

Wealth-tax

27 of 1957.

68. In the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), save as otherwise expressly provided in the Wealth-tax Act and unless the context otherwise requires, the reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of October, 1998 by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

Substitution of new authorities.

TABLE

(1)	(2)
1. Assistant Commissioner	Assistant Commissioner or Deputy Commissioner.
2. Assistant Director	Assistant Director or Deputy Director.
3. Deputy Commissioner	Joint Commissioner.
4. Deputy Director	Joint Director.

69. In section 2 of the Wealth-tax Act,—

Amendment of section 2.

(a) for clause (ca), the following clause shall be substituted with effect from the 1st day of October, 1998, namely:—

‘(ca) “Assessing Officer” means the Deputy Commissioner of Income-tax or the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of wealth-tax under section 8 of this Act and also the Joint Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;

(b) in clause (ea) with effect from the 1st day of April, 1999,—

(i) for sub-clause (i), the following sub-clause shall be substituted, namely:—

‘(i) any building or land appurtenant thereto (hereinafter referred to as “house”), whether used for residential or commercial purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within twenty-five kilometres from local limits of any municipality (whether known as Municipality, Municipal Corporation or by any other name) or a Cantonment Board, but does not include—

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than five lakh rupees;

(2) any house for residential or commercial purposes which forms part of stock-in-trade;

(3) any house which the assessee may occupy for the purposes of any business or profession carried on by him;

(4) any residential property that has been let-out for a minimum period of three hundred days in the previous year;

(5) any property in the nature of commercial establishments or complexes.’;

(ii) after clause (vi), in the *Explanation*, in clause (b), in sub-clause (ii), for the words “or any land held by the assessee as stock-in-trade for a period of five years from the date of its acquisition by him”, the words “or any land held by the assessee as stock-in-trade for a period of seven years from the date of its acquisition by him” shall be substituted;

(c) for clause (s), the following clause shall be substituted with effect from the 1st day of October, 1998, namely:—

‘(s) the expressions “Chief Commissioner, Director-General, Commissioner, Commissioner (Appeals), Director, Additional Director of Income-tax, Additional Commissioner of Income-tax, Joint Director, Joint Commissioner of Income-tax, Deputy Director, Deputy Commissioner, Assistant Commissioner, Assistant-Director, Income-tax Officer, Inspector of Income-tax and Tax Recovery Officer” shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.’.

70. In section 5 of the Wealth-tax Act, for clause (vi), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:—

Amendment of section 5.

“(vi) one house or part of a house or a plot of land not exceeding five hundred square metres in area belonging to an individual or a Hindu undivided family;”.

Amendment of section 6.

71. In section 6 of the Wealth-tax Act, the words “or resident but not ordinarily resident in India”, wherever they occur, shall be omitted with effect from the 1st day of April, 1999.

Insertion of new section 23A.

72. After section 23 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

Appealable orders before Commissioner (Appeals).

‘23A. (1) Any person—

- (a) objecting to the amount of net wealth determined under this Act; or
- (b) objecting to the amount of wealth-tax determined as payable by him under this Act; or
- (c) denying his liability to be assessed under this Act; or
- (d) objecting to any penalty imposed by the Assessing Officer under section 18 or section 18A; or
- (e) objecting to any order of the Assessing Officer under sub-section (2) of section 20; or
- (f) objecting to any penalty imposed by the Assessing Officer under the provisions of section 221 of the Income-tax Act as applied under section 32 for the purposes of wealth-tax; or
- (g) objecting to any order made by the Assessing Officer under section 22 treating him as the agent of a person residing outside India; or
- (h) objecting to any order of the Assessing Officer under section 35 having the effect of enhancing the assessment or reducing a refund or refusing to allow the claim made by the assessee under the said section; or
- (i) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section; or
- (j) objecting to any penalty imposed by the Deputy Director or Deputy Commissioner under section 18A,

may appeal to the Commissioner (Appeals) against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner and on payment of a fee of two hundred and fifty rupees.

Explanation.—For the purposes of this sub-section, where the post of Deputy Commissioner has been redesignated as Joint Commissioner on or after the 1st day of October, 1998 the references in this sub-section for Deputy Commissioner shall be substituted by Joint Commissioner.

(2) Notwithstanding anything contained in sub-section (1) of section 23, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeals or matter from the stage on which it was on that day:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceedings or any part thereof be re-opened or that he be re-heard.

Explanation.—For the purposes of this sub-section, “appointed day” means the day appointed under section 246A of the Income-tax Act.

(3) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to or the day on which any order objected to is communicated to him, but the Commissioner (Appeals) may admit an appeal after the expiration of the period aforesaid, if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(4) Where a return has been filed by an assessee, no appeal under this section shall be admitted unless at the time of filing of the appeal, he has paid the tax due on the net wealth returned by him.

(5) The Commissioner (Appeals) shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

(6) If the valuation of any asset is objected to in an appeal under clause (a) or clause (i) of sub-section (1) the Commissioner (Appeals) shall,—

- (a) in case where such valuation has been made by a Valuation Officer under section 16A, give such Valuation Officer an opportunity of being heard;
- (b) in any other case on request being made in this behalf by the Assessing Officer, give an

opportunity of being heard to any Valuation Officer nominated for the purpose by the Assessing Officer.

(7) The Commissioner (Appeal) may,—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of any appeal, make such further enquiry as he thinks fit or cause further enquiry to be made by the Assessing Officer or, as the case may be, by the Valuation Officer.

(8) In disposing of an appeal, the Commissioner (Appeals) may pass such order as he thinks fit which may include an order enhancing the assessment or penalty:

Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(9) In disposing of an appeal, the Commissioner (Appeals) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not placed before the Commissioner (Appeals) by the appellant.

(10) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determining the decision thereon and reasons for the decision.

(11) A copy of every order passed by the Commissioner (Appeals) under this section shall be forwarded to the appellant and the Chief Commissioner or Commissioner."

73. In section 24 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

Amendment of section 24.

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

“(1) An assessee objecting to an order passed by the Commissioner (Appeals) under sub-section (10) of section 23A may appeal to the Appellate Tribunal within thirty days of the date on which the order is communicated to him.”;

(b) in sub-section (2), for the words, figures and brackets “a Deputy Commissioner (Appeals) or a Commissioner (Appeals) under section 23”, the words, figures, brackets and letter “a Commissioner (Appeals) under sub-section (10) of section 23A” shall be substituted;

(c) in sub-section (2A), the words and brackets “the Deputy Commissioner (Appeals) or”, at both the places where they occur, shall be omitted.

74. In section 25 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

Amendment of section 25.

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

“(3A) On every application made by an assessee for revision under sub-section (1), an order shall be passed by the Commissioner within one year from the end of financial year in which such application is made by the assessee for revision:

Provided that where an order on an application for revision is not passed by the Commissioner within the period mentioned in this sub-section, then, it shall be presumed as if the application for revision has been allowed and all the consequences shall follow, accordingly.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.”;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Notwithstanding anything contained in sub-section (3) or sub-section (3A), an order in revision under sub-section (1) or sub-section (2) may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of Appellate Tribunal, the High Court or the Supreme Court.”.

75. After section 27 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

Insertion of new section 27A.

“27A. (1) The assessee or the Chief Commissioner or Commissioner may, within sixty days of the day upon which he is served with notice of an order under section 24 or section 26 or clause (e) of sub-section (1) of section 35 may file on or after the 1st day of October, 1998, an appeal to the High Court.

(2) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, under sub-section (1) of section 24 only if the High Court is satisfied that the case involves

a substantial question of law.

(3) In an appeal under this section, the Memorandum of Appeal shall precisely state the substantial question of law involved in the appeal, and, where the appeal is made by the assessee, shall be accompanied by a fee of five thousand rupees.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard only on the question so formulated and the respondent shall, at the time of hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(6) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.”.

Amendment of section 28.

76. In section 28 of the Wealth-tax Act, for the words and figures “under section 27”, the words, figures and letter “under section 27 or an appeal filed before the High Court under section 27A” shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 29.

77. In section 29 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

(a) in sub-section (1), for the words and figures “under section 27”, the words, figures and letter “under section 27 or an appeal filed under section 27A” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where the judgement of the High Court in an appeal filed before it is varied or reversed on appeal, the effect shall be given to the order passed on appeal by the Supreme Court.”.