

CONTENTS



	PAGE
<i>About the Authors</i>	I-5
<i>Preface</i>	I-7
<i>Chapter-heads</i>	I-11
<i>Significant check lists on various issues relating to handling of search & assessment of search cases</i>	I-61
<i>Leading case laws on significant issues</i>	I-73
<i>Frequently Asked Questions (FAQs)</i>	I-105
<i>List of cases</i>	I-121

1

SEARCH AND SEIZURE - NATURE OF PROVISIONS

1.1	INTRODUCTION	1
	◆ Meaning of “search” and “seizure”	1
	◆ Search v. Inspection	2
	◆ Seizure v. Prohibitory Order	2
	◆ Search v. Survey	2
1.2	HISTORICAL BACKGROUND	3
	◆ Finance Act, 1964	5
	◆ Income Tax (Amendment) Act, 1965	5
	◆ Taxation Laws (Amendment) Act, 1975	5
	◆ Direct Tax Laws (Amendment) Act, 1987	5
	◆ Finance Act, 1988	5
	◆ Finance Act, 1995	5
	◆ Finance Act, 2003	6
	◆ Finance Acts, 2007 & 2012	6

	PAGE
1.3 OBJECTIVE OF SEARCH	6
1.4 FEATURES OF SEARCH PROVISIONS	7
◆ Investigation process	7
◆ Harsh in nature	7
◆ Invading privacy	7
◆ Deterrence effect	7
◆ Severe consequences	8
1.5 IN-BUILT SAFEGUARDS	8
◆ Authorization by higher authorities	8
◆ 'Reason to Believe' in consequence of information in possession	9
◆ Satisfaction at two stages	9
◆ Whole proceeding in the presence of two witnesses	9
◆ Strict reporting system and maintaining transparency	9
◆ Power of search to be exercised strictly in terms of law	9
1.6 SCOPE OF SEARCH PROVISIONS	11
◆ Search action only in rare cases	11
◆ A self contained code	11
◆ No power of arrest	11
1.7 CONSTITUTIONAL VALIDITY	12
1.8 APPLICABILITY OF CODE OF CRIMINAL PROCEDURE, 1973	14
1.9 APPLICABILITY OF CIVIL PROCEDURE CODE (CPC), 1908	14
1.10 SEARCH AND SEIZURE PROVISIONS IN SOCIO-ECONOMIC CONTEXT	15
1.11 POWERS OF SEARCH AND SEIZURE UNDER OTHER ECONOMIC LAWS	16
1.12 POWER OF SEARCH IN OTHER COUNTRIES	16

2

CIRCUMSTANCES WHEN SEARCH CAN BE INITIATED

2.1 CONDITIONS PRECEDENT FOR INITIATING SEARCH	18
2.2 TEXT OF SECTION	18
2.3 LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	19
2.4 OBJECTIVE	19

	PAGE
2.5 BROAD FRAMEWORK	20
◆ Compliance of statutory conditions as contemplated under section 132 are mandatory	21
◆ Provisions of section 132(1) should be strictly construed	22
2.6 CLAUSE (a) OF SUB-SECTION (1) OF SECTION 132	22
◆ Non-compliance of invalid summons or notice	24
◆ No search action for non-filing of return of income	24
2.7 CLAUSE (b) OF SECTION 132(1)	24
◆ Assumption of non-compliance of notice/summon to be based on material	26
◆ Futility of notices, even if issued	26
◆ Formal notice is not necessary but basis to be proved	26
◆ Authorization of search on the basis of non-compliance of summons issued under section 131(1A)	27
◆ Consequential search based upon close relationship - Whether covered under section 132(1)(b)	29
2.8 CLAUSE (c) OF SECTION 132(1)	29
◆ In Possession - Any money, bullion, jewellery or other valuable article or thing	30
◆ In possession - Books of account and other documents	30
◆ No search for disclosed assets	31
◆ Whether clause (c) covers undisclosed immovable assets?	31
◆ Whether action under section 132(1)(c) can be taken on the construction of a building	32
2.9 INFORMATION IN POSSESSION	32
◆ Information relating to situation under clause (a), (b) or (c) of section 132(1)	33
◆ Information not to be based upon rumours or suspicion	34
◆ Information relevant to enquiry	36
◆ Information not to be based upon vague facts	36
◆ Information not based upon generalities	37
◆ Information not for fishing or roving enquiry	37
◆ Information based upon reports from other authorities	38
◆ Verification of information	38
◆ Consequences of false information	40
◆ Information to exist prior to issue of authorization	41

	PAGE
◆ Information related with return of income	41
◆ Information in case of persons relating to group companies	42
2.10 COLLECTION OF INFORMATION	43
◆ Source of information	43
■ Informers	43
■ Internal sources	45
■ External sources	45
◆ Reward to Informer	46
◆ Incentive/Reward to Departmental Officers	46
2.11 "REASON TO BELIEVE"	47
◆ "Reason to believe" for conditions mentioned under clause (b) or (c)	47
◆ Reason to believe and not reason to suspect	52
◆ Reason to believe cannot be justified on the basis of assets seized during search	52
◆ Search warrant for the search of the premises of tenant or business associate or relative or senior employee	52
◆ Formation of "reason to believe" separately for each person	53
◆ "Reason to believe" whether open to judicial scrutiny	54
◆ The function of formation of "reason to believe" cannot be delegated	57
2.12 NEXUS BETWEEN INFORMATION AND "REASON TO BELIEVE"	57
◆ Application of mind by authorizing officer	60
2.13 RECORDING OF SATISFACTION	64
◆ Whether recording of satisfaction has to be in writing?	65
◆ Existence of relevant information is enough for issuing search warrant	67
◆ Reasons need not be communicated	67
2.14 SCOPE OF SEARCH AND SEIZURE U/S 132	69
◆ No pendency of proceedings required in relation to issue of search warrant	70
2.15 CONVERSION OF SURVEY INTO SEARCH	70

3**AUTHORIZATION OF SEARCH**

3.1	AUTHORITY EMPOWERED TO AUTHORIZE SEARCH	73
3.2	TEXT OF SECTION	73
3.3	LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	74
	◆ Taxation Laws (Amendment) Act, 1975	74
	◆ Finance Act, 2009	75
3.4	OBJECTIVE	75
3.5	WHO CAN ISSUE WARRANT OF AUTHORIZATION?	75
	◆ Controversy regarding search authorized by Additional/Joint Director, Additional/Joint Commissioner	78
	◆ Misinterpretation of clause (B) to section 132(1) used for issue of subsequent search warrant	79
3.6	WHO CAN BE AUTHORIZED OFFICER?	80
3.7	SEARCH WARRANT CAN BE ISSUED AGAINST WHOM?	81
	◆ Search warrant against person in possession or owner of the asset	81
	◆ Search warrant against NRI	82
	◆ Search warrant in the name of deceased person	82
	◆ Search warrant in the name of non-existing company	82
	◆ Search warrant against minor	83
	◆ Search warrant against professionals	83
	◆ Search warrant in joint name	83
	◆ Premises Jointly Occupied	85
3.8	MANNER OF DRAWING SEARCH WARRANT	86
	◆ Authorization to be in writing with signature and seal of the authorizing officer	86
	◆ Search warrant to specify name of person	86
	◆ Correct address of premise/place under search to be mentioned	86
	◆ Mention of name of assessee and premises - Both	87
	◆ Subject matter not to be stated	88
	◆ Grounds for search action not to be stated	89
	◆ Separate search warrant for each premises	89

	PAGE
◆ Issue of blank search warrant	89
◆ Search warrant for benami business concerns	90
◆ Panchnama may be in the name of bank account of the assessee	91
3.9 NATURE OF SEARCH WARRANT	91
◆ Search warrant qua-assessee or qua-premises	91
◆ No warrant for roving enquiry	92
◆ Application of mind	92
◆ No search without search warrant	92
◆ Source of information not to be disclosed	92
3.10 WHETHER WARRANT IS REQUIRED TO BE SERVED	93
◆ Whether assessee can ask for copy of satisfaction note	94
◆ Whether copy of search warrant and/or satisfaction note can be obtained under RTI Act	95
3.11 MISTAKE IN DRAWING SEARCH WARRANT	96
◆ Non-striking of irrelevant portions of the warrant	96
◆ Clerical omission not fatal	97
◆ Mistake in the name in authorization	97
3.12 PROFORMA OF SEARCH WARRANT	98
3.13 SUMMARISATION	98

4

VALIDITY OF SEARCH - WRIT JURISDICTION

4.1 VALIDITY OF SEARCH	100
◆ Circumstances when search is held to be valid	103
◆ Circumstances when search is held to be invalid	105
◆ Allegation of <i>mala fide</i> or <i>bias</i> in search	108
4.2 ILLEGALITY OF SEARCH v. IRREGULARITY DURING SEARCH	110
◆ Delay in concluding search	111
◆ <i>Bona fide</i> irregularity not fatal	111
◆ Seizure of irrelevant documents	111
4.3 ILLEGAL SEARCH - CONSEQUENCES	112
◆ Awarding costs against department	113
◆ No civil suit for claiming damages	114

	PAGE
◆ Damages for undue retention	114
◆ Damages for illegal restraint	115
◆ Search Assessment to be Illegal	115
4.4 EVIDENTIARY VALUE OF DOCUMENTS FOUND DURING ILLEGAL SEARCH	116
◆ Challenging validity of search to weigh <i>pros</i> and <i>cons</i>	119
◆ Who can examine validity of search?	120
◆ Whether courts can examine sufficiency of reasons	122
4.5 CHALLENGING VALIDITY OF SEARCH - WRIT JURISDICTION	124
◆ Grounds for challenging validity of search	124
◆ Observance of safeguards in-built in the provisions of section 132 and rules is essential for exercise of powers	125
◆ Mere allegation of existence of no material - Not a valid ground	126
HOW TO TACKLE THE SITUATION	127
◆ Challenging assumption of jurisdiction u/s 153A	127
◆ Different circumstantial indicators which may point that search was not in accordance with law thus prompting a challenge to search action in court	128
◆ Search warrant not drawn properly	128
◆ Serious procedural irregularities	129
◆ Indiscriminate seizure	129
◆ High Handedness exercised during search	129
◆ Statement of Panchas	130
◆ Illegal restraint under section 132(3)	130
◆ Post search irregularities	130
4.6 WRIT FOR OTHER MATTERS	130
4.7 AT WHAT STAGE WRIT CAN BE FILED	131
◆ No injunction	132
◆ Repetitive writ petition	132
4.8 SCOPE OF WRIT PETITION	132
◆ No factual dispute in writ	132
◆ Writ not for deciding ownership of seized money	133
◆ Jurisdiction of High Court - Cause of action arose wholly or partly	133
◆ Public Interest Litigation for not conducting search against influential persons not entertained	133

	PAGE
4.9 POWERS OF COURT IN WRIT JURISDICTION	133
◆ Court can mould the remedy to suit the facts of each case	133
◆ Inherent powers of Court under Article 226	133
◆ Court's Power to Review	134
◆ Plea of alternative remedy	134
4.10 SUMMING UP	136

5

ACTUAL CONDUCT OF SEARCH OPERATIONS

5.1 TEXT OF SECTION 132(1)(i) TO (v)	139
5.2 LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	140
5.3 OBJECTIVE	141
5.4 TO ENTER AND SEARCH	141
◆ "He has reason to suspect" and "such" - Significance thereof	141
◆ Which premises can be searched	141
◆ Multi-storied buildings	142
◆ Premises jointly occupied by several persons	142
◆ Timings of search	143
◆ Search of the premises found locked	143
◆ Free Ingress	143
◆ Search at the premises not belonging to assessee	144
◆ Car parked outside the house	145
5.5 TO BREAK, OPEN LOCKS, ETC.	145
5.6 TO CONDUCT PERSONAL SEARCH	146
5.7 TO AFFORD FACILITY TO INSPECT ELECTRONIC RECORD	147
◆ Restoration of deleted data	147
◆ Information in electronic form in possession of searched person received <i>via</i> e-mail	147
5.8 TO MAKE SEIZURE	148
5.9 TO PLACE IDENTIFICATION MARKS	148
5.10 TO MAKE INVENTORY OF ASSETS	149
5.11 PREPARATION OF PANCHNAMA	149
◆ In case no Panchnama is made out	149
◆ Irregularity in preparation of Panchnama	150

	PAGE
◆ One or more Panchnamas	150
◆ Forms of Panchnama	151
5.12 ANALYSIS OF RULE 112	151
◆ Power to search and seizure	151
◆ Prescribed forms to be used for issue of search warrants	151
◆ Free ingress and obligation of the person present	152
◆ Power to make forceful entry	152
◆ Withdrawal by pardanasheen women	152
◆ Authority to stop a moving vehicle, vessel or aircraft	152
◆ Power to break open locker, almirah, safe, box, etc.	153
◆ Power to restraint	153
◆ Personal search	153
◆ Two or more witnesses during search operation	153
■ Witnesses to be appointed before making search	154
■ Order may be passed for witnesses to be present	154
■ Witnesses are not required to attend as a witness of search in any proceedings under the Income-tax Act, 1961	154
■ Witnesses to be independent	155
◆ Services of Police Officers or Officers of Central Government	155
◆ To call for services of any other person/entity	156
◆ What is "locality"	157
◆ What is respectable witness	157
◆ Choice of witness with the assessee or with the authorized officer	158
◆ "Witness" must witness the search proceedings	158
◆ Witness turning hostile during search proceedings	158
◆ Witness refusing to continue or to sign the panchnama	158
◆ Presence of assessee during search proceedings	159
◆ Personal search	159
◆ Seized articles to be kept in sealed packages bearing identification marks	160
◆ To convey the seized books of account or assets to the custodian	160
◆ Procedure to be followed by the custodian	160
◆ Opening of sealed packages	160

	PAGE
◆ Assessing Officer is empowered to exercise the power of sub-rules (11) and (13)	161
5.13 RULES 112A-112D	161
5.14 GROUND RULES FOR SEARCH AND SEIZURE	161
5.15 TAXPAYERS' CHARTER - RIGHTS & DUTIES OF TAXPAYERS DURING SEARCH	162
5.16 RIGHTS OF THE ASSESSEE BEFORE COMMENCEMENT OF SEARCH	162
◆ Production of search warrant	162
◆ Production of evidence of identity of officers of search team	162
◆ To make personal search of search party	163
◆ Right of the assessee with respect to personal liberty during search operation	163
◆ Right to Medical Aid	163
◆ Children to go to school	164
◆ To have meals	164
◆ Right to worship	164
◆ Permission to leave the premises	164
◆ Presence of Legal Adviser	165
◆ Presence of Legal Advisor may facilitate the search proceedings	168
5.17 CASE STUDY RELATING TO SEARCH OPERATION	169
◆ Authorized officer to enter along with his team	169
◆ Police force to accompany	169
◆ Showing of search warrant and obtaining signature	170
◆ No telephone calls	170
◆ Offer for personal search	170
◆ Calling for two witnesses	170
◆ Search of each room, almirah or other place	170
◆ What to search	171
◆ Keep an eye on movement of each family member	172
◆ Recording preliminary statement	172
◆ Not to allow entry of other persons or exit of persons inside	172
◆ Call the valuer to get the jewellery valued	172
◆ Operating bank lockers	173
◆ Intimation to bank for stopping operation of bank locker or other undisclosed bank accounts	173

	PAGE
◆ Information coming into possession regarding other premises/lockers	173
◆ Recording statement of the searched person and other persons	173
◆ Seizure of undisclosed items	173
◆ Preparing inventory of material found	174
◆ Preparation of panchnama	174
◆ Put restraint u/s 132(3)	174
◆ Continuous reporting to controlling room	174
◆ To keep searched person at ease and carry out whole operation smoothly	175
◆ Presence of mind and tackling any contingency	175
◆ Calling counsel of the searched person	175
◆ To obtain surrender of undisclosed income	175
◆ Offences under other laws	176
◆ Conclusion of search	176
5.18 PLANNING OF SEARCH BY AUTHORIZED OFFICER	176
◆ Triggering Point	177
◆ Verification of facts	177
◆ Recording of satisfaction	177
◆ Approval by Competent Authority	178
◆ Search at the premises of the counsel	178
◆ Search at the premise of the employee	180
◆ Planning of date of search	180
◆ Sending teams	181
◆ Monitoring from control room	181
◆ Sending various reports	181
5.19 HOW TO FACE SEARCH	181
◆ Immediately informing to related persons	182
◆ Managing documents/papers to the extent possible	182
◆ Assessee outside - Whether to reach or avoid	182
◆ Collection of evidences of disclosed assets	184
◆ Person going inside to ensure that he does not possess any incriminating material	184
◆ Misbehaviour or threat by authorized officer	185
◆ Misbehaviour by person under search	185

	PAGE
◆ Authorized officer occupying chair of person under search	186
◆ Stop from receiving or making telephone calls	186
◆ Power of arrest	186
◆ Assessee or his representative fleeing with records or destructing evidences	187
◆ Whether production, purchase and sale of goods can be stopped	187
◆ Role of counsel or legal representative	188
◆ If searched person's rights are denied	189
◆ Under such circumstances remedies available with the searched person	189
◆ Physical cash short found	190
5.20 POST SEARCH PROCEEDINGS	191
◆ Opening of restraints	191
◆ Collecting records from different destinations	191
◆ Operation of lockers	192
◆ Recording of statement - Explaining documents	192
◆ Breakup of surrendered income	192
◆ Retraction of Statement	193
◆ Third party enquiries	193
◆ Letters to authorized officer on various aspects	194
◆ Sending various reports to higher authorities	195
◆ Appraisal Report	195
■ Finding of investigation	196
■ Significance of Appraisal Report	196
◆ Decision of Jurisdiction/Centralization	197
◆ Reply to Questionnaire issued by the Authorized Officer	198
◆ Records belonging to other persons	198
◆ Questionnaire to be prepared by the Authorized Officer for Assessing Officer	198
◆ Issue of summons to assessee u/s 131 for personal presence	199
5.21 PREPARATION PRIOR TO ASSESSMENT PROCEEDINGS	199
◆ Filing of pending returns or waiting for notices u/s 153A?	200
◆ Filing objection for transfer of cases u/s 127	200
◆ Completion of books and other records	201
◆ Ledgerization of individual affairs	201

	PAGE
◆ Obtaining photocopy of documents	201
◆ Explanation of key documents	202
◆ Filing returns of related persons	202
◆ Concept of updated returns	202
◆ Obtaining appraisal report	202
◆ Passing accounting entry of surrendered income in the books	203
◆ Payment of taxes	203
◆ Writ to High Court	203
◆ Whether to approach Settlement Commission	204
5.22 DECLARATION OF UNDISCLOSED INCOME	204
◆ Why to make surrender?	205
◆ Decision of surrender by assessee	207
◆ Declaration of undisclosed income after introduction of provision of section 115BBE and penalty provision under section 271AAB	208
◆ Conditions of surrender	209
◆ Surrender for earlier years	210
◆ Surrender subject to no penalty	210
◆ Surrender of different items - Precautions	211
■ Cash	211
■ Stock-in-trade	211
■ Investment in Fixed Asset	213
■ Jewellery, bullion or other valuables	213
■ Investment in Fixed Deposit/Shares/Bonds	214
■ Advances given for properties	214
■ Creditors no longer payable	214
■ Share capital	215
■ Noting in loose papers	215
■ Household expenses	215
■ Capital gains	216
■ Immovable property - Registered Value v. Fair Market Value	216
■ Declaration by Corporates/Listed Companies	216
■ Dumb document	217
◆ "Surrender" Letter	217

	PAGE
◆ Whether declaration can be made for assets not found during search?	219
◆ Whether surrender can be made by a third person visiting the assessee during search when his personal search is undertaken and asset is seized from him?	220
5.23 PLANNING OF SURRENDER	220
◆ Generation of Income v. Application in Assets	220
◆ Set-off of losses	221
◆ Assets acquired prior to seven financial years	222
◆ Conditional surrender	223
◆ Current year income not recorded, advance tax not paid	223
◆ Principle of Peak Balance	224
◆ Challenging valuation	224
◆ Creation of Capital	224

6

SEIZURE OF BOOKS OF ACCOUNT, DOCUMENTS AND ASSETS

6.1 SEIZURE OF ASSETS	225
6.2 WHAT CAN BE SEIZED?	226
◆ Whether regular books of account and records can be seized?	226
◆ Whether disclosed assets can be seized?	228
◆ What is disclosed asset?	228
◆ Seizure of the assets belonging to other persons	230
◆ In case of search or survey at the premises of the Counsel/Chartered Accountant, whether files/documents of other clients can be seized?	233
◆ Seizure of asset acquired prior to 7 assessment years preceding to the year of search - Whether valid?	234
6.3 MANNER OF SEIZURE	234
◆ Opportunity to assessee before seizure is made	234
◆ Seizure of disclosed assets for want of evidences	235
◆ Release of assets illegally seized	236
◆ Location of the asset seized - Significance	237
◆ Illegal Seizure v. Illegal Search	237

	PAGE
◆ Seizure of asset whose location is known	238
◆ Whether search has to precede the seizure	238
6.4 DEEMED SEIZURE	239
◆ Only valuable article or thing covered	239
◆ “Not Possible or Practicable”	240
◆ No deemed seizure of stock-in-trade	240
◆ Deemed seizure not applicable to Bank Lockers, FDRs, Deposits etc.	241
◆ Deemed seizure <i>v.</i> Restraint u/s 132(3)	241
6.5 NATURE AND PROCEDURE OF SEIZURE	241
◆ Not to record reason for seizure	241
◆ To take actual possession of assets	241
◆ Immediate realization of seized assets illegal	242
◆ Arbitrary seizure held illegal	242
◆ Volume of papers seized is irrelevant	242
◆ No power to seal	242
6.6 SEIZURE OF DIFFERENT KIND OF ASSETS	243
◆ Money	243
◆ Cash found at business premises	243
◆ Cash found at residential premises	243
◆ Jewellery	244
■ Minimum jewellery not to be seized	245
■ Seizure in case of diamond/other precious stones jewellery	246
■ Valuation of jewellery	247
■ Matching of items of jewellery	247
■ Jewellery in person	248
■ Jewellery of others kept with the assessee in safe custody	248
■ Pledged gold ornaments	248
■ Jewellery short found	248
◆ Seizure of immovable properties	249
◆ Seizure of title deeds of immovable property	251
◆ Seizure of Will or other confidential documents	252
◆ Valuable article or thing	252

	PAGE
◆ Seizure of passport	252
◆ Immunity from seizure of special bearer bonds	253
◆ Gold bonds	253
◆ Seizure of fixed deposit, NSC, KVP, shares etc.	253
◆ Seizure of bank deposits in saving or current accounts	254
◆ Seizure of contents of bank locker	254
◆ Seizure of antiques, paintings or work of art	255
◆ Seizure of stock-in-trade	256
◆ Seizure of foreign liquor or excess liquor	257
◆ Seizure of fire arms or other weapons	257
◆ Seizure of foreign exchange	257
◆ Seizure of promissory notes, hundies	257
◆ Seizure of computers	258
◆ Seizure of books of account or other documents	258
◆ Seizure of deposits or proceeds from third parties	260
◆ Seizure of gifted items	261
◆ Seizure of loose papers or evidences, attempting to be destroyed by assessee	261
◆ Seizure of papers brought from outside	262
6.7 MANNER OF SEIZURE - TAKING PHYSICAL POSSESSION	262
◆ Assets found but not seized	263
◆ Placing of mark of identification on books of account and other documents	263
◆ Whether taking over keys amounts to seizure	263
 <u>7</u> 	
RESTRAINT ORDER - SECTION 132(3) AND SECTION 132(8A)	
7.1 TEXT OF SECTION	265
7.2 LEGISLATIVE HISTORY	265
7.3 OBJECTIVE	266
7.4 WHEN CAN RESTRAINT ORDER UNDER SECTION 132(3) BE PASSED?	266
◆ Not practicable to seize - Meaning	267

	PAGE
◆ Restraint order only for books of account, other documents or assets which can be seized	268
◆ Restraint order only in respect of an asset representing concealed income	270
◆ Restraint order not to be used as a tool for temporary suspension of search	271
◆ Power under section 132(3) not to be used to keep the search operation pending	271
7.5 MANNER OF PASSING ORDER UNDER SECTION 132(3)	273
◆ Broad Framework	273
◆ Whether reasons to be recorded before passing restraint order	274
◆ Prohibitory order, to be addressed to the assessee	274
7.6 PERIOD OF VALIDITY OF RESTRAINT ORDER	275
◆ Restraint order to expire after sixty days	275
◆ Restraint order cannot be renewed from time to time	275
◆ To complete proceedings expeditiously	275
7.7 RESTRAINT ORDER IN RESPECT TO WHICH KIND OF ASSETS	275
◆ Immovable property	275
◆ Bank lockers	276
◆ Intangible assets, debts recoverable	276
◆ Bank accounts, fixed deposits	276
◆ Indiscriminate restraint on Bank Accounts	277
◆ Stock-in-trade	277
◆ Operation of Computers	278
◆ Whether restraint order can be put on whole premises	278
7.8 NATURE OF RESTRAINT ORDER	279
◆ Restraint order doesn't amount to seizure	279
◆ Restraint order, not for recovery	280
7.9 CONSEQUENCES OF CONTRAVENTION	280
◆ Consequences of invalid restraint order passed	280
◆ Prosecution for contravention of restraint order passed under section 132(3)	281
◆ Undue delay in lifting restraint order	281
◆ Restraint order cannot be used to dump articles and documents in a particular place and seal it	282

	PAGE
7.10 OTHER JUDICIAL PRONOUNCEMENTS	283
◆ Constitutional validity	283
◆ No abuse of process of Court	283
8	
—	
RECORDING OF STATEMENT - SECTION 132(4)	
8.1 TEXT OF SECTION 132(4)	284
8.2 LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENT	284
◆ Scope of <i>Explanation</i> to section 132(4)	285
8.3 OBJECTIVE	287
8.4 SIGNIFICANCE OF STATEMENT UNDER SECTION 132(4)	288
8.5 MANNER OF RECORDING STATEMENT	289
◆ Examination on oath	289
◆ During the course of Search and Seizure	290
◆ Powers to the authorized officer to record statement under section 131(1A) in the course of search	291
◆ Who may record the statement?	292
◆ Reference of wrong section	292
◆ No protection under Article 20(3) of the Constitution	292
8.6 RIGHTS OF ASSESSEE DURING STATEMENT	292
◆ Signing of the statement	292
◆ Amending or improving of earlier statement	293
◆ Copy of the statement	293
◆ Presence of Counsel during recording of the statement	293
◆ Right of cross examination	294
8.7 STATEMENT OF WHOM	295
◆ Statement of any person	295
◆ Statement of Minor	295
◆ Statement of illiterate person	295
◆ Statement of visitor	296
8.8 EVIDENTIARY VALUE OF STATEMENT RECORDED U/S 132(4)	296
8.9 EXAMINATION AT DIFFERENT STAGES	300
◆ Recording of Preliminary Statement - Common Issues of examination	300
◆ Recording of final statement	302

	PAGE
◆ Recording of statement u/s 132(4) - Before the conclusion of search	302
◆ Issuing of summon under section 131(1A) before conclusion of search	303
◆ Issuing of summons and recording of statement after conclusion of search	304
8.10 RETRACTION OF STATEMENT GIVEN UNDER SECTION 132(4)	307
◆ Instruction of CBDT on confessional statement	308
◆ Circumstances prompting assessee to make retraction	309
◆ Retraction in the nature of amendment/modification of earlier statement given u/s 132(4)	310
◆ Manner of retraction	311
◆ Consequences of retraction	312
◆ Statement recorded during odd hours	314
◆ In case of retraction, burden of proof on assessee	314
◆ Shifting stand not acceptable	316
◆ Undisclosed income may be assessed having regard to nature of evidence	316
8.11 FACING EXAMINATION DURING SEARCH	318
◆ Exercise of threat or coercion	318
◆ Refusal to reply <i>vis-à-vis</i> evasive reply	318
◆ Not a test of memory	319
◆ Enquiry relating to bank accounts, firms and companies to which assessee is associated	319
◆ Enquiry regarding Bank Lockers	320
◆ Continuous questioning	320
◆ Alleged admission by third party	320
◆ Attempt to decode	321
◆ Dumb document	321
◆ Explanation on behalf of others	321
◆ Explain fully	321
◆ To get recorded	321
◆ Disclosed assets being seized	322
◆ Password/Software for computer operation	322
◆ Year of acquisition of undisclosed assets	322

	PAGE
8.12 HANDLING QUESTIONS RELATING TO CERTAIN SPECIFIC ASPECTS	323
◆ Regular books of account not found - <i>Explanation</i> depending upon the facts	323
◆ About jewellery	323
◆ Investment in movable/immovable assets	324
◆ Loans Given/Taken	324
◆ Sources of income and particulars of income tax return filed	324
◆ Household expenses	324
◆ Incomplete Books/Cash Book	324
◆ Discrepancy in Inventory	325
8.13 OBTAINING COPY OF STATEMENT RECORDED	325
8.14 POWER TO ISSUE SUMMONS FOR DISCOVERY, PRODUCTION OF EVIDENCES ETC.	326
◆ Text of section 131	326
◆ Applicability of sub-section (1) of section 131	327
◆ No power to the authorized officer in the course of search to issue summons under sub-section (1)	328
◆ Salient features of sub-section (1A) of section 131	328
◆ Certain significant issues	329
◆ Validity of Summons issued by ADI/Authorized Officer under sub-section (1) of section 131	329
◆ Whether summon under section 131(1A) can be issued to the person searched	330
◆ Invoking power under section 131(1A) before taking action under clauses (i) to (v) of section 132(1) by the Authorized Officer - Meaning thereof	331
◆ Whether summon under section 131(1A) can be issued to the persons other than the person searched	331
◆ Consequences of non-compliance of summon issued under section 131 to the person searched	333
◆ In case of non-compliance of summon, power of the income tax authorities to enforce attendance through arrest warrant	333
8.15 INTRODUCTION OF NEW SECTION 133C BY FINANCE (NO. 2) ACT, 2014 AND AS MODIFIED BY THE FINANCE ACT, 2016 AND THE FINANCE ACT, 2017 GRANTING POWER TO CALL FOR INFORMATION BY PRESCRIBED INCOME TAX AUTHORITY	333

9

PRESUMPTION UNDER SECTIONS 132(4A) & 292C

9.1	TEXT OF SECTION 132(4A)	335
9.2	LEGISLATIVE HISTORY	336
	◆ Rationale for introduction of new section 292C	336
9.3	OBJECTIVE	338
9.4	BROAD FRAMEWORK	338
9.5	LEGAL PRESUMPTION IS AGAINST THE PERSON HAVING POSSESSION OR CONTROL	339
	◆ Meaning of possession or control	341
	◆ Possession or control may be different from ownership	341
	◆ No addition on the basis of derivative evidence	343
9.6	PRESUMPTION IS A REBUTTABLE PRESUMPTION	343
9.7	NOT BINDING ON ASSESSING OFFICER	347
	◆ Presumption - Whether available under regular assessment proceedings?	348
	◆ Presumption u/s 292C available not only in regular assessment proceeding but also in any other proceeding under the Act	349
	◆ Whether presumption under section 292C is available while framing assessment under section 148	349
	◆ Presumption under section 132(4A) v. section 68	349
	◆ Presumption under section 132(4A) v. section 69	350
9.8	ONUS TO ESTABLISH INCOME OF THE ASSESSEE REMAINS ON ASSESSING OFFICER	351
	◆ What in case of dumb document	353
	◆ Applicable to "Any" books of account and not to "Such" books of account	354
	◆ Presumption as to the signature and handwriting not against the assessee	354
9.9	NO PRESUMPTION AGAINST THIRD PARTY	355
9.10	CONSTITUTIONAL VALIDITY UPHELD	356

10**SECTIONS 132(8)/132(10)/132(9)/132(9A) TO (9D) & 132B***PART 1***MISCELLANEOUS PROVISIONS RELATING TO SEARCH**

10.1	TEXT OF SECTION 132(8) AND SECTION 132(10)	358
	◆ Section 132(8)	358
	◆ Section 132(10)	358
10.2	LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	358
10.3	OBJECTIVE	359
	◆ Retention and release of books of account or other documents covered under section 132(8) while retention and release of assets covered under section 132B	359
	◆ Rationale behind amendment of sub-section (8) of section 132	359
10.4	SCOPE AND MANNER	361
	◆ No approval of Commissioner required for retention of books of account or other documents till completion of assessment	361
	◆ Retention of books of account or other documents after completion of assessment - Extension of period	361
	◆ Approval for extension to be granted before the expiry of period	362
	◆ Communication of Commissioner's approval	363
	◆ Effect of belated communication of reasons recorded	364
	◆ Extension for retention of books of account or documents - Application of mind	365
	◆ No opportunity of hearing required to be granted to the assessee before granting approval for extension	366
	◆ Extension can be granted repeatedly as may be required	366
10.5	ILLEGAL SEIZURE OF BOOKS OF ACCOUNT OR OTHER DOCUMENTS	366
	◆ Release of books of account or other documents illegally seized	366
	◆ Release of books of account or documents illegally seized - Can the Department compel the attestation of the documents by the assessee?	367
	◆ Release of books of account or documents relating to other person seized	367
	◆ Illegal seizure <i>v.</i> Illegal retention	368

	PAGE
10.6 ILLEGAL RETENTION OF BOOKS OF ACCOUNT OR OTHER DOCUMENTS	368
◆ Release of books of account illegally retained - Can the department compel the attestation of the documents by the assessee?	369
◆ Illegal Retention - Remedies with the Assessee	370
◆ Retention and release of computer/laptop	371
10.7 I. SECTION 132(10) - APPROVAL FOR EXTENSION TO RETAIN BOOKS OF ACCOUNT OR OTHER DOCUMENT BY COMMISSIONER ETC. - OBJECTION BY ASSESSEE	371
II. SECTION 132(9)	372
10.8 TEXT OF SECTION	372
10.9 LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	372
10.10 OBJECTIVE	372
10.11 RIGHT TO OBTAIN COPIES OF BOOKS OF ACCOUNT OR OTHER DOCUMENTS SEIZED - SECTION 132(9)	372
◆ Time limit for supply of copies of books of account or other documents seized	373
◆ Copies of books of account or documents before replying show cause notice issued by the authorized officer	374
◆ Copies of books of account or documents before filing the return	374
10.12 WHETHER INSPECTION OF BOOKS OF ACCOUNT OR OTHER DOCUMENTS IS PERMISSIBLE TO AN EMPLOYEE?	375
III. SECTION 132(9A) - HANDING OVER OF SEIZED BOOKS OF ACCOUNT OR DOCUMENTS AND ASSETS TO THE ASSESSING OFFICER	375
10.13 TEXT OF SECTION	375
10.14 LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	376
10.15 OBJECTIVE	376
10.16 TIME LIMIT FOR HANDING OVER BOOKS OF ACCOUNT OR DOCUMENTS	377
◆ Handing over within a period of sixty days from the date on which the last of the authorizations for search was executed	377
◆ Rationale for Amendment of section 132(9A)	377
◆ Ambiguity in the provision still prevails	378
◆ The Authorized Officer having no jurisdiction over the person - Meaning thereof	379

	PAGE
10.17 NOT HANDING OVER THE SEIZED MATERIAL WITHIN SIXTY DAYS - CONSEQUENCES THEREOF	381
10.18 SCOPE OF HANDING OVER	382
◆ Handing over seized material to the Assessing Officer of the person searched	382
◆ Handing over of books of account or documents to other Government Agencies/Department	382
10.18A INCORPORATION OF SUB-SECTIONS (9B), (9C) AND (9D) - POWER OF PROVISIONAL ATTACHMENT OF PROPERTY AND TO MAKE REFERENCE TO VALUATION OFFICER BY THE AUTHORIZED OFFICER	383
◆ Objective	384
◆ Power of Provisional attachment granted for six months	384
◆ Reference to the Valuation Officer	385
◆ Whether bank account, stock-in-trade, disclosed assets can also be attached	386

PART 2

APPLICATION OF SEIZED ASSETS UNDER SECTION 132B

10.19 TEXT OF SECTION	387
10.20 LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	389
10.21 OBJECTIVE	389
10.22 BROAD FRAMEWORK	389
10.23 APPLICATION AND RELEASE OF DISCLOSED ASSETS SEIZED	390
◆ Existing liability under all Direct Tax Acts to be adjusted	390
◆ <i>Explanation</i> to be applicable prospectively	390
◆ Liability arising on application to Settlement Commission can also be adjusted	392
◆ Application of disclosed assets, if seized	393
◆ Release of surplus asset	395
◆ Provision regarding the release of disclosed asset - Difficult to be implemented	396
◆ Certain unanswered questions	398
◆ Release only upon satisfactory explanation	398
◆ Immediate release of deposits seized from disclosed bank accounts	399
◆ Release of asset in case of requisition under section 132A	399

	PAGE
10.24 APPLICATION AND RELEASE OF UNDISCLOSED ASSETS SEIZED	399
◆ Liability to be determined on completion of assessment	399
◆ Liability determined on completion of assessment-including penalty levied or interest payable	400
◆ Realization of assets in kind and application thereof	401
◆ Conversion of assets in kind into money	401
◆ Release of surplus asset	402
◆ No retention of seized assets during pendency of appeal by the department	403
◆ Immediate release of seized assets when no demand pending	404
◆ Release of jewellery seized	405
◆ Release of assets against deposit of cash, furnishing of bank guarantee	407
◆ Release of assets after all dues are paid	409
◆ Release of assets of third party seized	409
◆ Treatment of cash seized and kept in Personal Deposit Account (p.d. A/c) of Commissioner	410
10.25 SCOPE FOR APPLICATION AND RELEASE OF SEIZED ASSETS	412
◆ Application of seized assets only when assessee is in default	412
◆ No application of seized assets for liabilities of subsequent years	413
◆ No application of seized assets against tax liabilities of third person	413
◆ Mandatory for Assessing Officer to adjust seized amount against demand under section 140A	414
◆ No Civil Suit for non-payment of interest under section 132B(4)	414
10.26 MANNER OF RELEASE OF SEIZED ASSETS	414
◆ Release of assets in the presence of witnesses	414
◆ Who is entitled to release of seized assets under section 132B	415
◆ Release of assets belonging to third parties	415
◆ Power of release of assets with whom	416
10.27 RECOVERY OF LIABILITIES BY ANY OTHER MODE	416
10.28 DELAY IN RELEASE OF THE SEIZED ASSETS	417
◆ Delay in release of assets - Remedies with the assessee	417
10.29 PAYMENT OF INTEREST ON RELEASE OF MONEY SEIZED	418
◆ Interest under section 132B(3) & (4) read with section 244	420

	PAGE
◆ Interest payable upto last assessment order	422
◆ Interest at value of silver bars not payable	423
◆ Interest on value of shares not payable	423
◆ Whether seized cash can be treated as advance tax paid by the assessee	423
◆ Cash seized in case of income-tax search not to be treated as advance tax paid but can be claimed as self-assessment tax paid	426
◆ Reduction or waiver of penal interest for late filing of return of income, etc.	429
◆ Damages in case of delay and irregularities	430A
◆ Department's responsibility to take care of seized assets	430A
10.30 RELEASE OF SEIZED ASSETS WHEN SEARCH IS HELD ILLEGAL	430B

11

REQUISITION UNDER SECTION 132A

11.1 TEXT OF SECTION 132A	431
11.2 LEGISLATIVE HISTORY	432
11.3 OBJECTIVE	433
◆ Circumventing Supreme Court decision in the case of Tarsem Kumar	433
◆ Rationale of provision of section 132A	434
11.4 NATURE OF PROVISION OF SECTION 132A	435
◆ Applicability of section 132(4A) to 132(14)	436
◆ Comparison and substitution of various situations under section 132A with section 132	436
◆ Who can issue authorization for requisition under section 132A?	437
◆ Who can be requisitioning officer?	437
◆ To form "reason to believe" in consequence of information in possession	438
◆ Disclosure of 'reason to believe'	443
◆ Before authorization for requisition - Whether opportunity to be granted to the assessee	443
◆ Opportunity to the person before taking delivery of material from the possession of other Government Authority/Officer	444

	PAGE
◆ There may be huge time gap between requisition made and actual delivery of material affected	445
◆ No requisition, pending decision about confiscation	445
11.5 PROCEDURE OF REQUISITION	446
◆ No format for requisitioning letter to be issued by requisitioning officer	446
◆ Copy of authorization to the person or the assessee	446
◆ Consequences of not serving the authorization to the assessee	446
◆ Procedure regarding taking delivery of the seized material	447
11.6 REQUISITION CAN BE MADE FROM WHICH AUTHORITY/OFFICER	447
◆ To which Authority or Officer, requisition can be made	447
◆ No requisition from the possession of Court	448
◆ No requisition from the possession of bank officers	448
◆ Requisition from the custody of Police Officers	449
◆ Assets may be requisitioned from the custody of Police Authorities under order of the Court	449
◆ Court ordering release of cash seized on furnishing bank guarantee	450
◆ Requisition from Excise Department in case of auction	450
◆ Overriding powers to Income Tax Authorities over other Authorities	451
11.7 RECORDING OF STATEMENT IN CASE OF REQUISITION	451
◆ Recording of statement under section 131(1A)	451
◆ Benefit of making declaration of undisclosed income under section 132(4) and also Deeming fiction of “undisclosed income” under section 271AAA not applicable in case of requisition u/s 132A	451
◆ Penalty in case of revision of return consequent upon requisition under section 132A	452
11.8 ASSESSMENT IN CASE OF REQUISITION	453
◆ Assessment in accordance with provisions of section 153A	453
◆ In case of requisition, which six years to be covered	453
◆ Delay in receiving requisitioned material - Assessment for the year of requisition	454
◆ Time limit for completion of assessment under section 153A in case of requisition under section 132A	455
◆ Nature of assessment proceeding in case of requisition under section 132A	456

	PAGE
◆ Applicability of provision of section 292C regarding presumption	456
◆ Application and release of requisitioned assets	457
◆ Provision of section 153C may also be applicable for requisitioned assets	457
◆ Whether provision of section 153A would be applicable when requisition is made but actual delivery of seized material is not handed over to the requisitioning officer	458
◆ Delay in issuing requisition	459
11.9 ILLEGAL SEIZURE BY OTHER GOVERNMENT AUTHORITY/OFFICER	460
◆ Validity of action under section 132A - Whether can be examined by ITAT	461

12

NEW ASSESSMENT OR REASSESSMENT SCHEME OF SEARCH CASES AS INTRODUCED BY THE FINANCE ACT, 2021

12.1 BACKGROUND	462
12.1A LEGISLATIVE HISTORY	469
12.2 MEMORANDUM EXPLAINING THE PROVISIONS OF THE FINANCE BILL, 2021	469
12.3 MEMORANDUM EXPLAINING THE PROVISIONS OF THE FINANCE BILL, 2022	473
12.4 MEMORANDUM EXPLAINING THE PROVISIONS OF THE FINANCE BILL, 2023	476
12.5 SALIENT FEATURES OF THE AMENDMENTS RELATING TO ASSESSMENT OR REASSESSMENT OF SEARCH CASES	478
12.6 SIGNIFICANT ISSUES EMERGING OUT OF NEW ASSESSMENT OR REASSESSMENT PROVISIONS OF SEARCH CASES	484
◆ In the case of search initiated on or before 31st March, 2021, provisions of sections 153A & 153C shall remain applicable	484
◆ As per new assessment or reassessment provisions, reopening of the case under section 147 for three or ten preceding years, as the case may be, can be made year wise, & all such years involved are not required to be reopened & reassessed simultaneously, as happened to be the case under section 153A	484
◆ Impact of TOLA & Supreme Court's decision in Ashish Agarwal for the purpose of extension of time limitation for reopening of AYs 2013-14 & 2014-15	485

	PAGE
◆ In the case of search held on or after 1.4.2021, which assessment years can be reopened as per amended law of section 149	487
◆ There shall not be any abatement of the pending assessments for which notice under section 143(2) has already been issued or assessment is already in progress	488
◆ Provisions of newly inserted section 148A would not be applicable for reopening of the prior three or ten years' cases as a consequence of search. However approval of the 'specified authority' is required under section 151	489
◆ Reopening of the cases beyond three years may be possible when income chargeable to tax is represented in the form of asset	490
◆ Mandatory reopening of prior three years cases in the case of search even if no incriminating material is found during search. Whether it would be in the nature of <i>de novo</i> assessment or additions can be made only relating to the incriminating material found during search?	493
◆ Burden of proof lies on whom in respect of any other escaped income which comes to the notice of AO during the course of reassessment proceeding under section 148	494
◆ In case of search, assessment beyond preceding three years may be reopened when there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment - Meaning thereof	494
◆ In what manner, jurisdiction over 'other person' may be assumed under section 148, as a consequence of search?	495
◆ Whether penalty provision of section 271AAB shall remain applicable for the 'specified previous year' even after the new assessment scheme of the search cases?	496
12.5 RELEVANCE OF JURISPRUDENCE DEVELOPED WITH RESPECT TO REOPENING OF ASSESSMENT UNDER THE OLD LAW CONTAINED IN SECTIONS 147-151 & 153A-153D TO THE NEW SCHEME OF ASSESSMENT OR REASSESSMENT IN SEARCH CASES	497
◆ What are the consequences if income tax return pursuant to notice under section 148 is not filed?	497
◆ Whether fresh notice under section 148 can be issued in case earlier notice is held invalid?	498
◆ What is the effect of additional income declared by the assessee in the return filed pursuant to notice under section 148?	499
◆ Time limit for reopening of assessment in the case of income in relation to foreign asset - Applicability after introduction of new scheme of assessment or reassessment	502

	PAGE
◆ Whether notice under section 143(2) is required to be issued and served before finalizing the reassessment under the new scheme of assessment or reassessment?	503
◆ Whether under the new scheme, 'reason to believe' is required to be recorded as to the escapement of income as was so required under the old section 148?	504
◆ Whether additions can be made on issues not covered by the information suggesting escapement of income under the new scheme of assessment or reassessment?	506
◆ On whom the burden of proof of escaped income lies?	508
◆ Whether assessing officer may seek omnibus and sweeping details which are unconnected with the information suggesting escapement of income under the new scheme of assessment or reassessment?	509
◆ Whether reopening is possible based on change of opinion on the same set of facts?	509B
◆ Whether another notice under section 148 can be issued if fresh evidences come to the possession of the assessing officer?	509B
◆ Whether reopening is possible on the basis of surmise & suspicion?	509C
◆ Whether reopening of assessment can be made on the basis of heavy cash deposit in Bank account or investment in properties disproportionate to the income?	509D
◆ Whether direction or finding by any appellate authority or court order can be the basis for reopening the assessment under new scheme of assessment or reassessment?	509E
◆ Whether reopening of an assessment is possible even in a case when an issue is pending in appeal, revision or reference before any appellate authority or court, under new scheme of assessment or reassessment?	509E
◆ Whether an assessment can be reopened under the new scheme of reassessment if income has been assessed earlier at too low a rate of tax?	509F
◆ Whether reopening notice under section 148 issued under the new scheme of assessment or reassessment can be challenged in Writ before High Court?	509G
◆ Whether failure of the assessee to disclose material facts fully & truly in original assessment has become irrelevant under the new scheme of assessment or reassessment while judging the validity of reopening?	509H
◆ Whether new scheme of assessment or reassessment applies equally to assessment or reassessment made as a consequence to search as well as survey?	509-I

	PAGE
◆ Whether the law evolved and developed under section 153A is still relevant for assessment or reassessment made under the new scheme for assessment or reassessment as a consequence of search?	509J
◆ Whether initiation of reopening of assessment or reassessment on a non-existing ground can be sustained?	509L

13

ASSESSMENT OF SEARCH CASES UNDER SECTION 153A/153C

A. SECTION 153A - ASSESSMENT IN CASE OF SEARCH OR REQUISITION

13.1	TEXT OF SECTION 153A	510
13.2	LEGISLATIVE HISTORY	512
	◆ Concept of block assessment	512
	◆ New procedure for assessment as prescribed under section 153A	513
	◆ Amendment introduced by Finance Act, 2012	514
	◆ Amendment introduced by Finance Act, 2017	515
	◆ Constitutional validity	516
13.3	OBJECTIVE	516
13.4	NATURE AND SCOPE OF PROVISION OF SECTION 153A	516
	◆ Mandatory reopening of preceding six years' cases	516
	◆ Rationale for reopening of preceding six years' cases	518
	◆ Significance of <i>non-obstante</i> clause	520
	◆ Applicable in case of search initiated after 31st May, 2003	521
	◆ Discrepancy regarding "search is initiated" and "search is conducted"	521
	◆ Meaning of "search is initiated" and "search is conducted"	522
	◆ How to resolve the controversy	523
	◆ Whether drawing of Panchnama is mandatory to decide conduct of search?	524
	◆ Assessment under section 153A not the assessment only for undisclosed income found as a result of search as was the case in block assessment under Chapter XIVB	525
	◆ Concept of undisclosed income under section 271AAA/271AAB entirely from a different perspective	526

	PAGE
13.5 ASSESSMENT YEARS COVERED UNDER SECTION 153A	526
◆ Preceding six years covered under section 153A - What about preceding seventh year?	526
◆ What about year of search?	527
◆ No duality of assessment as in the case of Block Assessment	528
◆ Re-opening of assessment for further three assessment years beyond prior six assessment years in certain cases	528
13.6 PROCEDURE FOR MAKING ASSESSMENT UNDER SECTION 153A	532
◆ Flexibility in issue of notice	532
◆ No time limit for issue of notice	532
◆ No time limit for filing return	533
◆ No separate prescribed form for return of income	533
◆ Implication of the phrase 'So far as may be'	534
◆ All other provisions of the Act to apply	535
◆ Rate of tax applicable in the case of assessment under section 153A	535
◆ Search warrant/panchnama drawn in joint name	536
◆ Notice of assessment in case of amalgamation	537
◆ Notice of assessment to deceased	537
13.7 ABATEMENT OF PENDING ASSESSMENT OR REASSESSMENT PROCEEDING(S)	537
◆ Pending assessment or reassessment to abate	537
◆ Fresh assessments to be framed for all the preceding six years whether assessment proceedings are abated or not	540
◆ Abatement of pending assessment proceeding - What remains the status of return filed?	541
◆ Abatement to revive	542
◆ No other assessment or reassessment proceedings during pendency of proceeding u/s 153A	543
◆ Application for rectification under section 154 not to abate	544
◆ No abatement of pending appellate proceedings	544
13.8 ISSUES REGARDING FILING OF RETURN UNDER SECTION 153A	545
◆ Whether exemption/deduction can be claimed first time in the returns filed under section 153A, which could not be made in the original return	545
◆ Interest provisions applicable as in normal course	547

	PAGE
◆ Applicability of provisions regarding imposition of penalty and prosecution	548
◆ Filing of return after search under normal provisions of the Act - Whether required?	548
◆ Late filing of return under section 153A - Consequences thereof	549
◆ Whether return filed in pursuance to notice under section 153A can be revised?	550
◆ Whether assessee should file income tax returns under section 153A when opting to apply to Settlement Commission?	552
◆ Cash seized during search - Whether adjustable as advance tax	553
13.9 CERTAIN ISSUES RELATING TO ASSESSMENT UNDER SECTION 153A	555
◆ No repetition of addition under section 153A for the same issues relating to which addition already made in earlier assessment or reassessment proceedings	555
◆ Fresh material found relating to issue with respect to which addition already made in earlier assessment finalized	556
◆ Whether to assess or reassess as required under section 153A tantamount to <i>de novo</i> assessment proceeding?	556
◆ Arguments against the concept of <i>de novo</i> assessment	560
◆ Change of opinion by the assessing officer during assessment/ reassessment proceedings under section 153A relating to issue already considered and examined during earlier assessment proceedings	564
◆ Judicial controversy regarding <i>de novo</i> assessment	565
◆ No addition in case No Incriminating Material Found during search & Assessment Proceedings not abated	573
◆ Statement under section 132(4) - Whether to be construed as incriminating material?	576
◆ What constitutes Incriminating Material?	577
◆ In case of search, whether invoking provision of section 153A is mandatory?	578
◆ Name not appearing in Panchnama - <i>Prima facie</i> proof of no search - Provision of section u/s 153A cannot be invoked	579
◆ Invoking provision of section 153C instead of provision of section 153A even in case of searched person	580
◆ Whether provision of section 148 or 263 can be invoked with respect to assessment framed as per provisions of section 153A	580

	PAGE
◆ Seized material from the authorized officer received late - Beyond time limit as prescribed u/s 132(9A) - Validity of assessment proceeding	581
◆ Issue of notice under section 153A prior to receipt of the seized material from the authorized officer	582
◆ Assumption of jurisdiction - Notice under section 143(2) within time limit - Whether mandatory in case of proceedings u/s 153A?	582
◆ Status of assessment order passed under section 153A when search is held illegal	584
◆ "Reason to believe" recorded by the competent authority for authorization of the search not available with the assessing officer	585
◆ Significance of appraisal report during assessment for search cases	586
◆ For assessment of search cases, integrated investigation approach is adopted	587
◆ Whether ITO can be Assessing Officer under section 153A?	587
◆ Whether authorized officer can be the Assessing Officer?	587
◆ Application of presumption under section 292C during assessment of search cases	588
◆ Introduction of section 115BBE & flat rate of tax rate on undisclosed income/investment/expenditure etc.	589
B. SECTION 153C - ASSESSMENT OF INCOME OF ANY OTHER PERSON	
13.10 TEXT OF SECTION 153C	596
13.11 LEGISLATIVE HISTORY	598
13.12 OBJECTIVE	599
13.13 NATURE OF PROVISION OF SECTION 153C	599
◆ Provision of section 153C - Plain interpretation	599
◆ Rationale of the provision	600
◆ Provision of section 153C is harsh	600
13.14 ANALYSIS OF PROVISION OF SECTION 153C	602
◆ "Where the assessing officer is satisfied"	602
◆ Whether satisfaction to be recorded in writing?	604
◆ Time limit for recording satisfaction & handing over the seized material	607
◆ Nature of Satisfaction	609

	PAGE
◆ Recording of satisfaction when assessing officer is common	612
◆ Material seized - What in case of illegal seizure? - Whether seized material to be of incriminating nature?	614
◆ "Belongs or belong to other person"	619
◆ Belonging to more than one person	626
◆ To hand over to the Assessing Officer of other person	627
◆ Satisfaction by the Assessing Officer of the other person	627
◆ Time limit for issuing notice as per section 153C	628
◆ Law existing on the date of search to apply for cases under section 153C	628
13.15 ASSUMPTION OF JURISDICTION U/S 153C	629
◆ Assumption of jurisdiction u/s 153C at what stage?	629
◆ That assessing officer shall proceed against each such other person - Recording of satisfaction by the assessing officer having jurisdiction over the other person before assuming jurisdiction under section 153C?	630
◆ The word 'shall' to be interpreted as mandatory or directory? - Whether all search years to be reassessed?	634
◆ Relaxation regarding requirement of framing assessment or reassessment of earlier six years	636
◆ All provisions of section 153A to apply	636
13.16 ISSUES REGARDING ASSESSMENT UNDER SECTION 153C	637
◆ Assessment or reassessment of seven years - Which seven years?	637
◆ Abatement of pending proceedings	640
◆ Assessment of undisclosed income of other person on the basis of entries in books of account or documents of the person searched	641
◆ Seized material belonging or relating to some other person, whether section 153C is the only recourse?	642
◆ Once jurisdiction under section 153C is invoked - What kind of additions can be made?	644
◆ Presumption under section 292C - Whether available in the case of assessment under section 153C?	645
◆ Mention of wrong section/designation of assessee in order does not invalidate the order	645
C. SECTION 153D - PRIOR APPROVAL OF JOINT COMMISSIONER	
13.17 TEXT OF SECTION 153D	645
13.18 LEGISLATIVE HISTORY	646

	PAGE
13.19 OBJECTIVE	646
13.20 MANDATORY REQUIREMENT	646
D. TIME LIMIT FOR COMPLETION OF ASSESSMENT	
<i>(a) SECTION 153B - TIME LIMIT FOR COMPLETION OF ASSESSMENT UNDER SECTION 153A</i>	653
13.21 TEXT OF SECTION 153B	653
13.22 LEGISLATIVE HISTORY	657
13.23 OBJECTIVE	658
13.24 TIME LIMIT FOR COMPLETING ASSESSMENT IN SEARCH CASES	658
◆ Advancement of time limit for completion of assessment for the year of search by twelve months	664
◆ Date on which search is conducted and the date on which search is concluded may fall in different financial years	665
◆ Different time limits for different persons within the group	665
◆ Time limit for completion of assessment in case of the person covered under section 153C	666
◆ "Service of assessment order also should be within the limitation period"	666
◆ Last of the Authorisation executed - Meaning thereof	667
13.25 EXCLUSION OF TIME PERIOD IN CERTAIN CIRCUMSTANCES	669
◆ Time limit when reference is made to transfer pricing officer under section 92CA	671
13.26 EXTENSION OF TIME LIMIT DUE TO COVID-19	671
<i>(b) SECTION 153 - TIME LIMIT FOR COMPLETION OF ASSESSMENT OF SEARCH CASES INITIATED ON OR AFTER 1ST APRIL 2021</i>	672

14

HANDLING OF ASSESSMENT IN SEARCH CASES

14.1 CERTAIN STEPS/TECHNIQUES WHICH MAY BE USEFUL TO THE ASSESSEE DURING ASSESSMENT OF SEARCH CASES	676
◆ Obtaining copies of seized materials	676
◆ Ledgerisation of transactions relating to individuals	676
◆ To avoid duplicate additions - Apply principle of sources of income v. application in assets	677
◆ Principle of peak balance	678
◆ Use of affidavits/confirmations	680
◆ Submit complete and voluminous details	681
◆ Request for cross examination	681

	PAGE
◆ Intangible additions	681
◆ Applicability of higher tax rate under section 115BBE	682
◆ In case of general declaration of undisclosed income, benefit of telescoping	682
◆ Direction by Joint Commissioner under section 144A	683
◆ Approaching to Settlement Commission	683
14.2 TOOLS AVAILABLE WITH ASSESSING OFFICER DURING ASSESSMENT OF SEARCH CASES	684
◆ Centralization of search cases	684
◆ Availability of appraisal report	685
◆ Summons under section 131	685
◆ Calling for information under section 133(6)	685
◆ Availability of presumption under section 292C	685
◆ Reference to valuation officer	686
◆ Protective and Substantive Assessment	686
◆ Special audit under section 142(2A)	687
◆ <i>Ex parte</i> assessment	689
◆ Provisional attachment under section 281B	689
◆ To undertake proceedings under section 148/153C	689
◆ Applicability of deeming provisions of income under sections 68 to 69D	689
14.3 CONSTRAINTS WITH THE ASSESSING OFFICER	690
◆ All cases of seven years required to be assessed together	690
◆ Huge burden of time barring	690
◆ Lack of availability of skilled staff	691
◆ Indiscriminate seizure of books of account, documents and electronic data	691
◆ Delay in centralization	691
◆ Late commencement of assessment proceedings	691
◆ Technical defaults	692
14.4 CERTAIN ISSUES RELATING TO ASSESSMENT IN SEARCH CASES	692
◆ General questionnaire requiring explanation of all the documents found during search	692
◆ Conditional Surrender	693

	PAGE
◆ Explanation of documents/assets not belonging to assessee	694
◆ Reliance on statement recorded by authorized officer during search	694
14.5 DECIDED CASE LAWS RELATING TO CERTAIN SIGNIFICANT ISSUES	696
◆ Addition for undisclosed jewellery	696
◆ Assessment when there is retraction of surrender of undisclosed income	699
◆ Dumb Documents	703
◆ Extrapolation of income	706
◆ No addition on estimated/ <i>ad hoc</i> basis	708
◆ Unrecorded business expenditure - Whether deduction can be claimed?	712
◆ Addition on the basis of Statement	713
◆ Addition on the basis of loose papers, diaries, etc.	720
◆ Burden of Proof	725
◆ Benefit of Telescoping	728
◆ No assessment for non-existent company	729
◆ Notice for filing returns	729
◆ Normal disallowances	730
◆ No duplicate additions	731
◆ No additions possible in block assessment under Chapter XIVB when no incriminating material is found during search	733
◆ Levy of penalty in case of agreed addition during assessment	733
◆ Addition for difference in stock	734
◆ Addition u/s 68	736
◆ Addition u/s 69	737
◆ Assessment based upon instructions of other officers	740
◆ Levy of interest	740
◆ No addition when income was declared before Settlement Commission	740
◆ Addition relating to Foreign bank account	741
◆ Miscellaneous	741

15**ATTRACTION OF WEALTH TAX IN SEARCH CASES**

15.1	TEXT OF SECTION	742
15.2	LEGISLATIVE HISTORY	750
15.3	OBJECTIVE	751
15.4	SIMILARITIES BETWEEN THE PROVISIONS UNDER BOTH THE ACTS	751
15.5	WHY IS THERE A SEPARATE PROVISION UNDER THE WEALTH-TAX ACT?	752
15.6	ASSETS ON WHICH WEALTH-TAX IS LEVIABLE	753
15.7	USE OF THE PHRASE “DISPROPORTIONATE TO HIS KNOWN ASSETS”	753
15.8	COLLECTION OF EVIDENCES	753
15.9	SEIZURE OF ASSETS FOR EVASION OF WEALTH-TAX	754

16**PENALTIES AND PROSECUTION IN SEARCH CASES**

16.1	INTRODUCTION - PENALTY FOR CONCEALMENT OF INCOME IN SEARCH CASES	755
16.2	PENALTY PROVISION UNDER SECTION 271AAA/271AAB	756
16.3	TEXT OF SECTIONS 271AAA AND 271AAB	756
16.4	LEGISLATIVE HISTORY - SIGNIFICANT AMENDMENTS	760
16.5	OBJECTIVE	761
16.6	RATIONALE OF THE PROVISIONS OF SECTION 271AAA/271AAB	762
16.7	NATURE AND SCOPE OF PENALTY PROVISION UNDER SECTION 271AAA	763
	◆ Applicable in the case of search initiated on or after 1st June, 2007 but before 1st July, 2012	763
	◆ “Specified previous year”	763
	◆ “Undisclosed Income”	764
	◆ <i>Non obstante</i> clause under section 271AAA	767
	◆ Whether Penalty u/s 271AAA mandatory	767
	◆ Penalty at the rate of ten per cent of the “undisclosed income”	768

	PAGE
◆ Penalty for specified previous year in the case of search initiated on or after 1.6.2007 can be levied u/s 271AAA/271AAB and not u/s 271(1)(c)	768
16.8 PROVISION OF SECTION 271AAA IN NUTSHELL	770
16.9 IMMUNITY FROM PENALTY UNDER SECTION 271AAA - MANNER OF DECLARATION	770
◆ Declaration to be made in the course of search	771
◆ Specifies and substantiates the manner	771
◆ Requirement of substantiating the manner of deriving the undisclosed income to be complied with at which stage	776
◆ Pays the tax and interest in respect of the undisclosed income	778
16.9A NATURE AND SCOPE OF PROVISION UNDER SECTION 271AAB	781
◆ Applicable in the case of search initiated on or after 1st day of July 2012	781
◆ Rationale of introducing section 271AAB	781
◆ Staggering of quantum of penalty under section 271AAB	782
◆ Levy of penalty at the rate of 10% of undisclosed income when declaration of undisclosed income is made during search initiated on or after 1-7-2012 but before 15-12-2016	782
◆ Levy of penalty at the rate of 20% of undisclosed income when declaration of undisclosed income is made not during the course of search but in the return of income filed for the specified previous year in case of search initiated on or after 1-7-2012 but before 15-12-2016	783
◆ Levy of penalty at the rate of 30% to 90% (60% for A.Y. 2017-18) of undisclosed income when declaration of undisclosed income is not made by the searched person but additions are made by the Assessing Officer during assessment proceedings, in respect of search initiated on or after 1-7-2012 but before 15-12-2016	784
◆ Provisions of section 274 and section 275 to apply	785
◆ Analysis of Significant issues	785
■ Interpretation of the definition of "Undisclosed Income"	785
■ 'Penalty' u/s 271AAB impossible if income declared falls within the definition of 'Undisclosed Income'	787
■ Declaration of Undisclosed Income in the statement recorded u/s 132(4) would not <i>ipso facto</i> be regarded as Undisclosed Income	789
■ Ambiguity in the definition of "Specified Date"	789

	PAGE
■ Cash seized - Whether to be treated as payment of tax before the “specified date”?	790
■ Decision regarding declaration of “undisclosed income” during search to be made more cautiously	790
■ Application with Settlement Commission may be opted by searched person	791
■ Whether penalty u/s 271AAB is mandatory in nature?	792
■ Penalty provision under section 271AAB amended in case of search initiated on or after 15th of December, 2016	793
■ Enhancement of penalty by the first Appellate Authority	795
16.10 PENALTY UNDER SECTION 271AAA/271AAB v. PENALTY UNDER SECTION 271(1)(c)	795
◆ Penalty provision u/s 271AAA applicable even when no declaration of “undisclosed income” relating to “specified previous year” is made during search and such “undisclosed income” is declared in the return of income filed or such “undisclosed income” is added by AO in the assessment order in respect of search initiated after 1-6-2007 but before 1-7-2012	795
◆ Penalty under section 271AAB v. Penalty under section 271(1)(c)	797
◆ Situation when penalty for “specified previous year” may be applicable/leviable under section 271(1)(c)	797
◆ Judicial decisions to the effect that penalty under section 271(1)(c) not applicable at all for specified previous year in the case of search	798
◆ No penalty u/s 271(1)(c) for concealment of income if income not covered within the definition of “undisclosed income” under section 271AAA/271AAB, is declared in the return of income relating to ‘specified previous year’	798
16.11 PENALTY FOR UNDISCLOSED INCOME RELATING TO EARLIER YEARS	799
◆ Provision of section 271AAA/271AAB applicable only for “specified previous year” and not for earlier years - Declaration of undisclosed income for earlier years may be treated as admitted concealment for those years	799
◆ Judicial decisions to the effect that in case undisclosed income is shown in the return filed under section 153A for years prior to specified previous year, no penalty under section 271(1)(c) can be levied	801
◆ Clinching evidences of undisclosed income for earlier years	801
◆ Declaration made for earlier years subject to no penalty	801

	PAGE
◆ Penalty for concealment of income for earlier years applicable under section 271(1)(c) read with <i>Explanation 5A</i>	803
◆ No Penalty merely on surrender of Income	803
16.12 TEXT OF EXPLANATION 5A TO SECTION 271(1)(c)	803
16.13 RATIONALE FOR INSERTION OF EXPLANATION 5A TO SECTION 271(1)(c)	804
◆ To cover a situation where due date of filing of return is expired but concealed income is included in the return filed after search	804
◆ After search having taken place, return of income already filed is revised showing undisclosed income found as a result of search pertaining to such year	805
◆ Whether <i>Explanation 5A</i> to section 271(1)(c) shall be attracted regarding normal profits as per balance sheet finalized but income-tax return pending on the date of search	807
16.14 PROVISION OF SECTION 271AAA/271AAB AND EXPLANATION 5A TO SECTION 271(1)(c) NOT APPLICABLE TO REQUISITION MADE UNDER SECTION 132A	809
16.15 NEW PENALTY PROVISION UNDER SECTION 270A MADE APPLICABLE WITH EFFECT FROM A.Y. 2017-18 IN PLACE OF SECTION 271(1)(c)	810
◆ Applicability of provision of section 270A in case of search	814
◆ No provision under section 270A corresponding to <i>Explanation 5A</i> to section 271(1)(c)	815
16.16 MISCELLANEOUS	815
◆ Instructions of the CBDT regarding not pressurizing for declaration of undisclosed income during search	815
◆ Provisions of sections 274 and 275 to apply	817
16.17 ATTRACTION OF PENALTY FOR CONCEALMENT IN CASES COVERED U/S 153C	818
16.17A PENALTY PROVISION RELATING TO SEARCH INITIATED BEFORE 1ST JUNE, 2007 - EXPLANATION 5 TO SECTION 271(1)(c)	820
◆ Text of <i>Explanation 5</i> to section 271(1)(c)	821
◆ Salient features of <i>Explanation 5</i> to section 271(1)(c)	822
16.18 PENALTY FOR OTHER DEFAULTS	825
◆ Failure to answer questions, sign statements recorded u/s 132(4) or u/s 131(1A)	825
◆ Failure to comply with the summons issued under section 131	825
◆ Penalty for unaccounted business transactions	826

	PAGE
◆ Penalty for loans or deposits or 'specified sum' taken or repaid in cash	828
◆ Whether penalty is attracted for non-filing or late filing of Income-tax Returns under section 153A	829
◆ Power to reduce or waive penalty etc. in certain cases as provided under section 273A	830
◆ Power of Commissioner to grant immunity from penalty under section 273AA	831
16.19 OFFENCES AND PROSECUTION	831
◆ Contravention of prohibitory order passed under section 132(3) - Section 275A	831
◆ Non-compliance of provision of section 132(1)(i)(b) - Section 275B	832
◆ Wilful attempt to evade tax - Section 276C	832
◆ Failure to furnish return of income in search cases - Section 276CC	832
◆ False statement and verification - Section 277	832
◆ Falsification of books of account or documents, etc. - Section 277A	833
◆ Abatement of false return - Section 278	833
◆ Presumption as to assets, books of account in case of search for the purpose of prosecution - Section 278D	833
◆ Whether there can be prosecution for non-compliance of summons issued under section 131	834
◆ Refusal to answer questions or to give incorrect reply to questions put during recording of statement under section 132(4)/131	834
◆ Offences by companies	834
◆ Principles emerging from decided cases about prosecution proceedings	834
◆ Power of Commissioner to grant immunity from prosecution	835

17

APPLICATION TO SETTLEMENT COMMISSION IN SEARCH CASES

17.1 INTRODUCTION	839
17.2 LEGISLATIVE HISTORY	839
◆ Search held before 1st July, 1995	840

	PAGE
◆ Search held between 1.7.1995 till 31.5.2003 when concept of block assessment for undisclosed income was applicable	840
◆ Search held between 1st June 2003 till 31st May 2007	841
◆ Search held between 1st June 2007 till 31st May 2010 - Revised Settlement Scheme - No Application to Settlement Commission permitted	841
◆ Search held on or after 1st June 2010	841
◆ Taxpayers can approach Settlement Commission even for pending reassessment cases	844
17.3 WHETHER TO APPROACH THE SETTLEMENT COMMISSION IN SEARCH CASES	846
◆ Decision by the assessee for approaching the Settlement Commission - Merits and Demerits	846
◆ Nature of proceedings before Settlement Commission <i>v.</i> Assessing Officer	847
◆ Circumstances under which application to Settlement Commission may be advisable to the assessee	848
17.4 FILING AND ADMISSION OF APPLICATION WITH SETTLEMENT COMMISSION - CERTAIN CONDITIONS TO BE FULFILLED	848
◆ Stage for filing application to Settlement Commission in search cases	848
◆ Application to Settlement Commission may be filed when assessment proceedings are pending with the Assessing Officer	849
◆ For admission of application by Settlement Commission, there has to be additional income-tax payable by the assessee	850
◆ Additional Tax Payable - Meaning thereof	850
◆ Whether regular income-tax return for which has not been filed, may be part of additional income to be disclosed before Settlement Commission	851
◆ Whether seized cash, money, FDRs etc. may be adjusted towards additional tax payable?	852
◆ Application to Settlement Commission separately by each person, but for all the years together	853
◆ Assessee is required to make full and true disclosure of his undisclosed income in the application	854
◆ All taxes to be paid otherwise application may be rejected	854
◆ Whether undisclosed income declared by the assessee during search in the statement under section 132(4), may be considered as additional income to be declared before Settlement Commission	855

	PAGE
◆ Copy of application to be given to the Assessing Officer simultaneously	855
◆ Application to be submitted carefully, in case of any default application is liable to be rejected	856
◆ Consequences when application is not proceeded with/ rejected by the Settlement Commission	856
◆ Filing application with the Settlement Commission, jurisdiction of the Assessing Officer to be excluded	858
◆ Before filing application to Settlement Commission, whether Income-tax Returns under section 153A to be filed? - Consequences of non-filing of returns?	858
17.5 PROCEEDINGS BEFORE SETTLEMENT COMMISSION - NATURE AND SCOPE	859
◆ Procedure of proceedings before Settlement Commission	859
◆ Limitation for passing order by Settlement Commission	860
◆ Application once filed with the Settlement Commission under section 245C cannot be withdrawn	860
17.6 POWER OF SETTLEMENT COMMISSION TO GRANT IMMUNITY FROM LEVY OF INTEREST, PENALTY OR PROSECUTION	860
◆ Whether Settlement Commission has the power to grant waiver from levy of interest?	860
◆ Power of Settlement Commission to grant immunity from Penalty and Prosecution	861
17.7 CERTAIN POST SETTLEMENT ISSUES	862
◆ Payment of Demand raised as per order of Settlement Commission	862
◆ Settlement to become void if it is found that it was obtained by fraud or misrepresentation of facts	863
◆ Order of Settlement Commission not appealable	864
◆ Power of review/revision/rectification by Settlement Commission	865
◆ Abatement of proceeding before Settlement Commission	866

18

PRECAUTIONS BEFORE FACING SEARCH ACTION

18.1 MENACE OF BLACK MONEY	868
◆ It is in the interest of the assessee not to generate black money	869

	PAGE
◆ Though unacceptable, sometimes circumstances may compel for evasion of income tax	870
18.2 PERIODICAL REVIEW AND COUNSELLING	871
◆ Periodical review of unwarranted papers, documents	871
◆ Incriminating Documents/Details Found in Search may Fasten Huge Tax Liability	872
◆ Vigilant Family Members - Counselling required	872
◆ Mock search exercise	873
18.3 APPROACH TO MAINTAIN RECORDS	873
◆ Details of unrecorded transactions in coded form are also liable to be decoded	873
◆ Details beyond earlier seven years	874
18.4 AVAILABILITY OF EVIDENCES SO AS TO AVOID SEIZURE	874
◆ Separate file of jewellery containing evidences of acquisition	874
◆ Cash belonging to business firm, kept at residence	875
◆ Evidence regarding assets of other persons kept	875
◆ Tangible assets to be duly recorded	876
◆ In case of joint premises, clear cut demarcation desirable	876
18.5 VIGILANCE WITH RESPECT TO OTHERS	876
◆ In case of financial disputes, handle the situation tactfully	876
◆ Damaging details/evidences available with the corresponding person may be a source of expensive long drawn litigation	877
◆ Senior employees or consultants to remain vigilant	877
18.6 POWERS OF DEPARTMENT	878
◆ To be aware regarding powers of tax authorities	878
◆ Lot of information relating to assessee within the domain of income tax department	879

APPENDICES

APPENDIX 1 : Taxpayers' Charter	883
APPENDIX 2 : Ground Rules for Search and Seizure	886
APPENDIX 3 : Warrant of Authorisation	890
APPENDIX 4 : Proforma of Panchnama	898
APPENDIX 5 : Model Forms used during search	901

	PAGE
APPENDIX 6 : Relevant provisions of Code of Criminal Procedure, 1973	906
APPENDIX 7 : Relevant provisions of Indian Penal Code, 1860	919
APPENDIX 8 : Relevant provisions of Code of Civil Procedure, 1908	923
APPENDIX 9 : Extension of Time Limits due to COVID-19	926