

Finance Act 1972

Section 46 - Insertion of New Section 21a

After section 21 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of April, 1973, namely :-

21A. Assessment in cases of diversion of property, or of income from property, held under trust for public charitable or religious purposes. - Notwithstanding anything contained in clause (i) of sub-section (1) of section 5, where any property is held under trust for any public purposes of a charitable or religious nature in India, and

(i) any part of such property or any income of such trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act] is used or applied, or

(ii) any part of the income of the trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act], being a trust created on or after the 1st day of April, 1962, enures,

directly or indirectly, for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act, wealth-tax shall be leviable upon and recoverable from the trustee or manager (by whatever name called) in the like manner and to the same extent as if the property were held by an individual who is a citizen of India and resident in India for the purposes of this Act and -

(a) at the rates specified in Part I of the Schedule in the case of an individual; or

(b) at the rate of one-half per cent.

whichever course is more beneficial to the revenue :

Provided that in the case of a trust created before the 1st day of April, 1962, the provisions of clause (i) shall not apply to any use or application, whether directly or indirectly, of any part of such property or any income of such trust for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act, if such use or application is by way of compliance with a mandatory term of the trust :

Provided further that in a case where the aggregate of the funds of the trust invested in a concern in which any person referred to in sub-section (3) of section 13 of the Income-tax Act has a substantial interest as provided in Explanation 3 to that section does not exceed 5 per cent. of the capital of that concern, the exemption under clause (i) of sub-section (1) of section 5 shall not be denied in relation to any property other than such investment, by reason only that the funds of the trust have been invested in a concern in which any person referred to in

the aforesaid sub-section (3) has such substantial interest.

Explanation : For the purposes of this section, -

(a) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act in every case in which it can be so deemed to have been used or applied within the meaning of clause (c) of sub-section (1) of that section at any time during the period of twelve months ending with the relevant valuation date;

(b) "trust" includes any other legal obligation.