20.1 Appointment and Control [Sections 116 to 119]

The following are the classes of income-tax authorities:

(i) The Central Board of Direct Taxes.

(ii) Directors-General of Income-tax or Chief Commissioners of Income-tax.

(iii) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals).

(iv) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals).

(v) Joint Directors or Joint Commissioners of Income-tax.

(vi) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax.

(vii) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax.

(viii) Income-tax Officers.

(ix) Tax Recovery Officers.

(x) Inspectors of Income-tax.

20.1.1 Assessing Officer: In this connection, it may be noted that under section 2(7A), the term ‘Assessing Officer’ means –

(a) the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director; or

(b) the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under section 120(1) or (2) or any other provision of the Act; and

(c) the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director who is directed under section 120(4)(b) to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer.

20.1.2 Central Board of Direct Taxes (CBDT): The Central Board of Direct Taxes is a statutory body constituted under the Central Board of Revenue Act, 1963. It consists of a number of members appointed by the Central Government for the performance of such duties, as may be entrusted to the Board from time to time. It is functioning under the jurisdiction of the Ministry of Finance. The Central Board of Direct Taxes, besides being the highest
executive authority, exercises control and supervision over all officers of the Income-tax Department and is authorised to exercise certain powers conferred upon it by the Income-tax Act, 1961. In particular, it has the powers, subject to the control and approval of the Central Government to make any rules, from time to time for the proper administration of the provisions of the Income-tax Act, 1961.

All the rules under the Act are framed by the Board under section 295 and placed before the Parliament. In addition to the general power of making rules and of superintendence, the Board has been given specific powers on several matters.

The Board has been empowered under section 119 to issue instructions and circulars to its subordinates for the proper administration of the Act. It is obligatory for the various authorities and all other persons employed in the execution of the Act to observe and follow such orders, instructions and directions of the Board. However, the Board is not empowered to issue orders, instructions or directions in such a way as to (i) require any income-tax authority to make the assessment of a particular case in a particular manner or (ii) interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions. Further, the Board may, if it considers necessary or expedient to do so, for the purpose of proper and effective management of the work of assessment and collection of revenue, issue general or special orders from time to time in respect of any class of incomes or class of cases setting forth directions and instructions not being prejudicial to the assessee. In appropriate cases, the Board may relax the provisions of sections 115P, 115S, 139, 143, 144, 147, 148, 154, 155, 234A, 234B, 271 and 273. The Board can exercise its powers to remove difficulties in the matter of sections 201(1A), 210, 211 and 234C. The following table gives a brief glimpse of what these sections relate to–

<table>
<thead>
<tr>
<th>Section</th>
<th>Particulars of section</th>
</tr>
</thead>
<tbody>
<tr>
<td>115P</td>
<td>Interest payable for non-payment of tax by domestic companies</td>
</tr>
<tr>
<td>115S</td>
<td>Interest payable for non-payment of tax on distributed income to unit-holders</td>
</tr>
<tr>
<td>139</td>
<td>Return of income</td>
</tr>
<tr>
<td>143</td>
<td>Assessment of income</td>
</tr>
<tr>
<td>144</td>
<td>Best Judgment Assessment of income</td>
</tr>
<tr>
<td>147</td>
<td>Income escaping assessment</td>
</tr>
<tr>
<td>148</td>
<td>Issue of notice where income has escaped assessment</td>
</tr>
<tr>
<td>154</td>
<td>Rectification of mistake apparent on record</td>
</tr>
<tr>
<td>155</td>
<td>Other amendments relating to assessment of income</td>
</tr>
<tr>
<td>201(1A)</td>
<td>Interest for non-deduction of tax or non-payment of tax after deduction by such person/principal officer/company, as the case may be.</td>
</tr>
<tr>
<td>210</td>
<td>Payment of advance tax by the assessee of his own accord or in pursuance of order of Assessing Officer.</td>
</tr>
<tr>
<td>211</td>
<td>Installments of advance tax and due dates</td>
</tr>
<tr>
<td>234A</td>
<td>Interest for default in furnishing return of income</td>
</tr>
<tr>
<td>234B</td>
<td>Interest for default in payment of advance tax</td>
</tr>
</tbody>
</table>
20.3 Income tax

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>234C</td>
<td>Interest for deferment of advance tax</td>
</tr>
<tr>
<td>271</td>
<td>Penalty for failure to furnish returns, comply with notices, concealment of income etc.</td>
</tr>
<tr>
<td>273</td>
<td>Penalty for false estimate of, or failure to pay, advance tax</td>
</tr>
</tbody>
</table>

The Central Government may appoint such persons as it thinks fit to be income-tax authorities. It may also authorise the Board or a Director General, a Chief Commissioner or a Director or a Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner or Deputy Commissioner. An income-tax authority authorised by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions. The Board may also direct, by way of notification, that any income-tax authority or authorities shall be subordinate to such other income-tax authority as may be specified.

20.2 Jurisdiction of Income-tax Authorities

The income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or assigned to, such authorities in accordance with the directions issued by the CBDT for the exercise of such powers and performance of the functions by all or any of those authorities [Section 120(1)].

Any income-tax authority, being an authority higher in rank, may exercise the powers and perform the functions of the income-tax authority lower in rank, if so directed by the CBDT. Such direction issued by the CBDT shall be deemed to be a direction issued under the said section 120(1).

In issuing such directions the Board may have regard to the following criteria:
(a) Territorial area.
(b) Persons or classes of persons.
(c) Incomes or classes of incomes.
(d) Cases or classes of cases.

The CBDT can authorise any Director General or Director of Income-tax to perform such functions of any other income-tax authority.

The CBDT can empower the Director General or Chief Commissioner or Commissioner to issue orders in writing to the effect that the powers and functions conferred on or assigned to the Assessing Officer under this act in respect of any specified area or person or class of person or persons or incomes or classes of income or cases or classes of cases shall be exercised or performed by a Joint Commissioner or Joint Director.

Further, the powers and functions conferred on or assigned to the Assessing Officer may also be exercised or performed by an Additional Commissioner and Additional Director, on issue of order in writing to that effect by the Director General, Chief Commissioner or Commissioner.

The CBDT or any other authority authorised in this behalf can confer jurisdiction with more than one income-tax authority in relation to any case.
20.2.1 Jurisdiction of Assessing Officers [Section 124]

(i) Where the Assessing Officer has been vested with jurisdiction over any area within the limits of such area he shall have jurisdiction in respect of any person carrying on business or profession within that area or in respect of a person whose business or profession is carried on in more than 1 places, if his principal place of business is in that area and in respect of any other person residing within the area.

(ii) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person the question shall be determined by the Director General or the Chief Commissioners or Commissioner.

In case the question relates to an area within the jurisdiction of different Director General or Chief Commissioners or Commissioner then the question shall be determined by the Director General or Chief Commissioners or Commissioners concerned or if they are not in agreement, then the same shall be determined by the Board or by such Director General or Chief Commissioner or Commissioner as the Board may specify by way of notification in the Official Gazette.

(iii) Section 124(3)(a) provides that no person shall be entitled to call in question the jurisdiction of an Assessing Officer where such person has made a return of income under section 139(1), after the expiry of one month from the date on which he was served with a notice under section 142(1) or section 143(2) or after the completion of the assessment, whichever is earlier.

(iv) Section 124(3)(b) provides that the jurisdiction of the Assessing Officer shall not be called in question where no return has been made, after the expiry of the time allowed by the notice under section 142(1) or under section 148 for the making of the return or by the notice under section 144, whichever is earlier.

(v) Where the assessee questions the jurisdiction of an Assessing Officer, then, the Assessing Officer shall, if not satisfied with the correctness of the claim refer the matter for determination under (ii) above before the assessment is made.

(vi) Every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the direction or order issued under section 120(1) and 120(2).

20.2.2 Power to transfer cases [Section 127]

(i) The power to transfer a case from one Assessing Officer to another subordinate Assessing Officer or Officers is vested with the Director General or Chief Commissioner or Commissioner of Income-tax. However, this power can be exercised only after giving the assessee a reasonable opportunity of being heard and after recording reasons for doing so, wherever possible.

(ii) There may be situations where the Assessing Officer from whom the case is transferred and the Assessing Officer to whom the case is transferred do not fall under the control of
20.5 Income tax

the same Director General or Chief Commissioner or Commissioner of Income-tax. In such cases, the Director General of Chief Commissioner or Commissioner of Income-tax from whose jurisdiction the case is transferred shall pass an order, if such concerned higher authorities mutually agree for such transfer.

(iii) If the higher authorities are not in agreement about the transfer, then, the Board or any such authority authorized by the Board may pass the order.

(iv) If the case is transferred between Assessing Officers within the same city or locality or place, then, it is not necessary to give the assessee an opportunity of being heard.

(v) The transfer of a case may be made at any stage of the proceedings and it is not necessary to reissue any notice already issued.

(vi) For the purpose of section 120 and section 127, case in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this act which may be commenced after the date of such order or direction in respect of any year.

20.2.3 Change of Income-tax Authority [Section 129]

(i) In cases where an income-tax authority succeeds another income-tax authority, who ceases to exercise jurisdiction, then, the succeeding income-tax authority may continue the proceedings from the stage at which the proceedings was left by his predecessor.

(ii) The assessee concerned can demand that before continuance of proceedings as in (i) above, the previous proceedings or any part thereof be reopened or be reheard before passing of any assessment order.

20.3 Powers of Income-tax Authorities [Sections 131 to 136]

20.3.1 Discovery, production of evidence etc. [Section 131]: The Assessing Officer, Deputy Commissioner (Appeals), Joint Commissioner, Commissioner (Appeals), the Chief Commissioner and the Dispute Resolution Panel referred to in section 144C have the powers vested in a Civil Court under the Code of Civil Procedure, 1908 while dealing with the following matters:

(i) discovery and inspection;

(ii) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(iii) compelling the production of books of account and documents; and

(iv) issuing commissions [Section 131(1)]

The powers aforementioned are normally those exercisable by a Court when it is trying a suit. While exercising these powers, the authorities act in a quasi-judicial capacity and ought to conform to the principles of judicial procedure.
If the Director General or Director or Joint Director or Assistant Director or Deputy Director or the authorized officer referred to in section 132(1), before he takes action under the said sub-section, has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then for the purposes of making an enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred in section 131(1) on the income-tax authorities referred to therein, even if no proceedings with respect to such person or class of persons are pending before him or any other income-tax authority [Section 131(1A)].

For facilitating quick collection of information on request from tax authorities outside India, notified income-tax authorities (not below the rank of Assistant Commissioner of Income-tax), as may be notified by the Board, to now have powers under section 131(1) for making an inquiry or investigation in respect of any person or class of persons relating to an agreement for exchange of information under section 90 or 90A, even if no proceeding is pending before it or any other income-tax authority with respect to the concerned person or class of persons [Section 131(2)].

Further, the said income-tax authority is vested with the power to impound or retain in its custody for such period as it may think fit, any books of account or other documents produced before it in any proceeding under this Act. The powers are unrestricted in the case of all the authorities except the Assessing Officer or an Assistant Director or Deputy Director whose powers are subjected to two restrictions; (i) he must record his reasons for impounding books of account or other documents; and (ii) if he desires to retain in his custody any such books or documents for a period exceeding fifteen days (excluding holidays), he must obtain the prior approval of the Chief Commissioner or Director General or Commissioner or Director, as the case may be, for the purpose [Section 131(3)].

**20.3.2 Search and Seizure [Section 132]:** Under this section, wide powers of search and seizure are conferred on the income-tax authorities. The important points relating to this provision have been briefly summarised below:

The provisions of the Criminal Procedure Code relating to searches and seizure would, as far as possible, apply to the searches and seizures under this Act. Contravention of the orders issued under this section would be punishable with imprisonment and fine under section 275A.

(i) Search and seizure can be authorised by Director General or Director or the Chief Commissioner or Commissioner or Additional Director or Additional Commissioner or any such Joint Director or Joint Commissioner as may be empowered by the Board. A Director General or Director or the Chief Commissioner or Commissioner may authorise any Joint Director, Joint Commissioner, Additional Director or Additional Commissioner, Assistant Director, or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer. A Additional Director or Additional Commissioner, Joint Director or Joint Commissioner can authorise Assistant Director or Deputy Director or Assistant Commissioner or Deputy Commissioner or Income-tax Officer.

Thus, under section 132(1), the income-tax authorities listed above are empowered to authorise other income-tax authorities to conduct search and seizure operations.
The authorities empowered to issue authorization are:

(1) Director General or Chief Commissioner;
(2) Director or Commissioner; and
(3) such Additional Director or Additional Commissioner, Joint Director or Joint Commissioner as are empowered by the CBDT to do so.

(ii) Such authorisation could take place if the authority believes, on the basis of information in his possession:

(a) that the person to whom a summons under section 131(1) or notice under section 142(1) was issued to produce or cause to produce books of account or other documents has omitted or failed to do so; or
(b) that a person to whom a summons or a notice has been or might be issued, does not or would not produce any books of account or other documents called for or which will be useful or relevant to any proceeding under the Income-tax Act, 1961 or
(c) that a person who is in possession of any valuable articles or things, including money, bullion or jewellery etc. (which has not been disclosed or would not be disclosed by the person concerned for income-tax purposes).

(iii) Such an authorisation can empower the authorised officer to enter any building or place or vehicle, vessel or aircraft where he has reasons to suspect that such books of account, documents, articles including money, jewellery, valuables etc. are kept and in case they are found, he may seize them, place marks of identification on them or make a note or inventory thereof for the purpose. However, any bullion, jewellery or other valuable article or thing, which is in the nature of stock-in-trade of the business, found as a result of search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business. The person who is in possession or control of books of account or other documents maintained in the form of electronic records, shall be required to afford the necessary facility to authorised officer to inspect all such books of account or other documents.

Electronic record as defined in section 2(1)(t) of the Information Technology Act, 2000 means data, record or data generated, image or sound stored, received or sent in an electronic form or microfilm or computer generated microfile.

In the discharge of such a duty, he is authorised to break open the locks in case keys are not readily available. However, the books of account and other documents seized should be returned within a period of 30 days from the date of the order of assessment under section 153A or section 158BC(c), unless the reasons for retaining the same are recorded and approved by the Chief Commissioner or Commissioner or Director General or Director. The books or other records cannot be retained for a period exceeding 30 days after the assessment proceedings for the relevant year are over. The persons from whose custody any books of account or other documents have been seized may make copies thereof or take extracts therefrom.

(iv) The Authorised Officer is empowered to search any person in or about the building or place in respect of which a search has been authorised, if he has reason to suspect that any article for which the search is being made is concealed about his person. This Authorised
Officer is also entitled to search any person who has got out of or is able to get into or is in the building, place, vessel, vehicle or aircraft in respect of which a search has been authorised, if he has reason to suspect that such person has secreted about his person any books of account or other documents, money, bullion, jewellery or other valuable articles for which the search is being made.

(v) The Commissioner of Income-tax has the power to authorise the search of any building, place, vessel, vehicle, aircraft etc., within his territorial jurisdiction and also in cases where he has no jurisdiction over the persons concerned, if he has reason to believe that any delay in obtaining authorisation from the Commissioner having jurisdiction over the person would be prejudicial to the interests of revenue.

(vi) Where a search for any books of account or other documents or assets has been authorised by any authority who is competent to do so, and the Commissioner has reason to suspect that such books of account or the documents of the assessee are kept in any building, place, vessel, vehicle or aircraft not specified in the search warrant, he may authorise the authorised officer to search such other building, place, vessel, vehicle or aircraft. Accordingly, if a search warrant is issued by the Commissioner of Income-tax, authorising the search of a premises in a particular place specified in the search warrant and the Authorised Officer finds that the books of account or other documents and/or assets have been secreted in a building or place not specified in the search warrant, he could request the local Commissioner to authorise him to search that building or place.

(vii) Now there is a rebuttable presumption to the effect that the books of account or other documents and assets found in the possession of any person in the course of a search belong to such person and also that the contents of such books of account and other documents are true and that the signature and every other part of such books of account and other documents are in hand-writing of the persons who can reasonably be assumed to have signed or written the books of account or other documents.

(viii) Where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised Officer may serve an order on the owner or the person who is in immediate possession thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the Authorised Officer shall be deemed to be seizure of such valuable article or thing. This is called a restraint order. However, such a deeming seizure would not apply to stock-in-trade of the business.

(ix) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing (for reasons other than those mentioned in (viii) above) serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section. However, serving of such an order shall not be deemed to be seizure of such valuable article or thing.

(x) The examination of any person may be not merely in respect of any books of account,
20.9 Income tax

other documents or assets found as a result of the search but also in respect of all matters relevant for the purposes of any investigation under the Act.

(xi) An order as mention under point (ix), shall not be in force for a period exceeding 60 days from the date of the order [Section 132(8A)].

(xii) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorized officer or any other person empowered by him in this behalf, at such place and time as the authorized officer may appoint in this behalf [Section 132(9)].

(xiii) Where the authorized officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of point (ii) above, the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under that sub-section shall be handed over by the authorized officer to the Assessing Officer having jurisdiction over such person within a period of 60 days from the date of which the last of the authorizations for search was executed and thereupon the powers exercisable by the authorized officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer [Section 132(9A)].

(xiv) If a person, legally entitled to the books of account or other documents seized, objects for any reason to the approval given by the Chief Commissioner, Commissioner, Director General or Director to extend the period of retention of the same by the Assessing Officer beyond 30 days, he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit. [Section 132(10)].

(xv) The Board may make rules in relation to any search or seizure under this section; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the Authorised Officer—

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

(b) for ensuring safe custody of any books of account or other documents or assets seized. [Section 132(14)].

(xvi) For the purpose of this section, the word "proceeding" means any proceeding in respect of any year under this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

20.3.3 Power to requisition books of account etc. [Section 132A]

(i) Where the Director General or Director or the Chief Commissioner or Commissioner on the basis of information in his possession, has reason to believe that-

(a) any person to whom a summons under section 131(1) or a notice under section 142(1) was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of
account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, such as, by the Collector of Customs, the Sales-tax Commissioner etc. or

(b) any books of account or other documents will be useful for, or relevant to, any proceeding under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, such as, by the Collector of Customs, the Sales-tax Commissioner etc. or

(c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force, such as, by the Collector of Customs, the Sales-tax Commissioner etc.

then, the Director General or Director or the Chief Commissioner or Commissioner may authorise any Additional Director, Additional Commissioner, Joint Director Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner, Deputy Commissioner or Income-tax Officer (referred to as the requisitioning officer) to require the officer or authority under any other law referred above, as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

(ii) On a requisition being made under (i), the officer or authority under any other law referred above, as the case may be, shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(iii) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sections 132(4A) to 132(14) and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under section 132(1) by the requisitioning officer from the custody of the concerned person and for the words “the Authorised Officer” occurring in any of the above mentioned sections, the words “the requisitioning officer” were substituted.]

20.3.4 Application of retained assets [Section 132B]

Section 132B(1), inter alia, provides that the assets seized under section 132 or requisitioned under section 132A may be adjusted against -

(1) any “existing liability” under the Income-tax Act, 1961 Wealth-tax Act, 1957 etc.; and

(2) the amount of liability determined on completion of assessments pursuant to search, including any penalty levied or interest payable in connection with such assessment and in respect of which such person is in default or deemed to be in default.
“Existing liability” does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Income-tax Act, 1961.

If the assets consist solely or partly or money and partly of other assets, the Assessing Officer may apply the money in discharge of the liabilities mentioned above. The assessee shall be discharged to the extent of the money so applied.

The assets other than money may also be applied for the discharge of such liabilities which still remains undischarged. For this purpose, such assets shall be deemed to be under distraint, as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorization from the Chief Commissioner or Commissioner under section 226(5). The Assessing Officer or the Tax Recovery Officer, as the case may be, may recover the amount of such liabilities by the sale of such assets in the manner laid down in the Third Schedule.

Where the person concerned makes an application to the Assessing Officer within 30 days from the end of the month in which the asset was seized, for release of the asset and explains the nature and source of acquisition of seized assets is explained satisfactorily, then, such assets are required to be released within a period of 120 days from the date on which last of the authorisations for search under section 132 is executed after meeting any existing liabilities. The assessee shall be entitled to simple interest at ½% per month or part of a month, if the amount of assets seized exceeds the liabilities eventually, for the period immediately following the expiry of 120 days from the date on which the last of the authorisations for search under section 132 or requisition under section 132A was executed to the date of completion of the assessment under section 153A or under Chapter XIV-B.

20.3.5 Power to call for information [Sections 133]

The Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals) may call for following information for the purposes of this Act:

1. require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;
2. require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;
3. 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;
4. require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than one thousand rupees, or such higher amount as may be prescribed], together with particulars of all such payments made;
5. require any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer,
whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts;

(6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals), giving information in relation to such points or matters as, in the opinion of the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals), will be useful for, or relevant to, any enquiry or proceeding under this Act:

Under the existing provisions of section 133(6), the prescribed authorities have the power to call for any information from any person which will be useful for or relevant to any proceedings under the Act. Such powers may also be exercised by the Director-General, the Chief Commissioner, the Director and the Commissioner. Further, the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of Director or Commissioner without the prior approval of the Director or as the case may be, the Commissioner.

For facilitating quick collection of information on request from tax authorities outside India, notified income-tax authorities (not below the rank of Assistant Commissioner of Income-tax) to have powers under section 131(1) for making an inquiry or investigation in respect of any person or class of persons relating to an agreement for exchange of information under section 90 or 90A, even if no proceeding is pending before it or any other income-tax authority with respect to the concerned person or class of persons. Such notified authorities are also empowered, for the purposes of an agreement referred to in section 90 or section 90A, to exercise the powers conferred under section 133 to call for information, irrespective of whether any proceedings are pending before it or any other income-tax authority.

20.3.6 Power of Survey [Section 133A]: An income-tax authority may enter any place:

(i) within the limits of the area assigned to him, or
(ii) any place occupied by any person in respect of whom he exercises jurisdiction, or
(iii) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place

at which a business or profession is carried on and require any proprietor, employee or any other person/s, who may at that time/place be attending in any manner to or helping him to carry on any such business or profession. This power may be exercised:

(i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place;
(ii) to afford him the necessary facility to check or verify the cash, stock or other valuable articles or things which may be found therein; and
(iii) to furnish such information as he may require as to any matter which may be useful for or relevant to any proceeding under the Income-tax Act, 1961.
This power may be exercised in respect of any place with which the assessee is connected, whether or not such place is the principal place of business or profession. It will also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other valuable article or thing relating to his business or profession is kept. The income-tax authority may enter any place of business or profession mentioned above only during the hours at which such place is open for the conduct of business or profession and in the case of any other place, only after sunrise and before sunset.

The income-tax authority exercising this power of survey may:

(i) place marks of identification, if he finds it necessary, on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom;

(ii) impound and retain in his custody for such period as he thinks fit any book of account or other documents inspected by him after recording reasons for doing so.

However, the income tax authority cannot retain in his custody such books of account etc. for a period exceeding 10 days (excluding holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be.

(iii) make an inventory of any cash, stock or valuable article or thing checked or verified by him; and

(iv) record the statements of any person which may be useful for or relevant to any proceedings under the Income-tax Act, 1961.

However, the income-tax authority cannot remove or cause to be removed from the place where he has entered, any cash, stock or other valuable article or thing.

The income-tax authorities would also have the power to collect information and record the statements of any of the persons concerned at any time after any function, ceremony or event even before the stage of commencement of assessment proceedings for the following year for which the information may be relevant, if they are of the opinion that having due regard to the nature, scale and extent of the expenditure incurred, it is necessary to do so. This provision is intended to help in collecting evidence about ostentatious expenditure immediately after the event to be used at the time of the assessment.

If any person who is required to provide facility to the income-tax authority to inspect the books of account or the other documents or to check or verify any cash, stock or other valuable articles or to furnish any information or to have his statement recorded, either refuses or evades do so, the income-tax authority would be entitled to use all the powers vested in it under section 131(1) for enforcing proper compliance with the requirements. However, no action under sub-section (1) shall be taken by the Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax except with the prior approval of the Joint Director or the Joint Commissioner, as the case may be.

For the purpose of this section, “proceeding” means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are
exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

**20.3.7 Power to collect certain information [Section 133B]**

(i) Under this section, an income-tax authority may enter any building or place (at which a business or profession is carried on) within its jurisdiction or any building or place (at which a business or profession is carried on) which is occupied by any person in respect of whom the said authority exercises jurisdiction for the purpose of collecting any information which may be useful for or relevant for the purposes of the Act. It is not necessary that such a place should be the principal place of the business or profession.

(ii) The authority may require any proprietor, employee or any other person who may at the time and place be attending in any manner to or helping in carrying on such business or profession to furnish such information as may be prescribed.

(iii) An income-tax authority may enter any place of business or profession referred to above only during the hours at which such place is open for business.

(iv) Such authority shall on no account remove or cause to be removed from the building or place wherein he has entered any books of account or other valuable articles or things.

(v) In this section, income-tax authority means a Joint Commissioner, an Assistant Director or Deputy Director or an Assessing Officer, and includes an Inspector of Income-tax who has been authorised by the Assessing Officer to exercise the power conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or any part thereof.

**20.3.8 Power to inspect registers of companies [Section 134]**: The Assessing Officer, the Joint Commissioner or the Commissioner (Appeals), or any person subordinate to him authorised in writing in this behalf by the Assessing Officer, the Joint Commissioner or the Commissioner (Appeals), as the case may be, 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.

**20.3.9 Other powers [Sections 135 and 136]**: The Director General or Director, the Chief Commissioner or Commissioner and the Joint Commissioner are competent to make any enquiry under this act and for all purposes they shall have the powers vested in an Assessing Officer in relation to the making of enquiries.

If the Investigating officer is denied entry into the premises, the Assessing Officer shall have all the powers vested in him under sections 131(1) and (2). All the proceedings before Income-tax authorities are judicial proceedings for purposes of section 196 of the Indian Penal Code, 1860, and fall within the meaning of sections 193 and 228 of the Code.

An income-tax authority shall be deemed to be a Civil Court for the purposes of section 195 of the Criminal Procedure Code, 1973.

**20.3.10 Disclosure of information regarding assesses [Section 138]**: If a person makes an application in accordance with Rule 113 of the Income-tax Rules, 1962 to the Chief
Commissioner or the Commissioner of Income-tax in the prescribed form for obtaining any information relating to any assessee in respect of any assessment year, the Commissioner may, if he is satisfied that it is in the public interest, furnish the information. His decision in this regard cannot be called into question. Nevertheless, the Government may, having regard to practice and usage customary or otherwise, and any other relevant factors, direct that no information or documents shall be furnished or produced by a public servant in respect of such matters relating to a particular class or classes of assessees except to certain authorities which may be specified. It would be observed that, under section 138, the Commissioner can make a disclosure on the basis of an application made to him; he cannot volunteer to give the information.

Further, the Board has been empowered to furnish or cause to be furnished any information relating to any assessee in respect of assessment under the Income-tax Act, 1961, to any office or authority or body performing any function under any law relating to the imposition of any tax, duty or cess or dealings in foreign exchange in all cases where the Board considers such information necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law. This power of disclosure of information can as well be exercised by any other Income-tax authority specified by the Board by general or special order in this behalf. It will also be open to the Central Government to notify any officer, authority or body performing functions under any other law and on such notification, the Board or any other income-tax authority may furnish or cause to be furnished similar information relating to any assessee to the officer, authority or body concerned.