

Finance Act, 1986

Section 34 - Insertion of New Chapter Xxc

In the Income-tax Act, after Chapter XXB, the following Chapter shall be inserted, namely :-

CHAPTER XXC

Purchase By Central Government Of Immovable Properties In Certain Cases Of Transfer

269U. Commencement of Chapter.--

The provisions of this Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different areas.

269UA. Definitions.--

In this Chapter, unless the context otherwise requires, -

- (a) "agreement for transfer" means an agreement, whether registered under the Registration Act, 1908 (16 of 1908) or not, for the transfer of any immovable property;
- (b) "apparent consideration", -
 - (1) in relation to any immovable property in respect of which an agreement for transfer is made, being immovable property of the nature referred to in sub-clause (i) of clause (d), means, -
 - (i) if the immovable property is to be transferred by way of sale, the consideration for such transfer as specified in the agreement for transfer;
 - (ii) if the immovable property is to be transferred by way of exchange, -
 - (A) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made;
 - (B) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made, and such sum;
 - (iii) if the immovable property is to be transferred by way of lease, -
 - (A) in a case where the consideration for the transfer consists of premium only, the amount of premium as specified in the agreement for transfer;
 - (B) in a case where the consideration for the transfer consists of rent only, the aggregate of the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the agreement for transfer;
 - (C) in a case where the consideration for the transfer consists of premium and rent, the aggregate of the amount of the premium, the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the agreement for transfer,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such agreement for transfer, the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such agreement for transfer, determined by adopting such rate of interest as may be prescribed in this behalf;

(2) in relation to any immovable property in respect of which an agreement for transfer is made, being immovable property of the nature referred to in sub-clause (ii) of clause (d), means, -

(i) in a case where the consideration for the transfer consists of a sum of money only, such sum;

(ii) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made;

(iii) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date on which the agreement for transfer is made, and such sum,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such agreement for transfer, the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such agreement for transfer, determined by adopting such rate of interest as may be prescribed in this behalf;

(c) "appropriate authority" means an authority constituted under section 269UB to perform the functions of an appropriate authority under this Chapter;

(d) "immovable property" means -

(i) any land or any building or part of a building, and includes, where any land or any building or part of a building is to be transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also.

Explanation : For the purposes of this sub-clause, "land, building, part of a building, machinery, plant, furniture, fittings and other things" include any rights therein;

(ii) any rights in or with respect to any land or any building or a part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein) which has been constructed or which is to be constructed, accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease of such land, building or part of a building;

(e) "person interested", in relation to any immovable property includes all persons claiming, or entitled to claim, an interest in the consideration payable on account of the vesting of that property in the Central Government under this Chapter;

(f) "transfer", -

(i) in relation to any immovable property referred to in sub-clause (i) of clause (d), means transfer of such property by way of sale or exchange or lease for a term of not less than twelve years, and includes allowing the possession of such property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882).

Explanation : For the purposes of this sub-clause, a lease which provides for the extension of the term thereof by a further term or terms shall be deemed to be a lease for a term of

not less than twelve years, if the aggregate of the term for which such lease is to be granted and the further term or terms for which it can be so extended is not less than twelve years;

(ii) in relation to any immovable property of the nature referred to in sub-clause (ii) of clause (d), means the doing of anything (whether by way of admitting as a member of or by way of transfer of shares in a co-operative society or company or other association of persons or by way of any agreement or arrangement or in any other manner whatsoever) which has the effect of transferring or enabling the enjoyment of, such property.

269UB. Appropriate authority.--

(1) The Central Government may, by order, published in the Official Gazette, -

(a) constitute as many appropriate authorities, as it thinks fit, to perform the functions of an appropriate authority under this Chapter; and

(b) define the local limits within which the appropriate authorities shall perform their functions under this Chapter.

(2) An appropriate authority shall consist of three persons, two of whom shall be members of the Indian Income-tax Service, Group A, holding the post of Commissioner of Income-tax or any equivalent or higher post, and one shall be a member of the Central Engineering Service, Group A, holding the post of Chief Engineer or any equivalent or higher post.

(3) In respect of any function to be performed by an appropriate authority under any provision of this Chapter in relation to any immovable property referred to in section 269UC, the appropriate authority referred to therein shall, -

(a) in a case where such property is situate within the local limits of the jurisdiction of only one appropriate authority, be such appropriate authority;

(b) in a case where such property is situate within the local limits of the jurisdiction of two or more appropriate authorities, be the appropriate authority empowered to perform such functions in relation to such property in accordance with the rules made in this behalf by the Board under section 295.

Explanation : For the purposes of this sub-section, immovable property being rights of the nature referred to in sub-clause (ii) of clause (d) or section 269UA in, or with respect to, any land or any building or part of a building which has been constructed or which is to be constructed shall be deemed to be situate at the place where the land is situate or, as the case may be, where the building has been constructed or is to be constructed.

269UC. Restrictions on transfer of immovable property.--

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), or in any other law for the time being in force, no transfer of any immovable property of such value exceeding five lakh rupees as may be prescribed, shall be effected except after an agreement for transfer is entered into between the person who intends transferring the immovable property (hereinafter referred to as the transferor) and the person to whom it is proposed to be transferred (hereinafter referred to as the transferee) in accordance with the provisions of sub-section (2) at least three months before the intended date of transfer.

(2) The agreement referred to in sub-section (1) shall be reduced to writing in the form of a statement by each of the parties to such transfer or by any of the parties to such transfer acting on behalf of himself and on behalf of the other parties.

(3) Every statement referred to in sub-section (2) shall, -

(i) be in the prescribed form;

(ii) set for such particulars as may be prescribed; and

(iii) be verified in the prescribed manner,

and shall be furnished to the appropriate authority in such manner and within such time as may be prescribed, by each of the parties to such transaction or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.

269UD. Order by appropriate authority for purchase by Central Government of immovable property.--

(1) The appropriate authority, after the receipt of the statement under sub-section (3) of section 269UC in respect of any immovable property, may, notwithstanding anything contained in any other law or any instrument or any agreement for the time being in force, and for reasons to be recorded in writing, make an order for the purchase by the Central Government of such immovable property at an amount equal to the amount of apparent consideration :

Provided that no such order shall be made in respect of any immovable property after the expiration of a period of two months from the end of the month in which the statement referred to in section 269UC in respect of such property is received by the appropriate authority :

Provided further that in a case where the statement referred to in section 269UC in respect of the immovable property concerned is given to an appropriate authority, other than the appropriate authority having jurisdiction in accordance with the provisions of section 269UB to make the order referred to in this sub-section in relation to the immovable property concerned, the period of limitation referred to in the preceding proviso shall be reckoned with reference to the date of receipt of the statement by the appropriate authority having jurisdiction to make the order under this sub-section.

(2) The appropriate authority shall cause a copy of its order under sub-section (1) in respect of any immovable property to be served on the transferor, the person in occupation of the immovable property if the transferor is not in occupation thereof, the transferee, and on every other person whom the appropriate authority knows to be interested in the property.

269UE. Vesting of property in Central Government.--

(1) Where an order under sub-section (1) of section 269UD is made by the appropriate authority in respect of an immovable property referred to in sub-clause (i) of clause (d) of section 269UA, such property shall, on the date of such order, vest in the Central Government free from all encumbrances.

(2) The transferor or any other person who may be in possession of the immovable property in respect of which an order under sub-section (1) of section 269UD is made, shall surrender or deliver possession thereof to the appropriate authority or any other person duly authorised by the appropriate authority in this behalf within fifteen days of the service of such order on him.

(3) If any person refuses or fails to comply with the provisions of sub-section (2), the appropriate authority or other person duly authorised by it under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary.

(4) Notwithstanding anything contained in sub-section (2), the appropriate authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(5) For the removal of doubts, it is hereby declared that nothing in this section shall operate to discharge the transferor or any other person (not being the Central Government) from liability in respect of any encumbrances on the property and, notwithstanding anything contained in any other law for the time being in force, such liability may be enforced against the transferor or such other person.

(6) Where an order under sub-section (1) of section 296UD is made in respect of an immovable property, being rights of the nature referred to in sub-clause (ii) of clause (d) of section 269UA, such order shall have the effect of -

(a) vesting such right in the Central Government; and

(b) placing the Central Government in the same position in relation to such rights as the person in whom such a right would have continued to vest if such order had not been made.

(7) Where any rights in respect of any immovable property, being rights in, or with respect to, any land or any building or part of a building which has been constructed or which is to be constructed have been vested in the Central Government under sub-section (6), the provisions of sub-sections (1), (2), (3) and (4) shall, so far as may be, have effect as if the references to immovable property therein were references to such land or building or part thereof, as the case may be.

269UF. Consideration for purchase of immovable property by Central Government.--

(1) Where an order for the purchase of any immovable property by the Central Government is made under sub-section (1) of section 269UD, the Central Government shall pay, by way of consideration for such purchase, an amount equal to the amount of the apparent consideration.

(2) Notwithstanding anything contained in sub-section (1), where, after the agreement for the transfer of the immovable property referred to in that sub-section has been made but before the property vests in the Central Government under section 269UE, the property has been damaged (otherwise than as a result of normal wear and tear), the amount of the consideration payable under that sub-section shall be reduced by such sum as the appropriate authority, for reasons to be recorded in writing, may by order determine.

269UG. Payment of deposit of consideration.--

(1) The amount of consideration payable in accordance with the provisions of section 269UF shall be tendered to the person or persons entitled thereto, within a period of one month from the end of the month in which the immovable property concerned becomes vested in the Central Government under sub-section (1), or, as the case may be, sub-section (6), of section 269UE :

Provided that if any liability for any tax or any other sum remaining payable under this Act, the Wealth-tax Act, 1957 (27 of 1957), the Gift-tax Act, 1958 (18 of 1958), the Estate Duty Act, 1953 (34 of 1953), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), by any person entitled to the consideration payable under section 269UF, the appropriate authority may, in lieu of the payment of the amount of consideration, set off the amount of consideration or any part thereof against such liability or sum, after giving an intimation in this behalf to the person entitled to the consideration.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the amount of consideration amongst persons claiming to be entitled thereto, the Central Government shall deposit with the appropriate authority the amount of consideration required to be tendered under sub-section (1) within the period specified therein.

(3) Notwithstanding anything contained in sub-section (1), if the person entitled to the amount of consideration does not consent to receive it, or if there is any dispute as to the title to receive the amount of consideration, the Central Government shall deposit with the appropriate authority the amount of consideration required to be tendered under sub-section (1) within the period specified therein :

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the amount of consideration for any immovable property vested in the Central Government under this Chapter to pay the same to the person lawfully entitled thereto.

(4) Where any amount of consideration has been deposited with the appropriate authority under this section, the appropriate authority may, either of its own motion or on an application made by or on behalf of any person interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefits therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be.

269UH. Re-vesting of property in the transferor on failure of payment or deposit of consideration.--

(1) If the Central Government fails to tender under sub-section (1) of section 269UG or deposit under sub-section (2) or sub-section (3) of the said section, the whole or any part of the amount of consideration required to be tendered or deposited thereunder within the period specified therein in respect of any immovable property which has vested in the Central Government under sub-section (1) or, as the case may be, sub-section (6) of section 269UE, the order to purchase the immovable property by the Central Government made under sub-section (1) of section 269UD shall stand abrogated and the immovable property shall stand re-vested in the transferor after the expiry of the aforesaid period :

Provided that where any dispute referred to in sub-section (2) or sub-section (3) of section 269UG is pending in any court for decision, the time taken by the court to pass a final order under the said sub-section shall be excluded in computing the said period.

(2) Where an order made under sub-section (1) of section 269UD is abrogated and the immovable property re-vested in the transferor under sub-section (1), the appropriate authority shall make, as soon as may be, a declaration in writing to this effect and shall -

(a) deliver a copy of the declaration to the persons mentioned in sub-section (2) of section 269UD; and

(b) deliver or cause to be delivered possession of the immovable property back to the transferor or, as the case may be, to such other person as was in possession of the property at the time of its vesting in the Central Government under section 269UE.

269UI. Powers of the appropriate authority.--

The appropriate authority shall have, for the purposes of this Chapter, all the powers that a Commissioner of Income-tax has for the purposes of this Act under section 131.

269UJ. Rectification of mistakes.--

With a view to rectifying any mistake apparent from the record, the appropriate authority may amend any order made by it under this Chapter, either on its own motion or on the mistake being brought to its notice by any person affected by the order :

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard :

Provided further that no amendment shall be made under this section after the expiry of six months from the end of the month in which the order sought to be amended was made.

269UK. Restrictions on revocation or alteration of certain agreements for the transfer of immovable property or transfer of certain immovable property.--

(1) Notwithstanding anything contained in any other law for the time being in force, no person shall revoke or alter an agreement for the transfer of an immovable property or transfer such property in respect of which a statement has been furnished under section 269UC unless, -

(a) the appropriate authority has not made an order for the purchase of the immovable property by the Central Government under section 269UD and the period specified for the making of such order has expired; or

(b) in a case where an order for the purchase of the immovable property by the Central Government has been made under sub-section (1) of section 269UD, the order stands abrogated under sub-section (1) of section 269UH.

(2) Any transfer of any immovable property made in contravention of the provisions of sub-section (1) shall be void.

269UL. Restrictions on registration, etc., of documents in respect of transfer of immovable property.--

(1) Notwithstanding anything contained in any other law for the time being in force, no registering officer appointed under the Registration Act, 1908 (16 of 1908), shall register any document which purports to transfer immovable property exceeding the value prescribed under section 269UC unless a certificate from the appropriate authority that it has no objection to the transfer of such property for an amount equal to the apparent consideration therefor as stated in the agreement for transfer of the immovable property in respect of which it has received a statement under sub-section (3) of section 269UC, is furnished, along with such document.

(2) Notwithstanding anything contained in any other law for the time being in force, no person shall do anything or omit to do anything which will have the effect of transfer of any immovable property unless the appropriate authority certifies that it has no objection to the transfer of such property for an amount equal to the apparent consideration therefor as stated in the agreement for transfer of the immovable property in respect of which it has received a statement under sub-section (3) of section 269UC.

(3) In a case where the appropriate authority does not make an order under sub-section (1) of section 269UD for the purchase by the Central Government of an immovable property, or where the order made under sub-section (1) of section 269UD stands abrogated under sub-section (1) of section 269UH, the appropriate authority shall issue a certificate of no objection referred to in sub-section (1) or, as the case may be, sub-section (2) and deliver copies thereof to the transferor and the transferee.

269UM. Immunity to transferor against claims of transferee for transfer.--

Notwithstanding anything contained in any other law or in any instrument or any agreement for the time being in force, when an order for the purchase of any immovable property by the Central Government is made under this Chapter, no claim by the transferee shall lie against the transferor by reason of such transfer being not in accordance with the agreement for the transfer of the immovable property entered into between the transferor and the transferee :

Provided that nothing contained in this section shall apply if the order for the purchase of the immovable property by the Central Government is abrogated under sub-section (1) of section 269UH.

269UN. Order of appropriate authority to be final and conclusive.--

Save as otherwise provided in this Chapter, any order made under sub-section (1) of section 269UD or any order made under sub-section (2) of section 269UF shall be final and conclusive and shall not be called in question in any proceeding under this Act or under any other law for the time being in force.

269UO. Chapter not to apply to certain transfers.--

The provisions of this Chapter shall not apply to or in relation to any immovable property where the agreement for transfer of such property is made by a person to his relative on account of natural love and affection, if a recital to that effect is made in the agreement for transfer.'