

Wealth-tax

Amendment
of section 2.**74.** In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act),—

27 of 1957.

(a) in clause (ca)—

(i) after the words and figure “section 8 of this Act and also the”, the words “Additional Commissioner or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994; 5

(ii) after the words “Additional Commissioner or”, as so inserted, the words “Additional Director or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;

(b) for clause (ka), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 25th day of August, 1976, namely:— 10

‘(ka) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;’. 15 80 of 1976.

Amendment
of section
22A.**75.** In section 22A of the Wealth-tax Act, with effect from the 1st day of June, 2007,—

(a) for clause (b), the following shall be substituted, namely:—

‘(b) “case” means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 22C is made: 20

Provided that—

(i) a proceeding for assessment or reassessment under section 17;

(ii) a proceeding for making fresh assessment in pursuance of an order under section 23A or section 24 or section 25, setting aside or cancelling an assessment; 25

(iii) a proceeding for assessment or reassessment which may be initiated on the basis of a search under section 37A or requisition under section 37B,

shall not be a proceeding for assessment for the purposes of this clause.

Explanation,—For the purposes of this clause—

(i) a proceeding for assessment or reassessment referred to in clause (i) of the proviso shall, in case where a notice under section 17 is issued but not on the basis of search under section 37A or requisition under section 37B, be deemed to have commenced from the date on which a notice under section 17 is issued; 30

(ii) a proceeding for making fresh assessment referred to in clause (ii) of the proviso shall be deemed to have commenced from the date on which the order under section 23A or section 24 or section 25, setting aside or cancelling an assessment was passed; 35

(iii) a proceeding for assessment or reassessment referred to in clause (iii) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 37A or requisition under section 37B;

(iv) a proceeding for assessment for an assessment year, other than the proceeding of assessment or reassessment referred to in clause (i) or clause (ii) or clause (iii) of the proviso, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made;’; 40

(b) in clause (f), after the words “Settlement Commission”, the words “and includes a Member who is senior amongst the Members of a Bench” shall be inserted. 45

Amendment
of section
22C.**76.** In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007,—

(i) in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no such application shall be made unless such wealth-tax and the interest thereon, which would have been paid under the provisions of this Act had the wealth declared in the application been declared in the return of wealth before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.”; 50

(ii) in sub-section (1A), the words, brackets, figures and letters “and sub-sections (2A) to (2D) of section 22D” shall be omitted;

(iii) for sub-section (1B), the following sub-section shall be substituted, namely:—

“(1B) Where the wealth disclosed in the application relates to only one previous year,—

5 (i) if the applicant has not furnished a return in respect of the net wealth of that year, then, wealth tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth;

10 (ii) if the applicant has furnished a return in respect of the net wealth of that year, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth.”;

(iv) in sub-section (1C), clause (c) shall be omitted;

(v) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) An assessee shall, on the date on which he makes an application under sub-section (1) to the Settlement Commission, also send a copy of such application to the Assessing Officer.”.

15 **77.** In section 22D of the Wealth-tax Act,—

Amendment of section 22D.

(i) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—

20 “(1) on receipt of an application under section 22C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

25 Provided that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.”;

(ii) for sub-sections (2A), (2B), (2C) and (2D), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

30 “(2A) Where an application was made under section 22C before the 1st day of June, 2007 but an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional wealth-tax on the wealth disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

35 *Explanation.*—In respect of the applications referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (1).

(2B) the Settlement Commission shall,—

(i) in respect of an application which is allowed to be proceeded with under sub-section (1), within thirty days from the date on which the application was made; or

40 (ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007,

call for a report from the Commissioner, and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

45 (2C) Where a report of the Commissioner called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the material contained in such report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Commissioner:

50 Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

55 (2D) Where an application was made under sub-section (1) of section 22C before the 1st day of June, 2007 and an order under the provisions of sub-section (1) of this section, as they stood

immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional wealth-tax on the wealth disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.”;

(iii) for sub-sections (3), (4) and (4A), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

“(3) The Settlement Commission, in respect of —

(i) an application which has not been declared invalid under sub-section (2C); or

(ii) an application referred to in sub-section (2D) which has been allowed to be further proceeded with under that sub-section,

may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish his report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

(4) After examination of the records and the report of the Commissioner, if any, received under—

(i) sub-section (2B) or sub-section (3), or

(ii) the provisions of sub-section (1), as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner.

(4A) The Settlement Commission shall pass an order under sub-section (4),—

(i) in respect of an application referred to in sub-section (2A) or sub-section (2D), on or before the 31st day of March, 2008;

(ii) in respect of an application made on or after 1st day of June, 2007, within nine months from the end of the month in which the application was made.”;

(iv) in sub-section (6A), for the words “fifteen per cent. per annum”, the words “one and one-fourth per cent. for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008.

Amendment of section 22DD. **78.** In section 22DD of the Wealth-tax Act, in sub-section (2), in the proviso, the words “, so, however, that the total period of extension shall not in any case exceed two years” shall be omitted with effect from the 1st day of June, 2007.

Amendment of section 22E. **79.** In section 22E of the Wealth-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 22C is made on or after the 1st day of June, 2007.”.

Amendment of section 22F. **80.** In section 22F of the Wealth-tax Act, in sub-section (2), the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:—

“Provided that where an application has been made under section 22C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

Provided further that where—

(i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 22D; or

(ii) an application is not allowed to be proceeded with under sub-section (2A) of section 22D, or, as the case may be, is declared invalid under sub-section (2C) of that section; or

(iii) an application is not allowed to be further proceeded with under sub-section (2D) of section 22D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction up to the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.”

81. In section 22H of the Wealth-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

Amendment of section 22H.

45 of 1860.
43 of 1961.

“Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code or under any Central Act other than this Act and Income-tax Act, 1961 to a person who makes an application under section 22C on or after the 1st day of June, 2007.”

82. After section 22H of the Wealth-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2007, namely:—

Insertion of new sections 22HA and 22HAA.

‘22HA. (1) Where,—

(i) an application made under section 22C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 22D; or

Abatement of the proceeding before Settlement Commission.

(ii) an application made under section 22C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of section 22D; or

(iii) an application made under section 22C has been declared as invalid under sub-section (2C) of section 22D; or

(iv) in respect of any other application made under section 22C, an order under sub-section (4) of section 22D has not been passed within the time or period specified under sub-section (4A) of section 22D,

the proceedings before the Settlement Commission shall abate on the specified date.

Explanation.—For the purposes of this sub-section, “specified date” means—

(a) in respect of an application referred to in clause (i), the date on which the application was rejected;

(b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;

(c) in respect of an application referred to in clause (iii) the last day of the month in which the application was declared invalid;

(d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of section 22D expires.

(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other Wealth-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 22C had been made.

(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other Wealth-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other Wealth-tax authority or held or recorded by him in the course of the proceedings before him.

(4) For the purposes of the time-limit under sections 17A, 32, and 35 and for the purposes of payment of interest under section 34A, in case referred to in sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 22C and ending with “specified date” referred to in sub-section (1) shall be excluded.

22HAA. Where an application made under section 22C on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 22D, or any other application made under section 22C is not allowed to be proceeded with under sub-section (2A) of section 22D or is declared invalid under sub-section (2C) of section 22D or has not been allowed to be further proceeded with under sub-section (2D) of section 22D or an order under sub-section (4) of section 22D has not been passed within the time or period specified under sub-section (4A) of section 22D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.’

Credit for tax paid in case of abatement of proceedings.

Substitution of new section for section 22K.	<p>83. For section 22K of the Wealth-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:—</p>	
Bar on subsequent application for settlement.	<p>“22K. (1) Where,—</p> <p>(i) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his net wealth; or</p> <p>(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case; or</p> <p>(iii) the case of any such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,</p> <p>then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.</p> <p>(2) Where a person has made an application under section 22C on or after the 1st June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 22D, such person shall not be subsequently entitled to make an application under section 22C.”.</p>	5 10
Insertion of new section 42D.	<p>84. After section 42C of the Wealth Tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—</p>	15
Presumption as to assets, books of account, etc.	<p>“42D. Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search, it may, in any proceeding under this Act, be presumed that—</p> <p>(i) such books of account or other documents, articles or things including money belong to such person;</p> <p>(ii) the contents of such books of account or other documents are true; and</p> <p>(iii) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.”.</p>	20 25