

## Finance Act, 1995

### Section 32 - Insertion of New Chapter Xivb

In the Income-tax Act, after Chapter XIVA, the following Chapter shall be inserted with effect from the 1st day of July, 1995, namely :-

#### CHAPTER XIV-B

##### Special Procedure For Assessment Of Search Cases

#### 158B. Definitions

In This Chapter, Unless The Context Otherwise Requires,-

(a) "block period" means the period of ten previous years preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A, and includes, in the previous year in which such search was conducted or requisition made, the period up to the date of the commencement of such search or, as the case may be, the date of such requisition;

(b) "undisclosed income" includes any money, bullion, jewellery or other valuable article or thing or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act.

#### 158BA. Assessment Of Undisclosed Income As A Result Of Search

(1) Notwithstanding Anything Contained In Any Other Provisions Of This Act, Where After The 30th day of June, 1995, a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of any person, then, the Assessing Officer shall proceed to assess the undisclosed income in accordance with the provisions of this Chapter.

(2) The total undisclosed income relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates and irrespective of the fact whether regular assessment for any one or more of the relevant assessment years is pending or not.

(3) Where the assessee proves to the satisfaction of the Assessing Officer that any part of income referred to in sub-section (1) relates to an assessment year for which the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 for any previous year has not expired, and such income or the transactions relating to such income are recorded on or before the date of the search or requisition in the books of account or other documents maintained in the normal course relating to such previous years, the said income shall not be included in the block period.

#### 158BB. Computation Of Undisclosed Income Of The Block Period

(1) The Undisclosed Income Of The Block Period Shall Be The Aggregate Of The Total Income Of the previous years falling within the block period computed, in accordance with the provisions of Chapter IV, on the basis of evidence found as a result of search or requisition of books of account or documents and such other materials or information as are available with Assessing Officer, as reduced by the aggregate of the total income, or as the case may be, as increased by the aggregate of the losses of such previous years, determined, -

(a) where assessments under section 143 or section 144 or section 147 have been concluded, on the basis of such assessments;

(b) where returns of income have been filed under section 139 or section 147 but assessments have not been made till the date of search or requisition, on the basis of the income disclosed in such returns;

(c) where the due date for filing a return of income has expired but no return of income has been filed, as nil;

(d) where the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 has not expired, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition relating to such previous years;

(e) where any order of settlement has been made under sub-section (4) of section 245D, on the basis of such order;

(f) where an assessment of undisclosed income had been made earlier under clause (c) of section 158BC, on the basis of such assessment.

Explanation : For the purposes of determination of undisclosed income, -

(a) the total income or loss of each previous year shall, for the purpose of aggregation, be taken as the total income or loss computed in accordance with the provisions of Chapter IV without giving effect to set off of brought forward losses under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32;

(b) of a firm, or its partners, the method of computation of undisclosed income and its allocation to the partners shall be in accordance with the method adopted for determining the assessed income or returned income for each of the previous years falling within the block period;

(c) assessment under section 143 includes determination of income under sub-section (1) or sub-section (1B) of section 143.

(2) In computing the undisclosed income of the block period, the provisions of sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to "financial year" in the those sections shall be construed as references to the relevant previous year falling in the block period including the previous year ending with the date of search or of the requisition.

(3) The burden of proving to the satisfaction of the Assessing Officer that any undisclosed income had already been disclosed in any return of income filed by the assessee before the commencement of search or of the requisition, as the case may be, shall be on the assessee.

(4) For the purpose of assessment under this Chapter, losses brought forward from the previous year under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter, but may be carried forward for being set off in the regular assessments.

#### 158BC. Procedure For Block Assessment

Where Any Search Has Been Conducted Under Section 132 Or Books Of Account, Other Documents Or Assets Are requisitioned under section 132A, in the case of any person, then, -

(a) the Assessing Officer shall serve a notice to such person requiring him to furnish, within such time, not being less than fifteen days, as may be specified in the notice, a return in the prescribed form and verified in the same manner as a return under clause (i) of sub-section (1) of section 142, setting forth his total income including the undisclosed income for the block period :

Provided that no notice under section 148 is required to be issued for the purposes of proceeding under this Chapter;

(b) the Assessing Officer shall proceed to determine the undisclosed income of the block period in the manner laid down in section 158BB and the provisions of section 142, sub-sections (2) and (3) of section 143 and section 144 shall, so far as may be, apply;

(c) the Assessing Officer, on determination of the undisclosed income of the block period in accordance with this Chapter, shall pass an order of assessment and determine the tax payable by him on the basis of such assessment;

(d) the assets seized under section 132 or requisitioned under section 132A shall be retained to the extent necessary and the provisions of section 132B shall apply subject to such modifications as may be necessary and the references to "regular assessment" or "reassessment" in section 132B shall be construed as references to "block assessment".

#### 158BD. Undisclosed Income Of Any Other Person

Where The Assessing Officer Is Satisfied That Any Undisclosed Income Belongs To Any Person, Other Than The person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, then, the books of account, other documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against such other person and the provisions of this Chapter shall apply accordingly.

#### 158BE. Time Limit For Completion Of Block Assessment

(1) The Order Under Section 158bc Shall Be Passed Within One Year From The End Of The Month In which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, in the case of an assessee, was executed.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be one year from the end of the month in which the notice under this Chapter was served on such other person.

#### 158BF. Certain Interests And Penalties Not To Be Levied Or Imposed

No Interest Under The Provisions Of Section 234a, 234b Or 234c Or Penalty Under The provisions of clause (c) of sub-section (1) of section 271 or section 271A or section 271B shall be levied or imposed upon the assessee in respect of the undisclosed income determined in the block assessment.

#### 158BG. Authority Competent To Make The Block Assessment

The Order Of Assessment For The Block Period Shall Be Passed By An Assessing Officer Not Below the rank of an Assistant Commissioner :

Provided that no such order shall be passed without the previous approval of the Commissioner.

#### 158BH. Application Of Other Provisions Of This Act

Save As Otherwise Provided In This Chapter, All Other Provisions Of This Act Shall Apply To Assessment made under this Chapter.'

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