5
			1,396	10

	Rs.	a.	Rs.	a.
(viii) Deduction under section 17 ... ..	...	...
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5)	176	0		
(x) Abatement on account of dividends (at 10 pies + $\frac{1}{6}$ surcharge per rupee) on Rs. 413	25	1		
(xi) Abatement on account of income from a registered firm (at ... pies per rupee) ... ..	...	...	201	1
(xii) Net amount of tax			1,195	9
(xiii) Penalty under section 28 or section 25 (2) ... ..			..	...
(xiv) Total sum payable (in figures as well as in words) Rupees one thousand one hundred and ninety-five annas nine only.			1,195	9

C. D. E.,

Income-tax Office

Dated 21st June 1936.

CHAPTER VII.

MISCELLANEOUS.

1. Income from other Sources.

Income and profits of every kind and from every source to which this Act applies (other than those included in the preceding five Chapters), except agricultural income, shall be taxable under this head, *e. g.* interest on mortgage, loan, etc.; interest on banking accounts; income accrued outside, but received in British India; profit on other transactions; directors' fees, etc.; ground rent, etc.

Such income or profits shall be computed after making allowance for any expenditure or loss (not of a capital nature) incurred solely for the purpose of earning such income, provided that no allowance shall be made on account of any personal expenses or drawings of the Assessee.

2. Taxable Income.

The aggregate amount of an Assessee's income from all sources chargeable under the above para. 1 and chargeable under the preceding five Chapters shall be the "Taxable Income" of such Assessee, subject to the following deductions:—

(a) Any income which the Assessee enjoys as a member of a company, or of a firm, or of an undivided Hindu family, where the company, firm or the family has been already assessed.

(b) Any sum paid by the Assessee to effect an insurance on his own life or on that of his wife, or as a contribution to any Provident Fund (to which the Provident Funds Act, 1897, applies,) not exceeding in all one-sixth of the income chargeable to tax. A claim for such deduction or exemption must be made within one year from the last day of the year in which the tax was recovered and must be supported by premium receipt (either original or duplicate) or such other proof as the Income-Tax Officer may deem sufficient. This deduction will be made after the taxable income has been ascertained and the rate of tax fixed thereon. No such deduction is allowed for Super Tax.

In determining the rate at which the tax is to be charged, gross income from all sources, whether taxed at source or not, except share from joint family income, should be aggregated.

*Illustration:—*Ascertain the taxable income of Dr. M. N. Navsarivalla, of 103, Cumballa Hill, from the particulars of his income given in the illustration in Chapter V, para 4 (c)

Statement for Income-tax Assessment.

(a) *Income already taxed or not to be taxed:—*

Source of income	Rate	Net income received			Tax deducted at source			Gross income
		Rs.	Rs.	a. p.	Rs.	a. p.	Rs.	
1. Salary as Secretary Taxed at 6 pies + 1/6 Surcharge	350	4,046	14	0	153	2	0	4,200
2. Bombay Bank Shares Taxed at 26 pies + 1/6 Surcharge	15%	1,125	0	0	211	1	0	1,336
3. Merchant Manufacturing Co. Shares Taxed at 26 pies + 1/6 Surcharge	6%	505	3	0	94	13	0	600
4. War Loan Tax at 26 pies + 1/6 Surcharge	5%	1,000	0	0	Nil			1,000
5. Government Loan Taxed at 26 pies + 1/6 Surcharge	3½%	294	12	0	55	4	0	350
6. Islam Mill Debentures Taxed at 26 pies + 1/6 Surcharge	6%	202	2	0	37	14	0	240
7. Share in Merwanji & Bili-moria Taxed at 26 pies + 1/12 Surcharge	¾rd	4,095	13	0	704	3	0	4,800
		<u>11,269</u>	<u>12</u>	<u>0</u>	<u>1,256</u>	<u>5</u>	<u>0</u>	<u>12,526</u>

(b) *Income to be taxed or taxable income:*

	Rs.
1. Income from medical practice	817
2. Interest from 7½ per cent. Mortgage Loan	375
3. Income from property	3,218
4. Dividends of Diamond shares	56
5. Income from joint venture	900
6. Director's fee	180
7. Ground rent	41
	<u>5,587</u>
Total income at 16 pies + 1/12 Surcharge	<u>Rs. 18,113</u>

(c) *Net taxable income:—*

			Rs.	Rs.
Income as per (b)	...	...	...	5,587
Less Life Insurance Premium	...	...	795	
Subscriptions to Provident Fund	...	...	350	
			1,145	
				Rs. 4,442

As the Assessee's income from all sources, *viz.*, Rs 18,113, is more than Rs. 10,000, but less than Rs. 20,000, he ought to pay the tax at 16 pies + 1/12 surcharge in the rupee on his net taxable income. He has, however, paid the tax on Rs. 11,526 at various rates from 6 pies + 1/6 surcharge to 26 pies + 1/6 surcharge in the rupee. If he has paid the tax on certain income at less than 16 pies, + 1/6 surcharge he will have to pay the balance now. If, on the other hand, he has paid on some income at more than 16 pies + 1/6 surcharge, he can claim a refund of the excess, tax paid. He will also have to pay the tax on his taxable income of Rs. 4,442 at 16 pies + 1/12 surcharge in the rupee.

Statement showing the Tax payable and recoverable.

Sources	In- come	Rate pies per rupee	Tax payable	Tax recoverable
	Rs.		Rs. a. p.	Rs. a. p.
(a) <i>Taxable income as shown above</i> ...	4,442	16 + 1/12 s. c.	401 1 0	Nil
1. Salary as Secretary.	4,200	10 + 1/6 s. c.	255 3 0	...
2. Share in the Registered Firm of Merwanji and Bilimoria.	4,800	10 + 1/12 s. c.	Nil	270 13 0
3. Merchant Manufacturing Co. shares ...	600	10 + 1/6 s. c.	Nil	36 7 0
4. Interest from Government Loan ...	350	10 + 1/6 s. c.	Nil	21 5 0
5. Debenture interest.	240	10 + 1/6 s. c.	Nil	14 9 0
6. Bombay Bank shares.	1,336	10 + 1/6 s. c.	Nil	81 3 0
			656 4 0	424 5 0

Thus, he would have to pay tax of Rs. 231 15 0

ASSESSMENT FORM.

Assessment for 1936-1937.

DISTRICT OR AREA, BOMBAY.

Name of Assesse—Dr. M. N. Navsari- } Number in General Index—385
 valla. }
 Address: 103, Cumballa Hill, Bombay } Number of miscellaneous record—302

Serial No.	Detailed source of income	Amount of income	Tax deducted at source	Remarks
		Rs.	Rs. a.	
1	Salary	4,200	153 2	
2	Interest on Securities	590	93 2	
	Do. do. (F. of T.)	1,000	...	
3	Property	3,218	...	
4	Business	4,800	704 3	
5	Profession	817	...	
6	Other Sources (375+41+180+ 900+56)	1,552	...	
	Dividends	1,936	305 14	
	{ (1,125 + 3/29ths.) + 600 } ...			

(i) Total income	Rs. a.	18,113 0
(ii) Deduction on account of provident fund, insurance premia etc.	1,145 0	
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax	4,800 0 1,936 0	
(iv) Deduct amount of interest from tax-free securities of the Government of India or of a local Government	1,000 0	8,881 0
(v) Income now to be taxed		9,232 0
(vi) Rate applicable 16 pies per rupee.		
(vii) Amount of tax		769 5
1/6 surcharge on Rs. 4,790	66 8	
1/6 " " " 4,442	30 13	97 5
		866 10

	Rs.	a.	Rs.	a.
(viii) Deduction under section 17	...	...
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5)	153	2		
	93	2		
(x) Abatement on account of dividends (at 6 pies + 1/6 surcharge per rupee) on Rs. 1,936	117	10		
(xi) Abatement on account of income from a registered firm (at 10 pies + 1/12 surcharge per rupee) on Rs. 4,800	270	13	634	11
(xii) Net amount of refund			231	15
(xiii) Penalty under section 28 or section 25 (2)			...	
(xiv) Total sum payable (in figures as well as in words) Rupees Two hundred and thirty one and annas fifteen only.			231	15

D. E. F.,

Income-tax Officer.

Dated 21st June 1926.

3. Tax to be calculated to nearest anna.

In calculating the amount of tax or refund payable, the amount due on a fraction of an anna less than six pies shall be ignored, while the fraction equal to or more than six pies shall be regarded as one anna.

4. Reduction of Tax, when margin above a certain limit is small.

Where owing to the fact that the total income of any person has reached or exceeded a certain limit he is liable to pay income-tax or to pay income-tax at a higher rate, the amount of income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely :—

- (a) the amount which would have been payable if his total income had been a sum less by one rupee than that limit, and
- (b) the amount by which his total income exceeds that sum.

Illustrations: (1) A's assessable income for 1936-37 is Rs. 10,050. In absence of the above clause (section 17 of the Act), he would have had to pay Rs. 680-8 *viz.*, 12 pies + 1/12 surcharge in the rupee on Rs. 10,050. But now he will have to pay Rs. 558-12 only (*viz.*, a + b above), as shown below :—

- (a) Rs. 507 12 0 *viz.*, 9 pies + 1/12 surcharge in the rupee on Rs. 9,999
(one rupee less than Rs. 10,000.)
- (b) „ 51 0 0 *viz.*, Rs. 10,050 less Rs. 9,999.
- Rs. 558 12 0

(2) B's Income for the year ending 31-3-1936 from..

(a) Business Rs. 5,010, with Life Insurance Premium of Rs. 100.

OR

				Rs.	Rs.
(b)	Property	...	...	4,910	
	Interest on Tax Free Securities	...	...	100	5,010

OR

(c)	Profession	...	...	4,910	
	Share in Unregistered Firm (taxed to I.T.)	...	...	100	5,010

In either of the above three cases, the tax payable is Rs. 176-14-0 as follows:—

			Rs.	a.	p.
On Rs. 4,899 (i.e. 4,999-100) @ 6 pies + 1/12 surcharge			165	14	0
Add Rs. 11 (i.e. 5,010-4,999)	...	...	11	0	0
			176	14	0

(3) C's Income for 1936-37 assessment is from:—

				Rs.	Rs.
(a)	Business	...	...	4,910	
	Gross Dividends	...	...	100	5,010

OR

(b)	Profession	...	...	4,910	
	Gross Interest on Securities (taxed at source)	...	...	100	5,010

OR

(c)	Property	...	...	4,910	
	Share in Registered Firm (taxed To I. T.)	...	...	100	5,010

In either of the a and b cases, C will have to pay Rs. 164-11 as follows:—

			Rs.	a.	p.	Rs.	a.	p.
On Rs. 4,899, at 6 pies + 1/12 surcharge	...	...	165	14	0			
" " 100 " " " + 1/6 s.c.	...	...	3	10	0			
Add Rs. 11 (i.e. 5,010—4,999)	...	...				169	8	0
						11	0	0
						180	8	0
Less 26 pies + 1/6 surcharge on Rs. 100	...	...				15	13	0
						164	11	0

In the case of C, C will have to pay Rs. 165-9 as follows:—

			Rs.	a.	p.
On Rs. 4,999 @ 6 pies + 1/12 surcharge per rupee	...	...	169	4	0
Add Rs. 11 (i.e. Rs. 5,010-4,999)	...	...	11	0	0
			<hr/>		
			180	4	0
Less 26 pies + 1/12 surcharge on Rs. 100	...	...	14	11	0
			<hr/>		
			165	9	0

(4) D has got income for 1936-37 assessment year from business Rs. 896 and from Tax Free Securities Rs. 1,152. He pays Life Insurance Premium of Rs. 121. He will have to pay a tax of Rs. 26-4-0 no relief being admissible to him under sec. 17 of the Indian I. T. Act, 1922.

			Rs.
Interest on T. F. Securities	...	...	1,152
Business	...	...	896
			<hr/>
		Total	2,048
			Rs.
Less Insurance	...	121	
T. F. Interest	...	1,152	1,273
			<hr/>
			775
			<hr/>
			Income taxable at 6 pies + 1/12 surcharge
			775
			<hr/>
			Tax at 6 pies + 1/12 surcharge is equal to Rs. 26-4

(5) E has for the year ending 31-3-1936 business income of Rs. 2,935 and pays Life Insurance Premium of Rs. 200. His income from T. F. Securities is Rs. 2,075. He will pay Income-Tax of Rs. 103-4-0 thus:—

			Rs.
Business	...	...	2,935
Tax Free Securities Interest	...	...	2,075
			<hr/>
		Total	5,010
			<hr/>
			Rs. a. p.
On Rs. 2,724, e. i. 4,999-(2,075 × 200)			
@ 6 pies + 1/12 surcharge	...	...	92 4 0
Add Rs. 11 (i. e. 5,010-4,999)	...	...	11 0 0
			<hr/>
			103 4 0
			<hr/>

(6) F is a property owner, with an annual net income of Rs. 896/- from that source. His business yielded a net profit of Rs. 1,152/- making his total income 1936-37 assessment year of Rs. 2,048/-. He pays insurance premium

on his life @ Rs. 121 per annum. He will pay a tax of Rs. 44-14 as follows:—

	Rs.	a.	p.
Income under sec. 17 (i. e. 2,048—1,999	...	49	0 0
Less 6 pies + 1/12 surcharge on Rs. 121	...	4	2 0
		<u>44</u>	<u>14 0</u>

His assessment form will be written up thus:—

ASSESSMENT FORM

Assessment for 1936-1937

DISTRICT OR AREA—BOMBAY

Name of Assessee: F.

Number in General Index—39

Address: 35, Kalbadevi }
Road, Bombay. }

Number of miscellaneous record—41

Serial No.	Detailed sources of income	Amount of income	Tax deducted at source	Remarks
		Rs.	Rs. a.	
1				
2				
3	Property	896		
4	Business	1,152		
5				
6				

(i) Total income	...	...	Rs	a.	2,048	0
(ii) Deduction on account of provident fund, insurance premia, etc.	...	...	Rs.	a.	121	0
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax	...	...		
(vi) Deduct amount of interest from tax-free securities of the Government of India or of a Local Government.	...	...		
					<u>121</u>	<u>0</u>

			Rs.	a.
(v) Income now to be taxed	...	...	1,927	0
(vi) Rate applicable	6 pies per rupee...	...		
(vii) Amount of tax	...	...	60	4
1/12 surcharge	...	...	5	0
			65	4
(viii) Deduction under section 17	...	...	Rs. 20	a. 6
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5)	...	...
(x) Abatement on account of dividends (at— —pies per rupee)	...	...
(xi) Abatement on account of income from a registered firm (at— —pies per rupee)	...	...
			20	6
(xii) Net amount of tax	...	...	44	14
(xiii) Penalty under section 28 or section 25 (2)	...	...
(xiv) Total sum payable (in figures as well as in words). Rupees Forty-four and annas Fourteen.			44	14

Dated 21st June 1936.

X. Y. Z.,
Income-tax Officer.

Note:—On Rs, 2,048 @ rate= (2,048-1,999) =49-0-0
 Less 6 pies + 1/12 surcharge on Rs. 121 4-2-0
Rs. 44-14-0

(7) G's income is as follows : He pays a Life Insurance Premium of Rs. 200.

Business	...	...	Rs. 2,075
Property	...	...	2,935
			<u>5,010</u>

He will have to pay a tax of Rs. 173-8 as follows:—

On Rs. 4,799/- (i. e. 4,999-200)			
@ 6 pies + 1/12 surcharge	...	...	Rs. 162-8
Add Rs. 11 (i. e. 5010-4,999)	...	...	11-0
			<u>Rs. 173-8</u>

Note:—

In absence of section 17, G would have had to pay Rs. 244-5-0, i. e. on Rs. 4,810 (i. e. 5,010-200) @ 9 pies + 1/12 surcharge.

N

ASSESSMENT FORM

Assessment for 1936-1937

DISTRICT OR AREA—BOMBAY.

Name of Assessee. G.

Number in general Index—325

Address : 25, Girgaum }
Road, Bombay. }

Number of miscellaneous record—389

Serial No.	Detailed sources of income.	Amount of income.	Tax deducted at source.	REMARKS.
		Rs.	Rs. a.	
1				
2				
3	Property	2,935		
4	Business	2,075		
5				
6				

(i) Total income	...	...	...	Rs.	a.	5,010	a.	0
(ii) Deduct on account of provident fund, insurance premia, etc.	...	...	...	200	0			
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax	...	...	...		
(vi) Deduct amount of interest from tax-free securities of the Government of India or of a local Government.						200		0
(v) Income now to be taxed	...	...	...			4,810		0
(vii) Rate applicable nine pies per rupee.						225		8
(vii) Amount of tax	...	...	...			18		13
1/12 surcharge	...	...	...			244		5
(viii) Deduction under section 17	...	...	...	Rs.	a.	70	13	
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5)	...	...	...		
(x) Abatement on account of dividends (at _____ pies per rupee)	...	...	...		
(xi) Abatement on account of income from a registered firm (at _____ pies per rupee)	...	...	...			70		13

(xii) Net amount of tax	...	...	Rs.	a.
(xiii) Penalty under section 28 or section 25 (2)	...	...	173	8
(xiv) Total sum payable (in figures as well as in words). Rupees One Hundred & Seventy-three and annas Eight only.			173	8

A. B. C.

Dated 21st June 1936.

Income-tax Officer.

Note:—On Rs. 4,799 (*i. e.* 4,999–200) @ 6 pies + 1/12 Surcharge = 162 8
 Add Rs. 11 (*i. e.* 5,010–4,999) 11 0
 Rs. 173 8

5. Appearance by authorised representative.

Any Assessee, who is entitled or required to attend before any Income-Tax Official in connection with any proceedings under this Act, may attend either in person or by any person authorized by him in writing in this behalf.

6. Place of Assessment.

Where an Assessee carries on business profession at any one place, he shall be assessed by the Income-Tax Officer of the area in which that place is situate or, where the business or profession is carried on in more places than one, by the Income-Tax Officer of the area in which his principal place of business is situate.

In other cases, the Assessee will be assessed by the Income-tax Officer of the area in which he resides.

7. Insurance Companies.

(a) *Rules for determining Taxable Income.*

(1) *Life Assurance and Annuity Business:*—The taxable income of insurance companies carrying on Life Assurance or Annuity business shall be determined by taking the annual average of the total profits disclosed by the last preceding actuarial valuation.

Provided that any deductions made from the Gross Income, in arriving at the actuarial valuation, which are not admissible for the purpose of income-tax assessment and any Indian income-tax deducted from or paid on income derived from investments before such income is received, shall be added to the net profits disclosed by the valuation.

If the tax deducted at source from interest on investments of such companies exceeds the tax on profits thus calculated, a refund may, as a concession be permitted of the amount by which the deduction from interest on investments exceeds the tax payable on profits.

(2) *Fire Marine, etc., Business.*—In determining the taxable income of insurance companies carrying on other classes of insurance business, such as Fire, Marine, Personal Accident, Employer's Liability, Fidelity Guarantee, Burglary, Third Party, etc., the taxable income shall be determined by annual calculation of profits, but the amounts actually credited by any such insurance company in the ordinary accounts of its business for the previous year to any fund established for the sole purpose of forming a reserve to meet outstanding or unexpired liabilities to policy-holders (including therein risk of exceptional losses) shall be treated as expenditure incurred solely for the purpose of earning the profits of the business in that year.

(3) *Any kind of insurance business:*—Any amount either written off in the accounts or through the Actuarial Valuation Balance Sheet to meet depreciation of, or loss on, securities or other assets, or which is carried to a reserve fund formed for that sole purpose and not used for any other purpose, may be treated as expenditure incurred solely for the purpose of earning the profits of the business. Any sums taken credit for in the accounts or Actuarial Valuation Balance Sheet on account of appreciation of or gains on the securities or other assets shall be deemed to be income chargeable to tax subject always to deduction of such portion thereof as has been otherwise taken into account in calculating the income, profits or gains.

(4) *Indian Branches of Non-Resident Insurance Companies:*—The total income of the Indian branches of non-resident insurance companies (Life, Marine, Fire, Accident, Burglary, Fidelity, Guarantee, etc.), in the absence of more reliable data, may be deemed to be the proportion of the total income, profits or gains of the companies, corresponding to the proportion which their Indian premium income bears to their total premium income.

(b) *Actual Assessment.*

The above rules relate merely to the determination of taxable income from different classes of insurance business. The actual assessment, however, of an insurance company carrying on more than one class of business should be determined as to its rate and amount by its aggregate taxable income from all classes of business which it carries on.

8. Assessment on Owners and Charterers of Tramp steamers, etc.

The provisions of this clause shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and

recovery of tax in the case of any person who resides out of British India and carries on Business in British India in any year as the owner or charterer of a ship (such person hereinafter in this chapter being referred to as the principal), unless the Income-Tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

Before the departure from any port in British India of any ship in respect of which the provisions of this chapter apply, the master of the ship shall prepare and furnish to the Income-Tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at the port since the last arrival of the ship thereat.

On receipt of the return, the Income-tax Officer will assess the amount referred in sub-section (1), and for this purpose may call for such accounts or documents as he may require, and one-twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon, at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port clearance shall not be granted to the ship until the Custom's Collector or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

Nothing in this chapter shall be deemed to prevent a principal from claiming, in any year following that in which any payment has been made on his behalf under this chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him, shall be paid by him or refunded to him as the case may be.

Illustrations :—

INCOME-TAX FORM, 1936-37.

1. Name of vessel : S. S. "Miyamaru."
2. Name of owners (or charterers) : A. B. C. & Co., Finland.
3. Name of Agent in Bombay (if any) : Messrs. Niyogami, Ltd.
4. Number of passengers shipped in Bombay : Nil.

5. Quantity of live stock shipped in Bombay : Nil.
6. Tonnage loaded in Bombay : 7,000 tons D. W.
7. Amount paid or payable to the Owners or Charterers on account of :—
- | | | | |
|-------------------------|-----|-----|---------------|
| (A) Item number 4 above | ... | ... | Rs. Nil |
| (B) Item No. 5 above | ... | ... | „ Nil |
| (C) Item No. 6 above | ... | ... | „ 87,804 14 0 |
8. Probable date of departure of ship 31st May 1936.

P. Q. R.,

Signature of Master of Ship.

1. Amount paid or payable	...	...	Rs. 87,804 14 0
2. Profits at one-twentieth	...	...	„ 4,390 3 11
3. Tax due at 26 pies + 1/12 surcharge	...	...	„ 644 1 0

P. D.,

Income-tax Officer.

The X. Y. Z. Co., Ltd.

5, Hornby Road,
Bombay, 28th June 1936.

The Senior Income-tax Officer,
Bombay.

Sir,

S. S. "Brownside."

We have the honour to inform you that the total freight accruing to Owners for the above vessel's present voyage amounts to as under :—

S. S. Brownside, Glasgow.

Total 6,782, 1328, T D/W, at the charter rate of 14/6 per ton for one loading port to two discharging ports £ 4,917 0 11.

For assessments of profits 1/20th of £ 4,917-0-11 = £ 245-17-0, at 1/5 29/32 rate of exchange on 19-6-1935, the date of steamer's sailing, Rs. 3,295-2-6

We would request you to kindly confirm the above by submitting your notice of demand at your earliest convenience.

We have the honour to be,

Sir,

Your most obedient servants,

A. B. & Co.

Agents,

The X. Y. Z. Co., Ltd.

9. Liability of Persons other than Assessee.

(a) *Guardians, Trustees and Others.*

In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot, or residing out of British India (called hereinafter "Beneficiaries"), being in receipt on behalf of such beneficiary of any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind or resident in British India and in direct receipt of such income, profits or gains and all the provisions of this Act shall apply accordingly.

If a guardian, trustee or agent disposes of the assets and funds in his hands, without paying or providing for any income-tax due, he renders himself personally liable to pay the tax, since he will be deemed to have misapplied the assets and funds.

(b) *Courts of Wards, etc.*

In the case of income, profits or gains chargeable under this Act, which is receivable by the Court of Wards, the Administrator-General, the Official Trustee, or by any receiver or manager, appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such party, in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income, profits or gains, is received and all the provisions of this Act shall apply accordingly.

(c) *Non-Residents.*

(1) In the case of any person residing out of British India, all profits or gains accruing or arising to such person, whether directly or indirectly, through or from any business connection or property in British India shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be, for all the purposes of the Act, the Assessee in respect of such income-tax.

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within British India.

(2) When a person not resident in British India, and not being a British subject, or a firm, or company, constituted within His Majesty's dominions

or a branch thereof, carries on business with a person resident in British India, and it appears to the Income-Tax Officer, or the Assistant Commissioner, as the case may be, that owing to the close connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person, who shall be, for all the purposes of this Act, the Assessee in respect of such income-tax.

(3) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India, the profits or gains shall be deemed to have accrued and arisen and to have been received in British India, and no allowance shall be made under subsection (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains."

In any case in which the Income-Tax Officer is of opinion that the actual amount of the income, profits or gains accruing or arising to any person residing out of British India, whether directly or indirectly through or from any business connection in British India, cannot be ascertained, the amount of such income, profits or gains for the purposes of assessment to income-tax may be calculated on such percentage of the turnover so accruing or arising as the Income-Tax Officer may consider to be reasonable, or on an amount which bears the same proportion to the total profits of the business of such person (such profits being computed in accordance with the provisions of the Indian Income-Tax Act) as the receipts so accruing or arising bear to the total receipts of the business, or in such other manner as the Income-Tax Officer may deem suitable.

NOTE.—Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person or through whom such person is in the receipt of any income, profits or gains, upon whom the Income-Tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person, shall, for the purposes of this Act, be deemed to be such agent. Provided that no person shall be deemed to be the agent of a non-resident person, unless he

has had an opportunity of being heard by the Income-Tax Officer as to his liability.

By virtue of Section 42 (1) all Profits or Gains accruing or arising to a non-resident through or from any business connection or property in British India are to be deemed to be income accruing or arising within British India and are to be chargeable to Indian Income tax.

Under Section 42 such income of a non-resident would be chargeable to income-tax in the name of his agent in British India, and the agent would be deemed for all purposes of the Act to be the assessee in respect of such income-tax. Section 42 is essential as some arrangement is required for realising taxes due on income profits and gains of persons residing outside British India.

Section 43 lays down rules for determining as to who is to be treated as an agent particularly in a case where a non-resident has not got any appointed agent in British India. All that is essential for the purpose of Section 42 is that there should be some form of business in British India, and that there should exist business connection between a non-resident person or company and that business and that non-resident person should have earned income through such business connection. It may be stated that where the relation is one of mere debtor and creditor there is no business connection.

The main distinction between Sections 42 and 43 is that by virtue of Section 42 the agent is a duly appointed agent, which is distinct from the one appointed under Section 43. Section 43 makes any person who is employed by or on behalf of a person residing out of British India or having any business connection with such person or through whom such person is in receipt of any income profits or gains thereby creating an artificial position of an agent.

Illustration (1):—

A is an Agent of non-resident B. A looks after B's properties, collects rents, pays Municipal Bills etc. in Bombay on behalf of B. In a case like this A is held as the Statutory Agent of B on account of income arising to B through property in British India. B shall be chargeable to income-tax in the name of his Agent A, and the Agent shall be deemed to be the assessee in respect of such income.

Illustration (2):—

A sells goods of B in Bombay in the name of B (as representative of B), in such a way that all his acts with the local customers or buyers bind the Principal B, as also any bad debts on such sales fall on B the Principal. In

such a case any profits or gains arising to B (non-resident), his Agent A shall be deemed liable to pay tax on income accruing in British India and shall be chargeable to tax in the name of the Agent A; and A shall be deemed to be for the purposes of this act the Assessee in respect of Profits of such sale.

Illustration (3):—

A Company limited by shares (non-resident, in United Kingdom has a subsidiary company in Bombay, of which the parent company holds say 99% of shares in the subsidiary company, leaving nominal shares of about 1 per centage to the Manager in Bombay makes profits on goods supplied to the subsidiary company. In this case the subsidiary company will be ordinarily liable for its own profits, and also under Section 42 (1) as Agent of the non-resident for profits made by the parent company on the goods supplied to the subsidiary company.

NOTE:—The Subsidiary company is liable to be assessed for profits of the parent company, because a business connection has existed within the meaning of Section 42 (1) between the two companies and the profits and gains arose to the non-resident company either directly or indirectly through such business connection.

(d) *Liquidators and Trustees.*

The liability of such persons is similar to that of guardians and agents, as stated in the above paragraph (a). If therefore, a liquidator or trustee distributes the assets in his hands, without providing for income-tax, he will have to pay the tax out of his own pocket.

10. Liability in case of a discontinued firm or partnership.

When any business, profession or vocation carried on by a firm has been discontinued, every person who was at the time of such discontinuance a member of such firm shall be jointly and severally liable for the amount of the tax payable in respect of the income, profits and gains of the firm. Notice of discontinuance should be given.

11. Recovery of Tax and Penalties.

(a) *Tax when payable:—*The amount specified as payable in a notice of demand or an order shall be paid within the time, at the place, and to the person, mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the notice or order, and any Assessee failing so to pay shall be deemed to be in default, provided that when an Assessee has presented a petition, the Officer may in his discretion treat the Assessee as not being in default as long as such petition is undisposed of.

(b) *Mode and time of recovery:—*

(1) When an Assessee is in default in making a payment of income-tax the Income-Tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the Assessee by way of penalty.

For the purposes of sub-section (1), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable.

(2) Where there is no regular staff for the collection of the tax, and where there is no movable property of an Assessee which could be attached, the Income-Tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an Assessee, and the Collector, on receipt of such certificate, will proceed to recover from such Assessee the amount specified therein as if it were an arrear of land-revenue.

Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have in respect of the attachment and sale of debts due to the assessee the powers which under the Code of Civil Procedure 1908, a Civil Court has in respect of the attachment and sale of debts due to a judgment debtor for the purpose of the recovery of an amount due under a decree.

(3) In any area, with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-Tax Officer may proceed to recover the amount due by such process.

(4) The Commissioner may direct by what authority, any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-para. (3).

(5) If any Assessee is in receipt of any income chargeable under the head "Salaries," the Income-Tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition, any arrears due from such Assessee, and such person shall comply with any such requisition and shall pay the sums so deducted to the credit of the Government of India, or as the Central Board of Revenue directs.

(6) The Local Government may direct, with respect to any specified area, that income-tax shall be received therein, with, and as an addition to,

any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(7) Save in accordance with the provisions of clause 9 (c) above, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act.

(c) *Recovery of Penalties*:—Any sum imposed by way of penalty under this Act shall be recoverable in the manner provided above for the recovery of arrears of tax.

**Notice of imposing a Penalty under Section 46, Indian
Income-tax Act, 1922.**

INCOME-TAX OFFICE,

Dated

193 .

To

Whereas you have not paid the sum of _____ on the _____ due on account of Income-tax for the year _____ on the _____ prescribed date _____ in accordance with the notice of demand sent to you on _____ you are hereby informed that a penalty of Rs. _____ has been imposed upon you under section 46 (1) of the Indian Income-tax Act, 1922.

2. You are further informed that if you pay the amount of tax due on or before the _____ 193 , a sum of Rs. _____ will be remitted from the penalty and the sum of Rs. _____ will be payable by you. A chalan for the payment of Rs. _____ is

_____ accordingly enclosed for presentation at the Treasury _____ Sub-Treasury _____ Branch of Imperial Bank of India _____ at _____ but is only valid upto and including the _____ 193 .. If payment is not made on or before this date, it will be necessary for you to apply to me for the issue of a new chalan, *(and a warrant of distress will be issued for the recovery of the whole amount due with costs).

Office Seal.

Income-tax Officer.

* For use in those areas only in which the Commissioner of Income-Tax has issued instructions under section 46(3).

**Second or subsequent notice regarding the imposition of a penalty
under section 46, Indian Income-tax Act, 1922.**

INCOME-TAX OFFICE,

Dated

193

To

Whereas a penalty of Rs. _____ was imposed on you on the _____ 193 _____ under section 46 (1) of the Indian Income-tax Act, 1922, and whereas you were informed that if the arrear of income-tax due from you was paid on or before the _____ 193 _____, a certain sum would be remitted from the penalty, and whereas the arrear of income-tax has not been paid by the date aforesaid and the concession has lapsed, you are hereby informed that if you pay the said arrear on or before _____ 193 _____ a sum of Rs. _____ will be remitted from the penalty and the sum of Rs. _____ will be payable by you. A chalan for the payment of Rs. _____ is accordingly enclosed for presentation at the Treasury Sub-Treasury Branch of Imperial Bank of India at _____ but is only valid up to and including the _____ 193 _____. If payment is not made on or before this date, it will be necessary for you to apply to me for the issue of a new chalan, *(and a warrant of distress will be issued for the recovery of the whole amount due with costs).

Office Seal.

Income-tax Officer.

Certificate under section 46 (2) of the Indian Income-tax Act, 1922.

INCOME-TAX OFFICE :

Dated

193

To**THE COLLECTOR,****DISTRICT.**

This is to certify that the sum of Rs
which is due from
son of
resident of

on account of $\frac{\text{Income tax}}{\text{super-tax}}$ and penalty is in arrear. With reference to the provisions of sub-section (2) of section 46 of the Indian Income-tax Act, 1922, you are hereby requested to recover the same as if it were an arrear of land revenue.

Seal.

Income tax Officer.

No. _____

Distress Warrant

No. _____

Distress Warrant.

INCOME-TAX OFFICE, _____

To

Whereas

of

_____ has not paid or shown sufficient cause, to my satisfaction, for the non-payment of the sum of Rs. _____

193 .

due on account of Income-tax (as detailed below) for the year although the said sum has been duly demanded in writing from the said _____

whereas an order has been issued under section 46 (1) of the Indian Income-tax Act, 1922, that, in addition to the amount of the aforesaid arrears, a sum of Rs. _____ shall be levied by way of penalty and the said _____ was warned that if the amount of arrears and penalty aforesaid were not paid within fifteen days, a warrant of distress would be issued] * [and whereas the said period of fifteen days has elapsed] this is to direct you to distrain

_____ in Index Register—

the † movable property of the said _____ goods and chattles

_____ in register of demand and _____ actions—

to the amount of the said sum of Rs. _____ together with * [a fee of Rs. _____ payable on the issue of this warrant and] such further sum as may be sufficient to defray the cost of recovering the said amounts and if within seven days next after such distress the said sum of Rs. _____ shall not be paid together with such further sum as shall be sufficient to defray the said costs, to sell

_____ of service of notice imposing _____ alty under section 46 (1)—

the said † movable property ; and having paid and deducted out of the proceeds of the sale the said sum of Rs _____ and the cost of recovering the same, to return the surplus, if any, and if the same be demanded within † three years from the date of the sale, to the person whom you shall find

_____ of Distraining Officer—

in possession of the said property. If sufficient distress cannot be found of the † movable property of the said _____ goods and chattles

_____ at demanded Rs.....

_____ you are to certify the same to me together with this warrant. Details of amount due,

Income-tax Officer

this Given under my hand and seal } Income-tax Officer,
day of 193 .

* The words in brackets should be omitted or modified according to circumstances.
† The superfluous words should be deleted.

12. Religious, Charitable and like Institutions.

When investments are held by concerns like Church, Hospital, Library, Gymkhana, Museum, Accountant Society and similar institutions, whose only object is to promote the cause of religion, charity, education, health, science, etc., and wherein the income from investments is received less tax, a refund of the full amount of the tax so deducted can be claimed, if the Income-Tax Officer be satisfied that the income under question has been applied solely towards the promotion of the said or similar causes.

13. Refund of Income-tax.

Application for Refund.—An application for a refund of income-tax must be made in the form prescribed by Rule 36 of the Act.

The new Section 49 A gives power to make adjustments, where refund is due. The whole or any part of the amount of refund may be set off against the tax remaining payable by the person to whom refund is due.

The new Section 49-B gives a right to receive or claim refund to the legal representative of an assessee disabled to make a claim through death, incapacity, bankruptcy or other cause.

(1) If a share-holder in a company who has received any dividend therefrom satisfies the Income-Tax Officer or other authority appointed by the Governor-General in Council in this behalf that the rate of income-tax applicable to the profits or gains of the company at the time of the declaration of such dividend is greater than the rate applicable to his total income of the year in which such dividend was declared, or that his total income in such year is below the minimum chargeable with income-tax, he shall on production of the certificate received by him under the provisions of section 20, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates or at the rate applicable to the profits and gains of the Company at the time of the declaration of such dividend, as the case may be.

(2) If a member of a registered firm satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been levied on the profits or gains of the firm of that year or that his total income of the previous year was below the minimum chargeable with income-tax, he will be entitled to a refund on his share of those profits or gains calculated at the difference between those rates, or at the rate at which income-tax has been levied as the case may be.

(3) If the owner of a security from the interest on which, or any person from whose salary, income-tax has been deducted in accordance with the provisions of sections 18, satisfies the Income-Tax Officer or other authority appointed by the Governor General in Council in this behalf, that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been charged in making such deduction in that year, or that his total income of the previous year was below the minimum chargeable with income-tax, he will be entitled to a refund on the amount of interest or salary for which such deduction has been made calculated at the difference between those rates.

(4) For the purposes of this section, 'total income' includes in the case of any person not resident in British India, all income, profits and gains wherever arising, accruing or received, which, if arising, accruing or received in British India, would be included in the computation of total income under section 16, or at the rate at which income-tax has been deducted; as the case may be.

(5) Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India.

(6) "If in any case not provided for by Section 48 or by the provisions relating to refunds elsewhere contained in this Act the Income-tax Officer is satisfied, upon claim made in this behalf, that tax has been paid by or on behalf of any person with which he was not properly chargeable, or which was in excess of the amount with which he was properly chargeable, the Income-tax Officer shall allow a refund to such person of the amount so paid or so paid in excess."

(7) "The Assistant Commissioner in the exercise of his appellate powers or the Commissioner in the exercise of his appellate powers or powers of revision if satisfied to the like effect shall in like manner cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess."

(8) "Nothing in this Section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which become final and conclusive, or the review by any Officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief."

The amendments to Section 48 remedy certain defects in the provisions of the Act relating to refunds. The refund of tax deducted at source to a person, whose income was below the taxable limit, or who had no income directly taxable in British India, though allowed so far, was not authorised under the Act. Those who are admitted to the benefits of partnership in a registered firm, but are not partners, can now be allowed refund.

A firm, with one or more minors admitted to the benefits of partnership, was registered and assessed before the passing of this amendment. A claim for refund on behalf of the minor or minors will not be admitted, because, when the income was assessed against the firm, those who were admitted to the benefits of partnership were not entitled to any refund of tax levied on the profits or gains of the registered firm.

The new Section 48A gives a general power to make refunds, whether during assessment or other proceedings under the Act, or an appeal, in cases which are not provided for under the Act.

A claim must be made in this behalf. The Income-tax Officer, the Assistant Commissioner or the Commissioner of Income-tax, as the case may be, must be satisfied that tax has been paid, which is not properly chargeable, or tax has been paid in excess of what was properly chargeable.

Refund can be allowed under this Section in the following and similar cases :—

- (a) where tax has been deducted at source, without giving deduction on account of Life Insurance Premium.
- (b) where tax has been deducted from income, to which the Act does not apply.
- (c) where tax has been paid on an assessment made under Sec. 23 (4), before it is re-opened under Sec. 27.
- (d) where the income of an individual consists solely of interest from Government securities or of dividends on the shares of Joint Stock Companies, refund will be allowed of the tax deducted on the amount of the Life Insurance Premium paid.
- (e) where, because of the reduction of income in appeal against the assessment of an unregistered firm, the total income of a partner having other sources of income becomes liable to be taxed at a rate lower than the rate at which he has paid tax, he may put in his claim for refund under this Section.

**Application for refund of income-tax under section 48 of the
Indian Income-tax Act, 1922.**

I _____ of _____
do hereby state that my income from all sources to which the Act applies
during the year ending _____ on the 31st March, 193____, as shown
in the return annexed amounted to Rs. _____ only.

I therefore pray for a refund of :—

Rs	under "Salaries"	
Rs.	under "Securities"	
Rs.	under "Dividends"	
	from Companies"	
Rs.	under "Share of profits of the registered firm or partnership" known as _____	of which I am a partner.

Signature

I hereby declare that what is stated herein is correct.

Dated

Signature

NOTES

1. The application should be accompanied by a return of total income in the form prescribed under section 22, unless the applicant has already made such a return to the Income-tax Officer.

2. Where the application is made in respect of interest on securities or dividends from companies, the application should be accompanied by the certificate prescribed under section 18 (9) or section 20, as the case may be.

3. The application for a refund should be made to the Income-tax Officer for the district in which the applicant is chargeable directly to income-tax, or, if he is not chargeable directly to Income-tax, to the Income-tax Officer for the district in which the applicant ordinarily resides, or if he is not resident in British India—

- (i) to the Income-tax Officer of the district or area in which he was last charged directly to income-tax when so resident, or
- (ii) if he has never been so resident, to the Income-tax Officer of the district or area where the income-tax for the refund of which application is made was deducted.

4. The application may be presented by the applicant in person or through a duly authorized agent or may be sent by post.

(b) *Relief from Double Income-Tax* :—

(1) *In respect of United Kingdom Income-Tax* :—

(I) If any person who has paid Indian income-tax for any year on any part of his income, proves to the satisfaction of the Income-tax Officer that he has paid United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he will be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to and obtained relief under that section.

Provided that the rate at which the refund is to be given shall not exceed one-half of the Indian rate of tax.

(2) In sub-section (1) :—

- (a) The expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;
- (b) The expression "Indian rate of tax" means the amount of the Indian income-tax divided by the income on which it was charged;
- (c) the expression "United Kingdom income-tax" means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts.

The above may be summarised thus:—

- (a) When the effective Indian rate of tax is *less* than *half* of the appropriate English (*i. e.* of United Kingdom) rate, relief could be obtained only in the United Kingdom, viz., the Indian rate will be deducted from the English rate and the tax will be payable, at the balance rate, on the income doubly taxable. Provided that the maximum rate of relief given by the United Kingdom shall not exceed one-half of the English rate.
- (b) When the effective Indian rate of tax is *more* than *half* of the appropriate English rate,
 - (1) *At first*, relief should be obtained in the United Kingdom, viz. refund will be allowed, at half of English rate, and
 - (2) *Thereafter*, upon production of certificate of refund as in para (1) above, refund will be allowed in India, at the excess of Indian rate over half of English rate, provided that such excess rate, shall not exceed half of effective Indian rate.

The effect of the above arrangement is that where Income is liable to taxation both in the United Kingdom and in India, it should pay only at the highest rate leviable in either country.

In order to obtain relief in India, a claimant is required to supply the official receipt for the United Kingdom income-tax paid, the notice of assessment in particular showing the basis on which the liability has been computed and a certificate of the Income-Tax Authorities showing what relief has actually been granted to him in the United Kingdom.

$$\text{NOTE:—EFFECTIVE RATE} = \frac{\text{I. T.} + \text{S. T.}}{\text{Total Income}}$$

“Total Income” for the purposes of refund under §49 is the *larger* of the two incomes. viz., (A) the total income within the meaning of § 16, deducting therefrom sums exempted from tax under § 7 (1) proviso (*i. e.* contribution to Annuity Fund or Provident Fund), § 8 proviso (*i. e.* interest on Tax Free Securities) and § 15 (*i. e.* Life Insurance premium), but *not* the sums mentioned in § 14 (2) (*i. e.* on which the partner or shareholder suffers tax indirectly); *and* (B) the total income minus Rs. 50,000 (or Rs. 75,000 in the case of a Joint Hindu Family), and further reduced by any sums that the assessee may have received from an Unregistered Firm that has itself paid S. T.

In order to ascertain the refund; ascertain the total tax (*i. e.* I. T. + S. T.) paid. Divide the latter by the larger income (as explained above), the quotient being the Indian Effective Rate of Tax. Deduct half of English Rate from the latter. Balance is the rate (which should not exceed half of Indian Effective Rate), at which refund should be allowed on the Income taxed twice over.

Illustrations :—

I. INDIVIDUALS.

Specimen of Application for Certificate of Indian Tax paid.

915, Queen's Road,

Bombay, 9th May 19.....

The Income-tax Officer,

BOMBAY.

Sir,

I beg to request you to kindly send me a certificate to the effect that I have paid Indian Income-tax and Super-tax on all Dividends, on the profits of my Firm and on interest on deposits etc., received by me, in order to

enable me to send it to England for refund under 49 of the Indian I. T. Act, 1922. For this purpose, I herewith enclose a rupee stamped paper, and shall feel obliged by your sending me a certificate on the same line as you last favoured me on 9th January 19.....Showing that (a) the A. B. C. Co. LTD., from whom I received the dividends on my shares held in this company, have paid I. T. to you for all their profits at the rate of one anna six pies in the rupee, for the year ending 31st March 19.....(b) that my Firm of X. Y. Z. have paid I. T., at the rate of one anna six pies in the rupee, on all the profits of my firm for the same period, (c) that I have paid I. T. on interest and other sources of my income, for the same period, and (d) that I have paid S. T. on my total income, for the same period.

Yours faithfully,
(Sd.) P. Q. R.

Specimen of Certificate of Indian Tax Paid.

This is to certify that Mr. P. Q. R., of 915, Queen's Road, Bombay, has been assessed to I. T. and S. T. under the Indian I. T. Act, 1922, for the Government year 19.....-19...., and has paid the tax on his following income, either at source or direct :—

	Rs.
(1) Dividends of Companies (Gross taxed)	9,37,027
(2) Interest on Securities	6,750
(3) Property	32,347
(4) Business (Share in Registered Firm of X. Y. Z.)	8,57,670
(5) Other Sources (Interest)	1,16,523
Total	<u>Rs. 19,50,317</u>

(1) That the A. B. C. Co. LTD., has paid income-tax amounting to Rs. 5,14,039-10-0, for the Government year 19.....-19....., on all profits including the dividends of Rs. 9,37,027 paid to Mr. P. Q. R. at the rate of one anna and six pies per rupee.

(2) That the tax has also been paid on Rs. 6,750, Interest on Securities, at the rate of one anna and six pies.

(3) That he has paid tax on the property income of Rs. 32,347 direct, at the I. T. Office, Bombay, for the Government year 19... -19.....

(4) That the firm of Messrs X. Y. Z. have paid I. T. amounting to Rs. 1,43,991-11-0, for the Government year 19.....-19....., on all the profits, including Rs. 8,57,670 paid to Mr. P. Q. R. as his share, at the rate of one anna and six pies per rupee,

(5) That the tax has also been paid on the income from interest of Rs. 1,16,523 at Bombay I. T. Office for the Government year 19.....-19.....

(6) That Mr. P.Q.R. has already paid S. T. amounting to Rs. 6,26,681-6-0, for the Government year 19.....-19....., on his total income of Rs. 19,50,317.

(Sd.) D. E. F.

Income-Tax Officer, Bombay,

Copy forwarded to Mr. P. Q. R. on a rupee stamp paper, with reference to his letter of the 9th instant.

(Sd.) D. E. F.

Income-Tax Officer, Bombay.

Specimen of Application for Refund of Indian Tax.

915, Queen's Road.

Bombay, 15, April 19.....

The Income-Tax Officer,

BOMBAY.

Sir,

With reference to my letter dated 9th May last, for claim of relief of double tax for 19...-19 , I beg to enclose herein a certificate from H. M. Inspector of Taxes, on behalf of the Commissioner of Inland Revenue, London.

My average exchange rate of remittances for that year, for the amounts remitted to England, was $1s. \frac{21}{32}d$ Please, therefore, give the necessary refund.

Yours faithfully,

(Sd.) P. Q. R.

Specimen of Certificate of Relief allowed in the United Kingdom.

This is to certify that Mr. P. Q. R., of 915, Queen's Road, Bombay, has been allowed relief from United Kingdom, for the year ended 5th April 19....., in respect of Indian I. T. and S. T., as follows :—

- (a) Approximate rate of United Kingdom Income and Super-Tax for the year ended 5 April 19.....8s. 1·8672d.
- (b) Amount of Income assessed to United Kingdom Income and Super-Tax, for the year ended 5 April 19....., on which relief from United Kingdom I. T. has been allowed in respect of Indian

Tax=£16,869 (*i.e.* the income doubly taxed). being the gross average amount arising in India and remitted to the United Kingdom, arrived at as follows:—

19.....-19.....	£	12,445	0	0
19.....-19.....	„	12,419	15	6
19 . ...-19.....	„	12,512	2	4
		<u>37,376</u>	<u>17</u>	<u>10</u>

12,459

Plus average Indian I. T. suffered thereon 4,410

£ 16,869

(c) Rate of relief allowed 4s. 0.9336*d* in the £., being half the approximate rate (*vide* (a) above)

(d) Amount of relief allowed £3,439-8-5.

(Sd.) G. H. I.,

H. M. Inspector of Taxes,
On behalf of the Commissioners
of Indian Revenue.

London, 23rd March 19.....

SPECIMEN OF ASSESSMENT FORM.

Assessment for 192 -192 .

DISTRICT OF AREA—BOMBAY.

Name of Assessee—P. O. } Number in General Index.....594
R. }
Address: 915, Queen's }
Road. } Number of miscellaneous
record —582

Serial No.	Detailed sources of income.	Amount of income			REMARKS.
		Rs.	Rs.	a.	
1	Salary	(F. of T.)
2	Interest on Securities	2,780	...	...
	Do. Do. (F. of T.)	3,970	372	3	{ (share in Reg. Firm already taxed.)
3	Property	32,347	...	...
4	Business	8,57,670	...	...
5	Profession ... ..	...	...	...
5	Other Sources	1,16,523	...	...
6	Dividends	9,37,027	...	...

S. T. On Rs. 19,00,317= Rs. 6,26,681-6-0.

	Rs.	a.	Rs.	a.
(i) Total income			19,50,317	
(ii) Deduction on account of provident fund, insurance premia, etc.				
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax	9,37,027			
	8,57,670			
(iv) Deduct amount of interest from tax-free securities of the Government of India or of a local Government	2,780		17,97,477	
(v) Income now to be taxed			1,52,840	
(vi) Rate applicable Eighteen pies per rupee.				
(vii) Amount of tax		Rs. a.	14,328	12
(viii) Deduction under section 17				
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5)	372			
(x) Abatement on account of dividends (at pies per rupee)				
(xi) Abatement on account of income from a registered firm (at pies per rupee)			372	3
(xii) Net amount of tax			13,956	9
(xiii) Penalty under section 28 or section 25 (2)... ..			...	..
(xiv) Total sum payable—(in figures as well as in words)			13,956	9
Rupees Thirteen thousand, nine hundred, fifty-six, annas nine.				

S. T. Rupees: Six lakhs, Twenty-six thousand, Six hundred, Eighty one Annas six.

D. E. F.,
Income-tax Officer.

Dated 5th May 193 .

Illustration:—

Income of the Assessee:

Dividends taxed	Rs. 14,753.
„ tax free	„ 42.
Interest on securities taxed	„ 2,900.

Rs. 17,695.

Ordinary and Preference Dividends	...	...	Rs. 14,753.
Less "Fixed Rate" Preference Dividends	...	...	„ 4,005.
<hr/>			
Dividends on which relief was allowed in the United Kingdom.	...	...	Rs. 10,748.
Interest on Securities.	...	...	„ 2,900.
<hr/>			
Total income on which relief was allowed in the United Kingdom.	...	...	„ 13,648.
Rate of tax charged in India (as per claim under Section 48 (4).	...	...	31.25 pies in the Rupee.
Less Rate of relief {in the United Kingdom 2 sh. 6.875 d or	...	...	24.7 pies „
∴ Rate of refund due	...	...	6.55 „ „
∴ Refund @ 6.55 pies on Rs. 13,648/-	...	...	Rs. 465 9 0

REFUND UNDER 49.

The total income for the purpose of sec. 49, in the above case, will be Rs. 19,47,537/-, viz., Rs. 19,50,317—Rs. 2,780 (interest on Tax Free Securities), while the total Indian Tax, as shown below, amounts to Rs. 8,09,262-8-0, viz.

			Rs.	a.	p.
I. T. on Dividends	...	...	87,846	0	0
I. T. on Securities Interest	...	...	372	0	0
I. T. on Share of profits in the firm	...	...	80,406	9	0
I. T. on other sources	...	...	13,956	9	0
		Total I. T.	1,82,581	2	0
S. T. as per Assessment Form above	...	...	6,26,681	6	0
			Rs. 8,09,262	8	0

Total Tax of Rs. 8,09,262 ÷ Total Income of Rs. 19,47,537 = 6as. $7\frac{76}{97}$ ps.

(i. e. the Effective Indian Rate of Tax).

Relief was granted in the United Kingdom @ 4s. 0.9336 d per £.

$$\begin{array}{cccc} \text{sh.} & \text{as.} & \text{sh.} & \text{as.} \\ \therefore 20 : & 16 & \therefore 4 - 0.9336 : & 3 - 3\frac{15}{104} \end{array}$$

In Indian Currency, the relief granted in the United Kingdom may be said to be at 3 as. $3\frac{15}{104}$ pies in the rupee.

£ 16,869 have been subject to double taxation. In Indian Currency, at 1s. $4\frac{21}{32}$ d., the same would amount to Rs. 2,43,065.

Refund has been allowed in the United Kingdom at 3as. $3\frac{15}{104}$ pies in the rupee, while the tax paid in India is at 6as. $7\frac{76}{97}$ pies per rupee. The excess of the latter over the former, which is half of English rate, amounts to 3 as. $4\frac{62}{97}$ pies (viz., the balance rate).

In India, refund should not, however, be allowed at 3 as. $4\frac{62}{97}$ pies, because this rate is more than half of Indian rate, viz $\frac{1}{2} \times 6$ as. $7\frac{76}{97}$ pies = 3 as. $3\frac{173}{194}$ pies.

Hence, relief on Rs. 2,43,065, at 3as. $3\frac{173}{194}$ pies in the rupee, amounts to Rs. 50,501-8-0. This should be refunded to Mr. P. Q. R.

II. LIMITED COMPANIES.

(1) Re : A. B. C. Co. Ltd.;—

Specimen of Application for Certificate of Indian Tax paid.

373, Hornby Road,
Bombay, 11th February 19.....

The Income-Tax Officer,
BOMBAY

Sir,

With reference to your letter dated the 9th instant, we beg to apply for a certificate of Tax paid in India, for the year 19.....-19...

When sending us the certificate, stating we have paid tax on our total profits and gains, we shall be glad if you will please specifically mention that such profits include the sum of £ 2,373—6—8. Dividend income received from Messrs. X. Y. Z. Co. Ltd. You will find this amount in the Profit and Loss account as Rs. 35,392, the conversion at 1s. $4\frac{3}{32}$ d. We should like to have this mentioned in the certificate, to enable us to recover a proportion of the taxes paid thereon in the United Kingdom.

Yours faithfully,
(Sd.) A. B. C. Co. Ltd.,
John Jones
Managing Director.

Specimen of Certificate of Indian Tax paid.

Bombay, 14th February 19.....

The Managing Director,
A. B. C. Co., Ltd., BOMBAY.

Sir,

With reference to the correspondence ending with your letter of the 11th instant, I have the honour to give below the certificate desired by you, which please acknowledge.

I have etc.
(Sd.) P. F. M.
Income-Tax Officer.

Certified that the A. B. C. Company Ltd., of 373, Hornby Road, Bombay, has been assessed in Bombay to I. T., and S. T., for the year ended 31st March 19 , on all its profits and gains, including *Dividends of £2,373-6-8 or Rs. 35,392 received by it from Messrs. X. Y. Z. Co Ltd. of London for the year ended 31st March 19.....

(Sd) P. F. M.
Income Tax Officer, Bombay.

*Note—This dividend income has been specifically mentioned as per Company's request in its letter dated 11th instant.

Specimen of Application for Refund of Indian Tax.

373, Hornby Road,
Bombay, 20th October 19.. ...

The Income Tax Officer,
Bombay.

Sir,

We beg to make a final application for refund of Indian Taxes under § 49 in respect of the year 19...-19.....

The claim is in respect of the dividend on shares held by us in Messrs. X. Y. Z. & Co Ltd. of London. The dividend included in our accounts for the year ended 31st March 19....., which formed the basis of the assessment for the year 19 ..-19..., was £ 2,373--6--8 or Rs. 35,392 converted at 1s.

$4\frac{3}{32}$ d (*vide* our letter dated 11th February last).

We have now received in the United Kingdom refund at $\frac{2}{3}$, viz., half the rate of tax paid and enclose certificate from the Inspector of Taxes, London to that effect. We shall be glad to receive a payment order for the refund due.

Yours faithfully,
(Sd.) A. B. C. Co. Ltd.
John Jones,
Managing Director,

Specimen of Certificate of Relief Allowed in the United Kingdom.

London, September 14th, 19.....

Gentlemen,

RE A. B. C. Co. LTD.

With reference to your letter of the 12th ultimo, the gross United Kingdom income amounting to £2,400, for the year 19...-19... has been repaid at $\frac{2}{3}$, *i.e.* one half of the appropriate rate of United Kingdom Income Tax, which is less than the rate of Indian I. T. suffered.

I am etc.,
(Sd.) B. P. N.,
for Chief Inspector of Taxes.

To

Messrs. G. F. & Co.,
London.

REFUND UNDER 49.

Bombay, 7 November 19.....

To

The Managing Director,
A. B. C. Co. Ltd.,
373, Hornby Koad, Bombay.

Sir,

With reference to your letter dated the 20th ultimo, *re:* refund due to your Company for the year 19...-19... under 49 of the I. T. Act, 1922, in respect of the Dividend income of Rs. 35,392, received from Messrs. X. Y. Z. Co. Ltd. of London, I have the honour to inform you that a refund of Rs. 1,286 has been sanctioned as under :—

Accounts for the year ended 31st March 19...		
Profit as worked out for S. T. for 19...-19...	...	Rs. 11,69,316
Less Statutory Allowance	...	.. 50,000
		<hr/>
Income within the meaning § 49 (2) (b)	...	Rs. 11,19,316
		<hr/>
Income Tax paid on business etc.	...	.. 72,377 12 0
Do. on Dividends	...	.. 22,464 0 0
Do. on Government Securities	...	.. 1,799 0 0
Super Tax paid	...	.. 69,957 4 0
		<hr/>
Total Tax paid	Rs ...	1,66,598 0 0
		<hr/>

Appropriate or Effective Rate

$$= \frac{1,66,598}{11,99,316} = 2'3814 \text{ as. in the rupee.}$$

Rate of relief allowed in U. K.

$$= 2s. 3d. \text{ in the } \pounds \text{ or } 1'8000 \text{ as. in the rupee.}$$

Relief to be allowed in India

$$= 2'3814 - 1'8000 = '5814 \text{ in the rupee,}$$

$$\text{on Rs. } 35,392 = '5814 \times 35,392 = \text{Rs. } 1,286.$$

This office Refund Order for Rs. 1,286 is enclosed herein, which please acknowledge.

I have etc.

(Sd.) P. F. M.

Income Tax Officer Bombay.

(2) *Re: The Oriental Oil Co. Ltd.*

ASSESSMENT FORM

Assessment for 1926-27

under Section 23 (1) Act XI of 1922.

DISTRICT OR AREA—BOMBAY.

Name of Assessee—The Oriental
Oil Co. Ltd.
Address, 19, Hornby Road,

} Number in General Index.....129
} Number of miscellaneous record 154

Serial No.	Detailed sources of income.	Amount of income.	Tax deducted at source		Remarks.
			Rs.	A.	
1	Business ...	Rs. 2,10,287-8-4	Rs.		
2	Interest on Govt. Securities.	1,86,000-0-0	F. O. T.		
3	Dividend ...	1,23,387-4-0	12,036	0	
4					
5	Interest on Govt. Securities.	88,037-5-5	8,253	8	
6					

	Rs.	A.	Rs.	A.
(i) Total income ...			6,12,712	1
(ii) Deduction on account of provident fund, insurance premia, etc. ...				
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax ...	1,28,387	4		
(iv) Deduct amount of interest from tax-free securities of the Government of India or of a local Government ...	1,86,000	0	3,14,387	4
(v) Income now to be taxed ...			2,98,324	13
(vi) Rate applicable, 18 pies per rupee ...				
(vii) Amount of tax ...			27,967	15
(viii) Deduction under section 17 ...				
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5) ...	8,253	8		
(x) Abatement on account of dividends (at— —pies per rupee) ...	...	...
(xi) Abatement on account of income from a registered firm (at— —pies per rupee) ...	...	...	8,253	8
(xii) Net amount of tax ...			19,714	7
(xiii) Penalty under section 28 or section 25 (2) ...				
(xiv) Total sum payable in figures as well as in words) ...				
Rupees 19,714 (Nineteen thousand seven hundred fourteen) & annas 7 (Seven only).				

Dated

S. T. Rs. 35,169-8-0

X. Y. Z.,
Income-tax Officer.

Total income as worked out for super-tax assessment ...	6,12,712
Less Interest on securities free of tax ...	1,86,000
	<u>4,26,712</u>

Or

Total Income ...	6,12,712
Less Exempt ...	50,000
	<u>5,62,712</u>

Income within the meaning of § 49 (2) (b), therefore is Rs. 5,62,712

Income tax actually paid	...	... 19,714-7-0
Do. paid @ source on Dividends	12,036-0	
Do. on Securities	8,253-8	20,289-8-0
Super-tax paid	...	... 35,169-8-0
		75,173-7-0
		75,173-7-0
Appropriate rate of tax=		5,62,712-0-0

=2.137 annas in the rupee. Rate of relief

obtained in the United Kingdom

=2s. in the £ or annas 1.600 in the rupee.

Relief to be allowed now

=annas 2.137—1.600

= annas .537 in the rupee.

= Rs. 5,62,712 × .537

= Rs. 18,886

II. In respect of Indian States Income-Tax.

In exercise of the powers conferred by section 60 of the Indian Income-Tax Act, 1922, (XI of 1922), the Government-General in Council is pleased to make the following modifications in respect of Income-tax, in favour of income on which income-tax has been charged both in British India and in one of the Indian States referred to in the schedule to this notification (herein-after called the said Schedule), namely:—

1. In this notification—

- (a) the expression "State Income-tax" means Income-tax and Super-tax charged, in accordance with the provisions of the law relating to income-tax for the time being in force in the State concerned;
- (b) the expression "State rate of tax" means the amount of state income tax divided by the amount of the larger of the two incomes on which income-tax and Super-tax respectively, have been charged by the State and;
- (c) the expression "Indian Income-tax" and "Indian rate of tax" have the same meaning as in clauses (a) and (b), respectively, of section 49 (2) of the Act.

2. If any person, who has paid Indian Income-tax for any year on any part of his income, proves to the satisfaction of the Income-Tax Officer that

he has paid the State Income-tax in one of the States mentioned in the said schedule, for that year in respect of the same part of his income, he shall be entitled to the refund of a sum calculated on that part of his income, at a rate equal to half the State rate of Tax :—

Provided that the rate at which the refund shall be given shall not exceed one-half of the Indian rate of Tax.

3 Every application for refund of income-tax under this notification shall be made to the Income Tax Officer of the district in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly to income-tax, to the Income Tax Officer for the district in which the applicant ordinarily resides, or if he is not resident in British India,

- (i) to the Income-Tax Officer of the district or area in which he was last charged directly to Income-Tax when so resident, or
- (ii) if he has never been so resident, to the Income-Tax Officer of the district or area where the income-tax for the refund of which application is made was deducted. Such application may be presented by the applicant in person or by duly authorised agent or may be sent by post, and shall be in the following form :—

Application for relief from double income-tax under notification No. 25, dated the 1st July 1926.

I of do hereby state that I have paid
 (name of State) State $\frac{\text{Income-Tax}}{\text{Income-Tax \& Super-Tax}}$ amounting to Rs.
 for the year ending 19.....on an income of Rs. and that Indian
 $\frac{\text{Income-Tax}}{\text{Income-Tax \& Super-Tax}}$ of Rs. has also been paid on
 the same income*
 part of the same income amounting to Rs..... I now pray for
 relief at the rate of amounting to Rs. under
 notification No. 25. dated the 1st July 1926, to which I am entitled. My
 income from all sources to which this notification applies during the "pre-
 vious year" ending on the 19... amounted to Rs.
 only—see Return of income $\frac{\text{attached}}{\text{already submitted}}$

Signature.

I hereby declare that what is stated herein is correct.

Signature.

Dated

19...

*Note:—Where income on which income-tax has been charged differs from that on which super-tax has been charged both amounts must be specified,

4. No claim to any refund of Indian Income-tax under this Notification shall be allowed, unless it is made within one year from the last day of the year in which such tax was recovered.

SCHEDULE.

1. Baroda <i>Madras States Agency.</i>	<i>Central Province.</i>
2. Travancore.. <i>Central India Agency.</i>	13. Bastar.
3. Dhar. <i>Punjab States Agency.</i>	14. Kanker.
4. Patiala.	15. Raigarh.
5. Bahawalpur.	16. Jashpur.
6. Jind.	17. Sarangarh.
7. Kapurthala.	18. Makrai.
8. Loharu. <i>Bombay.</i>	19. Kawardha.
9. Sachin.	20. Khairagarh.
10. Akalkot.	21. Korea.
11. Phaltan. <i>United Provinces.</i>	22. Nandgaon.
12. Benares.	23. Chhuikhadan. <i>Bihar & Orrisa.</i>
	24. Mayurbhanj. <i>Punjab.</i>
	25. Baghat.

Illustration :

The X. Y. Z. Co., Limited., claims a refund of Rs. 51-12-0, being half of the Income-tax paid by it to the Baroda State, under Notification No. 25 dated 1st July 1926.

The company has a Ginning and Pressing Factory in Baroda State. The profits earned by the factory during the year ended 30-6-1926 amount to Rs. 6,851-0-8, and it has paid a tax of Rs. 103-8 0 thereon to the State. In support of the claim, it has put in a certificate from the Baroda Authorities, showing the amount of profit, year of accounts, amount of Tax, etc., as above. The rate of taxation by the State seems to be Re. 1-8 per Rs. 100/- of income.

The Company's accounts are closed at 30th June and it has already paid Income-tax and Super-tax in Bombay for 1927-28, on its profits for the year ended 30-6-1926. These accounts include the income taxed in the State.

According to the above notification, the company is entitled to a refund of tax at half of the lower rate. The rate of taxation in the State is lower than the rate in British India and hence the company is entitled to a refund of

$$\text{Rs. } \frac{103-8-0}{2} = \text{Rs. } 51-12-0, \text{ for } 1927-28.$$

Exception:—(Mysore State.)

(a) In the case of businesses, whose headquarters are in British India but which have branches in Mysore or carry on business in Mysore, a deduction will be made from the Indian Income-Tax payable on the profits of such businesses, of the amount of Mysore Income-Tax that will be payable on such portion of the same profits as appears to the Income-Tax Officer in British India to be due to transactions in Mysore.

(b) Businesses with head quarters in Mysore which have branches or dealings in British India should be assessed by the Income-Tax Authorities in British India to the full amount of Indian Income-Tax due on the profits realised in British India only.

In order to obtain refund, a claimant should furnish the Official receipt for the Mysore Tax paid and the notice of assessment showing the basis on which the tax has been levied.

Application for relief from double income-tax under section 49 of the Indian Income-tax Act, 1922.

I _____ of _____
do hereby state that I have paid United Kingdom $\frac{\text{Income-tax}}{\text{Income-tax and Super-tax}}$
amounting to £ _____ for the year ending 19 _____ on an income
of £ _____ and that Indian $\frac{\text{Income-tax}}{\text{Income-tax and Super-tax}}$ of Rs. _____
has also been paid on _____ the same income.
_____ income from the same source amounting to Rs. _____

I have obtained relief under the provisions of sections 27 of the English Finance Act, 1920, at the rate of _____ —see attached certificate from the Inspector of Taxes, _____ I now pray for a further relief at the rate of _____ amounting to Rs. _____ under section 49 of the Indian Income-tax Act, 1922, to which I am entitled. My income from all sources to which this Act applies during the "previous year" ending on the _____ 19 _____ amounted to Rs. _____ only;
see return of income $\frac{\text{attached}}{\text{already submitted}}$

Signature.

I hereby declare that what is stated herein is correct.

Signature.

Dated

19 _____

(c) *Limitation of claims for refund*:—No claim to any refund of income-tax under this Chapter will be allowed, unless it is made within one year, from the last day of the year in which the tax was recovered.

14. Summary of claims for refund of Income-tax.

Claims for refund of income-tax may be made under the following circumstances, if the claimant satisfies the Income-Tax Officer that his claim is in order and it is made in the manner prescribed above:—

(1) If his income from all sources is less than Rs. 2,000, *i. e.*, the minimum taxable limit, and the whole or part of such income has been received less tax, he can claim the full amount of such tax.

(2) Where a person, either through ignorance of his rights or owing to the fact that his income is received less tax, has not obtained an allowance in respect of his life insurance premium, he may make a claim for the repayment of tax thereon.

(3) Where a person, having credited his Profit and Loss Account with taxed income on investments, omits to charge the same to his Profit and Loss Account adjusted for income-tax purposes, he can make a claim for the refund of tax.

(4) Where a person is engaged in more than one concern and where he pays the tax on the profits of one or more of such concerns without setting off the loss of one or more concerns against the taxed profits, he can claim a refund of tax on an amount equal to such loss or losses.

(5) Where an institution, the income whereof is applied solely for religious or charitable purposes, receives income from its investment taxed at the source, the full amount of the tax so deducted may be claimed back.

Illustrations:—

(1) *For exemption from Income-tax.*

John James is desirous of knowing exactly the amount on which he is legally liable to pay income-tax, and, therefore, submits the following particulars of his income from all sources.

He owns a Grocer's shop, the annual taxable profit whereof is Rs 352-2-0. He is the proprietor of a cottage, the annual letting value whereof is Rs 450 and the admissible allowances relating thereto are in all Rs. 189. He is also serving as a typist in a firm where he gets Rs. 30 per month (without deducting income-tax), and teaching a student privately at home for a monthly fee of Rs 10. He has insured his life with two companies and pays a total annual premium of Rs. 195.

Prepare a statement showing his taxable income for the assessment.

Statement for Exemption from Income-tax.

1. Profits from Grocer's shop	...	...	Rs.	352	2	0
2. Net income from house property	...	...	"	261	0	0
3. Salary as a typist	...	...	"	360	0	0
4. Student's coaching fee	...	...	"	120	0	0
				<hr/>		
Total gross income	...	...	Rs.	1,093	2	0
Less—Life insurance premium (upto one-sixth of Rs. 1,093).	...	...	Rs.	182	3	0
				<hr/>		
Taxable income	...	...	Rs.	910	15	0
				<hr/>		

As his total income is less than Rs. 2,000, he is exempted from paying the income-tax.

NOTE.—Though he has paid Rs. 195 for life insurance premium, only Rs. 182-3-0 (one sixth of the total income of Rs. 1,093) will be allowed to be deducted for income-tax purposes.

(2) *For relief from Income-tax.*

P. F. Rose is the proprietor of a Millinery business, the taxable income whereof is Rs. 3,750. He has also a Hosiery concern, which has made a net loss of Rs. 1,000. He is a Music Teacher at the Maloni School of Music, whereby he derives a monthly gross salary of Rs. 200 (received less tax at 6 pies + 1/6 sur charge in the rupee).

He is the holder of 5½ per cent War Bonds of Rs. 5,000 (free of tax) and 3½ per cent Government Promissory Notes of Rs. 10,000. He owns a bungalow at Cumballa Hill, the annual letting value whereof is Rs. 9,000 and the admissible allowances wherefor are Rs. 3,875. He is a Director in the Threadneedle Embroidery Co., Ltd., the annual fees wherefrom are Rs. 300 (*viz.*, Rs. 25 per monthly meeting attended). His interest from the Central Bank Current Account is Rs. 289, and from the Imperial Bank of India Deposit Account is Rs. 1,450. He pays an annual premium for his Life Insurance of Rs. 600. Ascertain the tax payable and the relief claimable by him.

Statement for relief from Income-tax.

(a) Income already taxed or not to be taxed—

Source.	Rate	Net income.		Tax deducted at the source.		Gross income.
		Rs.	a. p.	Rs.	a. p.		Rs.
1. War Bonds ...	5½%	275	0 0	Nil		275
2. Government Promissory Notes ...	3½%	294	12 0	55	4 0	350
3. Salary as Teacher Rs. 200 p.m. ...		2,312	8 0	87	8 0	2,400
		<u>Rs. 2,882</u>	<u>4 0</u>	<u>142</u>	<u>12 0</u>	<u>3,025</u>

(b) Income to be taxed or taxable income:—

1. Profit of Millinery business ...	3,750	0	0
2. Income from house property ...	5,125	0	0
3. Director's fees ...	300	0	0
4. Interest on Central Bank account ...	289	0	0
5. Imperial Bank Deposit Interest ...	1,450	0	0
	<u>Rs. 10,914</u>	<u>0</u>	<u>0</u>
Less—Loss in Hosiery business	1,000	0	0
		<u>9,914</u>	
			<u>Total income Rs. 12,939</u>

(c) Net taxable income:—

Income as above ...	9,914
Less—Insurance premium ...	600
	<u>Rs. 9,314</u>

Rose ought to have been taxed on the whole of his income at 12 pies + Sur charge in the rupee, inasmuch as his total income is more than Rs. 10,000 but less than Rs. 15,000. He will have, therefore, to pay the tax on Rs. 9,314 at 12 pies + 1/12 Sur charge and on salary of Rs. 2,400 at 6 pies + 1/6 Sur charge because the rate of tax deducted from his salary at the source was only 6 pies + 1/6 Sur charge in the rupee. The tax payable and recoverable by him will be arrived at as shown below,

Statement showing the tax payable and recoverable.

Source.	Income. Rs.	Rate.	Tax payable.	Tax recoverable.
(d) Taxable income as above ...	9,314 12 pies + 1/12 s.c.		630 10 0	Nil
(e) Income already taxed :—				
1. Teacher's salary.	2,400 6 pies. + 1/6 s.c.		87 8 0	Nil.
2. Govt. Pro. Notes.	350 14 pies.		Nil.	29 12 0
			Rs. 718 2 0	Rs. 29 12 0

Thus, Rose will pay a net tax of Rs. 688-6.

ASSESSMENT FORM.

Assessment for 1936-1937.

DISTRICT OR AREA, BOMBAY.

Name of assessee. P. F. Rose } Number in General Index—123
Address 373, Hornby Road. } Number of miscellaneous record—105

Serial No.	Detailed sources of income.	Amount of income.	Tax de- ducted at source.		REMARKS.
			Rs.	a.	
1	Salary ...	Rs. 2,400	87	8	
2	Interest on Securities ...	350	55	4	
	Do. (F. of T.) ...	275			
3	Property ...	5,125			
4	Business (3,750-1,000) ...	2,750			
5	Profession ...				
6	Other Sources (300 + 283 + 1,450) ...	2,039			
	Dividends ...				

	Rs.	a.	Rs.	a.
(i) Total income			12,939	
(ii) Deduction on account of provident fund, insurance premia etc.	600			
(iii) Deduct sums received as dividend or from a firm the profits of which have been charged to tax				
(iv) Deduct amount of interest from tax-free securities of the Government of India or of a local Government	275		875	
(v) Income now to be taxed			12,064	
(vi) Rate applicable @ 12 pies per rupee ...				
(vii) Amount of tax			754	
1/6 s.c. on Rs. 2,750 I. T. 171-14			28	10
1/12 s.c. on Rs. 9,314 I. T. 582-2			48	8
(viii) Deduction under section 17 ...			831	2
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5) ...	87	8		
	55	4		
(x) Abatement on account of dividends (at pies per rupee) ...				
(xi) Abatement on account of income from a registered firm (at pies per rupee)			142	12
(xii) Net amount of tax			688	6
(xiii) Penalty under section 28 or section 25 (2)			...	...
(xiv) Total sum payable—(in figures as well as in words)			688	6
Rupees Six hundred and Eighty eight and annas Six.				

E. F. G.

Income-tax Officer.

Dated 21-6-36.

15. Offences and Penalties.

(a) Failure to make payments or deliver returns or statements or allow inspection:—

If a person fails without reasonable cause or excuse—

- (1) to deduct and pay any tax from salary or interest on securities, as required by section 18 or under sub-section 5 of section 46;
- (2) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished;

- (3) to deliver in due time any of the returns mentioned in section 19A, section 21, section 22 or section 38;
- (4) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice;
- (5) to grant inspection or allow copies to be taken in accordance with the provisions of section 39;

he will, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(b) False statement in declaration:—

If a person makes a statement in a verification mentioned in section 19A, or section 22, or sub-section (3) of section 30 or sub-section (2) of section 32 which is false and which he either knows or believes to be false, or does not believe to be true, he will be deemed to have committed the offence described in section 177 of the Indian Penal Code.

(c) Prosecution to be at instance of Assistant Commissioner:—

(1) A person will not be proceeded against for an offence under paragraphs (a) and (b) above except at the instance of the Assistant Commissioner.

(2) The Assistant Commissioner may stay any such proceedings or compound any such offence.

(d) Disclosure of information by a public servant:

(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act, other than proceedings under this Chapter, or in any record of any assessment proceeding or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in the Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine :

Provided that nothing in this section shall apply to the disclosure—

- (a) of any particulars for the purposes of a prosecution under section 193 of the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition or for purposes of a prosecution under this Act, or
- (b) of any such particulars to any person acting in the execution of the Act where it is necessary to disclose the same to him for the purposes of this Act, or
- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or
- (d) of such facts, to an authorised officer of the United Kingdom, as may be necessary to enable relief to be given under section 27 of the Finance Act, 1920, or a refund to be given under section 49 of this Act.

Provided further that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

16. Indemnity.

Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for deduction, retention or payment thereof.

17. Statement of case by Commissioner to High Court.

(1) If in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under para 15 above, a question of law arises, the Commissioner may either on his own motion or on reference from any income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(2) Within one month of the passing of an order under section 31 or 32, the Assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order and the Commissioner will, within one month of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court :

Provided that if in the exercise of his power of review under section 33, the commissioner decides the question, the assessee may withdraw his application, and if he does so, the fee shall be refunded.

(3) If on any application being made under sub-section (2) above, the Commissioner refuses to state the case on the ground that no question of law arises, the Assessee may apply, within six months from the date on which he is served with notice of the refusal, to the High Court, and the High Court, if it is not satisfied with the correctness of the Commissioner's decision, may require the Commissioner to state the case and refer it, and on receipt of any such requisition, the Commissioner will state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case will decide the questions of law raised thereby and deliver its judgment thereon containing the grounds on which such decision is founded and will send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner will dispose of the case accordingly, or, if the case arose on a reference from any income-tax authority subordinate to him, shall forward a copy of such judgment to such officer who shall dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court on the application of an Assessee, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case.

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest, as the Commissioner may allow.

(8) References to be heard by Benches of High Courts and Appeals to lie in certain Cases to Privy Council :—

(a) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908, shall, so far as may be, apply notwithstanding anything contained in the Letters Patent or in any other law for the time being in force.

(b) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case, which the High Court certifies to be a fit one for appeal to his Majesty in Council.

(c) The provisions of the Code of Civil Procedure, 1908, relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court.

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66.

Provided further, that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(d) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court.

(e) Nothing in this clause shall be deemed:—

- (i) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or
- (ii) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee

The amendment of Section 66 provides :—

- (i) A right to claim a reference to the High Court on a point of law arising out of an order passed by the Commissioner in revision.
- (ii) A right to a refund of the deposit fee if the Commissioner refuses to state a case to the High Court.
- (iii) That the High Court has power to require a case to be stated by the Commissioner where the application for a reference to the High Court has been rejected as being barred by limitation.

18. Bar of Suits in Civil Court.

No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any Government officer for any thing in good faith done or intended to be done under this Act.

19. Accounts Prepared by Professional Accountants.

The income-tax authorities may accept the accounts prepared, and submitted to them, by duly qualified Accountants, on behalf of tax payers, provided that such accounts are duly audited and adjusted for income-tax purposes. The responsibility of such accountants is of a twofold nature, *viz.*, firstly towards their clients (the tax-payers) and secondly towards the Government (Revenue Department). They must act in such a way, that neither do their clients pay too much by way of income or super tax, nor may the Government receive too little. In short, they should act quite impartially.

20. Trading by other Governments.

(1) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominion exclusive of British India, that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in British India and all goods owned in British India for the purposes thereof, and all income arising in connection therewith, be liable

- (a) to taxation under the Indian Income-tax Act, 1922, in the same manner and to the same extent as in the like case a company would be liable ;
- (b) to all other taxation for the time being in force in British India in the same manner as in the like case any other person would be liable.

(2) For the purposes of the levy and collection of Income-tax under the Indian Income-tax Act, 1922, in accordance with the provisions of the sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly.

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions,

21. Graduated scale for Rates of Income-tax.

		Amount.	Rate.
1.	When the taxable income is less than	Rs. 2,000	Nil
2.	" "	Rs. 2,000 or upwards, but less than Rs. 5000	6 pies + 1/12 Sur charge in the rupee
3.	" "	Rs. 5,000 or upwards, but less than Rs. 10,000	9 pies + 1/12 "
4.	" "	Rs. 10,000 or upwards, but less than Rs. 15,000	12 " + 1/12 "
5.	" "	Rs. 15,000 or upwards, but less than Rs. 20,000	16 " + 1/12 "
6.	" "	Rs. 20,000 or upwards but less than Rs. 30,000	19 " + 1/12 "
7.	" "	Rs. 30,000 or upwards but less than Rs. 40,000	23 " + 1/12 "
8.	" "	Rs. 40,000 or upwards but less than Rs. 100,000	25 " + 1/12 "
9.	" "	Rs. 100,000 or more	26 " + 1/12 "

22. Graduated scale of Rates for Refund of Income-tax.

1.	Less than Rs. 2,000	26 pies + 1/6 surcharge in the rupee.
2.	Rs. 2,000 or upwards, but less than Rs 5,000	20 " " " "
3.	" 5000 " " " 10,000	17 " " " "
4.	" 10,000 " " " 15,000	14 " " " "
5.	" 15,000 " " " 20,000	10 " " " "
6.	" 20,000 " " " 30,000	7 " " " "
7.	" 30,000 " " " 40,000	3 " " " "
8.	" 40,000 " " " 100,000	1 " " " "
9.	1,00,000 or more.	Nil.

CHAPTER VIII.

SUPER-TAX.

1. Origin of the Tax.

Super-tax was introduced in India on 1st April 1917, more or less on the lines of the English Act, which came into force in England in the year 1910. Formerly, there was a separate Act for Super-tax, which has now been included in the Income-Tax Act of 1922.

2. Charge of Super-tax.

In addition to the Income-tax charged for any year, there will be charged, levied and paid for that year in respect of the total income of the previous year of any individual, unregistered firm, Hindu undivided family, company or other association of individuals not being a registered firm, an additional duty of Income-tax (in this Act referred to as Super-tax) at the rate or rates laid down for that year by an Act of the Indian Legislature (at present as per the graduated scale shown hereafter). Provided that when the profits and gains of an unregistered firm have been assessed to Super-tax, Super-tax will not be payable by an individual having a share in the firm in respect of the amounts of such profits and gains which is proportionate to his share.

Though he does not bring this share of income into account for Super-tax, it should be taken into account for ascertaining this total income for "Rate" purposes.

The amendment of Section 58G makes clear that contributions to a recognised provident fund are liable to Super-tax and that Super-tax shall not be levied a second time when an accumulated balance is paid to the contributor.

3. Total income for purposes of Super-tax..

Subject to the provisions of this Chapter, the total income of any individual unregistered firm, Hindu undivided family, company or other association of individuals not being a registered firm, will be the total income as assessed for the purposes of Income-tax, and where an assessment of total income has become final and conclusive for the purposes of Income-tax for any year, the assessment shall also be final and conclusive for the purposes of Super-tax for the same year.

Provided that in computing the total income of a member of a registered firm, where any change occurs in the constitution of the firm, the profits or gains of the firm during the previous year shall be deemed to have been received in that year by the members of the firm as constituted at the time of the making of the assessment to Super-tax, in propoportion to their shares in the firm at that time.

4. Non-Resident Partners and Share-holders.

In the case of any person residing out of British India, who is a member of a registered firm and whose share of the profits from such firm is liable to Super-tax, the remaining members of such firm who are resident in British India will be jointly and severally liable to pay the Super-tax due from the non-resident member in respect of such share.

Where the Income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of British India and that the total income of such person will in any year exceed the maximum amount which is not chargeable to Super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct, at the time of payment of any dividend from the company to the shareholder in that year, Super-tax at such rate as the Income-tax Officer may determine, as being the rate applicable in respect of the income of the shareholder in that year.

If in any year, the amount of any dividends or the aggregate amount of any dividends paid to any shareholder by a company (together with the amount of any Income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to Super-tax under the law for the time being in force, and the principal officer of the company has not reason to believe that the shareholder is resident in British India, and no order under sub-section (2) has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct Super-tax on the amount of such excess, at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such Income-tax as aforesaid) constituted the whole total income of the shareholder.

Where any person pays any tax under the provisions of this section on account of another person who is residing out of British India, credit will be given therefor in determining the amount of the tax to be payable by any agent of such non-resident person under the provisions of paragraph 8 (c) of Chapter VII.

5. Application of Act to Super-tax.

(1) All the provisions of this Act apply to Super-tax so far as they relate to the charge, assessment, collection and recovery of Super-tax. The following sections of the Act will not apply to Super-tax, *viz.*, section 3, proviso to section 7 (1) second and third provisos to section 8, sections 14 (2), 15, 17, 19, 20, 21 and 48, 58 F and sub-sections (2) and (3) of section 58 G.

(2) Save as provided in sub-sections (3 A), (3 B), (3 C), and (3 D) of section 18, section 57 and section 58 H, Super-tax will be payable by the Assessee direct.

6. Rates of Super-tax.

(a) In the case of every individual, unregistered firm, Hindu undivided family, and other association of individuals not being a registered firm, Super-tax will be charged on his or its taxable income, at the rate specified in the graduated scale thereof as shown hereafter.

(b) In the case of every company, Super-tax will be charged on the amount by which its Total income exceeds Rs. 50,000, at the flat rate of one anna in the rupee.

Graduated-Scale.

(A) *Up to one lakh:—*

(1) *In the case of Hindu undivided family:—*

	Rate.
(a) In respect of the first Rs. 75,000 of taxable income 	Nil.
(b) In respect of the next Rs. 25,000 of taxable income 	One anna + 3 pies in rupee.

(2) *In the case of all others:—*

(a) In respect of the first Rs. 30,000 of taxable income 	Nil.
(b) In respect of the next Rs. 20,000 of taxable income 	9 pies in the rupee.
(c) In respect of the next Rs. 50,000 of taxable income	1 anna and 3 pies in the rupee.

(B) *Above one lakh:—*

In respect of	Annas in the rupee + 1/12 sur-charge
1. the first Rs. 50,000 of taxable income.	1½
2. next Rs. " "	2¼
3. next Rs. 50,000 of taxable income.	2¾ annas
4. " " "	3¼
5. " " "	3¾
6. " " "	4¼
7. " " "	4¾
8. " " "	5¼
9. " " "	5¾
10. On all taxable income over Rs. 5½ lakhs.	6¼

7. Preparation of the Returns and Accounts for Super-tax.

(a) *Ascertaining "Taxable Income."*

The question whether a person, firm or company is liable to Super-tax or not will depend upon the total gross income from all sources accruing in the previous year. If such total income exceed Rs. 30,000, the Assessee will be required to pay the tax on the excess over Rs. 30,000 called the "Taxable Income" for Super-tax purposes, otherwise not (statutory deduction in the case of Hindu undivided family is Rs. 75,000).

The method of computing total income from all sources is almost the same as that adopted for ascertaining total income from all sources for the purpose of assessment of or exemption from Income-tax. The procedure for ascertaining taxable income is as follows:—

1. Aggregate the total gross income from all sources, whether taxed at source or not.
2. Deduct expenses and losses allowed for Income-tax purposes.
3. The balance of income will show whether the tax is payable by the Assessee or not.
4. Deduct the statutory deduction of Rs. 30,000 or Rs. 75,000, as the case may be.
5. The balance of income represents the "Taxable Income" upon which Super-tax is payable, at the rate shown in paragraph 6 above.

(b) *Limited Companies.*

*Illustration:—*The Swadeshi Manufacturing Company, Limited, has prepared the following Profit and Loss Account for the year ending 31st

March 1936 Find out the taxable income of the company, and ascertain the amount of Super-tax to which the company is liable. It is assumed that the Income-tax Officer will allow, by way of depreciation, only 5 percent on Machinery and 2½ percent on Buildings.

Dr.	<i>Profit and Loss Account.</i>		Cr.
	Rs.		Rs.
To Materials consumed ...	1,02,75,873	By Sales (less returns) ...	1,75,06,731
„ Stores consumed ...	5,27,284	„ Dividends (gross) ...	15,750
„ Manufacturing wages	8,30,271	„ Rent from subletting	2,400
„ Factory Establishment	6,50,758	„ Discounts and allowances	1,539
„ Office do.	9,37,367	„ Transfer fees	90
„ Income-Tax	1,12,000		
„ Loss on Sale of Investments ...	15,850		
„ Bad Debts & Discounts (written off) ...	3,587		
„ Interest on Debentures (less tax) ...	14,500		
„ Reserves for Bad Debts & Discounts ...	5,500		
„ Depreciation of Machinery (8%) ...	80,000		
„ Depreciation of Building (5%) ...	72,000		
„ Net Profits carried down ...	40,01,520		
	Rs. 1,75,26,510		Rs. 1,75,26,510
To Dividends on Ord. Shares. ...	25,00,000	By Net Profits brought down ...	40,01,500
„ Dividends on Pref. Shares. ...	10,00,000	„ Last year's Profits ...	75,000
„ Amount transferred to Reserve Fund ...	2,50,000		
„ Balance carried forward. ...	3,26,520		
	Rs. 40,76,520		Rs. 40,76,520

Dr.	<i>Profit and Loss Account adjusted for Super-tax.</i>		Cr.
	Rs.		Rs.
Balance carried over ...	42,00,870	Net profit as above ...	40,01,520
		Income-tax ...	1,12,000
		Loss on Sale of Investments ...	15,850
		Reserves for Bad Debts & Discounts ...	5,500
		Excess Depreciation of Machinery (3%) ...	30,000
		Excess Depreciation of Building (2½%) ...	36,000
	<hr style="width: 100%; border: 0.5px solid black; margin-bottom: 5px;"/> Rs. 42,00,870 <hr style="width: 100%; border: 0.5px solid black;"/>		<hr style="width: 100%; border: 0.5px solid black; margin-bottom: 5px;"/> Rs. 42,00,870 <hr style="width: 100%; border: 0.5px solid black;"/>
Statutory allowance ...	50,000	Balance brought down ...	42,00,870
Balance being Profits Taxable to Super-tax (Taxable Income.)	41,50,870		
	<hr style="width: 100%; border: 0.5px solid black; margin-bottom: 5px;"/> Rs. 42,00,870 <hr style="width: 100%; border: 0.5px solid black;"/>		<hr style="width: 100%; border: 0.5px solid black; margin-bottom: 5px;"/> 42,00,870 <hr style="width: 100%; border: 0.5px solid black;"/>

The amount of Super-tax payable by the company on its taxable income of Rs. 41,50,870 will be Rs. 2,81,048-8, *viz.*, at a flat rate of 1 anna + 1/12 sur-charge in the rupee.

(c) *Unregistered Firm.*

Illustration :—Pastakià, Popatlal and Panday having a capital of Rs. 1,50,000 in equal shares, are in partnership as Mills Stores Suppliers, sharing profits and losses in the proportions of 5 : 3 : 2, respectively. From the following Profit and Loss Account of the firm, for the year ending 31st March 1936, ascertain the profits taxable to Super-tax and the share of tax borne by each partner,

Dr.	<i>Profit and Loss Account.</i>		Cr.
	Rs.		Rs.
To Office establishment ...	45,938	By Gross Profits, as per	
„ Donations to Sir J. J. Hospital ...	25,000	Trading account ...	2,46,850
„ Bad Debts & Discounts (written off) ...	5,892	„ Profit made on the race-course ...	14,375
„ Income-tax ...	2,000	„ Rent from subletting ...	1,800
„ Rent (less repairs) ...	6,592	„ Discounts and allowances ...	392
„ Interest on capital (equal shares) ...	7,500	„ Profit from the Sale of Investments ...	15,595
„ Partners' salaries— Pastakia 4,800 Popatlal 3,000 Panday 2,400 —————	10,200		
„ Speculation Loss ...	15,000		
„ Net Profits carried down	1,60,890		
	Rs. 2,79,012		Rs. 2,79,012
To General Reserve Account ...	44,000	By Net Profits brought down ...	1,60,890
„ Speculation Reserve Account ...	25,000		
„ Partners' Drawings Accounts :— Pastakia (five-tenths) ...	45,945		
Popatlal (three-tenths).	27,567		
Panday (two-tenths) ...	18,378		
	Rs. 1,60,890		Rs. 1,60,890

Dr.	<i>Profit and Loss Account adjusted for Super-tax.</i>		Cr.
	Rs.		Rs.
Profit on the race-course. ...	14,375	Net Profits as above ...	1,60,890
Profit from the sale of Investments. ...	15,595	Donations to the Hospital	25,000
Balance carried down. ...	1,90,620	Income-tax ...	2,000
		Interest on capitals ...	7,500
		Partner's salaries ...	10,200
		Speculation loss. ...	15,000
	Rss. 2,20,590		Rs 2,20,590
Statutory Allowance. ...	30,000	Balance brought down	1,90,620
Balance being firm's Profit taxable to Super-tax (Taxable Income). ...	1,60,620		
	Rs. 1,90,620		Rs. 1,90,620
Firm's Taxable Income			Rs. 1,60,620
Less Interest on Capital		7,500	
Partner's Salaries ...		10,200	
		17,700	
Firm's Divisible Income			Rs. 1,42,920

Statement showing allocation of Taxable Income.

	Pastakia.	Popatlal.	Panday.	Total.
Divisible Income	Rs. 71,460	42,876	28,584	1,42,920
Interest on Capital	,, 2,500	2,500	2,500	7,500
Partners' Salaries	,, 4,800	3,000	2,400	10,200
Taxable Income	Rs. 78,760	48,376	33,484	1,60,620

The amount of Super-tax payable by the firm amounts to Rs. 17,360 which is arrived at thus :—

	Rs.	Rs.	a.	p.
On first	20,000 at 9	937	8	0
„ next	50,000 at 1½	3,906	4	0
„ „	50,000 at 1¾	5,468	12	0
„ „	40,620 at 2¼	5,712	3	0
	Rs. 1,60,620	Rs. 16,024	11	0
		1/12 Sur-charge	1.335	6 0
		Rs. 17,360	1	0

Though the firm pays a tax of Rs. 17,360-1-0 it should be borne by the partners in the proportions of Rs. 78,760 : 48,376 : 33,484,

(d) *Registered firms.*

A. B. C. and D. are the four partners in a firm, sharing profits and losses in the proportions of 4:3:2:1, and the income whereof is as follows :—

	Rs.
1. Property Rents (after admissible deductions) ...	50,000
2. Proprietary Mill's Profit (after admissible deductions) ...	40,000
3. Dividends gross	34,441
4. "Tax Free Securities" Interest	60,000
5. Interest from Securities taxed at source	68,882
6. "Loans on Mortgage" Interest	20,000
7. Agency Commission, as a partner in a Registered Firm (taxed at source)	10,000
8. Agency Commission, as a partner in a Registered Firm (not taxed)	30,000
9. Share in an Unregistered Firm (taxed at 9 pies) ...	9,000
10. Share in an Unregistered Firm (taxed to I. T. & S. T. ...	50,000
11. Commission as Treasurers and Secretaries to a Joint Stock Co.	25,000

(a) Ascertain what I. T. & S. T. the unregistered firm will have to pay.

(b) Also what I. T. & S. T. the partners will pay, if they were assessed directly, the firm being a registered one.

Illustration (a) :—

	Rs.
1. Property	50,000
2. Proprietary Mills	40,000
3. Interest on Loans	20,000
4. Agency Commission	30,000
5. Secretaries Commission	25,000
	1,65,000
6. Dividends (gross)	34,441
7. Tax Free Securities	60,000
8. Taxed Do. (gross)	68,882
9. Agency Commission (taxed to I. T. only) ...	10,000
10. Share in a Firm (taxed to I. T. only) ...	9,000
	1,82,323
11. Agency Commission (taxed to I. T. & S. T.).	50,000
	3,97,323
Total ...	3,97,323
Less Income taxed to I. T. & S. T. ...	50,000
	3,47,323
Income for S. T.	3,47,323
Less Income taxed to I. T. only, or Tax Free Income for I. T.	1,82,323
	1,65,000
	Rs. 1,65,000

The firm, if an unregistered one, will have to pay an I. T. of Rs. 24,205-12-0, being 26 pies + 1/12 surcharge on Rs. 1,65,000. The Income liable to S. T. is Rs. 3,17,323 *i. e.*, Rs. 3,47,323 less the statutory allowance of Rs. 30,000. The S. T. amounts to Rs. 51,117-2-0 as shown below :—

			Rs.	a.
On the first	...	Rs. 20,000 @ 9 pies	...	937 8
On the next	...	„ 50,000 @ 1½ anna	...	3,906 4
Do.	...	„ 50,000 @ 1¾ annas	...	5,468 12
Do.	...	„ 50,000 @ 2½ annas	...	7,031 4
Do.	...	„ 50,000 @ 2¾ annas	...	8,593 12
Do.	...	„ 50,000 @ 3¼ annas	...	10,156 4
Do.	...	„ 47,323 @ 3¾ „	...	11,091 5
Total Rs. ...			3,17,323	47,185 1
			Add 1/12 Surcharge ...	3,932 1
				51,117 2

NOTES :—(1) The Agency Commission of Rs. 50,000 has been ignored, because I. T. as well as S. T. have already been paid thereon. It is, however, to be taken for rate purposes. For instance, if the partner D., whose share in the firm is one-tenth, had a personal income of Rs. 2,000 from properties, the rate applicable to the latter would be 25 pies + 1/12 Surcharge, his total income being Rs. 41,732 *i. e.* Rs. 39,732 (one-tenth of Rs. 3,97,323, and not Rs. 3,47,323, as above) plus Rs. 2,000 from properties.

(2) The firm, being an unregistered one in this case, is liable to S. T. at graded rates. A registered firm is not, however, liable to S. T., which is charged against the partners directly, as shown in the following illustration

Illustration (b):—

The income of 3,97,323 ascertained as above, will be apportioned amongst the partners of the registered firm thus :—

Share.	Liable to I. T.	Total for S. T.	Total for rate.
	Rs.	Rs.	Rs.
A. Four-tenths.	66,000	1,38,929	1,58,929
B. Three-tenths.	49,500	1,04,197	1,19,197
C. Two-tenths.	33,000	69,465	79,465
D. One-tenth.	16,500	34,732	39,732
	<hr style="width: 100%; border: 0.5px solid black;"/>	<hr style="width: 100%; border: 0.5px solid black;"/>	<hr style="width: 100%; border: 0.5px solid black;"/>
	1,65,000	3,47,323	3,97,323
	<hr style="width: 100%; border: 0.5px solid black;"/>	<hr style="width: 100%; border: 0.5px solid black;"/>	<hr style="width: 100%; border: 0.5px solid black;"/>

(A) I. T. will be paid by A on Rs. 66,000 @ 26 pies + 1/12 Sur charge. He will pay S. T. on Rs. 1,08,929, on Rs. 20,000 @ 9 pies + 1/12 Sur charge and on Rs. 50,000 @ 15 pies + 1/12 Surchage and on the balance of Rs 38,929 @ 21 pies + 1/12 Surchage.

(B) I. T. will be paid by B. on Rs. 49,500 at 26 pies + 1/12 Surchage while he will pay S. T. on Rs. 74,197 at the rate of 9 pies + 1/12 S. C. on the first Rs. 20,000, 15 pies + 1/12 S. C. on Rs. 50,000 and @ 21 pies + 1/12 S. C. on the rest Rs. 4,197.

(C) I. T. payable by C on Rs. 33,000 will be at the rate of 25 pies, + 1/12 S. C. his total income being Rs. 79,465 for rate purposes. He will, however, pay S. T. on Rs. 39,465 only: (Rs. 69,465—Rs. 30,000). Rate applicable is @ 9 pies + 1/12 Surchage on Rs. 20,000 and @ 15 pies + 1/12 S. C. on Rs. 19,465.

(D) Though D's income liable to I. T. is only Rs. 16,500, yet he will have to pay it at the rate of 23 pies + 1/12 S. C. his total income being Rs. 39,732. He will pay S. T. only on Rs. 4,732. (34,732—Rs. 30,000).

NOTE:—If the firm be taxed at source as a Registered Firm, it will pay I. T. on the Rs. 1,65,000 at 26 pies + 1/12 S. C. the S. T. being recovered from the partners directly as stated above. In such a case, partners A. & B. could not claim any refund of I. T., the rate applicable to them being 26 pies + 1/12 S. C. C. could claim a refund on Rs. 33,000 at 1 pie + 1/12 S. C. inasmuch as he has paid tax in the Firm at 26 pies + 1/12 S. C. rate (Rs. 33,000 being included in Rs. 1,65,000 taxed with the Firm). D. could claim a refndd of tax at 3 pies + 1/12 surcharge on Rs. 16,500 inasmuch as he has paid tax in the firm at 26 pies plus 1/12 S. C. in the refund.

Change in the Partners of a Registered Firm.

Where any change occurs in the constitution of a registered firm, for computing the total income of a partner for S. T., the profit of the firm during the previous year shall be deemed to have been received in that year by the partners of the firm as constituted at the time of the making of the assessment to S. T., in proportion to their shares in the firm at that time.

Illustration:—

P. Q. R., the partners of a Registered Firm, have the following income liable to S. T. :—

P. Half share	Rs. 2,25,000
Q. One-third share	1,50,000
R. One-sixth share	75,000

Firm's Total Income	Rs. 4,50,000
---------------------	--------------

They take in a partner X before the Assessment is levied, their new shares being 4: 3: 2: 1 The income will now be divided thus:—

P.	1,80,000	
Q.	1,35,000	
R.	90,000	
X.	45,000	Rs. 4,50,000

So that P. will have to pay S. T. on Rs. 1,50,000, Q. on Rs. 1,05,000 and R. on Rs. 60,000/- and X on Rs. 15,000/-

On the other hand, if P. retired from the above firm, before the S. T. assessment was levied and the shares of Q. and R. between themselves were 3:2, the whole of the income of Rs. 4,50,000 would have been divided between them, for S. T. purposes, as Rs. 2,70,000 and Rs. 1,80,000/- respectively. Q. will then have to pay S. T. on Rs. 2,40,000/- and R. on Rs. 1,50,000/-, at the graded rates.

(e) *Individuals.*

Illustration:—From the following particulars of the income of Haribhai K. Mehta, of 32, C. P. Tank Road, ascertain the amount of the tax payable by him:—

He is the part-time Secretary of the Reliance Insurance Co., Ltd. of 51, Green Street, Fort, where he is given a salary of Rs. 1,000 per mensem after deducting income-tax at 12 pies + $\frac{1}{6}$ surcharge in the rupee. He is a shareholder in the Mody Manufacturing Co., Ltd., wherefrom he derives an annual dividend of Rs. 2,900, and a debenture-holder in the Pareira Mills, Ltd, for Rs. 2,50,000 from which he gets a regular interest at 6 per cent (less tax). He has also subscribed to the 5½ per cent War Bonds (free of tax) up to Rs. 50,000. During his spare hours, he practises as Insurance Counsel at 375, Hornby Road, the net assessable income wherefrom is Rs. 13,278. He is a sleeping partner in the unregistered firm of Mody, Master & Co., of 27th Street, Rangoon where he gets by way of profits a certain percentage (of interest on his capital) varying with the profits of the firm; and during the last year he got such interest amounting to Rs. 9,600. The National Bank of India, Ltd., has credited his current account with Rs. 379, being interest due to him.

He also owns a house property at 32, Sewri Road, the annual letting value whereof is Rs. 15,820, and the admissible allowances relating thereto amount to Rs. 3,752. He is a pensioner (retired Headmaster) of the Baroda State which give him Rs. 5,000 annually. He is appointed Examiner in Sanskrit to the Bombay University, wherefrom he got during the last year, an honorarium of Rs. 1,900. He is also a Director of the Navsari Assurance Society, Ltd., where he attends the monthly meetings regularly, and so gets Rs. 240 per annum.

Statement of Income for Super-tax Assessment.

(a) Gross Income already taxed or received free of tax :—

			Rs.
1.	Salary as Secretary	...	12,000
2.	Dividend from Mody Mfg. Co. Shares Gross	...	3,444
3.	6% Interest from Debentures of Pareira Mills	...	15,000
4.	Interest on 5½% War Bonds (free of tax)	...	2,750
5.	Interest from Mody, Master & Co.	...	9,600
			42,794

(b) Income not taxed :—

			Rs.
1.	Net Income from the practice as Insurance Counsel		13,278
2.	Interest on Bank Current Account	... ..	379
3.	Net Income from house property	... ..	12,068
4.	Pension from Baroda State	... ..	5,000
5.	Honorarium as Examiner	... ..	1,900
6.	Director's Fees	... ..	240
			32,865

Total Gross Income	...	...	...	Rs. 75,659
Less Statutory Allowance	...	...	...	,, 30,000

Taxable Income Rs. 45,659

Haribhai will pay a Super-tax at 9 pies + 1/12 sur-charge in the rupee on Rs. 20,000 and @ 15 pies + 1/12 sur charge on Rs. 25,659.

Note— If he proves to be a member of a Hindu joint family, he will pay Super-Tax @ 1 anna and 3 pies + 1/12 sur-charge in the rupee on Rs. 659 only. Interest at a rate varying with the profits is not allowed to be deducted as an expense; so that Rs. 9,600, will be taxed at source, along with the income of Mody, Master & Co.

ASSESSMENT FORM.**Assessment for 1936-1937.**

DISTRICT OR AREA—BOMBAY.

Name of Assessee.	Number in General Index—359.
Haribhai K. Mehta.	
Address: 32 C. P. Tank Road.	Number of miscellaneous record—304

Serial No.	Detailed sources of income.	Amount of income.		Tax deducted at source.	Remarks.
		Rs.	Rs.	a.	
1	Salary etc. (12,000 + 5,000)	17,000	875	0	
2	Interest on Securities ...	15,000	2200	8	
3	Do Do. (F. of T.	2,750	...		
4	Property ...	12,068	...		
5	Business ...	9,600*	...		
6	Profession ..	13,278	...		
7	Other sources (379 + 1,900 + 240) ...	2,519	...		
8	Dividends (2,900 + 3/29ths.)	3,444	544	2	* (taxed at source to I. T. only).

For S. T. Rs. 75,659

Less „ 30,000

45,659

@ 9 pies on Rs. 20,000 Rs. 937-8

@ 15 pies „ 25,659 „ 2,004-10

Total 2,942-2

1/12 S. C. 245-3

3,187-5

	Rs.	a.	Rs.	a.
(i) Total income ..			75,659	0
(ii) Deduction on account of provident fund, insurance premia, etc. ...				
(iii) Deduct sums received as dividends or from a firm the profits of which have been charged to tax ...	{ 9,600			
	{ 3,444			
(iv) Deduct amount of interest from tax-free securities of the Government of India or of a Local Government ...	2,750		15,794	
(v) Income now to be taxed ...			59,865	
(vi) Rate applicable 25 pies per rupee ...				
(vii) Amount of tax ...			7,794	15
+1/6 Sur-charge on Rs. 27,000 Rs. 3,515-10			585	15
+1/12 „ „ 32,865 „ 4,279-5			356	10
			8,737	8
(viii) Deduction under section 17 ...				
(ix) Amount of deductions at source from salary or interest on securities for which credit is given under section 18 (5) ...	{ 875			
	{ 2,200	8		
(x) Abatement on account of dividends at 1 pie plus 1/6 S. C. on Rs. 3,444 per rupee ...	20	15		
(xi) Abatement on account of income from a registered firm (at Nil pies per rupee) ...			3,096	7
(xii) Net amount of tax ...			5,641	1
(xiii) Penalty under section 28 or section 25 (2) ...				
(xiv) Total sum payable—(in figures as well as in words) ...			5,641	1
Rupees Five Thousand, six hundred, forty one and anna one only.				

S. T. Rupees: Three Thousand, one hundred, eighty seven and annas five only.

F. G. H.

Income-tax Officer.

Dated 1st July, 1936.

THE INDIAN INCOME-TAX ACT

(ACT NO. XI OF 1922)

As amended up to April 1, 1934

An Act to consolidate and amend the law relating to Income-tax and Super-tax

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax; It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Indian Income-tax Act, 1922.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with His Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf, and to all other servants of His Majesty in those dominions.

(3) It shall come into force on the first day of April, 1922.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “agricultural income” means—

(a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in British India or subject to a local rate assessed and collected by officers of Government as such ;

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii) ;

- (c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of this connection with the land, requires as a dwelling-house, or as a store-house, or other out-building;

(2) "assessee" means a person by whom Income-tax is payable;

(3) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under section 5;

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

* (4A) "The Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;

(5) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5;

(6) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situated in British India or not, which the † *Central Board of Revenue* may, by general or special order declare to be a company for the purposes of this Act;

‡ (6A) "firm", "partner" and "partnership" have the same meanings respectively as in the Indian Contract Act, 1872; and

(7) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 5;

(8) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government to try offences against this Act;

* This clause was inserted by the Central Board of Revenue Act, 1924 (IV of 1924).

† Amended by the Central Board of Revenue Act, 1924 (IV of 1924).

‡ Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

N. B.—The definition of "firm" and "partnership" in the Indian Contract Act, 1872, have been replaced by the Indian Partnership Act, 1932 (IX of 1932); but the definitions in the latter Act are effective owing to the operation of section 8 of the General Clauses Act, 1897 (X of 1897).

(9) "person" includes a Hindu undivided family;

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

(11) "Previous year" means—

(a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up;

Provided that, if this option has once been exercised by the assessee it shall not again be exercised so as to vary the meaning of the expression "previous year" as then applicable to such assessee except with the consent of the Income-tax Officer and upon such conditions as he may think fit ; or

(b) in the case of any person, business or company, or class of person, business or company, such period as may be determined by the Central Board of Revenue or by such authority as the Board may authorise in this behalf.

(12) "principal officer" used with reference to a local authority or a company or any other public body or *any** association, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(b) any person connected with the authority, company, body or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof;

(13) "public servant" has the same meaning as in the Indian Penal Code;

(14) †"registered firm" means a firm registered under the provisions of section 26-A;

(15) "total income" means total amount of income, profits and gains from all sources to which this Act applies computed in the manner laid down in section 19; and

(16) "unregistered firm" means a firm which is not a registered firm.

*Amended by the Indian Income-tax (Amendment) Act, 1924 (XI of 1924).

†Amended by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

CHAPTER I

CHARGE OF INCOME-TAX

3. Where any Act of the Indian Legislature enacts that income-tax shall be charged for any year at any rate or rates applicable to the total of income of an assessee, tax at the rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of all income, profits and gains of the previous year of every **individual, Hindu undivided family, company, firm and other association of individuals.*†

4. (1) Save as hereinafter provided, this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing or arising, or received in British India or deemed under the provisions of this Act to accrue, or arise, or to be received in British India.

(2) *§Income, profits and gains accruing or arising without British India to a person resident in British India† shall, if they are received in or brought into British India and to be ‡income, profits and gains of the year in which they are so received or brought, notwithstanding the fact that they did not so accrue or arise in that year.*¶

* * * * *

§Provided that nothing contained in this sub-section shall apply to any income, profits or gains so accruing or arising prior to the 1st day of April 1933, unless they are income, profits or gains of a business and are received in or brought into British India within three years of the end of the year in which they accrued or arose:

¶Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made to the State.

* Amended by the Indian Income-tax (Amendment) Act, 1924 (XI of 1924).

† Note.—The amendments made in Sections 3, 55 and 56 of the Act by the Indian income-tax (Amendment) Act, 1924 (XI of 1924) shall have effect as if they had been made on the first day of April 1923, and income-tax and super-tax shall be deemed to have been chargeable for the year commencing on that date and to be chargeable for the year commencing on the first day of April, 1924, at the rate or rates applicable for those years to the total income of an individual, in respect of the income, profits and gains and of the total income, respectively, of every Association of individuals for which no rate of tax has been otherwise laid down by law.

‡ Amended by the Indian Income-tax (Further Amendment) Act, 1923 (XXVII of 1923)

§ Amended by the Indian Income tax (Amendment) Act, 1933 (XII of 1933).

¶ Repealed by the Indian Income-tax (Amendment) Act, 1933 (XII of 1933).

Explanation.—*Income, profits or gains accruing or arising without British India shall not be deemed to be received or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in the balance sheet prepared in British India.

(3) This Act shall not apply to the following classes of income :—

- (i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto.
- (ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.
- (iii) The income of local authorities.
- (iv) Interest on securities which are held by, or are the property of any Provident Fund to which the Provident Funds Act, 1897, applies,† * * * * *
- (v) Any capital sum received in commutation of the whole or a portion of a pension, or in the nature of consolidated compensation for death or injuries, or in payment of any insurance policy, or as the accumulated balance at the credit of a subscriber to any such Provident Fund.
- (vi) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.
- (vii) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation which are of a casual and non-recurring nature or are not by way of addition to the remuneration of an employé.
- (viii) Agricultural income.
- ‡(ix) Any income received by trustees on behalf of a recognised provident fund as defined in clause (a) of section 58-A.

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility.

*Amended by the Indian Income-tax (Amendment) Act, 1933 (XII of 1923).

†Repealed by the Indian Income-tax Amendment Act, 1924 (XI of 1924)

‡Inserted by the Indian Income-tax (Provident Funds Relief) Act 1929 (XII of 1929),

CHAPTER II.

INCOME-TAX AUTHORITIES.

Income-tax au-
thorities.

5. (1) There shall be the following classes of In-
come-tax authorities for the purposes of this Act, namely:—

- (a) the Central Board of Revenue,
- (b) Commissioners of Income-tax,
- (c) Assistant Commissioners of Income-tax, and
- (d) Income-tax Officers.

§*

**(3) The Governor General in Council may appoint a Commissioner of Income-tax for any area specified in the order of appointment.*

(4) Assistant Commissioners of Income-tax and Income-tax Officers shall subject to the control of the Governor General in Council, be appointed by the Commissioner of Income-tax by order in writing. They shall perform their functions †in respect of such persons or classes of persons and of such income or classes of income and in respect of such areas as the Commissioner of Income-tax may direct‡ and, where two or more Assistant Commissioners of Income tax or Income-tax Officers have been appointed for the same area, in accordance with any orders which the Commissioner of Income-tax may make for the distribution and allocation of the work to be performed. The Commissioner may, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Assistant Commissioner by or under this Act shall in respect of any specified case or class of cases, be exercised by the Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Assistant Commissioner shall be deemed to be references to the Assistant Commissioner and the Commissioner, respectively.

(5) The Central Board of Revenue may, by notification in the Gazette of India, appoint Commissioners of Income-tax, Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income, and for such area, as may be specified in the notification, and thereupon the functions so specified shall cease, within the specified area, to be performed, in respect of the specified

§Repealed by the Central Board of Revenue Act, 1924 (IV of 1924).

*Substituted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Amended by the Indian Income tax (Second Amendment) Act, 1933 (XVIII of 1933).

‡Inserted by the Indian Income-tax (Second Amendment) Act (XVIII of 1933).

classes of persons or classes of income, by the authorities appointed under sub-sections (3) and (4).

(6) Assistant Commissioners of Income-tax and Income-tax Officers appointed under sub-section (4) shall, for the purposes of this Act, be subordinate to the Commissioner of Income-tax appointed under sub-section (3) for the *area in which they perform their functions.

CHAPTER III.

TAXABLE INCOME.

6. Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely:—

Heads of income chargeable to income-tax.

- (i) Salaries.
- (ii) Interest on securities.
- (iii) Property.
- (iv) Business.
- (v) Professional earnings.
- (vi) Other sources.

7. (1) The tax shall be payable by an assessee under the head "salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits received by him in lieu of, or in addition to, any salary or wages, which are paid by or on behalf of Government, a local authority, a company, or any other public body or association, or by or on behalf of any private employer:

Salaries.

†Explanation.—The right of a person to occupy free of rent as a place of residence and premises provided by his employer is a perquisite for the purposes of this subsection:

Provided that the tax shall not be payable in respect of any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

(2) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor General in Council.

*Amended by the Indian Income tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Inserted by the Indian Income-tax (Amendment) Act, 1923 (XV of 1923).

8. The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the Government of India or of a Local Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company.

**Provided that no income-tax shall be payable under this section by the assessee in respect of any sum deducted from such interest by way of commission by a banker realizing such interest on behalf of the assessee:*

Provided further that no income-tax shall be payable on the interest receivable on any security of the Government of India issued or declared to be income-tax free:

Provided, further that the income-tax payable on the interest receivable on any security of a Local Government issued income-tax free shall be payable by that Local Government.

9. (1) The tax shall be payable by an assessee under the head "Property" in respect of the *bona fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of his business subject the following allowances, namely :—

- (i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value;
- (ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value;
- (iii) the amount of any annual premium paid to insure the property against risk of damage or destruction;
- †(iv) where the property is subject to a mortgage, or other capital charge, the amount of any interest on such mortgage or charge; where the property is subject to a ground rent, the amount of such ground rent; and where the property has been acquired with borrowed capital, the amount of any interest payable on such capital and not specifically charged upon the property itself;
- (v) any sums paid on account of land-revenue in respect of the property ;

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933.)

†Amended by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

- (vi) in respect of collection charges, a sum not exceeding the prescribed maximum ;
- (vii) in respect of vacancies, such sum as the Income-tax Officer may determine having regard to the circumstances of the case :

Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value.

(2) For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year.

Provided that where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent, of the total income of the owner.

10. (1) The tax shall be payable by an assessee under the head "Business" in respect of the profits or gains of any business carried on by him.

Business.

(2) Such profits or gains shall be computed after making the following allowances, namely :—

- (i) any rent paid for the premises in which such business is carried on provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the proportional part so used ;
- (ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed;
- (iii) in respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid ;

Explanation.—Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed; shall be deemed to be capital borrowed within the meaning of this clause.

- (iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the business, the amount of any premium paid;

- (v) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof ;
- (vi) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed ;

Provided that—

- (a) the prescribed particulars have been duly furnished;
- (b) where full effect cannot be given to any such allowance in any year owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or, if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years; and

the aggregate of all such allowances made under this Act or any Act repealed hereby, or under the Indian Income-tax Act, 1886, shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture as the case may be ;

- (vii) in respect of any machinery or plant which, in consequence of its having become obsolete, has been sold or discarded, the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the allowances made in respect of depreciation under clause (vi), or any Act repealed hereby, or the Indian Income-tax Act, 1886, and the amount for which the machinery or Plant is actually sold, or its scrap value;
- (viii) in respect of animals which have been used for the purposes of the business otherwise than as stock in trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;
- (viii) any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the business;

(viii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission :

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

- (a) the pay of the employee and the conditions of his service;
- (b) the profits of the business for the year in question; and
- (c) the general practice in similar businesses;
- (ix) any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains :

†Provided that nothing in clause (viii) or clause (ix) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or assessed at proportion of or otherwise on the basis of any such profits or gains.

(3) In sub-section (2), the word "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section.

11. (1) The tax shall be payable by an assessee under the head Professional earnings. "Professional earnings" in respect of the profits or gains of any profession or vocation followed by him.

‡(2) Such profits or gains shall be computed after making the following allowances, namely:—

- (i) any expenditure (not being in the nature of capital expenditure) incurred solely for the purposes of such profession or vocation, and not being personal expenses of the assessee;
- (ii) in respect of depreciation of buildings and depreciation and obsolescence of machinery, apparatus, appliances, plant, furniture or other capital assets being the property of the assessee and used solely for the purposes of such profession or vocation the allowances specified in clauses (vi) and (vii) of sub-section (2) of section 10 subject to all the conditions specified in those clauses.

(3) Professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits or gains chargeable under this head.

*Inserted by the Indian Income-tax (Third Amendment) Act, 1930 (XXIII of 1930).

†Inserted by the Indian Income-tax (Amendment) Act, 1928 (III of 1928).

‡Substituted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

12. (1) The tax shall be payable by an assessee under the head "Other sources" in respect of income, profits and gains of every kind and from every source to which this Act applies (if not included under any of the preceding heads).

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, provided that no allowance shall be made on account of any personal expenses of the assessee.

13. Income, profits and gains shall be computed for the purposes of sections 10, 11 and 12 in accordance with the method of accounting regularly employed by the assessee :

Method of a ac-
counting. Provided that if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

14. (1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family.

(2) The tax shall not be payable by an assessee in respect of—

(a) any sum which he receives by way of dividends as a shareholder in a company where the profits or gains of the company have been assessed to income-tax; or

(b) such an amount of the profit or gains of any firm which have been assessed to income-tax as is proportionate to his share in the firm *at the time of such assessment; or

†(c) any sum which he receives as his share of the profits or gains of an association of individuals other than a Hindu undivided, family, company or firm where such profits or gains have been assessed to income-tax.

15. (1) The tax shall not be payable by an assessee in respect of any sum paid by him to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any Provident Fund to which the Provident Funds Act, 1897 applies.

*Inserted by the Indian Income-tax (Amendment) Act, 1928 (III of 1928).

†Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXII of 1930).

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member,

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the proviso to sub-section (1) of section 7, *and any sums exempted under sub-section (1) of section 58-F exceed one-sixth of the total income of the assessee.

16. (1) In computing the total income of an assessee sums exempted under the proviso to sub-section (1) of section 7, Exemptions and exclusions determining the total income. †the second and third provisos to section 8, sub-section (2) of section 14 and 15, shall be included.

(2) For the purposes of sub-section (1), any sum mentioned in clause (a) of sub-section (2) of section 14 shall be increased by the amount of income-tax payable by the company in respect of the dividend received.

17. Where owing to the fact that the total income of any assessee has reached or exceeded a certain limit he is liable to pay income-tax or to pay income-tax at a higher rate, the amount of income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the the following amounts, namely :—

- (a) the amount which would have been payable if his total income had been a sum less by one rupee than that limit, and
- (b) the amount by which his total income exceeds that sum.

CHAPTER IV.

DEDUCTIONS AND ASSESSMENT.

18. (1)†.

Payment by deduction at source.

§Repealed by the Income tax (Amendment) Act, 1924 (XI of 1924).

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Repealed by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

‡Inserted by the Indian Income-tax (Provident Fund Relief) Act, 1929 (XII of 1929).

(2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax **but not super-tax* on the amount payable at the rate applicable to the estimated income of the assessee under this head :

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

†(2a) Notwithstanding anything hereinbefore contained, for the purpose of making the deduction under sub-section (2) there shall be included in the amount payable any income chargeable under the head 'Salaries' which is payable to the assessee out of India by or on behalf of Government, and the value in rupees of such income shall be calculated at the prescribed rate of exchange.

(3) The person responsible for paying and income chargeable under the the head " Interest on securities shall *unless otherwise prescribed in the case of any security of the Government of India* at the time of payment, deduct income-tax **but not super-tax* on the amount of the interest payable at the maximum rate.

**Provided that where the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total income of a recipient will be less than the minimum liable to income-tax or will be liable to a rate of income-tax or will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income herein referred to such recipient shall, until such certificate is cancelled by the Income-tax Officer pay the income without deduction or deduct the tax at such less rate, as the case may be.*

*(3A) Where the Income-tax Officer has reason to believe that the total income of any person residing out of British India to whom any interest not being 'interest on securities' is payable; will in any year exceed the maximum amount which is not chargeable with super-tax under the law for the time being in force, he may, by order in writing, require the person responsible for paying such interest to such person to deduct at the time of payment income-tax and super-tax at the rates determined by the Income-tax Officer to be applicable to the total income of such person in that year.

*(3B) Where the person responsible for paying any interest not being Interest on Securities ' to any person pays to that person in any year an

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Inserted by the Indian Income-tax (Second Amendment) Act, 1925 (XVI of 1925).

amount of such interest exceeding in the aggregate the maximum amount which is not chargeable with super-tax under the law for the time being in force, the person responsible for paying such interest shall, if he has not reason to believe that the recipient is resident in British India, and no order under sub-section (3A) has been received in respect of such recipient, deduct at the time of payment income-tax on the total amount of such interest at the rate appropriate to such total, and super-tax on the amount by which such total exceeds the maximum amount not chargeable with super-tax at the rate applicable to such excess.

*(3C) Where the Income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of British India and that the total income of such person will in any year exceed the maximum amount which is not chargeable to super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the share-holder in that year super-tax at such rate as the income-tax Officer may determine as being the rate applicable in respect of the income of the shareholder in that year.

*(3D) If in any year the amount of any dividend or the aggregate amount of any dividends paid to any shareholder by a company (together with the amount of any income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal officer of the company has not reason to believe that the shareholder is resident in British India, and no order under sub-section (3C) has been received in respect of such shareholder by the principal officer from the Income-tax Officer the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such income-tax as aforesaid) constituted the whole total income of the shareholder

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(5) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income-tax* or super-tax on behalf of the person from whose income the deduction was made, or of the owner of the security, as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act :

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund.

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the Government of India or as the Central Board of Revenue directs.

(7) If any such person does not deduct and pay the tax as required by **or under* this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be *tan assessee* in default in respect of the tax.

**Provided that the Income-tax Officer shall not make a direction under sub-section (1) of section 46 for the recovery of any penalty from such person unless satisfied that such person has wilfully failed to deduct and pay the tax.*

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

(9) Every person deducting income-tax **or super-tax* in accordance with the provisions of sub-sections (3), **(3A), (3B), (3C) or (3D)* shall, at the time of payment of interest, furnish to the person to whom the interest is paid a certificate to the effect that income-tax **or super-tax* has been deducted, and specifying the amount so deducted the rate at which the tax has been deducted and such other particulars as may be prescribed.

19. In the case of income chargeable under *†any head other than "salaries" or "interest on securities"*, and in any case where *Payment in other cases* income-tax has not been deducted in accordance with the provisions of section 18, the tax shall be payable by the assessee direct.

19-A. The principle officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed *Supply of information regarding dividends.* officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder.

**Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).*

†Substituted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

‡Inserted by the Indian Income-tax (Amendment) Act, 1926 (XVIII of 1926).

20. The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

Certificate by company to shareholders receiving dividends.

20A. The person responsible for paying any interest not being 'Interest on Securities' shall, on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount not being less than one thousand rupees as may be prescribed in this behalf, together with the amount paid to each such person.

Supply of information regarding interest.

21. The prescribed person in the case of every Government office and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private employer shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form, a return in writing showing—

Annual return.

- (a) the name and, so far as it is known, the address of every person who was receiving on the said 31st day of March, or has received during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable, under the head Salaries of such amount as may be prescribed;
- (b) the amount of the income so received by each such person, and the time or times at which the same was paid;
- (c) the amount deducted in respect of income-tax from the income of each such person.

22. (1) The Principal officer of every company shall prepare, and, on or before the fifteenth day of June in each year, furnish to the Income-tax Officer a return, in the prescribed form and verified in the prescribed manner, of the total income of the company during the previous year:

Return of income.

Provided that the Income-tax Officer may, in his discretion, extend the date for delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer shall serve a notice upon him requiring him to furnish, within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of those subsections, discovers any omission or wrong statement there in, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made, and any return so made shall be deemed to be a return made, in due time under this section.

(4) The Income-tax Officer may serve on the principal officer of any company or on any person upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents or as the Income-tax Officer may require:

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

23. (1) If the Income-tax Officer is satisfied that a return made under section 22 is correct and complete, he shall assess **Assessment.** the total income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Income-tax Officer has reason to believe that a return made under section 22 is incorrect or incomplete he shall serve on the person who made the return a notice requiring him, on a date to be therein specified either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) If the principal officer of any company or any other person fails to make a return under sub-section (1) or sub-section (2) of section 22, as the case may be, or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment *and, in the case of a registered firm, may cancel its registration.

*Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration.

***23 A. (1)** Where the Income-tax Officer is satisfied that any firm or other association of individuals carrying on any business, other than a Hindu undivided family or a company, is under the control of one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to tax of any member thereof, he may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as income-tax by the firm or association shall not be determined, and thereupon the share of each member in the profits and gains of the firm or association shall be included in his total income for the purpose of his assessment thereon.

Power to assess individual members of certain firms, associations and companies.

Explanation.—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(2) Where the Income-tax Officer is satisfied that a company is under the control of not more than five of its members and that its profits and gains are allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business, without being distributed to the members, or that a reasonable part of its profits and gains, having regard to the said needs, has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total income, and that such accumulation or failure to distribute is for the purpose of preventing the imposition of tax upon any of the members in respect of their shares in the profits and gains so accumulated or not distributed, the Income-tax Officer may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as income-tax by the company shall not be determined, and thereupon the proportionate share of each member in the profits and gains of the company, whether such profits

and gains have been distributed to the members or not, shall be included in the total income of such member for the purpose of his assessment thereon :

Provided that this sub-section shall not apply to any company which is a subsidiary company or in which the public are substantially interested.

Explanation.—For the purpose of this sub-section,—

- (a) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this sub-section apply or of two or more companies none of which is a company to which those provisions apply.
- (b) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply) and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in British India or are in fact freely transferable by the holders to other members of the public;
- (c) unless the contrary is proved, a company shall be deemed to be under the control of any persons where majority of the voting power or shares in the hands of those persons or of relatives or nominees of those persons;
- (d) “nominee” means a person who may be required to exercise his voting power on the directions of, or holds shares directly or indirectly on behalf of, another person.

(3) The Assistant Commissioner shall not give his approval to any order proposed to be passed by the Income-tax Officer under this section, until he has given the firm, association or company concerned an opportunity of being heard.

(4) (i) Where any member of a firm or association of individuals makes default in the payment of tax on his share of profits and gains which has been included in his total income under the provisions of sub-section (1), such tax may be recovered from the firm or association, as the case may be.

(ii) Where the proportionate share of any member of a company in the undistributed profits and gains of the company has been included in his total income under the provisions of sub-section (2), the tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

(iii) Where tax is recoverable from a company, firm or other association under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company, firm or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter VI.

(5) Where tax has been paid in respect of any undistributed profits and gains of a company under this section, and such profits and gains are subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total income of that year.

24. (1) When any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set-off against his income, profits or gains under any other head in that year.

(2) Where the assessee is a registered firm, and the loss sustained cannot wholly be set-off under sub-section (1), any member of such firm ^{*or} any person who being a minor has been admitted to the benefits of partnership in such firm shall be entitled to have set-off against any income, profits or gains of the year in which the loss was sustained in respect of which the tax is payable by him such amount of the loss not already set-off as is proportionate to his share in the firm ^{*or to his share of the benefits of partnership.} as the case may be.

***24A.** (1) When it appears to the Income-tax Officer that any person may leave British India during the current financial year, or shortly after its expiry, and that he has no present intention of returning, the Income-tax Officer may proceed to assess him on his total income for the period from the expiry of the last previous year for which he has been assessed to the probable date of his departure from British India. For each completed previous year included in this period an assessment shall be made on the total income of such person at the rate at which it would have been charged had such income been fully assessed and for the period from the expiry of the last of such previous years to the probable date of departure, the Income-tax Officer

Assessment in case of departure from British India.

shall estimate the total income of such person and assess it at the rate in force for the financial year in which such assessment is made :

Provided that nothing herein contained shall authorise an Income-tax Officer to assess any income, profits or gains which escaped assessment or have assessed at too low rate in respect of which he is debarred from issuing a notice under section 34.

(2) For the purpose of making an assessment under sub-section (1), the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 22, setting forth (along with such other particulars as may be provided for in the notice) his total income for each of the completed previous years comprised in the period first referred to in sub-section (1) and is estimated to total income for the period from the expiry of the last such completed previous year to the probable date of his departure; and the provisions of this Act shall so far as may be, apply as if the notice were a notice issued under sub-sections (2) of section 22.

***24B.** (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person payable by representative, the deceased person to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such person, or any tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before he is served with a notice under sub-section (2) of section 22 or section 34, as the case may be, the Income-tax Officer may serve on his executor, administrator or other legal representative a notice under sub-section (2) of section 22 or under section 34, as the case may be and may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions of sub-section (2) of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer, may make an assessment of the total income of such person and determine the tax-payable by him on the basis of such assessment, and for this purpose may require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person.

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

25. (1) Where any business, profession or vocation *on which Assessment in case of income-tax was not at any time charged under the discontinued business.* provisions of the Indian Income-tax Act 1918 is discontinued in any year, an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of previous year and the date of such discontinuance in addition to the assessment, if any made on the basis of the income, profits or gains of the previous year.

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

(3) Where any business, profession or vocation * * * * †*
* on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is discontinued no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

(4) Where an assessment is to be made under sub-section (1) or sub-section (3), the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) or section 22 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

‡25A (1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto § assessed as undivided that a partition has taken place among the members of
Assessment after partition of a Hindu undivided family.

* Amended by the Indian Income-tax (Amendment) Act, 1924 (XI of 1924.)

† Repealed by Income-tax (Amendment) Act of 1924 (XI of 1924).

‡ Inserted by the Indian Income tax (Amendment) Act, 1928 (III of 1928).

§ Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1933).

such family the Income-tax officer shall make such inquiry thereinto as he may think fit, and if he is satisfied that a separation of the members of the family has taken place and that the joint family property has been partitioned among the various members or groups of members in definite portions* he shall record an order to that effect :

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no separation or partition had taken place, and each member or group of members shall in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in subsection (1) or section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it;

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23:

Provided that all the separated members and groups of members shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such.

*(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family.

†26. (1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessments on the firm and on the members thereof shall, subject to the provisions of this Act, be made as if the firm had been constituted throughout the previous year as it is constituted at the time of making the assessment, and as if each member had received a share of the profits of that year proportionate to his interest in the firm at the time of making the assessment.

(2) Where at the time of making an assessment under section 23, it is found that the person carrying on any business, profession or vocation has been succeeded in such capacity by another person, the assessment shall be made on such person succeeding, as if he had been carrying on the business,

*Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).

†Substituted by for the original section by the Indian Income-tax (Amendment) Act 1928 (III of 1928).

profession or vocation throughout the previous year, and as if he had received the whole of the profits for that year.

***26 A. (1)** Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax.

Procedure in registration of firms.

(2) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed; and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed.

27. Where an assessee or, in the case of a company, the principal officer thereof, within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

Cancellation of assessment when cause is shown.

†28. (1) If the Income-tax Officer, the Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that an assessee has concealed the particulars of his income or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of the income-tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income.

Penalty for concealment of income or improper distribution of profits.

(2) If the Income-tax Officer, the Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of

*Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

†Substituted for the original section by the India Income-tax (Amendment) Act 1930, (XXI of 1930).

partnership registered under this Act governing such distribution, and that any partner has thereby returned, his income below its real amount, he may direct that such partner shall, in addition to the income-tax payable by him, pay, by way of penalty a sum not exceeding the amount of income-tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(3) No order shall be made under sub-section (1) or sub-section (2), unless the assessee or partner, as the case may be has been heard, or has been given a reasonable opportunity of being heard.

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) An Assistant Commissioner, who has made an order under sub-section (1) or sub-section (2), shall forthwith send a copy of the same to the Income-tax Officer.

29. When the Income-tax Officer has determined a sum to be payable by an assessee under section 23 or when an order has been passed under sub-section (2) of section 25 or section 28 for the payment of a penalty, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

30. (1) Any assessee objecting to the amount or rate at which he is assessed under section 23 or section 27, or denying his liability to be assessed under this Act, or objecting to a refusal of an Income-tax Officer **to register a firm under section 26A or* to make a fresh assessment under section 27, or to any order against him under sub-section (2) of section 25 *or section 25-A* or section 21 made by an Income-tax Officer, may appeal to the Assistant Commissioner against the assessment or against such refusal or order:

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 23, or under that sub-section read with section 27.

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to, **or of the intimation of the refusal to register a firm under section 26-A*, or of the date of the refusal to make fresh assessment under section 27, as the case may

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

be, but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

31. (1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

Hearing of appeal.

(2) The Assistant Commissioner may, before disposing of any appeal, make such further inquiry to be made by the Income-tax Officer.

(3) In disposing of an appeal the Assistant Commissioner may, in the case of an order of assessment,—

(a) confirm, reduce, enhance or annul the assessment, or

(b) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the Assistant Commissioner may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment.

*or, in the case of an order refusing * to register a firm under section 26A †, or to make a fresh assessment under section 27,*

(c) *confirm such order, or cancel it and direct the Income-tax Officer * to register the firm or to make a fresh assessment* as the case may*

be; or, in the cases of an order under sub-section (2) of section 2 or section 28,—

(d) confirm cancel or vary such order :

Provided that the Assistant Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

32. (1) Any assessee objecting to an order passed by an Assistant Commissioner under section 28 or to an order enhancing his assessment under sub-section (3) of section 31, may appeal to the Commissioner within thirty days of †*the date on which he was served with notice of such order.*

Appeals against orders of Assistant Commissioner.

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 XVIII of 1933).

†Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).

(2) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner.

(3) In disposing of the appeal the Commissioner may after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

33. (1) The Commissioner may of his own motion call for the record of any proceeding under this Act which has been taken by any authority subordinate to him or by himself when exercising the power of an Assistant Commissioner under sub-section (4) of section 5.

Power of review.

(2) On receipt of the record the Commissioner may make such enquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit :

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard.

***33 A.** (1) Any person aggrieved by an order of an Income-tax Officer under sub-section (1) or sub-section (2) of section 23-A may, within thirty days of the date on which he was served with notice of such order, lodge an appeal in the Office of the Commissioner.

Reference to Board of Referees.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The Commissioner shall refer such appeal, with a statement of his own opinion thereon, to a Board of Referees, for decision; and the Board of Referees shall decide the appeal after hearing the appellant and any person deputed by the Commissioner.

Provided that, before making a reference to a Board of Referees, the Commissioner may, and at the request of the appellant shall, in exercise of his powers of revision under section 33, decide the matters in dispute, and thereupon the assessee may withdraw his appeal or proceed with it.

(4) The decision of the Board of Referees shall be forwarded to the Commissioner who shall transmit it to the Income-tax Officer who passed the original order, and shall also send copies to each Income-tax Officer who has made any assessment consequent upon such order; and where a decision

reverses or modifies the order of the Income-tax Officer, fresh assessments shall be made in accordance therewith, or such consequential adjustments as may be required shall be made in any assessment already made.

(5) The decision of a Board of Referees shall not be subject to appeal to any Income-tax authority and shall not be revised by the Commissioner in exercise of his powers under section 33.

(6) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one-half shall be non-officials having business experience, and one shall be a judicial officer not inferior in rank to a Subordinate Judge or a Judge of a Small Cause Court who has held judicial office for a period of not less than ten years.

(7) Subject to the provisions of sub-section (6), the Central Board of Revenue may make rules regulating the formation, composition and procedure of Boards of Referees.

34. If for any reason income, profits or gains chargeable to income-tax has escaped assessment in any year or has been assessed at too low a rate, the Income-tax Officer may, at any time within one year of the end of that year, serve on the person liable to pay tax on such income, profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22 and may proceed to assess or re-assess such income, profits or gains, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Income escaping
assessment.

Provided that the tax shall be charged at the rate which it would have been charged had the income, profit or gains not escaped assessment or full assessment, as the case may be.

35. ^{*(1)} The Commissioner or Assistant Commissioner may, at any time within one year from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 33 and the Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, on his own motion rectify any mistake apparent from the record of the ^{*}appeal, revision or assessment as the case may be, and shall within the like period rectify any such mistake which has been brought to his notice by the assessee:

Rectification of mistake

Provided that no such rectification shall be made, having the effect of enhancing an assessment unless the **Commissioner, the Assistant Commissioner or the Income-tax Officer, as the case may be* has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has effect of reducing the assessment the Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment, the Income-tax 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 29, and the provisions of this Act shall apply accordingly.

36. In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

37. The Income-tax Officer, Assistant Commissioner and Commissioner shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses;

and any proceeding before an Income-tax Officer, Assistant Commissioner or Commissioner under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 **and for the purposes of section 196 of the Indian Penal Code.*

38. The Income-tax Officer, or Assistant Commissioner may, for the purposes of this Act,—

- (1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or the manager or adult male members of the family, as the case may be, and of their addresses;

**Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).*

(2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses.

**(3) require any person whom he has reason to believe to be engaged in business, to furnish him with a return containing particulars of the location and style of his principal place of business, and of his branch businesses, if any, the names and addresses of his partners in any business, and the extent of his own share and the shares of all such partners in the profits of such business or businesses.*

39. The Income-tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

Power to inspect the register of members of any company.

CHAPTER V.

LIABILITY IN SPECIAL CASES.

40. In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of British India (all of which persons are hereinafter in this section included in the term "beneficiary") being in receipt on behalf of such beneficiary of any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India, and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

Guardians, trustee and agents.

41. In the case of income, profits or gains chargeable under this Act which are received by the Courts of Wards, the Court of Wards, etc. Administrators-General, the Official Trustees or by any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

manager in the like manner and to the same amounts as it would be leviable upon and recoverable from any person on whose behalf such income, profits or gains are received, and all the provisions of this Act shall apply accordingly.

42. (1) In the case of any person residing out of British India, all profits or gains accruing or arising to such person, whether directly or indirectly, through or from any business connection or property in British India, shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax:

Non-residents.

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within British India.

(2) Where a person not resident in British India, and not being a British subject or a firm or company constituted within His Majesty's dominions or a branch thereof, carries on business with a person resident in British India, and it appears to the Income-tax Officer or the Assistant Commissioner, as the case may be, that owing to the close connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

* (3) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India, the profits or gains shall be deemed to have accrued and arisen and to have been received in British India. and no allowance shall be made under sub section (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains.

43. Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall for all the purposes of this Act, be deemed to be such agent:

Agents to include persons treated as such.
Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

44. Where any business, profession or vocation carried on by a firm has been discontinued every person who was at the time of such discontinuance a member of such firm shall be jointly and severally liable for the amount of the tax payable in respect of the income, profits and gains of the firm.

CHAPTER V-A *

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

44A. The provision of this Chapter shall notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

44-B. (1) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (1), and for this purpose may call for such

*Inserted by the Indian Income-tax (Further Amendment) Act, 1923 (XXVII of 1923).

accounts or documents as he may require, and one-twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

(3) When the profits and gains have been assessed as aforesaid the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

44-C. Nothing in this Chapter shall be deemed to prevent a principal from claiming, in any year following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be.

Adjustment.

CHAPTER VI.

RECOVERY OF TAX AND PENALTIES.

45. Any amount specified as payable in a notice of demand **under sub-section (4) of section 23-A or under section 29 or an order under section 31 or section 32 or section 33,* shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30 **or under section 33-A,* the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

Tax when payable.

46. (1) When an assessee is in default in making a payment of income-tax the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

Mode and time of recovery.

**Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).*

**(1-A)* For the purposes of sub-section (1) the Income tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable.

(2) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue.

†Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have in respect of the attachment and sale of debts due to the assessee the powers which under the Code of Civil Procedure, 1908, a Civil Court has in respect of the attachment and sale of debts due to a judgment debtor for the purpose of the recovery of an amount due under a decree.

(3) In any area, with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process.

(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (3).

(5) If any assessee is in receipt of any income chargeable under the head "Salaries," the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition and shall pay the sums so deducted to the credit of the Government of India, or as the Central Board of Revenue directs.

(6) The Local Government may direct with respect to any specified area, that income-tax shall be recovered therein, with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

*Inserted by the Indian Income-tax (Amendment) Act, 1928 (III of 1928).

†Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

(7) Save in accordance with the provisions of subsection (1) of section 42, no proceedings for the recovery of any sum payable under this Act, shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act.

47. Any sum imposed by way of penalty under the provisions of subsection (2) of section 25, section 28 or sub-section (1) of section 46, shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

Recovery of penalties

CHAPTER VII

REFUNDS

48. (1) If a shareholder in a company who has received any dividend therefrom satisfies the Income-tax Officer **or other authority appointed by the Governor General in Council in this behalf* that the rate of income-tax applicable to the profits or gains of the company at the time of the declaration of such dividend is greater than the rate applicable to his total income of the year in which such dividend was declared *†or that his total income in such year is below the minimum chargeable with income-tax* he shall, on production of the certificate received by him under the provisions of section 20, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates *†or at the rate applicable to the profits and gains of the company at the time of the declaration of such dividend, as the case may be.*

Refunds.

(2) If a member of a registered firm *†or any person who being a minor has been admitted to the benefits of partnership in such firm* satisfies the Income-tax Officer *†or other authority appointed by the Governor General in Council in this behalf* that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been levied on the profits or gains of the firm of that year *†or that his total income of the previous year was below the minimum chargeable with income-tax*, he shall be entitled to a refund on his share of those profits or gains calculated at the difference between those rates *†or at the rate at which income-tax has been levied, as the case may be.*

(3) If the owner of a security from the interest on which, or any person from whose salary, income-tax has been deducted in accordance with the provisions of section 18, satisfies the Income-tax Officer **or other authority*

*Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).

†Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

*appointed by the Governor General in Council in this behalf that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been charged in making such deduction in that year *or that his total income of the previous year was below the minimum chargeable with income-tax, he shall be entitled to a refund on the amount of interest or salary from which such deduction has been made calculated at the difference between those rates *or at the rate at which income tax has been deducted, as the case may be.*

(4) For the purposes of this section, 'total income' includes, in the case of any person not resident in British India, all income, profits and gains wherever arising, accruing or received, which, if arising accruing or received in British India, would be included in the computation of total income under section 16.

(5) Nothing in this section shall entitle to any refund and person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914 nor a subject of a State in India.

***48-A.** (1) If in any case not provided for by section 48 or by the provisions relating to refunds elsewhere contained in this Act the Income-tax Officer is satisfied, upon claim made in this behalf, that tax has been paid by or on behalf of any person with which he was not properly chargeable or which was in excess of the amount with which he was properly chargeable the Income-tax Officer shall allow a refund to such person of the amount so paid or so paid in excess.

General power to make refunds.

(2) The Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers or powers of revision is satisfied to the like effect shall in like manner cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief.

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Inserted by the Indian Income-tax (Amendment) Act, 1928 (III of 1928).

49. (1) If any person who has paid Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provision of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax for the appropriate rate of United Kingdom income-tax, whichever is less, and the rate at which he was entitled to, and obtained, relief under that section:

(2) In sub-section (1)—

- (a) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;
- (b) the expression "Indian rate of tax" means the amount of the Indian income-tax divided by the income on which it was charged;
- (c) the expression "United Kingdom income-tax" means income tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts.

† (d) the expression 'appropriate rate of United Kingdom income tax' has the meaning assigned to that expression in section 27 of the Finance Act, 1920 as amended by the Finance Act, 1927.

‡49-A. Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, Assistant Commissioner or Commissioner, as the case may be, may, in lieu of payment of the refund set off the amount to be refunded, or any part of that amount against the tax if any, remaining payable by the person to whom the refund is due.

‡49-B. Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 48 or 48-A or 49, is unable to receive such refund or to make such claim, his executor, administrator or other legal

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Inserted by the Indian Income-tax (Amendment) Act, 1934 (XXIX of 1934).

‡Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).

representative, or the trustee or receiver as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

50. No claim to any refund of income-tax under this chapter shall be allowed, unless it is made within one year from the last day of the year in which the tax was recovered **or before the last day of the financial year commencing after the expiry of the "previous year", as defined in clause (11) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later: Provided that a claim to refund under section 49 may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period.*

Limitation of claims for refund.

† 50-A. (1) Any person objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48 or 48-A or 49 or to the amount of the refund made in any such case, may appeal to the Assistant Commissioner.

Appeal against refusal of refund.

(2) The appeal shall be presented within thirty days of the date on which the refusal of the refund or the amount of the refund allowed was communicated to the appellant.

(3) The appeal shall be made in the prescribed form and shall be verified in the prescribed manner.

(4) The Assistant Commissioner may, after giving the appellant an opportunity of being heard, pass such orders as he thinks fit.

CHAPTER VIII.

OFFENCES AND PENALTIES.

Failure to make payments or deliver returns or statements or allow inspection.

51. If a person fails without reasonable cause or excuse—

(a) to deduct and pay any tax as required by section 18 or under sub-section (5) of section 46;

(b) to furnish a certificate required by sub-section (g) of section 18 or by section 20 to be furnished:

*Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).

†Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

- (c) to furnish in due time any of the returns mentioned in †*section 19-A*, **section 20-A* *section 21*, *section 22*, or *section 38*;
- (d) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of *section 22*, such accounts and documents as are referred to in the notice;
- (e) to grant inspection or allow copies to be taken in accordance with provisions of *section 39*,

he shall, on conviction before, a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

52. If a person makes a statement in a verification mentioned in †*section 19-A* or **section 20-A* or *section 22*, †*or sub-section (2) of section 26-A*, or sub-section (3) of *section 30* or sub-section (2) of *section 32* †*or sub-section (2) of section 33-A* **or sub-section (3) of section 50-A* which is false, and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in *section 177* of the Indian Penal Code.

53. (1) A person shall not be proceeded against for an offence under *section 51* or *section 52* except at the instance of the Assistant Commissioner.

(2) The Assistant Commissioner may stay any such proceeding or compound any such offence.

54. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding, relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and, notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

†Inserted by the Indian Income-tax (Amendment) Act, 1926 (XXIV of 1926).

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

‡Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

Provided that nothing in this section shall apply to the disclosure—

- (a) of any such particulars for the purposes of a prosecution under *..... the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or
- (b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or
- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or
- †(cc) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document, or
- (d) of such facts to an authorised Officer of the United Kingdom, as may be necessary to enable relief to be given under section 27 of the Finance Act, 1920, or a refund to be given under section 49 of this Act:

‡Provided, further, that nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 26 A, or to the giving of evidence by a public servant in respect thereof.

Provided, further, that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

*Amended by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).

†Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

‡Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

CHAPTER IX.

SUPER-TAX.

55. In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any *individual, Hindu undivided family, company, unregistered firm or other association of individuals, not being a registered firm, †an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by Act of the Indian Legislature.

Provided that, where the profits and gains of an unregistered firm have been assessed to super-tax, super-tax shall not be payable by an individual having a share in the firm in respect of the amount of such profits and gains which is proportionate to his share.

56. Subject to the provisions of this Chapter, the total income of any individual Hindu undivided family, company, unregistered firm or other association of individuals, shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

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57. (1) In the case of any †person residing out of British India who is a member of a registered firm, and whose share of the profits from such firm is liable to super-tax, the remaining members of such firm who are resident in British India shall be jointly and severally liable to pay the super-tax due from the non-resident member in respect of such share.

(2) Where any person pays any tax under the provisions of this section on account of §another person who is residing out of British India, credit shall be given therefor in determining the amount of the tax to be payable by any agent of such non-resident §person under the provisions of section 42 and 43.

*Amended by the Indian Income-tax (Amendment) Act, 1924 (XI of 1924).

†Note.—See note to Section 3.

‡ Inserted by the Indian Income-tax (Amendment) Act, 1925 (V of 1925) and repealed by the Indian Income tax (Amendment) Act, 1928 (III of 1928).

§ Amended by the Indian Income-tax (Amendment) Act, 1926 (XXIV of 1926).

§ Inserted by the Indian Income-tax (Amendment) Act, 1926 (XXIV of 1926)

58. (1) All the provisions of this Act **relating to the charge, assessment, collection and recovery of income-tax except those contained in section 3, the proviso to sub-section (1) of section 7, the ^{Application of Act to super-tax} *second and third provisions to section 8, sub-section (2) of section 14, and sections 15, 17, 19, 20, 21, 48, †58-F and sub-sections (2) and (3) of section 58-G shall apply so far as may be, to the charge, assessment, collection and recovery of super-tax.*

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(2) Save as provided in ‡sub-sections (3-A.), (3B), (3C), ¶ and (3D) of section 18 section 57 §and section 58H, super-tax shall be payable by the assessee direct.

* CHAPTER IX-A.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS.

58-A. In this Chapter, unless there is anything repugnant in the subject or context,—

Definitions.

- (a) a “recognised provident fund” means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with provisions of this Chapter;
- (b) an “employer” means—
- (i) a Hindu undivided family, company, firm or other association of individuals or persons, or
- (ii) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10 or section 11, maintaining a provident fund for the benefit of his or its employees;
- (c) an “employee” means an employee participating in a provident fund, but does not include a personal or domestic servant;
- (d) a “contribution” means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest;

*Inserted by the Indian Income-tax (Amendment) Act, 1926 (XXIV of 1926).

†Repealed by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

‡Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

¶Inserted by the Indian Income-tax (Provident Funds Relief) Act, 1929 (XII of 1929).

§Repealed by the Indian Income-tax (Second Amendment) Act, 1933 (XVII of 1933).

- (e) the 'balance to the credit' of an employee means the total amount to credit of his individual account in a provident fund at any time;
- (f) the "annual accretion" to the balance to the credit of an employee means the increase to such balance in any year, arising from contribution and interest;
- (g) the "accumulated balance due" to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund; and
- (h) the "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund.

58-B. (1) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58-C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

(2) The Governor General in Council may, at his discretion, direct the Commissioner of Income-tax to refuse to accord recognition to any provident fund, or may, at any time, withdraw recognition from any recognised provident fund.

(3) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

(4) An order withdrawing recognition shall take effect from the day on which it is made.

(5) An employer objecting to an order of the Commissioner refusing to recognise a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue.

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

58-C. (1) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the Governor General in Council may, by rule, prescribe—

Conditions to be satisfied by a recognised provident fund.

- (a) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in British India.
- (b) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund.
- (c) Subject to the provisions of section 58-D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year.
- (d) The fund shall consist of contributions as above specified, of accumulations thereof, and of interest (simple and compound), credited in respect of such contributions and accumulations, and of securities purchased therewith and of no other sums.
- (e) The fund shall be vested in two or more trustees* or in the Official Trustee, under a trust which shall not be revocable save with the consent of all the beneficiaries.
- (f) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund.

*Inserted by the Indian Income-tax (Amendment) Act, 1931 (IV of 1931),

(g) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund.

(h) Save as provided in clause (g), or in accordance with such conditions and restrictions as the Governor General in Council may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him.

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect.

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

58-D. Subject to any rules which the Governor General in Council may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (c) of sub-section (1) of section 58-C—

Power to relax restrictions of employer's contributions in certain cases.

(a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem, and

(b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

58-E. The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and subject to the exemptions specified in section 58-F, shall be liable to income-tax and super-tax.

Annual accretion deemed to be income received.

Provided that, for the purpose of sub-section (3) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income.

58-F. (1) An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year

Exemption of annual accretion from income-tax.

(2) In the accounts of a recognised provident fund, the contributions exempted from income-tax under sub-section (1) and accumulations thereof shall be shown separately, and interest thereon shall be calculated and shown separately. Such interest shall be exempt from payment of income-tax, in so far as it is allowed at a rate not exceeding such rate as the Governor General in Council may, by notification in the Gazette of India, fix in this behalf.

58-G. *(1) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super-tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58-E up to the first day of April, 1933, if the Indian Income-tax (Second Amendment) Act, 1933, had come into force on the 15th March 1930.

(2) Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax† and shall be excluded from the computation of his total income;

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee.

(3) Where exemption from payment of income-tax is not allowed under the provisions of sub-section (2), the Income-tax Officer shall calculate the total of the various sums of income-tax from the payment of which the contribution and interest credited to the employee's individual account have been exempted under the provisions of sub-sections (1) and (2) of section 58-F, and such total shall be payable by the employee, in addition to any other income-tax for which he may be liable for the year in which the accumulated balance due to him becomes payable.

58-H. The trustees of a recognised provident fund, or other person authorised by the regulation of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee

Deduction at source of income-tax payable on accumulated balances due.

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†The words "and super-tax" repealed by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

is paid, deduct therefrom any income-tax payable under sub-section (3) of section 58-G. and any income-tax and super-tax payable on an employee's total income as determined under sub-section (3) of section 58-J, and sub-section (4) to (9) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head "Salaries".

58-I. (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe.

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Central Board of Revenue may prescribe.

58-J. (1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe.

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-section (3) and (4) shall apply thereto.

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter.

(3) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year; and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power subject to the said rules, to make a summary calculation of such aggregate.

(4) Notwithstanding anything contained in condition (h) of sub-section (1) of section 58-C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (3), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income.

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful.

58-K. (1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of its transfers such fund or portion to trustees in trust for the employees participating in the fund the amount so transferred shall be deemed to be of the nature of capital expenditure.

Treatment of fund transferred by employer to trustee.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall be deemed to be an expenditure by the employer within the meaning of clause (ix) of subsection (2) of section 10, incurred in the year in which the accumulated balance due to the employee is paid.

58-L. (1) All rules made under this Chapter shall be subject to the provisions relating to provisions of sub-sections (4) and (5) of section 59. rules.

(2) In addition to any power conferred by this Chapter, the Governor General in Council may make rules—

- (a) prescribing the statements and other information to be submitted with an application for recognition;
- (b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company;

- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund;
- (d) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn; and
- (e) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as he may deem requisite.

58-M. This Chapter shall not apply to any provident fund to which the Application of this Provident Funds Act, 1925, applies.
Chapter.

CHAPTER X.

MISCELLANEOUS.

59. (1) The Central Board of Revenue may, subject to the control of the Governor General in Council, make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified.

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—
 - (i) incomes derived in part from agriculture and in part from business;
 - (ii) insurance companies;
 - (iii) persons residing out of British India;
- (b) prescribe the procedure to be followed on applications for refunds;

- (c) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920, or under section 49 of this Act;
- (d) prescribe the year which, for the purpose of relief under section 49 is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920; and
- (e) provide for any matter which by this Act is to be prescribed.

*** (3)** In cases coming under clause (a) of sub-section (2), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub-section may—

- (a) prescribe methods by which an estimate of such income, profits and gains may be made, and
- (b) in cases coming under sub-clause (i) of clause (a) of sub-section (2), prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax, and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the conditions of previous publication.

(5) Rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act.

60. (1) Governor General in Council may, by notification in the Power to make exemp-
tions, etc. Gazette of India, make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

† (2) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance ‡ *or by reason of his having received in any one*

* Inserted by the Indian Income-tax (Amendment) Act, 1927 (XXVIII of 1927).

† Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

‡ Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

financial year salary for more than twelve months, his income is assessed at a rate higher than that at which it would otherwise have been assessed; the Governor General in council may grant such relief as he may think fit.

61. Any assessee, who is entitled or required to attend before any income-tax authority in connection with any proceedings, under this Act may attend either in person or by any person authorised by him in writing in this behalf.

Appearance by authorised representative.

Receipt to be given. **62.** A receipt shall be given for any money paid or recovered under this Act.

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

Service of notices.

(2) Any such notice or requisition may, in the case of a firm of a Hindu undivided family, be addressed to any member of the firm or to the manager or any adult male member of the family **and, in the case of any other association of individuals be addressed to the principal officer thereof.*

64. (1) Where an assessee carries on business at any place he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the business is carried on in more places than one by the Income-tax Officer of the area in which his principal place of business is situate.

Place of assessment.

(2) In all other cases an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner or, where the question is between places in more provinces than one, by the Commissioners concerned, or if they are not in agreement, by the Central Board of Revenue:

Provided that, before any such question is determined the assessee shall have had an opportunity of representing his views.

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

* Amended by the Indian Income-tax (Amendment) Act, 1924 (XI of 1924).

65. Every person deducting retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

66. (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VIII, a question of law arises, the Commissioner may, either on his own motion or on reference from any Income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(2) **Within sixty days of the date on which he is served with notice of an order under section 31 or section 32 †or of an order under section 33 enhancing an assessment or otherwise prejudicial to him †or of a decision by a Board of Referees under section 33-A, the assessee in respect of whom the order †or decision was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order †or decision, and the Commissioner shall, within *sixty days of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court:*

†*Provided that a reference shall lie from an order under section 33 only on question of law arising out of that order itself, and not on a question of law arising out of a previous order under section 31 or section 32, revised by the order under section 33:*

Provided further that if in exercise of his power of revision §under section 33, the Commissioner decides the question †or if the Commissioner rejects application on the ground that it is time barred or otherwise incompetent or if, in exercise of his powers under sub-section (3) the Commissioner refuses to state the case, the assessee may ||*within thirty days from the date on which he receives notice of the order passed by the Commissioner withdraw his application, and if he does so, the fee paid shall be refunded.*

* Amended by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1930).

† Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XV of 1933).

‡ Inserted by the Indian Income-tax (Amendment) Act, 1930 (XXI of 1930).

§ Amended by the Indian Income-tax (Amendment) Act, 1928 (III of 1928).

|| Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

(3) If on any application being made under sub-section (2), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may apply *†within six months from the date on which he is served with notice of the refusal* to the High Court, and the High Court, if it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to state the case and to refer it, and, on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

†(3A) If, on any application being made under sub-section (2), the Commissioner rejects it on the ground that it is time barred, the assessee may, within two months from the date on which he is served with notice of the order of the Commissioner, apply to the High Court, and the High Court if, it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to treat the application as made within the time allowed under sub-section (2).

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the registrar and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any Income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case:

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

†Amended by the Indian Income-tax (Amendment) Act, 1924 (XI of 1924).

(7A) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court by an assessee under sub-section (3) or sub-section (3A).

†(8) For the purposes of this section "the High Court" means—

- (a) in relation to the North-West Frontier Province and British Baluchistan, the High Court of Judicature at Lahore;
- (b) in relation to the province of Ajmer-Merwara, the High Court of Judicature at Allahabad; and
- (c) in relation to the province of Coorg, the High Court of Judicature at Madras.

†66-A. (1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 shall, so far as may be, apply notwithstanding anything contained in the Letters

Reference to be heard by Benches of High Courts, and appeal to lie in certain cases to Privy Council.

Patent of any High Court established by Letters Patent or in any other law for the time being in force.

(2) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council.

(3) The provisions of the Code of Civil Procedure, 1908, relating to appeals to His Majesty in Council shall so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court:

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section. 66:

Provided, further, that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the Manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court.

*Inserted by the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

†Inserted by the Indian Income-tax (Amendment) Act, 1926 (XXIV of 1926).

(5) Nothing in this section shall be deemed—

- (a) to bar the full and unqualified exercise of His-Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or
- (b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee.

67. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done under this Act.

*67-A. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded.

†68. [*Repealed.*]

Extract from the Indian Finance Act, 1934.

* * * * *

1. (1) This Act may be called the Indian Finance Act, 1934.

* * * * *

5. (1) Income-tax for the year beginning on the 1st day of April, 1934, shall be charged at the rate specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees, by one-fourth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1934, shall for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-fourth of the amount of the rate.

*Inserted by the Indian Income-tax (Second Amendment) Act, 1930 (XXII of 1933).

†Repealed by the Repealing Act, 1927 (XII of 1927).

(3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule.

SCHEDULE II.

[See section 5.]

PART I.

Rate of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—

	Rate.
(1) When the total income is Rs. 1,000 or upwards but is less than Rs. 1,500	Two pies in the rupee.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000	Four pies in the rupee.
(3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Nine pies in the rupee.
(5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.

	Rate.
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards	Two annas and two pies in the rupee.
 B. In the case of every company and registered firm, whatever its total income	
	Two annas and two pies in the rupee.

PART II.

Rates of Super-tax.

In respect of the excess over thirty thousand rupees of total income—

	Rate.
(1) in the case of every company—	Rate.
(a) in respect of the first twenty thousand rupees of such excess	<i>Nil.</i>
(b) for every rupee of the remainder of such excess	One anna in the rupee.
 (2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess	<i>Nil.</i>
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
 (b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.
 (c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee.

	Rate.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess ...	Six annas and three pies in the rupee.

PART III.

Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total income of less than Rs. 2,000.

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or the revision of the assessment and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1934-35 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1933-34

ACT III OF 1926

AN ACT TO DETERMINE THE LIABILITY OF CERTAIN GOVERNMENTS TO TAXATION IN BRITISH INDIA IN RESPECT OF TRADING OPERATIONS

Whereas it is expedient to determine the liability to taxation for the time being in force in British India of the Government of any part of His Majesty's dominions, exclusive of British India, in respect of any trade or business carried on by or on behalf of such Government; It is hereby enacted as follows:

Short title and commencement.

1. (1) This Act may be called the Government Trading Taxation Act, 1926.

(2) It shall come into force on such date* as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. (1) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominions, exclusive of British India, that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in British India and all goods owned in British India

Liability of certain Governments to taxation in respect of trading operations.

*The Act came into force with effect from the 1st April, 1926,

for the purposes thereof, and all income arising in connection therewith, be liable.

- (a) to taxation under the Indian Income-tax Act, 1922, in the same manner and to the same extent as in the like case a company would be liable;
- (b) to all other taxation for the time being in force in British India in the same manner as in the like case any other person would be liable.

(2) For the purposes of the levy and collection of income-tax under the Indian Income-tax Act, 1922, in accordance with the provisions of sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly.

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions.

ABRIDGED DIGEST OF
INCOME-TAX CASES.

Agricultural Income.

Sections 2 (1) and 4 (3) (VIII).

COLONEL MALIK SIR UMAR HAYAT KHAN &
ANOTHER (ASSEESSES)

VERSUS

COMMISSIONER OF INCOME TAX, PUNJAB ... (REFERRING OFFICER).

Lahore High Court, 15th April, 1935.

Supply of water for irrigation from Private Canals.

Held that the income from such supply is non-agricultural.

—: o :—

LINGA REDDI (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER).

Madras High Court, 27th April, 1927.

Production of Salt.

Assessee a Licensee of a Salt Factory.

Held that Income from production of salt by flooding the land with sea water and extracting salt by eliminating the other chemical constituents is non-agricultural.

—: o :—

THE COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER)

VERSUS

SUBRAMANYA SASTRIGAL (ASSEESSEE).

Madras High Court, 9th November, 1925.

Income from Money-Lending.

Assessee doing money-lending business. Grants loan on usufructuary mortgages of lands. Leases back the lands to mortgagors on condition that he is paid an (1) annual percentage on the loans advanced and (2) Government kist.

Held that these payments are not agricultural income, but income from money-lending.

—: o :—

SUNDRABAI SAHEB (ASSESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME TAX, BOMBAY ... (REFERRING OFFICER).
 Bombay High Court, 18th August, 1931.

Maintenance Allowance.

Monthly maintenance allowance to Hindu Widow out of her husband's estate ordered by the Court, is assessable even if allowance be paid out of the agricultural income of the estate.

—: o :—

RAJAH INUGANTI RAJAGOPALA VENKATA NARASIMHA
 RAYANIM BAHADUR VARU (ASSESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER).
 Madras High Court, 16th December, 1931.

Promissory Note for arrears of rent of agricultural land.

Held that interest on Promissory Note obtained for arrears of rent of a land used for agricultural purposes is not agricultural income.

—: o :—

V. T. S. SEVUGA PANDIA THEVAR (ASSESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER).
 Madras High Court, 11th May, 1932.

Permanent Settlement—Lease of Fishery Rights.

Held that income from such rights is not agricultural income.

Agricultural Income.

Permanently Settled Estates. Sections (2) 1 and 4 (3) (viii).

T. K. E. IBRAHIMSIA RAVUTTAR (ASSESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER).
 Madras High Court, 1st February, 1928.

Money-lending business.

Held that income from Loans on usufructuary mortgages with simultaneous lease back to Mortgagor is exempt as agricultural income. (One Judge dissented.)

—: o :—

VELLANKI LAKSHMI NARASAYAMMA RAO BAHADUR
(SREE RAJA) ZAMINDARINI OF TIRUVUR ... (ASSESSEE)
VERSUS
THE COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER).
 Madras High Court, 15th March, 1929.

Maintenance Allowance.

Held that maintenance allowance under the will of a Zamindar (i. e., paid out of agricultural income), is not exempted as agricultural income.

Assessee.

Section 2 (2).

COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER)
VERSUS
M. AR. AR. ARNACHALLAM CHETTIAR ... (ASSESSEE).
 Madras High Court, 4th and 12th October, 1923.

Business carried on in Partnership.

Held that each partner in a firm is an "Assessee" in respect of the profits and gains of the business carried on in partnership.

Business.

Section 2 (4).

RAI SAHIB LALA JINDA RAM ... (ASSESSEE)
VERSUS
THE COMMISSISNER OF INCOME-TAX, PUNJAB & N. W.
FRONTIER PROVINCE. ... (REFERRING OFFICER).
 Lahor High Court, 16th January, 1929.

A. H. FORBES... (ASSESSEE)
VERSUS
THE COMMISSIONER OF INCOME-TAX, BIHAR & ORISSA... (REFERRING OFFICER).
 Patna High Court, 22nd April, 1932.

Investment in shares.

Held that investment of money from time to time in shares of Companies is not "Business", and a decision to the contrary in a prior year will not stop the Income-tax Officer from holding otherwise next year.

Hindu Undivided Family.

Section 2 (9).

Also vide Section 25 A.

MESSRS. HARSINGH SANTOKCHAND ... (ASSEESSEE)

VERSUS

COMMISSIONER OF INCOME TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court, 25th May, 1925.

Members carrying on ancestral business.

Two members carrying on ancestral business. Separate appropriation of profits in defined shares in accounts. Separate capital accounts and separate dealings,—in the names of individual members.

Held not a joint Hindu Family (although it was originally one).

—:O:—

CHIEF COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER)

VERSUS

DORAISWAMI AYYANGAR AND BROTHERS ... (ASSEESSEES).

Madras High Court, 28th March, 1923.

Members registered as a firm.

When are members registered as a Firm assessable as Joint Hindu Family to Super-tax on the income of the firm?

Held when proved that the firm carries on business on behalf of and for the benefit of the Joint Hindu Family.

—:O:—

RAJA BHUNESH PRATAP NARAIN SINGH ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME TAX, UNITED PROVINCES ... (REFERRING OFFICER).

Allahabad High Court, 14th March, 1932.

Money lent in the name of Raja's mother.

Held that in the opinion of the Income Tax Department, money lent in the name of a Raja's mother is really the property of Raja and that is a question of fact to be decided by the Department and the interest income of such money can be taken as the income of the Raja.

—:O:—

VEDATHANNI ... (ASSESEE)

VERSUS

THE COMMISSIONER OF INCOME TAX, MADRAS ... (REFERRING OFFICER).

Madras High Court, 11th May, 1932.

Joint Hindu Family even with one male member.

Held that there can be a joint Hindu Family even with a single male member provided that there are other members (even female) entitled (by right) to *maintenance* from the Estate, e.g. under a High Court Order.

—: 0 :—

PIYARE LAL AND OTHERS ... (ASSESEES)

VERSUS

THE COMMISSIONER OF INCOME TAX, PUNJAB AND

N. W. F. PROVINCES ... (REFERRING OFFICER).

Lahore High Court, 3rd July, 1933.

Dissolution of Joint Hindu Family a question of fact.

Held that whether a concern is a Joint Hindu Family or Firm is a question of fact.

Registration of firms.

Sections 2 (14) and 26 A.

[*Vide also Rules 2-6.*]

MESSRS. BISSWARLAL BRIJLAL ... (ASSESEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court, 27th January, 1930.

RAGHU KARSON ... (ASSESEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BIHAR & ORISSA (REFERRING OFFICER).

Patna High Court, 20th May, 1931.

Power to refuse Registration.

Held that The Income Tax Officer has power to refuse registration, even though an application made in the prescribed manner. He has also power to enquire whether a person or a body of persons, is, or are, what he or they represent themselves to be, for taking advantage of any provision of the Act. Hence he has power to call for evidence of dissolution of a Joint Hindu Family, for the purpose of registration as a firm over and above the prescribed application and a partnership deed.

—: 0 :—

KIKABHAI & OTHERS (ASSEESSES)

VERSUS

THE COMMISSIONER OF INCOME TAX, CENTRAL
PROVINCES AND BERAR (REFERRING OFFICER).

Brothers carrying on business under partnership agreement.

Assessee three brothers, living, and messing together and carrying on business under a partnership agreement—profits not divided but carried forward.

Held—Assessable as a Registered Firm because the certificate was given in good faith.

—: O —

MESSRS. HARIDAS PREMJI (ASSESEE)

VERSUS

THE COMMISSIONER OF INCOME TAX, BENGAL (REFERRING OFFICER).

Calcutta High Court, 16th May, 1930.

Partnership by letters.

Held that series of letters between the partners may amount to a partnership deed.

—: O —

ABOWATH BROTHERS (ASSESEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BURMA (REFERRING OFFICER).

Rangoon High Court, 4th July, 1933.

Partnership between Father and Son.

Registration claimed of Partnership between father and son.

Held that there was material before the Income-tax Officer, on which he could find as a fact that a partnership did not exist.

—: O :—

C. T. A. C. T. NACHIAPPA CHETTIYAR ... (APPELLANT)

VERSUS

THE SECRETARY OF STATE FOR INDIA IN COUNCIL
and ANOTHER ... (RESPONDENTS).

Rangoon High Court, 4th May, 1933.

Registration Application not signed by a partner.

Held that Registration Application, when not signed by a partner but only by an Agent is void.

Status of Assessee.

Section III.

THE LUCKNOW ICE ASSOCIATION ... (ASSESEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED PROVINCES (REFERRING OFFICER).

Oudh Chief Court, 7th December, 1925.

Association of Factory Proprietors.

Proprietors and Managers of five Ice Factories formed themselves into an association for the promotion and protection of their ice business—had control over the manufactured sales and distribution of the profits, rates and prices, etc.

Held that it was a firm and assessable as such.

WESTERN INDIA TURF CLUB, LTD. ... (ASSESEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BOMBAY. ... (REFERRING OFFICER).

Bombay High Court, 9th April, 1926.

Club turned into Company.

Western India Turf Club converted on the 1st April 1925 into a Company Limited by guarantee assessed to Super-tax for 1925-26 at the scale rates.

Held Assessable as a Company.

HOTZ TRUST OF SIMLA ... (ASSEESSES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND N.

W. FRONTIER PROVINCES ... (REFERRING OFFICER).

Lahore High Court, 29th May, 1930.

Trustees carrying on business.

Held that Trustees are an Association of individuals, carrying on a business, as such an Unit. c. f. Case No. 1 under section 40 post re Executor's liability.

—:O:—

RAJA BHUNESH PRATAP NARAIN SINGH ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED

PROVINCES ... (REFERRING OFFICER).

Allahabad High Court, 14th March, 1932.

Joint Hindu Family with one male member.

Held that Joint Hindu Family with one male member only to be assessed as an "Individual".

Taxable Income.

Section 4 (1).

SIR SAIYAD ALI IMAM ... (ASSEESSEE)

VERSUS

THE CROWN.

Honorarium to Indian State Official.

Sir S. Ali Imam resigned his post in Hyderabad (Nizam's Dominions) before expiry of the full term. The Nizam Government ordered the Hyderabad Branch of the Imperial Bank of India to pay him at Patna through their Patna Branch an honorarium for the unexpired portion of his term of office the assessee signed a receipt at Patna for receipt of the money which was not credited to his account by any book entry in the Patna Branch and requested that it may be credited to his account at the Hyderabad Branch; subsequently the balance to his credit at Hyderabad was transferred to Patna.

Held that the sum so received was not received in British India within the meaning of Section 4 (1) at Hyderabad (outside British India), in the first instance.

—:O:—

VERNON MILWARD BASON ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court, 22nd December, 1927.

Accumulated Dividends.

Assessee received under certain circumstances, Rs. 1,00,000/- as accumulated dividends for years 1917-23. The assessee claimed that the said sum should be treated as income of the respective years 1917-23.

Held that the amount was assessee's income in the year in which it was received. Since it was not due or payable to him until the Company actually authorised its payment to him as dividend, it could not be regarded as profits of previous years viz. 1917-1923.

—: o —

MANOHARLAL A. BURMAN AND B. B. SAHAY ... (FOR THE ASSESSEES)

VERSUS

A. B. MUKHERJI AND C. M. AGARWALA ... (FOR THE CROWN).

Reference to Full Bench.

Salary paid in a Foreign Country.

Held that salary paid in a Foreign Country by a Foreign Government to its Officer residing in British India for doing some work on behalf of his Government, i.e. collecting Royalties, is not income accruing or arising in British India.

—: o —

DEWAN BAHADUR BALLABHDAS AND SON ... (ASSEESSEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, CENTRAL PROVINCES AND BERAR ... (REFERRING OFFICER).

Nagpur High Court, 11th April, 1931.

Receipts on account of Contracts.

Assessee, a member of the East India Cotton Association.

Actual fortnightly receipt on account of Contracts (Forward or Hedge).

Held taxable, even though the Contract be carried forward for adjustment next year, and a loss may result then.

Remittances into British India.

Section 4 (2)

A. V. P. M. R. M. MURUGAPPA CHETTIAR ... (ASSESSEE)
 VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS.

Madras High Court, 28th September, 1925.

and

S. A. S. SUBBIAH IYER ... (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).

Madras High Court, 20th January, 1930.

And also

V. P. R. P. L. FAMILY BY MANAGING MEMBER, KASI
 VISWANATHAM CHETTIYAR ... (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BURMA.

Rangoon High Court, 9th May, 1933.

Remittances from Foreign Branches.

Remittance to Head Quarters in British India from Foreign Branches.

Held as having come out of profits, until the contrary is shown. Burden of proof lies on Assessee.

Also held that such presumption can be rebutted by the Assessee by means of evidence.

— : O : —

A. S. PL. VR. RAMASWAMI CHETTIYAR ... (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).

Madras High Court, 11th May, 1933.

Foreign Money-lending Business.

Held that remittances of Rents of Properties (situated abroad) taken over in discharge of debts and treated as Business Assets can be treated as business profits.

Property held under Trust for Charitable Purposes.

Section 4 (3) (i)

THE MAHARAJ BAG CLUB, LTD. ... (ASSESSEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, CENTRAL
 PROVINCES AND BERAR ... (REFERRING OFFICER).

Nagpur Judicial Commissioner's Court, 2nd January, 1931.

Club with Shareholders.

A Club with Shareholders distinct from members.

Held that in the case of a Club with Shareholders distinct from members surplus is taxable.

Casual Income or Capital Receipts.

Section 4 (3) (vii)

SECRETARY, BOARD OF REVENUE, MADRAS ... (REFERRING OFFICER)
 VERSUS
 R. M. A. R. R. M. ARUNACHALAM CHETTIAR ... (ASSESEE).

Madras High Court, 28th, 29th August and 25th September, 1923.

Profits made by exchange.

Held that Profits made by a Banker and Money-lender by exchange by sending remittances occasionally from Madras to Penang and back are not casual receipts, because earned in the course of business and not non-recurring.

Special Income-tax Officer.

Section 5 (4)

LACHHIRAM BASANTLAL BASANTLAL NATHANI ... (ASSESEES)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Bengal High Court, 2nd August, 1929.

and

RAMAKRISHNA RAMNATH FIRM OF TIRORA ... (ASSESEES)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, CENTRAL
 PROVINCES AND BERAR ... (REFERRING OFFICER).

Nagpur Judicial Commissioner's Court, 14th August, 1929.

Jurisdiction of Income-tax Officer.

Jurisdiction of an Income-tax Officer appointed by the Commissioner of Income-tax to deal with individual cases.

Salary Income.

Section 7.

THE BOMBAY BURMA TRADING CORPORATION, LTD.... (ASSESEES)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, BURMA ... (REFERRING OFFICER).

Rangoon High Court, 7th February, 1933.

Interest on Company's contributions.

Interest on Company's contributions paid on determination of service is taxable as salary.

Property.

Section 9 (1)

KALADAN SURATEE BAZAAR CO., LTD.

AND

SURATEE BURRA BAZAAR CO., LTD. ... (ASSEESSES).

Lower Burma Chief Court, 26th May, 1920.

Company owning house for rent.

Held that Company owning house property let out for rent, where rents are collected and distributed as dividends to shareholders—is not carrying on business.

Interest on Mortgage.

Section 9 (1) (iv)

BEHARI LAL MULICK ... (ASSESEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court, 17th February, 1927.

Unpaid Interest.

Interest on mortgage, not actually paid, is an admissible deduction where accounts are kept on Mercantile basis.

Annual Value.

Section 9 (2)

HAVELI SHAH AND SARDARI LAL ... (ASSESEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND
N. W. F. PROVINCES ... (REFERRING OFFICER).

Lahore High Court, 4th July, 1933.

Reasonable Letting Value.

What is reasonable letting value is a question of fact.

Depreciation.

Section 10 (2) (vi)

THE SARASPUR MILLS COMPANY, LTD. ... (ASSEESSES)
 VERSUS
THE COMMISSIONER OF INCOME-TAX, BOMBAY ... (REFERRING OFFICER).

Bombay High Court, 19th August, 1931.

Carrying forward Depreciation.

It was decided by the Madras High Court that Assesseees are entitled to carry forward Depreciation Allowance of their predecessors not given in years previous to succession by them, such allowance to be worked on the Original Cost to the Predecessors of the assets taken over by the Assesseees and not at the value at which they took them over.

The above Madras decision is upset by the Bombay High Court which decided that the "Original Cost" refers to the cost to the person who is being actually assessed, and not to the previous owner.

—:O:—

THE ALLAHABAD MILLING COMPANY ... (ASSEESSES)
 VERSUS
THE COMMISSIONER OF INCOME-TAX, UNITED
PROVINCES ... (REFERRING OFFICER).

Allahabad High Court, 17th June, 1932.

Depreciation Arrangements.

Held that certain arrangements for depreciation in past years, for want of prescribed particulars can be set aside and future depreciation be based on the original cost on furnishing prescribed particulars of the Assets.

Obsolescence Allowance.

Section 10 (2) (vii).

N. D. RADHA KISHEN AND SONS OF RAWALPINDI ... (ASSEESSES)
 VERSUS
THE COMMISSIONER OF INCOME-TAX, PUNJAB AND
N. W. FRONTIER PROVINCE ... (REFERRING OFFICER).

Lahore High Court, 23rd February, 1928.

Machinery not used.

Machinery and plant not used in business in accounting year. Are depreciation and obsolescence claims allowable? What is the meaning of "used for the purpose of the business"?

Held that the expression "used for the purpose of business" means used for such purposes during the accounting year and consequently the allowance for depreciation is inadmissible in respect of buildings, machinery, plant, etc. remaining idle.

Expenditure Incurred for Earning Profits.

Section 10 (2) (ix).

CHIEF COMMISSIONER OF INCOME-TAX (BOARD OF
REVENUE), MADRAS (REFERRING OFFICER)

VERSUS

VEGARAJU VENKATASUBBAYA GARU MANAGING PRO-
PRIETOR of B. S. MINING COMPANY, GUDUR ... (ASSESSEE).

Madras High Court, 30th January, 1922.

Salaries paid to Partners.

Salaries paid to Partners—their drawings—not deductible.

—: O :—

THE ELECTRIC AND DENTAL STORES (ASSESSEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND
N. W. F. PROVINCES (REFERRING OFFICER).

Lahore High Court, 5th February, 1931.

Salaries to Working Partners.

Salaries to Working Partners admissible, if they were true employees.

—: O :—

RAO SAHEB A. S. ALAGANAN CHETTY ... (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).

Madras High Court, 2nd February, 1928.

Payment to rival contractor.

Assessee doing business as carrying contractor. Payment to rival contractor for not competing with him.

Held not admissible as business expense but as Capital Expenditure for obtaining the contract (business) and not for working the contract. Some money may be capital expenditure to the person who pays an income to the person receiving it.

—: O :—

MESSRS. B. K. PAUL & CO. ... (ASSEESSES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court, 23rd May, 1933.

Salaries to Adult Members of J. H. F.

Salaries to Adult Members of a Joint Hindu Family business are not admissible as expenditure.

—: o :—

PRAG NARAIN ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED PROVINCES ... (REFERRING OFFICER).

Allahabad High Court, 15th January, 1932.

Bad Debts.

Bad debts disallowed by the Income-tax Officer because debtor is close relative, the Assessee had taken no steps to recover, the Debtor was not insolvent, and being assessed to income-tax.

Method of Accounting.

Section 13.

RAJA RAGHUNANDAN PRASAD SINGH AND ANOTHER... (APPELLANTS)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BIHAR AND ORISSA ... (RESPONDENT).

Patna High Court, 24th January, 1933.

Money-lending Business.

Buying in of Mortgaged Property—Cash basis of accounts-keeping—Profit arising therefrom on account of accrued interest. Interest is supposed to have been received on the date of confirmation of sale, i. e., when the sale becomes absolute.

Income from Hindu Undivided Family.

Section 14 (1).

VEDATHANNI (ASSEESSEE)
VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).
Madras High Court, 11th May, 1932.

Maintenance received by a widow.

Maintenance received by a widow of a member of a Joint Hindu Family is exempt, because it is received as a Family Member and because it is taxed as a portion of the Joint Hindu Family's income, no deduction being given for such maintenance to the Joint Hindu Family.

Return.

Section 22 (2).

MESSRS. RATTAN CHAND DUNICHAND OF GURU
BAZAR, AMRITSAR (ASSEESSEES)
VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND
N. W. FRONTIER PROVINCE ... (REFERRING OFFICER).
Lahore High Court. 21st February, 1928.

Incomplete Return.

Return form sent with columns not filled—"Blank" written against "total" column—Covering letter disputing assessability.

Held that assessee failed to make a return—Hence assessment under Section 23 (4) valid.

---: O :---

MESSRS. KAJORIMAL KALYANMAL (ASSEESSEES)
VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED
PROVINCES (REFERRING OFFICER).
Allahabad High Court, 5th April, 1929.

Illegal Notice.

Notice giving 29 days to file the return is illegal.

---: O :---

S. P. N. C. T. CHETTYAR FIRM (ASSEESSEES)
VERSUS

THE COMMISSIONER OF INCOME-TAX, BURMA ... (REFERRING OFFICER).
Rangoon High Court, 22nd December, 1930.

Return Notice affixed to door.

Return Notice affixed to the door of the premises after using all due and reasonable diligence to effect personal service, was duly served on the assessee. The prescribed period of 30 days commenced from the date of affixture.

Production of Accounts and Documents.

Section 22 (4)

RAM KISSENDAS BAGRI (ASSEESSEE)
VERSUS
THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).
Calcutta High Court, 15th February, 1927.

and

RAGHUNATHDAS SEWLAL (ASSEESSEE)
VERSUS
THE COMMISSIONER OF INCOME TAX-BENGAL ... (REFERRING OFFICER)
Calcutta High Court, 16th May, 1930.

and

MUHAMMAD HAYAT HAJI MUHAMMAD SARDAR ... (ASSEESSEE)
VERSUS
THE COMMISSIONER OF INCOME-TAX, PUNJAB &
N. W. F. PROVINCES (REFERRING OFFICER).
Lahore High Court, 12th December, 1930.

Issue of Notice.

Income-tax Officer can issue notice under section 22(4) independently of any question of the making of the Return, even after the commencement of an enquiry under section 23 (3), and on failure to comply, assessment under section 23 (4).

—:O:—

MUHAMMAD HAYAT HAJI MUHAMMAD SARDAR ... (ASSEESSEE)
VERSUS
THE COMMISSIONER OF INCOME-TAX, PUNJAB AND
N. W. F. PROVINCES (REFERRING OFFICER).
Lahore High Court, 12th December, 1930.

and

MESSRS. PALLU MAL BHOLA NATH ... (ASSEESSEES)
VERSUS
THE COMMISSIONER OF INCOME TAX, UNITED
PROVINCES (REFERRING OFFICER).
Allahabad High Court, 28th April, 1933.

Issue of Notice.

Notice under section 22(4) can be issued, even after proceedings under section 23(2) are commenced.

Assessment.

Section 23 (3).

N. N. BURJORJEE (ASSEESSEE)
 VERSUS
 THE CGMMISIONER OF INCOME-TAX, BURMA ... (REFERRING OFFICER).

Rangoon High Court, 19th February, 1931.

and

MESSRS. BURN & COMPANY (ASSEESSEES)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court. 18th February, 1932.

Time limit for assessment.

No time limit is fixed for original assessment, if proceedings commenced within the year of assessment.

Assessment.

Section 23 (4).

JANGI BHAGAT RAMAWATAR (ASSEESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, BIHAR AND
 ORISSA

Patna High Court, 11th March. 1929.

and

RAGHU KARSON (ASSEESSEE).
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, BIHAR AND
 ORISSA (REFERRING OFFICER).

Patna High Court, 20th May, 1931.

Denial of existence of accounts.

Mere fact of the denial of the existence of accounts does not absolve the assessee, when found on evidence that books did exist and non-production thereof did amount to a failure to comply with the notice under section 22 (4) Action under Section 23 (4) was, therefore, legal.

NAWAB MUZAFFAR ALI KHAN (ASSEESSEE).

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED PROVINCES (REFERRING OFFICER).

Oudh Chief Court, 10th May, 1929.

Production of false accounts.

Where accounts called for are produced so as intentionally to falsify the income, it is open to the Income-tax Officer to make assessment under section 23 (4) as for failure to comply with all the terms of a notice under section 22 (4).

Partition of Hindu Undivided Family.

Section 25 A.

MESSRS. JATTU SHAH NATHU SHAH (ASSEESSEE).

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND N. W. F. PROVINCES (REFERRING OFFICER).

Lahore High Court, 7th March, 1932.

Existence of Hindu Undivided Family.

It is open to the Income-tax Officer, (after making necessary enquiries), to find (i. e. decide) against the declarations contained in a partnership deed and reiterated by the parties before him that a Hindu Undivided Family still exists.

—: O :—

PIYARE LAL AND OTHERS (ASSEESSEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND N. W. F. PROVINCES

Lahore High Court, 3rd July, 1933.

No firm in accounting period.

A Joint Hindu Family cannot be registered under Section 25 A, as there was no firm in existence in the accounting period.

—: O :—

MATHRA DAS (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND N. W. F. PROVINCES (REFERRING OFFICER).

Lahore High Court, 4th July, 1933

Will no evidence.

A will is no evidence of partition or disruption of a Joint Hindu Family.

Discontinuance of Business.

Section 25 (3).

M H. SANJANA & CO., LTD., ... (ASSEESSES).

VERSUS

THE COMMISSIONER OF INCOME-TAX, BOMBAY ... (REFERRING OFFICER)

Bombay High Court. 18th August, 1925.

Change in ownership of business.

Change in ownership of business. Business including all stock-in trade, good will, etc., was transferred to a new company. Though there was a change in ownership, the business was continued.

Held that no adjustment under Section 25 (3) was admissible, since the business was not discontinued.

—: O :—

MESSRS. KALU MAL SHORI MAL ... (ASSEESSES).

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND
• N. W. FRONTIER PROVINCE ... (REFERRING OFFICER).

Lahore High Court, 7th January, 1929.

When business discontinued.

A business cannot be said to be discontinued, simply because the Joint Hindu Family disrupted or broken up.

Change in Constitution of Ownership of Firms.

Section 26.

THE WESTERN INDIA TURF CLUB, LTD. ... (ASSEESSES).

VERSUS.

THE COMMISSIONER OF INCOME-TAX, BOMBAY. ... (REFERRING OFFICER)

Bombay High Court, 9th April, 1926.

Club converted into Company.

The Western India Turf Club converted on 1st April 1925 into a Company limited by guarantee—assessed to Super-tax for 1925-26 at the Scale rates.

Held that assessable as a Company at the Flat Rate.

—: O :—

THE COMMISSIONER OF INCOME-TAX, BOMBAY ... (APPELLANT)

VERSUS

THE WESTERN INDIA TURF CLUB, LIMITED ... (RESPONDENTS).

Bombay High Court, 4th November, 1927.

Club converted into Limited Company

Western India Turf Club. Conversion into limited company. Assessment on income of previous year before conversion. Rate of super-tax applicable would be at the flat rate, i. e., applicable to a company.

Succession to a Business.

Section 26 (2).

MESSRS. BEST & CO, LTD. ... (ASSEESSES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).

Madras High Court, 6th January, 1932.

and

SIND LIGHT RAILWAY CO. LTD. ... (ASSEESSES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BOMBAY ... (REFERRING OFFICER).

Sind Judicial Commissioner's Court, 13th May, 1932.

Sale of Business.

Vendor owning number of businesses. Sale of one business as a going concern.

Held, Vendee liable as successor.

— : 0 : —

NACHAL ACHI ... (ASSESEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS, ... (REFERRING OFFICER).

Madras High Court, 3rd May, 1933.

Liability of Successor.

Successor liable under Section 34 for the income that escaped assessment in the hands of Predecessor.

Penalty for Concealment of Income.

Section 28.

BUTTO KRISTO KAMALA KANTA SAHA, FIRM ... (ASSEESSEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BIHAR AND
ORISSA. ... (REFERRING OFFICER.)

Patna High Court, 2nd December, 1930.

Determining concealed income.

In determining the amount of income concealed, the Income-tax Officer is not restricted to the amount shown by the Assessee's own books and it is open to the Income-tax Officer to assess the real income by estimating it and to levy the penalty accordingly.

—: o —

A. R.M. A.L.A. ARUNACHALAM CHETTYAR ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER)

Madras High Court, 16th December, 1931.

Previous incorrect return.

Authorities are entitled to look at the previous incorrect Return and to inflict a penalty, even though the later Return may, for the purpose of assessability, be treated as a *revised* return under section 22 (3).

— o :—

A. A. R. CONCERN ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BURMA ... (REFERRING OFFICER).

Rangoon High Court, 10th January, 1933.

Evidence for disclosing real income.

Evidence adduced by an Assessee for disclosing the real income should be admitted by an Income-Tax Officer, not for the purpose of varying or affecting the assessment made (under section 23 (4) in this case) but for showing whether no penalty (or less than the maximum) ought to be imposed.

Hearing of Appeals.

Section (31)

JHURI MISRA ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED
PROVINCES ... (REFERRING OFFICER).

Allahabad High Court, 3rd July, 1928.

and

PROTAP CHANDRA GANGULY ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court, 7th April, 1930.

Merits of an Assessment.

It is not open to the Appeal Court to enter into the merits of an assessment made under Section 23 (4) or review the same, when an appeal is made against the Income-Tax Officer's refusal orders to re-open a case under Section 27.

—: O :—

KUNWARJI ANANDA ... (ASSEESSEES).

VERSUS

THE COMMISSIONER OF INCOME-TAX, BIHAR & ORISSA (REFERRING OFFICER).

Patna High Court, 26th June, 1931.

and

BHAGAT DUNICHAND OF HARIPUR ... (ASSEESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB AND
N. W. F. PROVINCE ... (REFERRING OFFICER).

Lahore High Court, 31st May, 1929.

Plea of Non-liability.

Proviso to Section 30 (1) also applies, even where the appellant states that "He is not liable, being a non-resident, and that the act does not apply to him," because it makes no distinction between an "Ultra Vires" and an "Intra Vires" assessment so long as the assessment was genuinely made under Section 23 (4).

—: O :—

HARI KRISHNA DAS (ASSEESSEE)
VERSUS
THE COMMISSIONER OF INCOME-TAX, U.P. ... (REFERRING OFFICER).
Allahabad High Court. 26th February, 1931.
Enhancing Assessment.

An Appellate Court can enhance an assessment but not a penalty levied under Section 28 by an Income-tax Officer.

—: o :—

SHYAM SUNDER BEHARI LAL (ASSEESSEE)
VERSUS
THE COMMISSIONER OF INCOME-TAX, UNITED PROVINCES ... (REFERRING OFFICER)
Allahabad High Court, 24 June, 1932.
Appeal pending prosecution.

Appeal pending prosecution. Both withdrawn simultaneously by separate applications. Appeal dismissed, but prosecution not withdrawn.

Held assessee not entitled to be heard, on the merits of the case, on application to High Court.

—: o :—

RAI SAHIB CHIRANJI LAL & SONS. (ASSEESSEES)
VERSUS
THE COMMISSIONER OF INCOME-TAX, PUNJAB and N. W. F. Provinces ... REFERRING OFFICER).
Lahore High Court, 5th July, 1933.
Dismissing appeal.

Dismissing appeal. No objection before Income-Tax Officer. No question of Law arising from Appellate Order.

Income Escaping Assessment.

Section 34.

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER)
VERSUS
SRI KRISHNA CHANDRA GAJAPATHI NARAYANA DEO,
RAJA OF PARLAKIMEDI (ASSEESSEE)
Madras High Court, 17th August, 1925.
and
THE ANGLO-PERSIAN OIL COMPANY (INDIA), LTD. (ASSEESSEES)
VERSUS
THE COMMISSIONER OF INCOME-TAX, BENGAL ... (REFERRING OFFICER).

Calcutta High Court, 8th February, 1933.

Escaped Assessment.

“Escaped Assessment” applies even to cases where the Income-tax Officer has for any reason, either deliberately or through oversight, omitted to assess certain income or allowed certain losses by adopting an erroneous construction of the Law, or a deduction improperly allowed in an assessment.

—: O :—

SETH KASINATH BAGLA (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED
PROVINCES (REFERRING OFFICER).

Allahabad High Court, 16th May, 1930.

Revising original assessment.

While cancelling a Supplementary assessment, an Assistant Commissioner is precluded from granting relief against the Original Assessment made under Section 23 (4). There is no jurisdiction to revise the original assessment.

—: O :—

HAJI TAJ MOHAMMAD HAJI ABDUL REHMAN &
Co. (ASSESSEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED
POVINCES (REFERRING OFFICER).

Allahabad High Court, 4th May, 1932.

Re-assessment.

Where assessment is made to the best of his judgment under Section 23 (4) by one Income-tax Officer, another Income-tax Officer can make re-assessment under Section 34

Power To Take Evidence.

Section 37.

LAL MOHAN (SAHA) PODDAR (ACCUSED PETITIONER)

VERSUS

KING-EMPEROR (OPPOSITE PARTY).

Calcutta High Court, 15th June, 1927.

Proceedings before Income-tax Officer.

Account books produced by the assessee in compliance with a notice under Section 23 (2) were found by the Income-tax Officer to be false. Assessee was therefore prosecuted and convicted for an offence under Section 196 of the Indian Penal Code.

Held that the proceedings before the Income-tax Officer on the production of the account books were not judicial proceedings, section 37 of the Income-tax Act not referring to Section 196 of the Indian Penal Code.

Guardians-Trustees-Agents.

Section 40.

HOTZ TRUST OF SIMLA (ASSEESSES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, PUNJAB &
NORTH WEST FRONTIER PROVINCES ... (REFERRING OFFICER).

Lahore High Court, 29th May, 1930.

Joint Trustees.

Two Trustees appointed to manage and control a business, should be assessed as an "Association of Individuals".

—: o :—

J. V. SALDHANA (ASSESEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).

Madras High Court, 18th January, 1932.

Properties put together.

When properties of a number of individuals (even minors) are put together and one business is carried on with their combined resources, it is open to the Income-tax Officer to assess it as one business carried on by an Association of individuals within Sections 3 and 10 (1).

Agent—Business Connection—Non-Resident.

Section 42.

THE NATIONAL MUTUAL ASSOCIATION OF AUSTRALASIA
LTD. (ASSEESSES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BOMBAY ... (REFERRING OFFICER).

Bombay High Court, 27th February, 1933.

Participating Policies Profits.

Held that income derived from investments outside British India of participating policies is assessable.

Agents To Include Persons Treated As Such.

Section 43.

THE COMMISSIONER OF INCOME-TAX, BOMBAY ... (APPELLANT)
VERSUS

THE BOMBAY TRUST CORPORATION, LIMITED, as agents
of the Hongkong Trust Corporation, Limited ... (RESPONDENTS).

Bombay High Court, 26th November, 1929.

and

THE COMMISSIONER OF INCOME-TAX, BOMBAY ... (APPELLANT)
VERSUS

THE REMINGTON TYPEWRITER COMPANY (BOMBAY)
LTD. ... (RESPONDENTS).

Bombay High Court, 16th December, 1930.

Persons coming within terms of the Section.

Held that Section 43 puts the person who comes within its terms, artificially into the position of "Agent" under Section 42. Hence, such person can be assessed.

Prosecution.

Section 51.

KING-EMPEROR

VERSUS

RAM CHARAN ... (ACCUSED).

Allahabad High Court, 10th December, 1918.

Absence of formal service.

A conviction under Section 51 of the Income-tax Act could not be maintained in the absence of formal service of notice as required by Section 63 of the Act, the latter having been sent by ordinary post unregistered.

—:O:—

KING-EMPEROR ... APPELLANT (COMPLAINANT)
VERSUS

A. M. HUSSAIN ALLY & Co. and others ... RESPONDENTS (ACCUSED).

Madras High Court, 21st and 27th January 1920.

Failure to produce accounts.

Prosecution of assessee for failure to produce accounts not barred by proviso to Section 26 by reason of a prior order for penal assessment.

False Statement in Declaration.

Section 52.

MOHIDEEN PAKKIRI MARAKKAYAR ... PETITIONER (ACCUSED).

Madras High Court, 17th July, 1922.

Charge re: false petition.

Charge re. false petition under Section 30—verification of—made at one place—return received at another place.

A charge of an offence under Section 177 of the Indian Penal Code in respect of a false statement in the verification can be legally tried only by the Court having jurisdiction over the place where the verification took place.

—: o :—

GANGA SAGAR ... (PETITIONER)

VERSUS

KING-EMPEROR.

Allahabad High Court, 25th July, 1929.

Return containing false statement.

Return containing false statement. Offence when committed. Subsequent filing of revised true return, effect of—Scope of Section 52.

Appearance By Authorised Representative.

Section 61.

BASANT LAL RAMJIDAS ... (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BIHAR AND
ORISSA ... (REFERRING OFFICER)

Patna High Court, 20th May, 1931.

Authority of a Pleader.

A pleader, with permission from the Assessee to appear before an Assistant Commissioner cannot apply for a copy of the Assistant Commissioner's decision, unless expressly authorised in writing by the appellant to do so.

Service Of Notices.

Section 63.

KING-EMPEROR

VERSUS

RAM CHARAN (ACCUSED).

Allahabad High Court, 10th December, 1918.

Absence of formal service.

A conviction under Section 51 of the Income-tax Act could not be maintained in the absence of formal service of notice as required by Section 63 of the Act, the letter having been sent by ordinary post unregistered.

— : O : —

S. M. PERIANNAPILLAI ... (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).

Intimation of adjournment.

A letter or telegram intimating adjournment does not amount to a notice under Sections 23 (2) and 63—i. e., it may be sent by ordinary post.

Principal Place Of Assessment.

Section 64 (1).

MAHARAJADHIRAJ OF DHARBANGA (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, BIHAR AND
ORISSA ... (REFERRING OFFICER).

Patna High Court, 25th November, 1929,

Assessment Order wherever signed.

An assessment order signed at a place outside the area where the assessee is ordinarily assessable under the Income-tax Act is a valid assessment.

Income-Tax Officer's Jurisdiction.

Section 64 (4).

MESSRS. DINA NATH HEMRAJ OF CAWNPORE ... (ASSESSEE)

VERSUS

THE COMMISSIONER OF INCOME-TAX, UNITED PRO-
VINCES ... (REFERRING OFFICER).

Allahabad High Court, 3rd February, 1927.

Assessing a firm whose business is ended.

The Income-tax Officer has jurisdiction to assess a firm, though at the time of assessment the business of the Firm had come to an end and its members were no longer carrying on business at all.

References To High Court.

Section 66.

P. THIRUVENGADA MUDALIAR ... (ASSEESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).
 Madras High Court, 14th December, 1927.

S. A. S. SUBBIAH IYER ... (ASSEESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, MADRAS ... (REFERRING OFFICER).
 Madras High Court, 20th January, 1930.

Stating a case.

On an application under Section 66 (3), the Commissioner of Income-tax cannot be required by the High Court to state a case on a question of law not raised before him in an application under Section 66 (2) within the time limited.

—: o :—

BENARSI DAS ... (ASSEESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, PUNJAB and
 NORTH-WEST FRONTIER PROVINCE ... (REFERRING OFFICER).
 Lahore High Court, 11th January, 1926.

and
 MESSRS. MOHAN LAL HARDEO DAS ... (ASSEESSEES)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, BIHAR and
 ORISSA ... (REFERRING OFFICER).
 Patna High Court, 31st July, 1930.

Whether reference inadmissible.

No reference to High Court under Section 66 (3), where assessment under Section 23 (4).

—: o :—

SURAJBHAN ... (ASSEESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, UNITED PRO-
 VINCES ... (REFERRING OFFICER).
 Allahabad High Court, 4th March, 1932.

and
 M. K. S. CHETTIAR FIRM ... (ASSEESSEE)
 VERSUS
 THE COMMISSIONER OF INCOME-TAX, BURMA ... (REFERRING OFFICER).
 Rangoon High Court, 2nd September, 1930.

Assistant Commissioner's Order

Held that Assistant Commissioner's Order rejecting an Appeal against assesment under Section 23 (4) is an Order under Section 30 (1) and not Section 31. Hence no reference to High Court lies.

Miscellaneous.

**THE MADRAS PROVINCIAL CO-OPERATIVE BANK,
LTD.**

... (ASSEESSEES)

VERSUS

THE COMMISSIONER OF INCOME-TAX, MADRAS

... (REFERRING OFFICER).

Madras High Court, 5th January, 1933.

Co-operative Societies.

Investment of surplus fund in Government Securities. Interest therefrom not exempt under Notification dated 25-8-25.

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