

Finance Act, 1981

Section 37 - Insertion of New Section 9a

In the Companies (Profits) Surtax Act, after section 9, the following section shall be inserted, namely :-

"9A. False estimate of, or failure to pay, advance surtax. (1) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee -

(a) has furnished under clause (a) of sub-section (5) of section 7A a statement of advance surtax payable by him which he knew or had reason to believe to be untrue, or

(b) has without reasonable cause failed to furnish a statement of the advance surtax payable by him in accordance with the provisions of clause (a) of sub-section (5) of section 7A,

he may direct that such assessee shall, in addition to the amount of surtax, if any, payable by him, pay by way of penalty a sum -

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the surtax actually paid during the financial year immediately preceding the assessment year under the provisions of section 7A falls short of -

(1) eighty-three and one-third per cent. of the assessed surtax, or

(2) the amount which would have been payable by way of advance surtax if the assessee had furnished a correct and complete statement in accordance with the provisions of clause (a) of sub-section (5) of section 7A,

whichever is less;

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times of eighty-three and one-third per cent. of the assessed surtax.

(2) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee -

(a) has furnished under clause (b) of sub-section (5) or sub-section (6) or sub-section (7) or sub-section (9) of section 7A, an estimate of the advance surtax payable by him which he knew or had reason to believe to be untrue, or

(b) has furnished under sub-section (8) of section 7A, an estimate of the advance surtax payable by him which he knew or had reason to believe to be untrue, or

(c) has without reasonable cause failed to furnish an estimate of the advance surtax payable by him in accordance with the provisions of clause (b) of sub-section (5) of section 7A, or

(d) has without reasonable cause failed to furnish an estimate of advance surtax payable by him in accordance with the provisions of sub-section (8) of section 7A,

he may direct that such assessee shall, in addition to the amount of surtax, if any, payable by him, pay by way of penalty a sum -

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the surtax actually paid during the financial year immediately preceding the assessment year under the provisions of section 7A falls short of -

(1) eighty-three and one-third per cent. of the assessed surtax, or

(2) where a statement under clause (a) of sub-section (5) of section 7A was furnished by the assessee, the amount payable under such statement,

whichever is less;

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the surtax actually paid during the financial year immediately preceding the assessment year under the provisions of section 7A falls short of eighty-three and one-third per cent. of the assessed surtax;

(iii) which, in the case referred to in clause (c), shall not be less than ten per cent. but shall not exceed one and a half times of eighty-three and one-third per cent. of the assessed surtax; and

(iv) which, in the case referred to in clause (d), shall not be less than ten per cent. but shall not exceed one and a half times the amount of surtax payable in accordance with a statement under clause (a) or an estimate under clause (b) of sub-section (5) of section 7A or an estimate in lieu of a statement under sub-section (6) of that section falls short of eighty-three and one-third per cent. of the assessed surtax.

Explanation : Where the Commissioner has, in exercise of the powers conferred by the first proviso to sub-section (4) of section 209A, or the first proviso to sub-section (3A) of section 212, of the Income-tax Act, extended the date for furnishing the estimate referred to in the said sub-section (4) or, as the case may be, the said sub-section (3A) and the date so extended falls beyond the financial year immediately preceding the assessment year, then, the amount of surtax paid by the assessee on or before the date so extended shall, for the purposes of clause (ii) of sub-section (2) also be regarded as surtax actually paid during that financial year."