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Finance Act, 1992

Section 98 - Insertion of New Section 35ha

After section 35H of the Wealth-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely :-

'35HA. Offences by companies. - (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section, -

(a) "company" means a body corporate, and includes -

(i) a firm; and

(ii) an association of persons or a body of individuals whether incorporated or not; and

(b) "director", in relation to, -

(i) a firm, means a partner in a firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.'.

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