

Finance Act 1968

Section 11 - Insertion of New Section 141a

After section 141 of the Income-tax Act, the following section shall be inserted, namely :-

"141A. Provisional assessment for refund. - (1) Where a return has been furnished under section 139 and the assessee claims that the tax paid or deemed to have been paid under the provisions of Chapter XVII-B or Chapter XVII-C exceeds the tax payable on the basis of the return and the accounts and documents accompanying it, the Income-tax Officer may, if he is of opinion that the regular assessment of the assessee is likely to be delayed, proceed to make, in a summary manner, a provisional assessment of the sum refundable to the assessee, on the basis of such return, accounts and documents.

(2) In making any assessment under this section due effect shall be given to -

(a) the allowance referred to in sub-section (2) of section 32; and

(b) any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74.

(3) A firm may be assessed under sub-section (1) as an unregistered firm, except in the following cases, where it shall be assessed as a registered firm -

(a) where the firm was assessed as a registered firm for the latest assessment year for which its assessment has been completed, and it has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration under sub-section (7) of section 184 for the assessment year for which the provisional assessment is to be made;

(b) where no regular assessment has been made on the firm for any assessment year preceding the assessment year for which the provisional assessment is to be made, and the firm has, before the expiry of the period laid down in Chapter XVI-B filed its application for registration, or declaration as aforesaid, for the assessment year for which the provisional assessment is to be made.

(4) After a regular assessment has been made, any amount refunded on provisional assessment made under sub-section (1) shall be dealt with in the manner specified hereunder, namely :-

(a) where the sum refundable on regular assessment is equal to or exceeds the amount refunded under sub-section (1), the amount so refunded shall be deemed to have been refunded towards the regular

assessment;

(b) where no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(5) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment.

(6) There shall be no right of appeal against a provisional assessment made under sub-section (1)."